

REPORT OF THE GENERAL GOVERNMENT, PERSONNEL & BENEFITS SUBCOMMITTEE

(Cobb-Hunter, Herbkersman, Hayes, Moss, Gagnon- Staff Contact: Ryan Tooley)

SENATE BILL 31

S. 31 -- Senators Hutto and K. Johnson: A BILL TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 5-7-240, RELATING TO INDEPENDENT AUDITS OF MUNICIPAL FINANCIAL RECORDS AND TRANSACTIONS, SO AS TO ALLOW MUNICIPALITIES WITH LESS THAN \$500,000 IN TOTAL REVENUES TO PROVIDE A COMPILATION OF FINANCIAL STATEMENTS; AND BY AMENDING SECTION 14-1-208, RELATING TO MUNICIPAL COURT AUDITS, SO AS TO MAKE CONFORMING CHANGES.

Received by Ways and Means: 3/2/23

Summary of Bill:

This bill changes the requirements for municipalities to conduct an annual audit of financial statements. Municipalities that have total recurring revenues at or above \$500,000 are required to conduct an annual audit of financial statements in the same manner they have always been required to. For municipalities that have total recurring revenues below \$500,000, their council may elect to provide either an audit of financial statements or a compilation of financial statements in lieu of an audit as follows: (1) Annually for municipalities that have a court system; or (2) At least once every three years for municipalities that do not have a court system.

The audit or compilation must be performed by an independent certified public accountant or firm, and it must be made available for public inspection. RFA will calculate and increase the \$500,000 total recurring revenue threshold based on inflation.

The bill continues the requirement for municipalities to submit a Uniform Supplemental Schedule Form for audits, which details fines and assessments collected at the court level, and remittance amounts, and it adds the requirement for the form be submitted for the new compilation option. It also increases the limit that municipalities may retain from court fines and fees from \$1,000 to \$2,000 to pay for expenses related to the preparation of the form.

"THE BELOW CONSTITUTED SUMMARY IS PREPARED BY THE STAFF OF THE SOUTH CAROLINA HOUSE OF REPRESENTATIVES AND IS NOT THE EXPRESSION OF THE LEGISLATION'S SPONSOR(S) OR THE HOUSE OF REPRESENTATIVES. IT IS STRICTLY FOR THE INTERNAL USE AND BENEFIT OF MEMBERS OF THE HOUSE OF REPRESENTATIVES AND IS NOT TO BE CONSTRUED BY A COURT OF LAW AS AN EXPRESSION OF LEGISLATIVE INTENT".

Estimated Revenue Impact:

This bill will have no expenditure impact on the State Treasurer's Office (STO) or the Office of State Auditor (OSA) as the development of regulations and procedures as well as review of financial statement compilation required by the bill will be managed by these agencies with existing staff and appropriations. This bill may reduce revenue generated by municipal court fines and assessments collected pursuant to §14-1-208(A) for the General Fund by up to \$23,060 and Other Funds by up to \$154,620, assuming that every qualifying municipality in the state retains an additional \$1,000 of court fines as allowed by the bill for the purposes of conducting an audit or compilation of financial statements. This bill will reduce local expenditures for municipalities with total annual revenues of less than \$500,000 beginning in FY 2024-25.

Based on the cost of financial statement compilation of between \$500 and \$2,000 compared to approximately \$5,000 for an audit, expenditure savings could range from \$3,000 to \$4,500 for each qualifying municipality. These savings would increase to up to \$5,000 for approximately 71 municipalities in the state without a court system, as those municipalities would be exempt from all financial reporting requirements until FY 2027-28. Local expenditure savings would be further bolstered by the additional court fine revenue retained by the municipality under this bill.

This bill will reallocate municipal court fine revenue of up to \$22,320 beginning in FY 2023-24 for the purposes of conducting an audit or financial statement compilation, assuming that all municipalities with a court system will retain an additional \$1,000 as allowed by the bill. Additionally, municipalities on the STO's delinquent audit list are expected to lose all Local Government Fund (LGF) distributions in FY 2022-23, totaling approximately \$527,900 for municipalities whose delinquency has lasted two fiscal years or more. However, the number of currently delinquent municipalities that will comply with the financial statement compilation requirement of the bill is unknown, and therefore, the LGF revenue impact for municipalities is undetermined.

