



ALAN WILSON
ATTORNEY GENERAL

March 4, 2026

David Paul Jordan
Horry County Attorney
1301 Second Avenue
Conway, SC 29526

Dear Mr. Jordan:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You have advised that Horry County currently imposes two 1% local sales and use taxes permitted by Title 4 of the South Carolina Code, the transportation tax and the education capital improvements (ECI) tax. S.C. Code Ann. §§ 4-37-10 to 4-37-50 (Rev. 2021 & Supp. 2025) (transportation tax); 4-10-410 to 4-10-470 (Rev. 2021) (ECI). Additionally, the City of Myrtle Beach imposes a separate 1% tourism development fee (TDF) on sales occurring within its corporate limits. S.C. Code Ann. §§ 4-10-910 to 4-10-980 (Rev. 2021). You ask whether Horry County may add the local option sales and use tax authorized by South Carolina Code Sections 4-10-10 through 4-10-100 in addition to the taxes that are already imposed. It is the opinion of this office that your county may impose the local option sales and use tax in question while it concurrently imposes the transportation tax and the ECI tax and while a municipality within the county is imposing the TDF.

Law/Analysis

The General Assembly has authorized numerous local sales and use taxes through different Articles of Chapter 10, Title 4 of the South Carolina Code, each designed to generate revenue for specified government activities. S.C. Code Ann. §§ 4-10-10 to 4-10-1060 (Rev. 2021 & Supp. 2025). Additionally, counties are authorized pursuant to Chapter 37 of Title 4 to impose a sales and use tax to finance transportation facilities. S.C. Code Ann. §§ 4-37-10 to 4-37-60 (Rev. 2021 & Supp. 2025). Voters must approve each tax by referendum before it may be imposed.¹

You ask whether Horry County may add the local option sales and use tax authorized by Title 4, Chapter 10, Article 1 and commonly referred to as the LOST to the current mix of local option taxes currently imposed in the county. To answer your question, we must review the various

¹ S.C. Code Ann. §§ 4-10-20 (local option and sales tax); 4-10-340 (Rev. 2021) (capital project sales tax); 4-10-425 (ECI); 4-10-540 (Rev. 2021) (personal property tax exemption sales tax); 4-10-730 (Rev. 2021) (local option sales and use tax for credit against property tax liability); 4-10-930 (TDF); 4-10-1020 (Supp. 2025) (county green space sales tax); 4-37-30 (transportation tax).

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statutory schemes involved. In doing so, our primary goal is to understand and give effect to the legislature's intent. Hodges v. Rainey, 341 S.C. 79,85, 533 S.E.2d 578, 581 (2000). Where possible, legislative intent should be ascertained from the statute's plain language. State v. Hudson, 336 S.C. 237, 246, 519 S.E.2d 577, 581 (Ct. App. 1999).

Upon referendum approval, a county is permitted to levy the 1% sales and use tax known as the LOST on taxable sales within the county. S.C. Code Ann. § 4-10-20. The Department of Revenue administers and collects the sales and use taxes and remits the funds to the State Treasurer. S.C. Code Ann. § 4-10-90(A) and (B). Ultimately, the majority of the revenue goes into a fund for property tax credits, and the remainder goes into a fund that is distributed to counties and municipalities. § 4-10-90(B). Half of the revenue in the second fund is distributed by where the sale occurred, and the other half is distributed based on population. S.C. Code Ann. § 4-10-50(A). The revenue distributed to a county or municipality can be used to provide an additional property tax credit. § 4-10-50(C).

In a 2023 opinion, this office advised that a county could impose the LOST, the capital project sales tax, and the transportation tax all at the same time. Op. S.C. Att'y Gen., 2023 WL 7309436 (October 31, 2023). The county was already imposing two of the taxes and wanted to add the transportation tax. A 2022 Act lifted a prior prohibition on the concurrent imposition of a capital project sales tax and a transportation tax. Id. at *3. The question was whether language the same Act added to a statute regarding the capital project sales tax prohibited the simultaneous imposition of three 1% local sales taxes. Id. at *2. We concluded it did not. Id. Although the 2023 opinion involved a different combination of local taxes, it represents this office's conclusion that it is permissible for a county to impose three 1% local option sales and use taxes at the same time. Id. at *3-4.

Your letter observes the relevant statutes for the transportation tax, the ECI tax, and the TDF all state they are imposed "in addition to all other local sales and use taxes." S.C. Code Ann. §§ 4-37-30(A)(9) (Supp. 2025) (transportation tax); 4-10-435(B) (Rev. 2021) (ECI); 4-10-940(B) (Rev. 2021) (TDF). This language indicates these taxes may be imposed concurrently with other local sales and use taxes. You note with curiosity the absence of this phrase from the statutes authorizing imposition of the LOST (Title 4, Chapter 10, Article 1). The LOST is the only local option sales tax authorized by the South Carolina Code that does not contain the phrase in its statutory scheme.² However, we do not view the absence of the language from the LOST statutes as an indication of the General Assembly's intention to limit a county's imposition of the LOST while other local option sales taxes are also imposed but rather a function of the fact that the LOST was the first, and for several years, the only, codified local option sales tax available to counties.³

² See S.C. Code Ann. §§ 4-10-350(B) (Rev. 2021) (capital project sales tax); 4-10-580(B) (Rev. 2021) (personal property tax exemption sales tax); 4-10-770(B)(1) (Rev. 2021) (local option sales and use tax for local property tax credits); 4-10-1040(B) (Supp. 2025) (county green space sales tax).

