




South Carolina Court Administration
South Carolina Supreme Court
Columbia, South Carolina

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MEMORANDUM

TO: County and City Administrators
County and City Attorneys
County and City Council Chairs
Magistrates and Municipal Judges

FROM: Jean Hoefler Toal, Chief Justice 

RE: City or County Administrative Hearing Courts

DATE: March 23, 2009

I have received information that some counties and municipalities in the State are attempting to create by local ordinance another tier of courts, typically designated as "administrative hearing courts." The courts are purportedly established for the purpose of hearing smoking infractions, as well as various other local ordinance violations. The creation of these courts is repugnant to the long-standing concept of the state uniform judicial system.¹ Courts may only be established pursuant to the South Carolina Constitution or State law. Our Supreme Court has held that the establishment of a uniform judiciary is mandatory and that statutes which extend or perpetuate a non-unified system or which operate so as to postpone or defeat the purpose of Article V of our State Constitution must be deemed unconstitutional.² Further, the South Carolina Constitution limits the power local government may be granted by the State by providing that, among other things, local governments may not set aside structure for and the administration of the state's judicial system.³ The local establishment of these courts is clearly in violation of both Article V and Article VIII of our South Carolina Constitution and I urge you to reconsider their validity. Locally created smoking infractions, as well as County and Municipal ordinance violations, should be heard and disposed in the magistrate and municipal courts of this State, respectively, as they are part of the State uniform judicial system.

JHT/am

¹ See Article V, Sections 1 and 4, South Carolina Constitution; State ex rel. McLeod v. Crowe, 349 S.E. 2d 772, 272 S.C. 41 (1978); City of Pickens v. Schmidt, 376 S.E. 2d 271, 297 S.C. 253 (1989)

² Douglas v. State ex rel. McLeod, 282 S.E. 2d 604, 277 S.C. 76 (1981)

³ Article VIII, Section 14, South Carolina Constitution