

A RESOLUTION OF THE CITY OF CLEMSON, SOUTH CAROLINA CITY COUNCIL

I. CIRCUIT PUBLIC DEFENDER FUNDING

WHEREAS, under South Carolina law, each circuit public defender is to be funded by the State and by each of the counties within that circuit (S.C. Code Ann. §17-3-5(5); §7-3-540(B)); and,

WHEREAS, the known funding sources for the circuit public defender for Pickens County prior and/or including the 2014-2015 fiscal year included, but may not have been limited to:

1. The State of South Carolina;
2. Pickens County property tax payments made by property owners in the County;
3. The municipal courts in Pickens County, which were each required to remit 10.56 percent of every fine levied;
4. Application fees from potential clients seeking indigent services (S.C. Code Ann. §17-3-30(B)); and,
5. Claims against the assets and estates of clients receiving services (S.C. Code Ann. §17-3-40).

and,

WHEREAS, published budget documents for Pickens County indicate that the actual public defender expenditures for the three most recent completed fiscal years were \$93,733 (2013), \$90,523 (2014), and \$96,847 (2015), resulting in an average of \$93,701 per year.

II. SOUTH CAROLINA GENERAL ASSEMBLY BUDGET PROVISIO

WHEREAS, by law, the South Carolina General Assembly requires circuit public defenders to “actively participate in the representation of clients *throughout the judicial circuit*” (S.C. Code Ann. §17-3-520(B)(1) (emphasis added)); and,

WHEREAS, despite this statutory requirement, in the 2015 State budget, the General Assembly included a proviso prohibiting circuit public defenders from representing indigent defendants in municipal court unless the court and the public defender’s office entered into an agreement for services; and,

WHEREAS, the General Assembly did not mandate in the proviso that circuit public defenders had to charge a fee accompanying the service agreements, but it also did not provide any method of calculation for the amount that could be charged nor did it set a cap for the amount that could be charged; and,

WHEREAS, pursuant to the authority granted in the proviso, the Circuit Public Defender’s Office required that the municipalities in Pickens County pay an additional \$40,000 for public defender services in municipal courts in fiscal year 2015-2016.

III. CITY OF CLEMSON

WHEREAS, pursuant to statute, the Clemson Municipal Court collected and remitted \$23,030 in fiscal year 2014-2015 for funding of indigent services; and,

WHEREAS, pursuant to the budget proviso, out of the \$40,000 paid in total by Pickens County municipalities, the City of Clemson was required to pay an additional \$6492 for public defender services; and,

WHEREAS, during the past three years, the Circuit Public Defender's Office has represented an average of only seven (7) clients per year before the Clemson Municipal Court.

IV. OPPOSITION TO BUDGET PROVISIO

WHEREAS, on October 26, 2015, the Pickens County Municipal Association met with the Pickens County Legislative Delegation to discuss the deep concerns of each of the municipalities about the budget proviso and the additional, unnecessary, and inequitable financial burden it placed on the municipalities and their citizens; and,

WHEREAS, however, the South Carolina House of Representatives proposed budget of fiscal year 2016-2017 includes the same proviso, which will continue the inequitable financial burden on municipalities and their citizens.

RESOLUTION

NOW, THEREFORE, IT IS DULY RESOLVED BY THE CLEMSON CITY COUNCIL to remind the Pickens County Legislative Delegation of their pledge to the Pickens County Municipal Association that significant efforts would be expended by said Delegation members to oppose allow circuit court public defenders to impose additional charges on municipalities; and,

BE IT FURTHER RESOLVED that the Clemson City Council opposes what amounts to additional taxation on its municipal citizens, particularly when it is imposed without regard to the actual funding needs of the public defender's office, without regard for the actual usage of public defenders in municipal courts, without a consistent, lawful, and equitable method for calculating charges, and without any cap on the amount that can be charged; and,

BE IT FURTHER RESOLVED that the Clemson City Council also opposes the practice of the General Assembly to use "budget proviso" methods to create public policy and implement unfunded mandates on municipal government – regardless of the subject matter or actual financial need of the General Assembly – and urges the Pickens County Legislative Delegation to work to defeat public policy initiatives and/or budget mandates that are imposed in this manner.

APPROVED BY THE CLEMSON CITY COUNCIL and executed by the Mayor of the City of
Clemson this ____ day of April, 2016, at a regular meeting of City Council.

By: _____
Mayor J.C. Cook, III

ATTEST: _____
Beverly Coleman, City Clerk