

CIRCUIT CLERKS:
CIRCUIT COURT – CIRCUIT
COURTS:
COURTS:
FEES:
JUDGMENTS:
MUNICIPALITIES:
ORDINANCES:
SHERIFFS' RETIREMENT
SYSTEM:

The exemption for municipal courts from the \$3 surcharge in §57.955, RSMo, was removed in 1996. Therefore, municipal court clerks must collect the surcharge in municipal ordinance violation cases.

OPINION NO. 20-2013

April 17, 2013

The Honorable Brian Munzlinger
State Senator, District 18
State Capitol, Room 331-A
Jefferson City, MO 65101

Dear Senator Munzlinger:

You asked whether § 57.955, RSMo,¹ relating to the Sheriffs' Retirement System, requires a municipality to collect a \$3 surcharge for municipal ordinance violations and remit the surcharge to the System. We previously opined in Opinion No. 8-2010 in response to a request from then-Representative Kenny Jones. We are providing this opinion after taking into consideration additional matters raised, reaching the same conclusion on different grounds.² We are withdrawing Opinion No. 8-2010.

¹ All statutory citations are to RSMo Cum. Supp. 2012, unless otherwise noted.

² We do not address the constitutionality of collecting this surcharge at all. See *Harrison v. Monroe County*, 716 S.W.2d 263, 267, 270 (Mo. banc 1986) (Welliver, J., concurring).

Section 57.955, RSMo, provides as follows:

1. There shall be assessed and collected a surcharge of three dollars in all civil actions filed in the courts of this state and in all criminal cases including violation of any county ordinance or any violation of criminal or traffic laws of this state, including infractions, but no such surcharge shall be assessed when the costs are waived or are to be paid by the state, county or municipality or when a criminal proceeding or the defendant has been dismissed by the court. For purposes of this section, the term "county ordinance" shall not include any ordinance of the city of St. Louis. The clerk responsible for collecting court costs in civil and criminal cases, shall collect and disburse such amounts as provided by sections 488.010 to 488.020, RSMo. Such funds shall be payable to the sheriffs' retirement fund. Moneys credited to the sheriffs' retirement fund shall be used only for the purposes provided for in sections 57.949 to 57.997 and for no other purpose.

2. The board may accept gifts, donations, grants and bequests from public or private sources to the sheriffs' retirement fund.

The historical development of the statute shows that the legislative intent is that the surcharge be collected in municipal cases. The original version of this statute required the collection of the surcharge in all civil cases "filed in each circuit court and the divisions thereof, except the juvenile divisions" § 57.960, RSMo Cum. Supp. 1983. Because municipal courts are divisions of the circuit court, Art. V, § 27.2.d, Mo. Const., the fee was required in municipal cases under that statute.

The following year this statute was amended to require the collection of the fee in all civil cases "filed in each circuit court and the divisions thereof, except the municipal and juvenile divisions" § 57.955, RSMo Cum. Supp. 1984. This changed the law so that the municipal court division of the circuit court was exempted from collecting the fee.

Finally, in 1996, the statute was amended to read as it does today, requiring collection of the fee “in all civil actions filed in the courts of this state” § 57.955, RSMo Cum. Supp. 1996. This change eliminated the exceptions for juvenile divisions and municipal divisions of the circuit courts. For the change to have any meaning, municipal court divisions must now be required to collect the fee. *S.S. v. Mitchell*, 289 S.W.3d 797, 799 (Mo. App. E.D. 2009) (in interpreting statutes, courts “presume that the legislature intended an amendment to have some effect”). Therefore, the historical development of the statute demonstrates that the legislature intended that the surcharge be collected in municipal court cases.

CONCLUSION

The exemption for municipal courts from the \$3 surcharge in §57.955, RSMo, was removed in 1996. Therefore, municipal court clerks must collect the surcharge in municipal ordinance violation cases.

Very truly yours,



CHRIS KOSTER
Attorney General