Other Notes/Comments:

Proviso 98.9 was amended back to pre-COVID language in the House version of the Appropriation Bill to provide the State Treasurer's office with the authority to withhold state payments to municipalities that do not meet the reporting requirements. Some smaller municipalities were

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spending more on financial audits than they were losing from having state payments withheld. The flexibility in this bill allows those municipalities to meet reporting requirements and still receive state payments.

Reported favorable with amendment.

SOUTH CAROLINA
HOUSE AMENDMENT

AMENDMENT NO. _____

Samantha Allen
March 28, 2023

ADOPTED	REJECTED	TABLED	ADJOURN DEBATE	RECONSIDERED	ROO
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Clerk of the House

ADOPTION NO. _____

BILL NO: S. 31

(Reference is to the original version)

The General Government Subcommittee proposes the following amendment (LC-31.SA0002H):

Amend the bill, as and if amended, by adding an appropriately numbered SECTION to read:

SECTION X. Section 4-9-150 of the S.C. Code is amended to read:

Section 4-9-150. The council shall provide for an independent annual audit of all financial records and transactions of the county and any agency funded in whole by county funds and may provide for more frequent audits as it considers necessary. Special audits may be provided for any agency receiving county funds as the county governing body considers necessary. The audits must be made by a certified public accountant or public accountant or firm of these accountants who have no personal interest, direct or indirect, in the fiscal affairs of the county government or

any of its officers. The council may, without requiring competitive bids, designate the accountant or firm annually or for a period not exceeding three years. The designation for any particular fiscal year must be made no later than thirty days after the beginning of the fiscal year. The report of the audit must be made available for public inspection. A copy of the report of the audit must be submitted to the Comptroller General no later than January first each year following the close of the books of the previous fiscal year.

If the report is not ~~timely filed, or~~ with the Comptroller General within the time extended for filing the report ~~one hundred eighty days of January first of each year,~~ funds distributed by the Comptroller General to the county in the current fiscal year must be withheld pending receipt of a copy of the report. The Comptroller General or State Treasurer may extend the time for filing the report beyond the one hundred eighty-day period at his discretion.

Renumber sections to conform.

Amend title to conform.



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number: S. 0031 Introduced on January 10, 2023
Author: Hutto
Subject: Municipal Audit
Requestor: Senate Finance
RFA Analyst(s): Tipton
Impact Date: February 13, 2023

Fiscal Impact Summary

This bill eliminates the annual financial record audit requirement under §5-7-240 for municipalities in the state with less than \$500,000 in total annual revenue. In lieu of an audit, these municipalities may elect to compile financial statements. This compilation must be provided annually if the municipality has a court system or every three years if the municipality does not have a court system. The compilation of statements must be prepared by a certified public accountant in accordance with agreed upon procedures. The \$500,000 limit for conducting an audit will increase with inflation. The bill also increases the limit that municipalities may retain from court fines and fees from \$1,000 to \$2,000 to pay the expenses associated with the preparation of the Uniform Supplemental Schedule Form required to be submitted with the audit or compiled financial statement.

This bill will have no expenditure impact on the State Treasurer's Office (STO) or the Office of State Auditor (OSA) as the development of regulations and procedures as well as review of financial statement compilation required by the bill will be managed by these agencies with existing staff and appropriations.

This bill may reduce revenue generated by municipal court fines and assessments collected pursuant to §14-1-208(A) for the General Fund by up to \$23,060 and Other Funds by up to \$154,620, assuming that every qualifying municipality in the state retains an additional \$1,000 of court fines as allowed by the bill for the purposes of conducting an audit or compilation of financial statements.

This bill will reduce local expenditures for municipalities with total annual revenues of less than \$500,000 beginning in FY 2024-25. The bill does not define total revenue for the purposes of determining whether a municipality is eligible for financial statement compilation in lieu of an annual audit, however, based on the Revenue and Fiscal Affairs Office (RFA) 2021 Local Government Finance Report, 48 to 58 municipalities would qualify depending on the inclusion of utility fund revenues in the total revenue calculation. However, 73 municipalities in the state did not submit financial information for the report, indicating that total revenues for those municipalities may also fall below the \$500,000 threshold set by the bill. Therefore, we estimate that between 48 and 121 municipalities in the state will have total annual revenues of less than

\$500,000 in FY 2023-24 and will be eligible for financial statement compilation under this bill beginning in FY 2024-25 in lieu of an annual audit.

