

**Note from the Attorney General's Office:**

1989 Op. Att'y Gen. No. 89-103 was modified by  
1990 Op. Att'y Gen. No. 90-022.

**OPINION NO. 89-103****Syllabus:**

1. Mandatory drug fines collected under R.C. 2925.03 are excepted from the disbursement provisions of R.C. 3375.52 and R.C. 3719.21 and are paid, pursuant to R.C. 2925.03(J), to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. (1989 Op. Att'y Gen. No. 89-090, syllabus, paragraph four, followed.)
2. Fines assessed and collected under prosecutions commenced for violations of R.C. Chapters 2925 and 3719 are excepted from the disbursement provisions of R.C. 3375.52 and, pursuant to R.C. 3719.21, are paid to the executive director of the State Board of Pharmacy and by him paid into the state treasury to the credit of the general revenue fund with the exception of mandatory drug fines, which are disbursed pursuant to R.C. 2925.03(J).
3. Money from fines collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor are excepted from the disbursement provisions of R.C. 3375.52 and R.C. 3375.53 and are paid, pursuant to R.C. 4301.57, one half to the credit of the general revenue fund and one half to the treasury of the county where the prosecution is held, to the credit of the county general fund. The portion of fines disbursed under R.C. 4301.57 to a county treasury which arise from liquor trafficking violations contained in R.C. Chapters 4301 and 4303 are further disbursed by the county treasurer, pursuant to R.C. 3375.53, one half to the law library association and one half to the county treasury to the credit of the county general fund, provided the sum paid to the law library association in a year does not exceed twelve hundred dollars. After a county treasurer has paid twelve hundred dollars in a single year to a law library association,

pursuant to R.C. 3375.53, the full amount of fines disbursed by R.C. 4301.57 to a county treasury are to be deposited in such treasury to the credit of the county general fund.

4. With the exception of fines collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor, which are disbursed pursuant to R.C. 4301.57, fines and penalties collected by courts of common pleas and probate courts for offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303 are excepted from the disbursement provisions of R.C. 3375.52 and are paid by the county treasurer, pursuant to R.C. 3375.53, one half to the law library association and one half to the county treasury to the credit of the county general fund, provided, however, that a county treasurer disburse not more than twelve hundred dollars of the fines and penalties collected for offenses brought for prosecution under R.C. Chapters 4301 and 4303 in a year to a law library association. After a county treasurer has paid twelve hundred dollars in a single year to a law library association, pursuant to R.C. 3375.53, all fines and penalties collected under R.C. Chapters 4301 and 4303 are paid to the county treasury to the credit of the county general fund. (1955 Op. Att'y Gen. No. 5669, p. 383, syllabus, paragraph one, followed.)
5. Fines and penalties collected by courts of common pleas and probate courts for offenses and misdemeanors brought for prosecution in such courts in the name of the state and not specifically excepted by another provision of law are to be disbursed to a law library association, pursuant to R.C. 3375.52, up to a maximum of twelve hundred fifty dollars within a year. After said clerks have paid twelve hundred fifty dollars to a law library association within a year, pursuant to R.C. 3375.52, all fines and penalties collected thereafter are to be deposited in the county treasury to the credit of the county general fund.

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**To: James A. Philomena, Mahoning County Prosecuting Attorney, Youngstown, Ohio**

**By: Anthony J. Celebrezze, Jr., Attorney General, December 29, 1989**

I have before me your request for my opinion concerning the disposition of fines and penalties collected under various sections of the Revised Code. Specifically, you inquire as "[t]o which entity or entities should fines and penalties collected under various provisions of the Ohio Revised Code be paid." Your letter indicates that you are concerned with the disposition of fines and penalties collected under R.C. 3375.52, R.C. 3375.53, R.C. 4301.57, R.C. 3719.21, and R.C. 2925.03. Consequently, I will limit my analysis to the disposition of fines and penalties collected under the statutes enumerated in your letter.

