



HENRY McMASTER  
ATTORNEY GENERAL

October 16, 2006

The Honorable Jimmy C. Bales, Ed.D.  
Member, House of Representatives  
1515 Crossing Creek Road  
Eastover, South Carolina 29044

Dear Representative Bales:

We received your letter requesting an opinion of this Office concerning the funding of the Central Midlands Regional Transit Authority. Specifically, you ask for an opinion as to "the legality of two possible sources of funding for the Central Midlands Regional Transit Authority (CMRTA)." You ask:

- (1) May Richland County impose a property tax millage for the operations of CMRTA, and
- (2) May Richland County impose a fee on motor vehicles registered in Richland County for the operations of CMRTA?

#### Law/Analysis

Section 4-9-30 of the South Carolina Code (Supp. 2005) provides county governments with numerous enumerated powers. Specifically, this section affords county governments the power

to assess property and levy ad valorem property taxes and uniform service charges, including the power to tax different areas at different rates related to the nature and level of governmental services provided and make appropriations for functions and operations of the county, including, but not limited to, 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;

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public health; social services; transportation; planning; economic development; recreation; public safety, . . . .

S.C. Code Ann. § 4-9-30(5)(a) (emphasis added). Thus, from this provision we gather Richland County has the authority to levy property taxes and/or impose uniform service charges and appropriate such funds to CMRTA for purposes of providing transportation. However, we note section 4-9-30 also contains language limiting the authority granted to county governments under this provision by stating “each county government within the authority granted by the Constitution and subject to the general law of this State shall have the following enumerated powers . . . .” S.C. Code Ann. § 4-9-30 (emphasis added).

We understand CMRTA was created pursuant to the Regional Transportation Authority Law (RTAL). S.C. Code Ann. §§ 58-25-10 et seq. (Supp. 2005). According to the RTAL, a majority of the governing bodies within the proposed service area must prepare and adopt a plan of service and execute an agreement governing the operations of the transportation authority. S.C. Code Ann. § 58-25-30. Thus, we presume such an agreement exists governing CMRTA.

The RTAL also contains provisions concerning the funding of regional transportation authorities. Section 58-25-30(3) specifies that “if the agreement provides for imposition of a new source of revenue such as a new tax, the question of creating such an authority under the terms of the executed agreement must be submitted for ratification to the qualified electors within the proposed service area at a general election or at a special election called for that purpose as set forth in the agreement.” Furthermore, section 58-25-60 of the RTAL provides additional guidance on the sources of funding that may be used to fund a regional transportation authority. This provision states:

The intended mechanism for raising the necessary local funds to support the operation of the authority must be set forth in the agreement provided for in § 58-25-30. The declaration of intended sources of local funds does not preclude the use of other local, state, or federal sources which shall subsequently become available except for state highway construction funds which may not be used. The agreement may be amended specifically to recognize new sources. Local funds may be generated from the following source of revenue, notwithstanding other provisions of law. This source is not intended to be exclusive.

A vehicle registration fee may be levied by the governing bodies of the member cities and counties on the motor vehicles registered

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within the service area of the authority. If this mechanism is used, the amount of the vehicle registration fee must be set forth in the agreement. The authority shall request the members of the General Assembly representing its service area to approve increases in the registration fee. Unless these members of the General Assembly by majority vote approve the increase, no increases may be imposed. This registration fee must be added to the personal property tax notice collected as a part of the personal property tax and the fee rebated to the authority.

Property tax revenue must not be used to support operation of the authority unless the authority has been approved by referendum pursuant to Section 58-25-30. In areas with Regional Transportation Authorities in existence on the effective date of this act, a vehicle registration fee increase for the purpose of financing a Regional Transportation Authority must be approved in referendum by a majority of the electorate in the area to which the vehicle registration fee increase would apply.

S.C. Code Ann. § 58-25-60.

We do not have a copy the current agreement governing CMRTA in order to determine whether it provides for property taxes to be used to fund CMRTA. However, presuming the current agreement does not provide for the levy of property taxes, Richland County may not use property tax revenue to support the operations of the CMRTA, unless it, along with the other governing bodies, amends the agreement to allow for the levy of property taxes. Additionally, this amended agreement must be ratified by a referendum of all the qualified electors within the service area. Thus, to answer your question, Richland County may use property tax revenue to fund CMRTA, but in order to do so, it must comply with the provisions of the RTAL.

In addition, in your second question you inquire as to whether Richland County alternatively may impose a fee on vehicles registered in Richland County to fund CMRTA's operations. Section 58-25-60 allows the imposition of a vehicle registration fee by the counties and cities contained in an authority's service area. However, again if the agreement between the governing bodies of CMRTA does not provide for such a fee, it must be amended by the governing bodies of CMRTA and the members of the General Assembly representing CMRTA's service area must approve the imposition of the fee by a majority vote.

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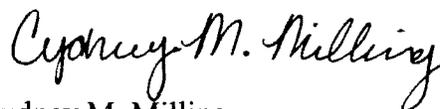
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**Conclusion**

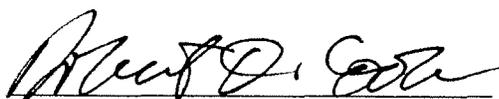
In conclusion, Richand County may both appropriate property tax revenue and impose vehicle registration fees to fund CMRTA. However, we advise that in doing so, it must meet certain requirements set forth under the RTAL.

Very truly yours,



Cydney M. Milling  
Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook  
Assistant Deputy Attorney General