

FINES: Article IX, Section 7 of the Con-
COUNTRIES: stitution of Missouri prohibits the
CRIMINAL LAW: passage of state statutes which
CITY ORDINANCES: would allocate to the training of
COUNTY ORDINANCES: law enforcement personnel any funds
CONSTITUTIONAL LAW: collected as fines for the violation
CITIES, TOWNS & VILLAGES: of state laws. However, there is no
constitutional prohibition against
the passage of state statutes (or county or municipal ordinances,
in the absence of such state statutes) which would mandate alloca-
tions to the training of law enforcement personnel from funds col-
lected as fines for the violation of county or municipal ordinances.

OPINION NO. 312

December 17, 1973



Honorable Donald L. Manford
State Senator, District 8
Room 425, Capitol Building
Jefferson City, Missouri 65101

Dear Senator Manford:

This official opinion is issued in response to your request
for a ruling on the following question:

"Is there any constitutional prohibition
against the passage of state statutes or/and
passage of municipal-county ordinances direct-
ing funds collected from traffic and other
fines [to] be used exclusively for training
of law enforcement personnel within the par-
ticular jurisdiction?"

You have stated an interest in introducing enabling legisla-
tion to this end.

We direct your attention to Article IX, Section 7 of the Con-
stitution of Missouri. That section states:

"All real estate, loans and investments now
belonging to the various county and township
school funds, except those invested as herein-
after provided, shall be liquidated without
extension of time, and the proceeds thereof
and the money on hand now belonging to said

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school funds of the several counties and the city of St. Louis, shall be reinvested in registered bonds of the United States, or in bonds of the state or in approved bonds of any city or school district thereof, or in bonds or other securities the payment of which are fully guaranteed by the United States, and sacredly preserved as a county school fund. Any county or the city of St. Louis by a majority vote of the qualified electors voting thereon may elect to distribute annually to its schools the proceeds of the liquidated school fund, at the time and in the manner prescribed by law. All interest accruing from investment of the county school fund, the clear proceeds of all penalties, forfeitures and fines collected hereafter for any breach of the penal laws of the state, the net proceeds from the sale of estrays, and all other moneys coming into said funds shall be distributed annually to the schools of the several counties according to law." (Emphasis added)

It has been held that this constitutional provision applies only to such fines as constitute criminal rather than civil penalties; that is, fines paid in satisfaction of a public rather than a private wrong. New Franklin School Dist. No. 28, Howard County v. Bates, 225 S.W.2d 769 (Mo. 1950); State ex rel. Rodes v. Warner, 94 S.W. 962 (Mo. banc 1906).

This constitutional provision would appear to prohibit the enactment of state statutes directing that fines for offenses against state law be allocated for any purpose other than county school funds. (The actual process of distribution to such funds is governed by Sections 166.131 through 166.171, RSMo 1969.)

However, where county or municipal ordinances rather than state laws are involved, it appears that fines collected for violations of such ordinances need not be distributed to county school funds. In the case of Automobile Club of Missouri v. City of St. Louis, 334 S.W.2d 355 (Mo. 1960), the plaintiffs had contended that revenue from fines for violation of the parking meter ordinance of the City of St. Louis could not be transferred into a parking meter fund for the administration of the ordinance. The court, however, refused to strike down such allocation of the revenue from those fines. We therefore see no constitutional barrier to the enactment of municipal or county ordinances which provide for the distribution of fines, collected for violations of such municipality's or such county's ordinances, for a public purpose such as the training of law enforcement personnel.

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But it is also clear that the General Assembly has the power to prescribe the disposition and control of municipal or county revenues from fines and penalties collected for ordinance violations. See McQuillin Municipal Corporations (3rd Ed.), Section 4.142; Watson Seminary v. Pike County Court, 50 S.W. 880 (Mo. 1899). This power exists even with respect to constitutional charter counties and cities and, if exercised, takes precedence over the counties' and cities' power in this field.

Article VI, Section 18(b) of the Constitution of Missouri of 1945 provides that the charter of a charter county shall:

" . . . provide for its amendment, for the form of the county government, the number, kinds, manner of selection, terms of office and salaries of the county officers, and for the exercise of all powers and duties of counties and county officers prescribed by the constitution and laws of the state." (Emphasis added)

A constitutional limitation on the legislative power with respect to constitutional charter counties is found in Article VI, Section 18(e):

"Laws shall be enacted providing for free and open elections in such counties, and laws may be enacted providing the number and salaries of the judicial officers therein as provided by this constitution and by law, but no law shall provide for any other office or employee of the county or fix the salary of any of its officers or employees."

As was stated in State ex rel. O'Brien v. Roos, 397 S.W.2d 578, 582 (Mo. 1965), ". . . A county, after adopting a constitutional provision giving it exclusive control of local matters, continues amenable to state control in matters of a public character . . ." There is no express constitutional limitation on the state's legislative power to direct the disposition of funds collected by charter counties as fines for the violation of ordinances, and we believe that no such limitation is implicit in Article VI, Section 18(b), nor implicit elsewhere in the Constitution of Missouri.

A similar logic applies to constitutional charter cities, to which Article VI, Section 19(a), as amended, grants:

" . . . all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are

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consistent with the Constitution of this State and are not limited or denied either by the charter . . . or by statute. . . ." (Emphasis added)

The only express constitutional limitations on legislative power with respect to charter cities are found in Article VI, Section 22:

"No law shall be enacted creating or fixing the powers, duties or compensation of any municipal office or employment, for any city framing or adopting its own charter under this or any previous constitution, and all such offices or employments heretofore created shall cease at the end of the terms of any present incumbents."

This language does not limit the legislative power to prescribe the disposition of funds collected by charter cities as fines for ordinance violations.

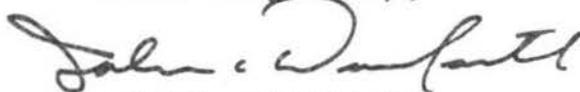
On the other hand, in the absence of any controlling state legislation, a county or a municipality would remain free to provide for the disposition of funds collected as fines for violations of its ordinances, as indicated above.

CONCLUSION

Therefore, it is the opinion of this office that Article IX, Section 7 of the Constitution of Missouri prohibits the passage of state statutes which would allocate to the training of law enforcement personnel any funds collected as fines for the violation of state laws. However, there is no constitutional prohibition against the passage of state statutes (or county or municipal ordinances, in the absence of such state statutes) which would mandate allocations to the training of law enforcement personnel from funds collected as fines for the violation of county or municipal ordinances.

The foregoing opinion, which I hereby approve, was prepared by my assistant, Mark D. Mittleman.

Yours very truly,



JOHN C. DANFORTH
Attorney General