I note initially that R.C. 3375.52 and R.C. 3375.53 are part of a legislative pattern to provide financial support to county law library associations through the disbursement of a portion of fines, penalties, and moneys arising from forfeited bail collected by various courts. *State ex rel. Akron Law Library Ass'n v. Weil*, 16 Ohio App. 2d 151, 242 N.E.2d 664 (Summit County 1968) (syllabus, paragraph one); *Day v. Wilson*, 55 Ohio Op. 347, 348, 124 N.E.2d 480, 481 (C.P. Portage County 1954); see also *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, 169 Ohio St. 243, 159 N.E.2d 220 (1959). More specifically, R.C. 3375.52 provides that clerks of the courts of common pleas and probate courts shall pay "all fines and penalties collected by, and moneys arising from forfeited bail...for offenses and misdemeanors brought for prosecution in such courts in the name of the state...to the board of trustees of the law library association." The statute further provides that the total paid by said clerks to the law library association in any year shall not exceed twelve hundred fifty dollars. After a clerk has paid twelve hundred fifty dollars to the law library association under R.C. 3375.52, he shall deposit any

remaining fines, penalties, and moneys arising from forfeited bail collected under such section into the county treasury to the credit of the county general fund. See generally R.C. 2937.36 (forfeited bail treated as if it were a fine); R.C. 2949.11 (fines are paid into the county treasury to the credit of the general fund, unless otherwise required by law); *Van Wert County Law Library Ass'n v. Stuckey*, 42 Ohio Op. 1, 6, 94 N.E.2d 32, 44 (C.P. Van Wert County 1949) ("[a]fter the maximum amounts payable to a law library association has been reached as provided by G.C. §3056-2 [now R.C. 3375.52]...all other monies resulting from violations of the state criminal laws shall be paid to the county treasury to the credit of the general fund").

R.C. 3375.53 similarly directs county treasurers<sup>1</sup> to pay "fifty per cent of all fines and penalties collected by, and of moneys arising from forfeited bail...for offenses brought for prosecution under Chapters 4301. and 4303. of the Revised Code and the state traffic laws...to the board of trustees of the law library association in such county." The statute also requires that such treasurers limit their yearly disbursement of fines and penalties collected by, and moneys arising from forfeited bail for offenses brought for prosecution under R.C. Chapters 4301 and 4303 to a law library association to twelve hundred dollars.<sup>2</sup> Additionally, any fines, penalties, and moneys arising from forfeited bail not disbursed by a county treasurer, pursuant to R.C. 3375.53, to a law library association are deposited in the county treasury to the credit of the county general fund. See generally R.C. 2937.36; R.C. 2949.11; *Van Wert County Law Library Ass'n v. Stuckey*, 42 Ohio Op. at 6, 94 N.E.2d at 44 (moneys accruing to the county treasury after the statutory maximum has been paid to a law library association under G.C. 3056-3 (now R.C. 3375.53) for violations of the liquor control act shall be "paid one-half to the state and one-half to the general fund of the county").

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<sup>1</sup> Under R.C. 3375.53, both county and municipal corporation treasurers are directed to make monthly payments to law library associations. Since you are statutorily authorized only to advise county officers, R.C. 309.09, I will address only a county treasurer's duty to disburse fines, penalties, and moneys arising from forfeited bail collected for offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303 to a law library association.

<sup>2</sup> R.C. 3375.53 imposes no statutory ceiling as to the amount to be paid a law library association from fines, penalties, and moneys arising from forfeited bail collected by a treasurer for offenses brought for prosecution under the state traffic laws. I note, however, that the second syllabus paragraph of 1968 Op. Att'y Gen. No. 68-021 held:

Section 4513.35, Revised Code, requires the county treasurer to pay fifty percent of the fines and forfeitures discussed therein to the township whose "police officers" made the arrests or apprehensions and the remaining fifty percent is distributed one-half of fifty percent to the highway maintenance and repair fund and *one half of fifty percent* [pursuant to R.C. 3375.53] *to the county law library association with the twelve hundred dollar maximum limitation.* (Emphasis added.)

Thus, Op. No. 68-021 seems to imply that fines, penalties, and moneys arising from forfeited bail collected by treasurers for offenses brought for prosecution under the state traffic laws and subsequently disbursed, pursuant to R.C. 3375.53, to a law library association are subject to a twelve hundred dollar limitation. I am, however, reluctant to agree with this proposition, since the plain language of R.C. 3375.53 imposes no such twelve hundred dollar limitation with regard to fines, penalties, and moneys arising from forfeited bail collected for offenses brought for prosecution under the state traffic laws. See generally *State ex rel. Stanton v. Zangerle*, 117 Ohio St. 436, 439, 159 N.E. 823, 824-25 (1927) ("[t]here is no dispute...as to what the law specifically provides with respect to these matters. There is practically no occasion for any construction of the statutes. They are very definite and very plain, and need only to be read to ascertain their meaning"). Consequently, treasurers must disburse fifty percent of all fines, penalties,

A review of the above indicates that both R.C. 3375.52 and R.C. 3375.53 control the disbursement of fines and penalties<sup>3</sup> collected by courts of common pleas and probate courts for offenses brought for prosecution under the state traffic laws<sup>4</sup> and R.C. Chapters 4301 and 4303. In 1955 Op. Att'y Gen. No. 5669, p. 383 (syllabus, paragraph one), one of my predecessor's construed the relationship between R.C. 3375.52 and R.C. 3375.53 and determined that:

