



ALAN WILSON  
ATTORNEY GENERAL

June 5, 2026

Mayor Reginald L. Burgess  
City of North Charleston  
PO Box 190016  
North Charleston, SC 29419

Dear Mayor Burgess:

Attorney General Alan Wilson referred your letter to the Opinions section for a response. You seek an opinion regarding the permissible use of revenues generated by a county transportation sales and use tax. Specifically, you seek guidance on whether the construction of an engineered highway noise barrier qualifies as a “transportation-related projects facilities” under Section 4-37-30(A)(1)(a)(i). You explain that the barrier is designed to mitigate the environmental acoustic impact of a county transportation project and that the barrier has no utility outside of the transportation project. In your request, you ask us to assume that the barrier was properly approved by voters via referendum.

#### Law/Analysis

As we have previously discussed, Chapter 37 of Title 4 of the South Carolina Code of Laws provides optional methods for financing transportation facilities. Op. S.C. Att’y Gen., 2007 WL 655622 (Feb. 16, 2007) (citing S.C. Code Ann. § 4-37-10 et seq. (Supp. 2005)). Section 4-37-30 affords counties the ability to impose a sales and use tax to finance the cost of highways, roads, streets, bridges, and “other transportation-related projects facilities.” S.C. Code Ann. § 4-37-30(A)(1)(a)(i) (2021). Section 4-3-7-30(A)(1) requires counties to enact an ordinance and hold a referendum in order to impose the tax. S.C. Code Ann. § 4-37-30(A)(1) (2021). Your request assumes that a proper referendum has occurred, so your question is purely whether an engineered highway noise barrier is an allowable use under Section 4-37-30(A)(1)(a)(i).

The primary goal of statutory interpretation “is to ascertain and give effect to the intent of the legislature.” Mid-State Auto Auction of Lexington, Inc. v. Altman, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996). 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). “[W]here a statute is ambiguous, [courts] must construe the terms of the statute.” Wade v. Berkeley Cnty., 348 S.C. 224, 229, 559 S.E.2d 586, 588 (2002). “A statute as a whole must receive a practical, reasonable and fair interpretation consonant with the purpose, design, and policy of lawmakers.” State v. Henkel, 413 S.C. 9, 14, 774 S.E.2d 458, 461 (2015), *reh’g denied* (Aug. 5, 2015).

Section 4-37-30 allows counties to use transportation tax funds on “highways, roads, streets, bridges, mass transit systems, greenbelts, and other transportation-related projects facilities.” S.C. Code Ann. § 4-37-30(A)(1)(a)(i) (2021). An engineered highway noise barrier is not “highways, roads, streets, bridges, mass transit systems, [or] greenbelts.” However, an engineered highway noise barrier may be “other transportation-related projects facilities.” The phrase “other transportation-related projects facilities” is ambiguous. The Court of Appeals observed as much in S.C. Public Interest Foundation v. Richland County, 436 S.C. 271, 871 S.E.2d 599 (2021). There, the Court of Appeals stated:

We do not know what to make of the word sequence “projects facilities.” Perhaps either “projects” or “facilities” was included by mistake. Another explanation may be that there was supposed to be an “and” or “or” between them. The title of the statute says the statute is about “transportation facilities,” but the Act’s legislative findings refer to “transportation-related projects,” and a later provision of the very same statute repeatedly uses the same term —“transportation-related projects.” See § 4-37-30(B)(1)(a).

436 S.C. 271, 276-277, 871 S.E.2d 599, 602 (2021). The Court of Appeals then held that, despite the ambiguity, “the statute authorizes spending funds on operating transportation-related projects, not just transportation-related facilities.” *Id.*

Under any of the readings considered by the Court of Appeals in Richland, the engineered highway noise barrier is permitted. The barrier is clearly transportation related. As you explain in your letter, the barrier serves no utility other than mitigating the noise created by the transportation project. The engineered highway noise barrier could fairly be considered either a project or a facility. Thus, regardless of whether the statute permits facilities, projects, or both, the engineered highway noise barrier qualifies as “other transportation-related projects facilities” and may be funded under Section 4-37-30(A)(1)(a)(i).

While the discussion of the phrase “other transportation-related projects facilities” in Richland is notable, the ultimate holding in the case does not aid in the analysis of your question. The Court in Richland considered whether using transportation tax funds on the operation of the mass transit system, as opposed to expending the funds on facilities or capital expenditures, was permissible. 436 S.C. at 275, 871 S.E.2d at 601. Mass transit systems, unlike engineered highway noise barriers, are explicitly permitted in the statute. S.C. Code Ann. § 4-37-30(A)(1)(a)(i) (2021). The Court held that operating the mass transit system was permitted because mass transit systems are enumerated and including the phrase “other transportation-related projects facilities” means that expenditures within the enumerated categories are not strictly limited to capital expenses. 436 S.C. at 277, 871 S.E.2d at 602. Unlike in Richland, there is not an analogous hook, e.g., “mass transit systems,” for the engineered highway noise barrier. Thus, the only question is whether it is an “other transportation-related projects facilities.”

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In your request, you reference the Office's April 9, 2026 Opinion, 2026 WL 1022620, regarding the Charleston Battery Extension Project. The April 9 Opinion discusses the Charleston Battery Extension and largely grounds its analysis in the term "drainage" and flood control. The April 9 Opinion discusses the ambiguity of "other transportation-related projects facilities," but, similar to Richland, drainage is a specifically enumerated category in the statute. As a result, the analysis of the April 9 Opinion does not ultimately hinge on the interpretation of "other transportation-related projects facilities" and instead centers on whether the Charleston Battery Extension qualifies as drainage.

### Conclusion

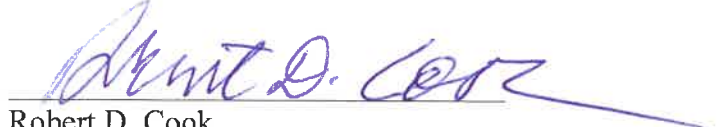
Section 4-37-30 affords counties the ability to impose a sales and use tax to finance the cost of highways, roads, streets, bridges, "other transportation-related projects facilities." S.C. Code Ann. § 4-37-30(A)(1)(a)(i) (2021). The engineered highway noise barrier is clearly transportation related. As you explain in your letter, the engineered highway noise barrier serves no utility other than mitigating the noise created by the county transportation project. Despite the statute's lack of clarity, we think an engineered highway noise barrier is likely an "other transportation-related projects facility[y]" and may be funded under Section 4-37-30(A)(1)(a)(i).

Sincerely,



David Leggett  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Solicitor General Emeritus