Based on the cost of financial statement compilation of between \$500 and \$2,000 compared to approximately \$5,000 for an audit, expenditure savings could range from \$3,000 to \$4,500 for each qualifying municipality. These savings would increase to up to \$5,000 for approximately 71 municipalities in the state without a court system, as those municipalities would be exempt from all financial reporting requirements until FY 2027-28. Local expenditure savings would be further bolstered by the additional court fine revenue retained by the municipality under this bill. However, based on the State Treasurer's delinquent audit list for municipalities, 31 municipalities have not submitted an annual audit to STO for the last two required fiscal years. If these municipalities are not currently conducting audits, it is unknown whether these municipalities would comply with the financial statement compilation requirement of this bill and therefore reap the expenditure savings benefit. The Municipal Association of South Carolina (MASC) reports that in some cases, performing a professional audit is cost prohibitive for small municipalities, while compiling financial statements may be more feasible. However, it is unknown how many of the municipalities on STO's delinquent audit list would fall in this category, and therefore, actual local expenditure savings as a result of the bill are undetermined.

This bill will reallocate municipal court fine revenue of up to \$22,320 beginning in FY 2023-24 for the purposes of conducting an audit or financial statement compilation, assuming that all municipalities with a court system will retain an additional \$1,000 as allowed by the bill. Additionally, municipalities on the STO's delinquent audit list are expected to lose all Local Government Fund (LGF) distributions in FY 2022-23, totaling approximately \$527,900 for municipalities whose delinquency has lasted two fiscal years or more. However, the number of currently delinquent municipalities that will comply with the financial statement compilation requirement of the bill is unknown, and therefore, the LGF revenue impact for municipalities is undetermined.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill eliminates the annual audit requirement under §5-7-240 for municipalities in the state with less than \$500,000 in annual revenue. In lieu of an audit, these municipalities may elect to compile financial statements. This compilation must be provided annually if the municipality has a court system or every three years if the municipality does not have a court system. The compilation of statements must be prepared by a certified public accountant in accordance with agreed upon procedures as established by STO and approved by OSA.

State Treasurer's Office. This bill requires STO to establish procedures for financial statement compilation for municipalities with total annual revenues of less than \$500,000. In addition, this bill may increase in the number of LGF distributions from STO to municipalities currently on the STO's delinquent audit list, if compliance with the financial statement compilation requirement is more common than the audit requirement. STO currently withholds all LGF distributions to

municipalities that have not complied with the annual audit requirement in a given fiscal year, totaling approximately \$500,000 since FY 2018-19. STO indicates that the development of procedures for financial statement compilation and increased LGF distributions will be managed by existing staff and appropriations and will have no expenditure impact.

Office of State Auditor. This bill requires approval from OSA of procedures established by STO for financial statement compilation for municipalities with total annual revenues of less than \$500,000. OSA indicates that this will be managed by existing staff and appropriations and will have no expenditure impact.

State Revenue

This bill eliminates the annual financial record audit requirement under §5-7-240 for municipalities in the state with less than \$500,000 in total annual revenue. In lieu of an audit, these municipalities may elect to compile financial statements. This compilation must be provided annually if the municipality has a court system or every three years if the municipality does not have a court system. The compilation of statements must be prepared by a certified public accountant in accordance with agreed upon procedures. The \$500,000 limit for conducting an audit will increase with inflation. The bill also increases the limit that municipalities may retain from court fines and fees collected pursuant to §14-1-208(A) from \$1,000 to \$2,000 to pay the expenses associated with the preparation of the Uniform Supplemental Schedule Form required to be submitted with the audit or compiled financial statement. Under this code section, a person who is convicted of, or pleads guilty or nolo contendere to, or forfeits bond for an offense, tried in municipal court must pay an amount equal to 107.5 percent of the fine imposed as an assessment. This assessment, less the amount retained by the municipality, must be remitted to the State Treasurer and distributed in specified amounts.