Under the provisions of Section 3375.52, Revised Code, all moneys arising from fines and penalties, and from cash deposits, bail bonds and recognizances taken by the court of common pleas and the probate court of each county, which have been forfeited on account of offenses and misdemeanors brought for prosecution in such courts in the name of the state, must be retained and paid monthly by the clerk of such courts to the board of trustees of the county law library association; provided, however, that under the terms of Section 3375.53, Revised Code, fifty percent of all such moneys accruing to the county treasury from prosecutions under the laws relating to the regulation of the liquor traffic, and the state traffic laws, is to be paid by the county treasurer to said library association, all of such payments to be subject to the limitations as to amount set forth in said statutes.

My predecessor's conclusion is based on the canon of statutory construction that a special law modifies or prevails as an exception to the general law. See generally R.C. 1.51; *Cincinnati v. Bossert Mach. Co.*, 16 Ohio St. 2d 76, 243 N.E.2d 105 (1968), cert. denied, 394 U.S. 998 (1969); *State ex rel. Steller v. Zangerle*, 100 Ohio St. 414, 126 N.E. 413 (1919) (per curiam). Utilizing this canon of statutory construction, my predecessor determined that R.C. 3375.52 is a general statute in that it covers all fines, penalties, and forfeited bail collected by courts of common pleas and probate courts, whereas R.C. 3375.53 is a special statute in that it is limited in application to fines, penalties, and forfeited bail collected for offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303. 1955 Op. No. 5669 at 386-87. Consequently, my predecessor concluded that the specific provisions of R.C. 3375.53 modify or prevail as an exception to the general provisions of R.C. 3375.52.

I am constrained to agree with the opinion of my predecessor in 1955 Op. No. 5669<sup>5</sup> since said opinion contains the most reasonable interpretation of the relationship between R.C. 3375.52 and R.C. 3375.53.<sup>6</sup> Accordingly, I find that

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and moneys arising from forfeited bail collected by them for offenses brought for prosecution under the state traffic laws to the law library association.

<sup>3</sup> Although both R.C. 3375.52 and R.C. 3375.53 concern fines, penalties, and moneys arising from forfeited bail, I will confine my analysis to fines and penalties since you have specifically inquired as to the disbursement of such moneys collected.

<sup>4</sup> Neither R.C. 3375.52 nor R.C. 3375.53 covers fines collected by courts of common pleas and probate courts for violations of R.C. 4513.263(B). Such fines are disbursed, pursuant to R.C. 4513.263(E), to the treasurer of state.

<sup>5</sup> Since the issuing of 1955 Op. Att'y Gen. No. 5669, p. 383, R.C. 3375.52 and R.C. 3375.53 have been amended. See 1985-1986 Ohio Laws, Part I, 49 (Am. Sub. S.B. 54, eff. May 6, 1986). However, no substantive changes were made to either statute which would affect the conclusion reached in the aforementioned opinion.

<sup>6</sup> Some courts have interpreted R.C. 3375.52 and R.C. 3375.53 under a "plan or system of attaching certain priorities at definite stages of the flow or prescribed course of the subject money; beginning first with the trial court, then with the clerk; and finally ending with the treasurers." *Day v.*

R.C. 3375.52 requires that all fines and penalties collected by a court of common pleas and probate court for offenses and misdemeanors brought for prosecution in such courts in the name of the state be paid by the clerks of such courts to the board of trustees of the law library association; provided, however, that fifty percent of all fines and penalties collected for offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303 be distributed, pursuant to R.C. 3375.53, by the county treasurer to the board of trustees of the law library association. All of the disbursements under R.C. 3375.52 and R.C. 3375.53 to a law library association shall be subject to the limitations as to amount set forth in such statutes. Any fines and penalties not distributed by clerks, R.C. 3375.52, and county treasurers, R.C. 3375.53, to a board of trustees of the law library association are to be deposited in the county treasury to the credit of the county general fund, see R.C. 2949.11.