³ The statutes governing the LOST were adopted in 1990. Act. No. 317, 1990 S.C. Acts 1823. The statutes authorizing the transportation tax were adopted in 1995 by Act Number 52. The other

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Further, the LOST's statutory scheme contains no language prohibiting its imposition together with any of the other available local option sales and use taxes.

We next review the local sales taxes you indicated are currently imposed in Horry County, beginning with the educational capital improvements (ECI) tax. Upon referendum approval of the voters, a 1% sales and use tax is permitted for the purpose of funding education capital improvements specified in the referendum. S.C. Code Ann. § 4-10-420(A). In addition to a successful referendum, the county must be eligible to impose the tax under one of several pathways outlined in South Carolina Code Section 4-10-470. The first eligibility pathway, outlined in Subsection A of Section 4-10-470, requires that the county collected at least seven million dollars in state accommodations taxes in the most recent fiscal year for which full collection figures are available. S.C. Code Ann. § 4-10-470(A). You have advised this is how Horry County became eligible to impose the ECI. Once a county is eligible to impose the ECI tax pursuant to this pathway, it remains eligible to impose it thereafter. *Id.* The statute contains no restriction on the number or assortment of local sales taxes that may be imposed concurrently with an ECI tax where the county qualifies under Subsection A, nor does it contain any restriction on the total percentage of local sales taxes that may be imposed in any portion of the county.⁴

According to your letter, your county is also currently imposing the transportation tax. Counties are empowered by South Carolina Code Title 4, Chapter 37 to impose this sales and use tax to generate revenue for transportation facilities if approved by the voters. § 4-37-30 (Rev. 2021 & Supp. 2025). Although Section 4-37-40 of that Chapter contains a limitation on the simultaneous imposition of the transportation tax and a sales tax levied pursuant to local legislation enacted by the General Assembly (§ 4-37-40 (Supp. 2025)), none of the statutes related to the Transportation Tax restrict its imposition together with any taxes permitted by Chapter 10 of Title 4.

taxes authorized by Chapter 10, Title 4 were authorized in 1997 to 2022. Act. No. 138, § 3, 1997 S.C. Acts 709 (capital project sales tax); Act. No. 316, 2008 S.C. Acts 3207 (ECI tax); Act. No. 387, Part II, § 99, 2000 S.C. Acts 3323 (personal property tax exemption sales tax); Act. No. 388, Part III, 2006 S.C. Acts 3146 (local option sales and use tax for local property tax credits); Act. No. 3, 2009 S.C. Acts 4 (TDF); Act No. 166, 2022 S.C. Acts 1745 (county green space sales tax).

⁴ Not every county that wishes to impose the ECI tax will qualify to do so under Section 4-10-470(A). Some of the other eligibility pathways contain built-in restrictions on the imposition of other local sales and use taxes. Counties that qualify to impose the ECI tax pursuant Subsection B of Section 4-10-470, for example, have a cap on the total local sales tax that may be imposed in any portion of the county that exists at the time of the referendum and which remains as long as the ECI tax is imposed. § 4-10-470(B)(1)(a), (B)(4), and (B)(5). Additionally, to be eligible to impose the ECI tax under Subsection E, a county must have no other local sales tax imposed at the time of the referendum. § 4-10-470(E)(1)(b). Notably, these restrictions are unique to their specific eligibility pathways and do not impact the taxing authority of a county eligible under Subsection A.

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Finally, you advise the City of Myrtle Beach imposes a 1% tourism development fee on purchases made within its corporate limits as authorized by Article 9, Chapter 10 of Title 4. Among the revenue streams authorized by Chapter 10 of Title 4, the TDF is unique in two ways. First, it is referred to as a fee rather than as a sales and use tax. S.C. Code Ann. § 4-10-930 (Rev. 2021). Second, it may be imposed by municipalities and municipalities alone. Id. However, like all the sales and use taxes authorized by Chapter 10, it must be approved by the voters before it can be imposed. Id. The revenues generated by the TDF initially “must be used exclusively for tourism advertisement and promotion directed at non-South Carolina residents.” § 4-10-970(A)(1) (Rev. 2021). In second and subsequent years, a portion of the funds may be used to provide credits against municipal taxes imposed on owner-occupied residential properties located within the city. § 4-10-970(A)(2). Having reviewed Article 9, we have discovered no language that suggests a county is prohibited from imposing the LOST while a city within the county is imposing the TDF. Should the voters in your county approve the LOST while the TDF is imposed in any portion of the county, clarity in the property tax bills will be important.

In summary, this office has discovered no bar in the relevant statutes to Horry County pursuing the LOST and adding it to the current mix of local taxes provided it is approved by the voters.

Conclusion

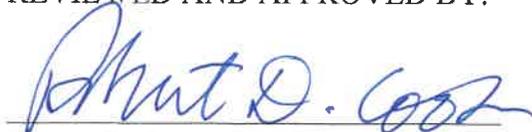
You ask whether your county may add the local option sales and use tax authorized by Article 1, Chapter 10 of Title 4 of the South Carolina Code to the existing local option taxes it currently imposes while a municipality within your county imposes the tourism development fee. It is the opinion of this office your county may impose the tax and add it to the current local tax mix if the voters approve it. Our opinion is limited to those counties, like your own, which are eligible to impose the education capital improvements tax pursuant to Section 4-10-470(A), as some of the other pathways contain restrictions.

Sincerely,



Sabrina C. Todd
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General Emeritus