Of the 271 municipalities in the state, Judicial estimates that approximately 200 have court systems. If we assume that every municipality with a court system will retain an additional \$1,000 in municipal court fines received pursuant to §14-1-208(A) for the purposes of performing an audit or compilation of financial statements, this will reallocate approximately \$200,000 of court assessments revenue statewide. Pursuant to §14-1-208(C), 11.53 percent of these fines and assessments must be remitted to the General Fund, 11.16 percent may be retained by municipalities, and the remaining 77.31 percent must be distributed to various Other Funds sources for victim services. Therefore, under the increased retention amount for conducting an audit or financial statement compilation, this bill may reduce revenue generated by municipal court fines and assessments for the General Fund by up to \$23,060 and Other Funds by up to \$154,620 beginning in FY 2023-24.

Local Expenditure

This bill eliminates the annual financial record audit requirement under §5-7-240 for municipalities in the state with less than \$500,000 in total annual revenue. In lieu of an audit, these municipalities may elect to compile financial statements. This compilation must be provided annually if the municipality has a court system or every three years if the municipality does not have a court system. The compilation of statements must be prepared by a certified public accountant in accordance with agreed upon procedures. The \$500,000 limit for

conducting an audit will increase with inflation. The bill also increases the limit that municipalities may retain from court fines and fees from \$1,000 to \$2,000 to pay the expenses associated with the preparation of the Uniform Supplemental Schedule Form required to be submitted with the audit or compiled financial statement.

This bill does not define total revenue for the purposes of determining whether a municipality is eligible to compile financial statements in lieu of an annual audit. According to RFA's 2021 Local Government Finance Report, the number of reporting municipalities with revenue of less than \$500,000 ranges from 48 to 58 depending on how total revenue is determined. Based on the report, 48 responding municipalities reported total revenues of less than \$500,000 when including all utility revenue. The number of responding municipalities with less than \$500,000 in revenue increases to 55 when excluding enterprise utility funds but including all General Fund utility revenue, and further increases to 58 when excluding all utility fund revenue. However, 73 municipalities in the state did not submit financial information for the Local Government Finance Report, indicating that total revenues for those municipalities may fall below the \$500,000 threshold set by the bill. Therefore, we estimate that between 48 and 121 municipalities in the state will have total annual revenues of less than \$500,000 in FY 2023-24 and will be eligible for financial statement compilation under this bill beginning in FY 2024-25 in lieu of an annual audit.

According to the MASC, the annual cost of an audit for a municipality with less than \$500,000 in revenue varies, but is estimated to be approximately \$5,000. The cost of compiling financial statements in lieu of an audit would vary based on the complexity of the municipality's finances, and would be between \$500 and \$2,000 per year. Thus, expenditure savings would range from \$3,000 to \$4,500 annually for each qualifying municipality. Expenditure savings would increase to up to \$5,000 for approximately 71 municipalities in the state without a court system in FY 2025-26 and FY 2026-27, as those municipalities would be exempt from all financial reporting requirements until FY 2027-28. Local expenditure savings would be further bolstered by the additional court fine revenue retained by the municipality under this bill.

However, based on the STO's delinquent audit list for municipalities, 31 municipalities have not submitted an annual audit to STO for the last two applicable fiscal years. If these municipalities are not currently conducting audits, it is unknown whether these municipalities would comply with the financial statement compilation requirement of this bill and therefore reap the expenditure savings benefit. MASC reports that in some cases, performing a professional audit is cost prohibitive for small municipalities, while compiling financial statements may be more feasible. However, it is unknown how many of the municipalities on STO's delinquent audit list would fall in this category, and therefore, actual local expenditure savings as a result of the bill are undetermined.

Local Revenue

This bill eliminates the annual financial record audit requirement under §5-7-240 for municipalities in the state with less than \$500,000 in total annual revenue. In lieu of an audit, these municipalities may elect to compile financial statements. This compilation must be provided annually if the municipality has a court system or every three years if the municipality

does not have a court system. The compilation of statements must be prepared by a certified public accountant in accordance with agreed upon procedures. The \$500,000 limit for conducting an audit will increase with inflation.