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*Wilson*, 55 Ohio Op. 347, 350, 124 N.E.2d 480, 484 (C.P. Portage County 1954); accord *State ex rel. Akron Law Library Ass'n v. Weil*, 16 Ohio App. 2d 151, 242 N.E.2d 664 (Summit County 1968). Under this interpretation of the statutes, the clerks of the courts of common pleas and probate courts are to disburse twelve hundred fifty dollars from fines, penalties, and moneys arising from forfeited bail collected "for offenses and misdemeanors brought for prosecution in such courts in the name of the state" to a law library association. R.C. 3375.52. Said clerks then pay any excess fines, penalties, and moneys arising from forfeited bail collected after the maximum of twelve hundred fifty dollars has been disbursed to a law library association to the county treasurer. Pursuant to R.C. 3375.53, the county treasurer disburses fifty percent of all the fines paid to him by the clerks of said courts arising from offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303 to the law library association. With regard to fines, penalties, and moneys arising from forfeited bail collected for prosecutions brought under R.C. Chapters 4301 and 4303, the county treasurer shall pay a maximum of twelve hundred dollars to a law library association.

I note that while the above interpretation of the statutory scheme to provide financial support to a law library association through the use of fines, penalties, and moneys arising from forfeited bail is reasonable, such interpretation has been tacitly rejected by the Ohio Supreme Court. In *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, 169 Ohio St. 243, 159 N.E.2d 220 (1959) (syllabus), the court in analyzing the relationship between R.C. 3375.50, an analogous statute to R.C. 3375.52, disbursing moneys collected by municipal courts, see *Day v. Wilson*, 55 Ohio Op. at 349, 124 N.E.2d at 482 (R.C. 3375.52 "makes substantially the same command [as R.C. 3375.50] as to clerks of Common Pleas and Probate Courts; that is, that such clerk in dealing with a similar fund in those courts shall retain and pay monthly to the board of trustees of the Law Library Association"), and R.C. 3375.53 held:

A clear duty is imposed upon the treasurers or fiscal officers of municipal corporations, by the provisions of Sections 4513.35, 5503.04 and 3375.53, Revised Code, to pay to the board of trustees of the law library association of their county [fifty] per cent of *all money* received by them from prosecutions in municipal courts of persons apprehended or arrested by state highway patrolmen for violations of state traffic laws, and *such board is to receive such money in addition to the amounts to be paid to it directly by clerks of municipal courts, under the provisions of Section 3375.50, Revised Code.* (Emphasis added.)

Clearly, the Ohio Supreme Court is of the opinion that R.C. 3375.53 controls the disposition of all moneys collected for prosecutions arising under the state traffic laws. Nowhere in the opinion does the court state or indicate that R.C. 3375.50 is to be satisfied before moneys collected from prosecutions under the state traffic laws are to be disbursed pursuant to

The third section with which you are concerned is R.C. 4301.57. Pursuant to this section, fines and forfeited bonds collected for violations of various liquor trafficking provisions are divided between the state and county where the prosecution is held:

Money from fines and forfeited bonds collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor shall be paid as follows: one half to the credit of the general revenue fund and one half to the treasury of the county where the prosecution is held.

Generally, the statutes prohibiting the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor are contained in R.C. Chapters 4301 and 4303. However, as set forth above, R.C. 3375.53 requires that county treasurers disburse all fines, penalties, and moneys arising from forfeited bail collected for offenses brought for prosecution under R.C. Chapters 4301 and 4303 to the law library association and county treasury to the credit of the county general fund.

In determining whether R.C. 4301.57 creates an exception to the disbursement provisions of R.C. 3375.53, I am again guided by the proposition of law that,

"[w]here there are two statutes, the earlier special and the later general,...the fact that [the] one is special and the other is general creates a presumption that the special is to be considered as remaining an exception to the general, and the general will not be understood as repealing the special, unless a repeal is expressly named, or unless the provisions of the general are manifestly inconsistent with those of the special."

*Leach v. Collins*, 123 Ohio St. 530, 533-34, 176 N.E. 77, 78 (1931) (quoting *Rodgers v. United States*, 185 U.S. 83 (1902) (syllabus, paragraph one)); accord *Cincinnati v. Thomas Soft Ice Cream*, 52 Ohio St. 2d 76, 78-80, 369 N.E.2d 778, 780-81 (1977). This long-standing proposition of law has been codified in R.C. 1.51, which provides:

If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

A comparison of R.C. 4301.57 and R.C. 3375.53 indicates that both statutes control the disposition of fines collected for offenses brought for prosecution under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor contained in R.C. Chapters 4301 and 4303. As a result, there is an irreconcilable conflict between R.C. 4301.57 and R.C. 3375.53.

