



ALAN WILSON  
ATTORNEY GENERAL

April 13, 2023

Gary Bunker  
Chairman  
Aiken County Council  
1930 University Parkway  
Suite 3100  
Aiken, SC 29801

Dear Chairman Bunker:

Attorney General Alan Wilson has referred your letter to the Opinions section. Your letter states the following:

S.C. Code Section 4-21-10 provides in relevant part:

The governing body of any county may by ordinance or resolution provide that the county shall provide fire protection services, ambulance services and medical clinic facilities. Services may be provided by use of county employees and equipment or by contract with municipalities or private agencies.

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A special tax, fee or service charge may be levied against property or occupants thereof in areas receiving such services. Proceeds of such taxes, fees or service charges shall be used to defray the cost of providing the particular service for which they are levied, including the fulfillment of contract obligations with municipalities and private agencies. (Emphasis supplied herein).

Aiken County contracts with eighteen (18) volunteer fire departments and municipal fire departments located within the County to provide fire protection services. Fees collected pursuant to 4-21-10 are paid to the various fire departments for the provision of this service.

Regarding the above underlined portion of 4-21-10, Aiken County respectfully requests your opinion on whether a portion [e.g., two (2) percent] of the fire fees collected could be used to fund a "Fire Coordinator" position within

the government of Aiken County to serve as contract administrator and liaison with the eighteen fire departments. The Fire Coordinator's duties would be wholly in support of Aiken County in the administration of the provision of fire protection services.

### Law/Analysis

It is this Office's opinion a court would likely hold S.C. Code § 4-21-10 authorizes a county to use a portion of the taxes or fees collected thereunder to fund a contract administrator whose duties include serving as a liaison with volunteer fire departments and municipal fire departments located within the county's boundaries. This Office was unable to locate decisions from our state courts or prior opinions that address how to construe the costs of providing fire protection services and fulfilling contract obligations in section 4-21-10. As a matter of first impression, we turn to the rules of statutory construction. The primary rule of statutory construction "is to ascertain and effectuate the legislative intent whenever possible." Mitchell v. City of Greenville, 411 S.C. 632, 634, 770 S.E.2d 391, 392 (2015). Where a statute's language is plain and unambiguous, "the text of a statute is considered the best evidence of the legislative intent or will." Hodges v. Rainey, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000).

Section 4-21-10 states the taxes or fees collected for fire protection services "shall be used to defray the cost of providing the particular service." The statute explicitly includes the "fulfillment of contract obligations" within the cost of providing services. Section 4-21-10 also states, "Services may be provided by use of county employees and equipment or by contract with municipalities or private entities." Id. The question then becomes whether the Fire Coordinator position, as described, can reasonably be said to facilitate fulfilling contract obligations, or more broadly defray the cost of providing fire protection services. Your letter states the Fire Coordinator will "serve as contract administrator and liaison with the eighteen fire departments" and its duties will be supportive of the county's administration of fire protection services. It is certainly arguable that while the employee would not directly provide fire protection, the role of acting as an administrator and liaison for those departments is at least supportive of those efforts. By creating the Fire Coordinator position within the county government, the county would provide fire protection services through a county employee and also by contracting for services with those departments. Given that the South Carolina Constitution requires all laws concerning local governments be "liberally construed in their favor" including those "powers ... fairly implied and not prohibited by this Constitution," a court would likely conclude that it is permissible for a county to use the funds collected under section 4-21-10 to administer contracts for fire protection services. S.C. Const. art. VIII, § 17; see also S.C. Code § 4-9-25 ("The powers of a county must be liberally construed in favor of the county and the specific mention of particular powers may not be construed as limiting in any manner the general powers of counties.").

### Conclusion

It is this Office's opinion a court would likely hold S.C. Code § 4-21-10 authorizes a county to use a portion of the taxes or fees collected thereunder to fund a contract administrator whose

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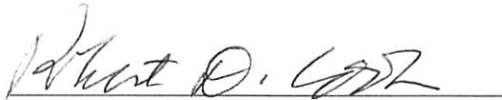
duties include serving as a liaison with volunteer fire departments and municipal fire departments located within the county's boundaries.

Sincerely,



Matthew Houck  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General