The bill further increases the limit that municipalities may retain from municipal court fines received pursuant to §14-1-208(A) for performing the audit or financial statement compilation from \$1,000 to \$2,000. Of the 271 municipalities in the state, Judicial estimates that approximately 200 have court systems. If we assume that every municipality with a court system will retain an additional \$1,000 in municipal court fines received pursuant to §14-1-208(A) for the purposes of performing an audit or compilation of financial statements, this will reallocate approximately \$200,000 of court fines and assessments revenue statewide. Pursuant to §14-1-208(C), 11.53 percent of these fines and assessments must be remitted to the General Fund, 11.16 percent may be retained by municipalities, and the remaining 77.31 percent must be distributed to various Other Funds sources for victim services. Therefore, under the increased retention amount for conducting an audit or financial statement compilation, this bill may reallocate local revenue generated by municipal court fines and assessments by up to \$22,320 beginning in FY 2023-24.

Currently, local governments that do not perform an annual audit are subject to the loss of all LGF distributions in a given fiscal year. According to the STO, approximately \$500,000 of LGF distributions were withheld from municipalities since FY 2018-19. LGF distributions to municipalities that have been on the STO's delinquent audit list for the last two applicable fiscal years are estimated to total \$527,900 in FY 2022-23, which would be forfeited should the municipalities continue to be in violation of the audit requirement. If those municipalities begin performing annual financial statement compilations under the provisions of this bill, LGF revenue to delinquent municipalities could increase by up to \$527,900 statewide. However, as the number of currently delinquent municipalities that would comply with this bill are unknown, the revenue impact is undetermined.



Frank A. Rainwater, Executive Director

South Carolina General Assembly
125th Session, 2023-2024

S. 31

STATUS INFORMATION

General Bill

Sponsors: Senators Hutto and K. Johnson

Document Path: LC-0056PH23.docx

Introduced in the Senate on January 10, 2023

Introduced in the House on March 2, 2023

Last Amended on February 28, 2023

Currently residing in the House Committee on **Ways and Means**

Summary: Municipal Audit

HISTORY OF LEGISLATIVE ACTIONS

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
11/30/2022	Senate	Prefiled
11/30/2022	Senate	Referred to Committee on Finance
1/10/2023	Senate	Introduced and read first time (Senate Journal-page 27)
1/10/2023	Senate	Referred to Committee on Finance (Senate Journal-page 27)
2/22/2023	Senate	Committee report: Favorable with amendment Finance (Senate Journal-page 7)
2/27/2023		Scrivener's error corrected
2/28/2023	Senate	Committee Amendment Adopted (Senate Journal-page 14)
2/28/2023	Senate	Read second time (Senate Journal-page 14)
2/28/2023	Senate	Roll call Ayes-40 Nays-0 (Senate Journal-page 14)
3/1/2023	Senate	Read third time and sent to House (Senate Journal-page 6)
3/1/2023		Scrivener's error corrected
3/2/2023	House	Introduced and read first time (House Journal-page 4)
3/2/2023	House	Referred to Committee on Ways and Means (House Journal-page 4)

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1 ~~Indicates Matter Stricken~~

2 Indicates New Matter

3

4 COMMITTEE AMENDMENT ADOPTED

5 February 28, 2023

6

S. 31

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Introduced by Senators Hutto and K. Johnson

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9 S. Printed 02/28/23--S.

[SEC 3/1/2023 4:48 PM]

10 Read the first time January 10, 2023

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A BILL

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 5-7-240,
12 RELATING TO INDEPENDENT AUDITS OF MUNICIPAL FINANCIAL RECORDS AND
13 TRANSACTIONS, SO AS TO ALLOW MUNICIPALITIES WITH LESS THAN \$500,000 IN
14 TOTAL REVENUES TO PROVIDE A COMPILATION OF FINANCIAL STATEMENTS; AND BY
15 AMENDING SECTION 14-1-208, RELATING TO MUNICIPAL COURT AUDITS, SO AS TO
16 MAKE CONFORMING CHANGES.