R.C. 3375.53 is a general statute compared to R.C. 4301.57<sup>7</sup> in that R.C. 3375.53 covers fines, penalties, and moneys arising from forfeited bail collected for

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R.C. 3375.53. To the contrary, the opinion holds that R.C. 3375.53 provides a source of funds for a law library association in addition to the amounts to be paid to it directly by clerks of municipal courts under the provisions of R.C. 3375.50. I find, accordingly, that the Ohio Supreme Court's analysis of the relationship between R.C. 3375.50 and R.C. 3375.53 contained in *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, applies with equal force to the relationship between R.C. 3375.52 and R.C. 3375.53.

<sup>7</sup> The determination as to whether a statute is general or special in character must be made in light of the statute with which it is to be

all offenses brought for prosecution under R.C. Chapters 4301 and 4303, whereas R.C. 4301.57 is limited to fines and forfeited bonds collected for offenses relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor. See *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, 169 Ohio St. at 246, 159 N.E.2d at 222 (R.C. 4301.57 is a special statute as compared to R.C. 3375.53).

I note, however, that the general provisions of R.C. 3375.53, 1939 Ohio Laws 453 (Am. S.B. 46, passed May 25, 1939),<sup>8</sup> were enacted subsequent to the special provisions of R.C. 4301.57, 1933-1934 Ohio Laws, Part II, 118, 156 (H.B. 1, passed Dec. 22, 1933).<sup>9</sup> As stated above, the language of R.C. 3375.53 is clear and evidences a legislative intent to have the full amount of all fines, penalties, and moneys arising from forfeited bail collected for offenses brought for prosecution under R.C. Chapters 4301 and 4303 disbursed by county treasurers to the law library association and county treasury to the credit of the county general fund. Nevertheless, I find no manifest intent to override the specific disbursement provisions of R.C. 4301.57. Rather, R.C. 4301.57 and R.C. 3375.53 can be harmonized and read together as part of a comprehensive statutory scheme for the disbursement of fines and penalties collected for offenses brought for prosecution under the liquor trafficking laws.

It reasonably appears that the General Assembly intended that fines collected for offenses brought for prosecution under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor contained in either R.C. Chapter 4301 or 4303 be disbursed, pursuant to R.C. 4301.57, one half to the credit of the general revenue fund and one half to the treasury of the county where the prosecution is held. The portion of fines distributed by R.C. 4301.57 to a county treasury<sup>10</sup> are then disbursed by the county treasurer, pursuant to R.C. 3375.53; since the language of R.C. 3375.53 clearly mandates that fifty percent of all fines accruing to a county treasurer for offenses brought for prosecution under R.C. Chapters 4301 and 4303 are to be paid by such treasurer to the board of trustees of the law library association. However, the total sum paid to such board must not exceed twelve hundred dollars in a year. After a county treasurer has paid twelve hundred dollars in a year to a law library association, pursuant to R.C. 3375.53, the full amount of fines disbursed by R.C. 4301.57 to a county treasury are deposited in such treasury to the credit of the county general fund. See *Van Wert County Law Library Ass'n v. Stuckey*, 42 Ohio Op. at 3-4, 94 N.E.2d at 40-41; *Warren County Law Library Ass'n v. Parker*, 22 Ohio Op. 170, 171-72, 8 Ohio Supp. 83, 84 (C.P. Warren County 1941); cf. *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, 169

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compared. A given statute may be regarded as general when compared to a more narrowly tailored statute on the same subject, and special when viewed with regard to a more general or broad statute on the subject. See generally *State ex rel. Ehmman v. Schneider*, 78 Ohio App. 27, 31, 67 N.E.2d 117, 120 (Hamilton County 1946) ("[f]or purposes of interpretation of legislative enactments, enactments have long been classed as either general or special, and given different effect upon other enactments dependent as they are found to fall in one class or the other").

<sup>8</sup> R.C. 3375.53 was originally enacted as G.C. 3056-3.

<sup>9</sup> R.C. 4301.57 was originally adopted as G.C. 6064-59.

<sup>10</sup> I note that pursuant to R.C. 4301.57 a municipal corporation treasury receives no share of the fines collected under any of the penal laws of this state related to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor. Such fines are equally divided between the state treasury and county treasury where the prosecution is held. R.C. 4301.57; *State ex rel. Bd. of Trustees Akron Law Library Ass'n v. Vogel*, 169 Ohio St. at 246, 159 N.E.2d at 222 ("none of the money derived from fines for violations of liquor laws is designated for distribution to treasurers of municipalities, none can be said to be designated for distribution by them to law library associations, pursuant to the provisions of Section 3375.53").



