



ALAN WILSON
ATTORNEY GENERAL

July 16, 2024

Gary M. Mixon
Sumter County Administrator
13 East Canal Street
Sumter, South Carolina 29150

Dear Mr. Mixon:

We received your letter requesting an attorney general's opinion as to the creation of a special tax district to provide maintenance on private roads as a follow-up to our April 30, 2024 opinion. Moreover, you inquire as to whether "the Sumter County Public Works Department can perform the work requested by the special tax district administrators and then the special tax district reimburse Sumter County for the actual cost of the personnel and material and FEMA-approved costs for equipment used to perform the work."

Law/Anal sis

According to the South Carolina Constitution, counties have "the power to tax different areas at different rates of taxation related to the nature and level of governmental services provided." S.C. Const. art. VIII, § 7 (2009). Moreover, section 4-9-30(5)(a) of the South Carolina Code (2021) permits counties to create special tax districts for

appropriations for general public works, including roads, drainage, street lighting, and other public works; water treatment and distribution; sewage collection and treatment; courts and criminal justice administration; correctional institutions; public health; social services; transportation; planning; economic development; recreation; public safety, including police and fire



Nonetheless, according to your letter, the roads the County wishes to fund through the implementation of a special tax district are private roads. Moreover, there is no indication in your letter that these roads will be dedicated to public use. As we explained in our prior opinion to you, “public funds generally, may not be used to maintain private roads as that would not serve a public purpose.”

[REDACTED]

X, § 5 (“Any tax which shall be levied shall distinctly state the public purpose to which the proceeds of the tax shall be applied.”). The taxes collected pursuant to a special tax district are public funds even though they are collected from only a portion of the residents of a county and used for a specific purpose. As we explained in a prior opinion

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County's public works department could construct and maintain the roads and be reimbursed by the special tax district.

Sincerely,



Cydney Milling
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Solicitor General