17 Amend Title To Conform

18

19 Be it enacted by the General Assembly of the State of South Carolina:

20

21 SECTION 1. Section 5-7-240 of the S.C. Code is amended to read:

22

23 Section 5-7-240. (A) The council of each municipality having total recurring revenues at or above
24 the threshold in Section 5-7-240(D) shall provide for an independent annual audit of all financial records
25 and transactions of the municipality and any agency funded in whole by municipal funds and may
26 provide for more frequent audits as it deems necessary. Special audits may be provided for any agency
27 receiving municipal funds as the municipality deems necessary. Such audits shall be made by a certified
28 public accountant or public accountant or firm of such accountants who have no personal interest, direct
29 or indirect, in the fiscal affairs of the municipal government or any of its officers financial statements.
30 The council may, without requiring competitive bids, designate a certified public ~~such~~ accountant or
31 public accounting firm annually or for a period not exceeding four years, provided, that the designation
32 for any particular fiscal year shall be made no later than thirty days after the beginning of such fiscal
33 year. ~~The report of the audit or compilation shall be made available for public inspection. The council~~
34 ~~may in its discretion accept independent audits of municipal agencies and departments and include such~~
35 ~~audits in its general report of the audit of the municipality.~~

36 (B) The council of each municipality having total recurring revenues below the threshold in Section
37 5-7-240(D) may elect to provide for either an audit of financial statements or a compilation of financial
38 statements in lieu of an audit as follows:

39 (1) annually for municipalities that have a court system; or

40 (2) at least once every three years for municipalities that do not have a court system.

41 (C) The audit or compilation must be performed by an independent certified public accountant or a

1 firm of certified public accountants. The report of the audit or compilation shall be made available for
2 public inspection. Financial statements of municipalities with a court system must include the
3 requirements of Section 14-1-208.

4 A municipality that exceeds the threshold in the current fiscal year but was below the threshold in
5 the previous fiscal year must begin submitting audited financial statements annually beginning no later
6 than the fiscal year following the year in which its total revenues exceed the threshold.

7 (D) Beginning with the municipality fiscal year which begins after January 1, 2024, the reporting
8 threshold is \$500,000 of the total recurring revenue of a municipality. As soon as practicable at the
9 beginning of each subsequent calendar year, the Revenue and Fiscal Affairs Office must determine the
10 increase or decrease in the ratio of the Consumer Price Index to the index as of December 31 of the
11 previous year and the threshold must be increased accordingly. If the average of the twelve-month
12 consumer price index experiences a negative percentage, the average is deemed to be zero. For purposes
13 of this subsection, "Consumer Price Index" means the Consumer Price Index for All Urban Consumers
14 as published by the United States Department of Labor, Bureau of Labor Statistics.

15
16 SECTION 2. Section 14-1-208(E) of the S.C. Code is amended to read:

17
18 (E) To ensure that fines and assessments imposed pursuant to this section and Section 14-1-209(A)
19 are properly collected and remitted to the State Treasurer, the ~~annual independent external audit~~
20 ~~required to be~~ audit or compilation performed for each municipality pursuant to Section 5-7-240 must
21 ~~include a review of the accounting controls over the collection, reporting, and distribution of fines and~~
22 ~~assessments from the point of collection to the point of distribution and~~ a Uniform Supplemental
23 Schedule Form detailing all fines and assessments collected at the court level, the amount remitted to
24 the municipal treasurer, and the amount remitted to the State Treasurer.

25 (1) To the extent that records are made available in the format determined pursuant to subsection
26 (E)(4), the Uniform Supplemental Schedule Form developed by the Office of the Attorney General,
27 South Carolina Crime Victim Services Division, must be used by all counties and municipalities to
28 report their crime victim services funds and must include the following elements:

- 29 (a) all fines collected by the clerk of court for the municipal court;
30 (b) all assessments collected by the clerk of court for the municipal court;
31 (c) the amount of fines retained by the municipal treasurer;
32 (d) the amount of assessments retained by the municipal treasurer;
33 (e) the amount of fines and assessments remitted to the State Treasurer pursuant to this section;

34 and

35 (f) the total funds, by source, allocated to victim services activities, how those funds were
36 expended, and any balances carried forward.