Ohio St. at 248, 159 N.E.2d at 223 (fifty percent of the portion accruing to a municipal treasurer "from prosecutions in its municipal court of persons apprehended or arrested by state highway patrolmen for violations of state traffic laws, must be paid, monthly, to the trustees of the law library association"). *But see Greenville Law Library Ass'n v. Taylor*, 21 Ohio Op. 238, 239, 6 Ohio Supp. 348, 349 (C.P. Darke County 1941) ("[t]he direction to pay to county treasurer as provided by Section 6064-59, General Code, [now R.C. 4301.57] effective December 23, 1933, is superseded by Section 3056-3 [now R.C. 3375.53] until the sum paid the Law Library Association has reached the sum of" twelve hundred dollars).

Additionally, in the rare case that a penal law of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor is not contained in either R.C. Chapter 4301 or 4303, the disbursement provisions of R.C. 3375.53 are not applicable. Thus, there is no conflict between the disbursement provisions of R.C. 3375.53 and R.C. 4301.57 with regard to the disbursement of fines collected under such penal laws. However, a conflict does arise in such situation if a prosecution for a violation of a penal law relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor not contained in either R.C. Chapter 4301 or 4303 is brought in a court of common pleas, since the clerk of said court would, pursuant to R.C. 3375.52, be required to disburse any fine collected either to the law library association or to the county treasury to the credit of the county general fund.

As stated above, R.C. 4301.57 is limited in application to fines and forfeited bonds collected for offenses relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor. R.C. 3375.52, however, is general in that it covers all fines, penalties, and forfeited bail collected by courts of common pleas and probate courts for offenses and misdemeanors brought for prosecution in such courts in the name of the state. By again applying the rule of statutory construction that a special statute excepts a general statute unless a manifest intent to the contrary exists, it reasonably appears that the special disbursement provisions of R.C. 4301.57 control. Consequently, fines collected by courts of common pleas under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor not contained in R.C. Chapters 4301 and 4303 are disbursed, pursuant to R.C. 4301.57, one half to the credit of the general revenue fund and one half to the treasury of the county where the prosecution is held. Further, any fines disbursed to a county treasury are to be placed to the credit of the county general fund. *See* R.C. 2949.11.

I turn now to R.C. 3719.21 and R.C. 2925.03, the final statutes about which you ask. R.C. 3719.21, which provides for the disposition of fines collected under R.C. Chapters 2925 and 3719, reads as follows:

All fines or forfeited bonds assessed and collected under prosecutions or prosecutions [sic] commenced for violations of Chapters 2925. and 3719. of the Revised Code, shall within thirty days, be paid to the executive director of the state board of pharmacy and by him paid into the state treasury to the credit of the general revenue fund.

R.C. 3719.21, thus controls the disbursement of all fines and forfeited bonds assessed and collected under prosecutions commenced for violations of R.C. Chapters 2925 and 3719.

However, R.C. 2925.03<sup>11</sup> requires a sentencing court to impose mandatory drug fines for certain specified drug trafficking offenses. The section further requires that such fines,

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<sup>11</sup> Mandatory drug fines imposed by division (H) of R.C. 2925.03 are in addition to the fines for felonies imposed by R.C. 2929.11 and fines imposed upon organizations by R.C. 2929.31. *See* R.C. 2925.03(I). Where a

be paid to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. The mandatory fines shall be used to subsidize each agency's law enforcement efforts that pertain to drug offenses. Any additional fine imposed pursuant to division (I) of this section shall be disbursed as otherwise provided by law.

R.C. 2925.03(J). Hence, R.C. 2925.03(J) requires that mandatory drug fines be disbursed to the law enforcement agencies "primarily responsible for or involved in making the arrest of, and in prosecuting, the offender."

A review of the foregoing clearly indicates that a conflict exists in that both R.C. 2925.03(J) and R.C. 3719.21 control the disposition of mandatory drug fines imposed and collected under R.C. 2925.03. In 1989 Op. Att'y Gen. No. 89-090, I characterized such conflict as irreconcilable, since both statutes control the disposition of mandatory drug fines collected pursuant to R.C. 2925.03. Applying the general rules of statutory construction that a specific statute excepts a general statute enacted earlier in time and that the General Assembly has knowledge of prior legislation when it enacts subsequent legislation, I found that the special drug disbursement provision of R.C. 2925.03(J) creates an exception to the general disbursement provisions of R.C. 3719.21. Op. No. 89-090, slip op. at 6-7. I continue to agree with the reasoning in Op. No. 89-090, and reaffirm my conclusion therein that, "[m]andatory drug fines collected under R.C. 2925.03 are excluded from the disbursement provisions of R.C. 3719.21." Op. No. 89-090 (syllabus, paragraph four).

Additionally, it appears that the disbursement provisions of R.C. 3375.52 conflict with the disbursement provisions of both R.C. 3719.21 and R.C. 2925.03. If a prosecution for a violation of R.C. Chapter 2925 or 3719 is brought in a court of common pleas, the clerk of said court would, pursuant to R.C. 3375.52, be required to disburse any fine collected either to the law library association or to the county treasury to the credit of the county general fund. Mandatory drug fines imposed by a court of common pleas are subject to disposition under both R.C. 2925.03(J) and R.C. 3375.52.

As stated above, a special statute enacted after a general statute acts as an exception to the general statute to the extent of any irreconcilable conflict between the two. With respect to R.C. 3719.21 and R.C. 3375.52, there is an irreconcilable conflict, since both statutes control the disposition of fines collected in courts of common pleas for prosecutions brought under R.C. Chapters 2925 and 3719. Similarly, mandatory drug fines imposed by courts of common pleas are subject to disposition under both R.C. 2925.03(J) and R.C. 3375.52. Hence, there is also an irreconcilable conflict between R.C. 2925.03(J) and R.C. 3375.52.

R.C. 3375.52 is a general provision in that it delineates the disposition of all fines, penalties, and moneys arising from forfeited bail for offenses and

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mandatory drug fine imposed by a sentencing court, pursuant to R.C. 2925.03(H), is less than the statutory maximum allowed by either R.C. 2929.11 or R.C. 2929.31, such court may impose an additional fine. The combined total of the mandatory drug fine and additional fine, however, must not exceed the maximum fine allowed by either R.C. 2929.11 or R.C. 2929.31. R.C. 2925.03(I). Thus, pursuant to R.C. 2925.03 a sentencing court must impose a mandatory drug fine, R.C. 2925.03(H), and may impose an additional fine, R.C. 2925.03(I).

As stated above, in your letter you are concerned with fines collected and disbursed under R.C. 2925.03. Technically, only mandatory drug fines imposed by R.C. 2925.03(H) are collected and disbursed pursuant to R.C. 2925.03(J). Additional fines imposed by division (I) of R.C. 2925.03 are "disbursed as otherwise provided by law." R.C. 2925.03(J). Accordingly, I will address only mandatory drug fines imposed by R.C. 2925.03(H), since any additional fines imposed by a sentencing court, pursuant to R.C. 2925.03(I), are disbursed as otherwise provided by law, R.C. 2925.03(J).

misdemeanors brought for prosecution in courts of common pleas and probate courts. R.C. 3719.21 and R.C. 2925.03(J), however, are special statutes when construed with R.C. 3375.52. R.C. 3719.21 specifically requires that only fines and forfeited bonds assessed and collected under R.C. Chapters 2925 and 3719 be paid to the executive director of the State Board of Pharmacy. Similarly, R.C. 2925.03(J) covers only mandatory drug fines imposed pursuant to R.C. 2925.03(H). *See, e.g., State v. Cravens*, 42 Ohio App. 3d 69, 73, 536 N.E. 2d 686, 690 (Hamilton County 1988) (R.C. 2925.03(J) is a special provision applicable only to the drug cases detailed in R.C. 2925.03(H)). Also both R.C. 3719.21, 1935 Ohio Laws, Part I, 491, 502 (H.B. 163, passed May 23, 1935),<sup>12</sup> and R.C. 2925.03(J), 1985-1986 Ohio Laws, Part I, 164, 168-170 (Am. S.B. 67, eff. Aug. 29, 1986), were enacted after the adoption of the provision of R.C. 3375.52, which required clerks of courts of common pleas and probate courts to make disbursements to a law library association, 1910 Ohio Laws 295 (S.B. 85, passed May 10, 1910).<sup>13</sup> "Utilizing the rules of statutory construction contained in R.C. 1.12, 1.51, and 1.52, a specific statute, enacted later in time than a preexisting statute, will control where a conflict between the two arises." *Davis v. State Personnel Bd. of Review*, 64 Ohio St. 2d 102, 105, 413 N.E.2d 816, 818 (1980). Further, a presumption exists that the General Assembly enacts legislation in light of all prior legislation on the subject. *State v. Frost*, 57 Ohio St. 2d 121, 125, 387 N.E.2d 235, 238 (1979); *accord Cincinnati v. Thomas Soft Ice Cream*, 52 Ohio St. 2d at 79, 369 N.E.2d at 780. Consequently, R.C. 3719.21 creates an exception to R.C. 3375.52 with respect to the disbursement of fines collected in a court of common pleas for prosecutions under R.C. Chapters 2925 and 3719. Likewise, the more specific disbursement provisions of R.C. 2925.03(J) create an exception to the general disbursement provisions set forth in R.C. 3375.52 with respect to mandatory drug fines collected by a court of common pleas.

Accordingly, I find that, pursuant to R.C. 3719.21, fines collected under prosecutions commenced for violations of R.C. Chapters 2925 and 3719 are disbursed to the executive director of the State Board of Pharmacy and by him to the state treasury to the credit of the general revenue fund with the exception that mandatory drug fines collected under R.C. 2925.03 are paid to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender.

Therefore, it is my opinion and you are hereby advised that:

1. Mandatory drug fines collected under R.C. 2925.03 are excepted from the disbursement provisions of R.C. 3375.52 and R.C. 3719.21 and are paid, pursuant to R.C. 2925.03(J), to the law enforcement agencies in this state that were primarily responsible for or involved in making the arrest of, and in prosecuting, the offender. (1989 Op. Att'y Gen. No. 89-090, syllabus, paragraph four, followed.)
2. Fines assessed and collected under prosecutions commenced for violations of R.C. Chapters 2925 and 3719 are excepted from the disbursement provisions of R.C. 3375.52 and, pursuant to R.C.

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<sup>12</sup> R.C. 3719.21 was originally enacted by the General Assembly as G.C. 12672-19.

<sup>13</sup> Originally, the provision requiring clerks of courts of common pleas and probate courts to disburse fines and penalties collected by such clerks to a law library association was contained in G.C. 3056. *See* 1910 Ohio Laws 295 (S.B. 85, passed May 10, 1910). G.C. 3056 was subsequently amended and "supplemented by the enactment of supplemental sections 3056-1, 3056-2, 3056-3 and 3056-4." 1939 Ohio Laws 453 (Am. S.B. 46, passed May 25, 1939) (section one). The provision mandating the payment of fines, penalties, and moneys arising from forfeited bail to a law library association by clerks of courts of common pleas and probate courts was contained in supplemental section G.C. 3056-2, which ultimately became R.C. 3375.52.

3719.21, are paid to the executive director of the State Board of Pharmacy and by him paid into the state treasury to the credit of the general revenue fund with the exception of mandatory drug fines, which are disbursed pursuant to R.C. 2925.03(J).

3. Money from fines collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor are excepted from the disbursement provisions of R.C. 3375.52 and R.C. 3375.53 and are paid, pursuant to R.C. 4301.57, one half to the credit of the general revenue fund and one half to the treasury of the county where the prosecution is held, to the credit of the county general fund. The portion of fines disbursed under R.C. 4301.57 to a county treasury which arise from liquor trafficking violations contained in R.C. Chapters 4301 and 4303 are further disbursed by the county treasurer, pursuant to R.C. 3375.53, one half to the law library association and one half to the county treasury to the credit of the county general fund, provided the sum paid to the law library association in a year does not exceed twelve hundred dollars. After a county treasurer has paid twelve hundred dollars in a single year to a law library association, pursuant to R.C. 3375.53, the full amount of fines disbursed by R.C. 4301.57 to a county treasury are to be deposited in such treasury to the credit of the county general fund.
4. With the exception of fines collected under any of the penal laws of this state relating to the manufacture, importation, transportation, distribution, or sale of beer or intoxicating liquor, which are disbursed pursuant to R.C. 4301.57, fines and penalties collected by courts of common pleas and probate courts for offenses brought for prosecution under the state traffic laws and R.C. Chapters 4301 and 4303 are excepted from the disbursement provisions of R.C. 3375.52 and are paid by the county treasurer, pursuant to R.C. 3375.53, one half to the law library association and one half to the county treasury to the credit of the county general fund, provided, however, that a county treasurer disburse not more than twelve hundred dollars of the fines and penalties collected for offenses brought for prosecution under R.C. Chapters 4301 and 4303 in a year to a law library association. After a county treasurer has paid twelve hundred dollars in a single year to a law library association, pursuant to R.C. 3375.53, all fines and penalties collected under R.C. Chapters 4301 and 4303 are paid to the county treasury to the credit of the county general fund. (1955 Op. Att'y Gen. No. 5669, p. 383, syllabus, paragraph one, followed.)
5. Fines and penalties collected by courts of common pleas and probate courts for offenses and misdemeanors brought for prosecution in such courts in the name of the state and not specifically excepted by another provision of law are to be disbursed to a law library association, pursuant to R.C. 3375.52, up to a maximum of twelve hundred fifty dollars within a year. After said clerks have paid twelve hundred fifty dollars to a law library association within a year, pursuant to R.C. 3375.52, all fines and penalties collected thereafter are to be deposited in the county treasury to the credit of the county general fund.