



Lynn Fitch
ATTORNEY GENERAL
OPINIONS

May 13, 2020

John T. Lamar, Esq.
Attorney for the Tate County Board of Supervisors
214 South Ward Street
Senatobia, Mississippi 38668

Re: Travel Expenses of Tax Collector

Dear Mr. Lamar:

The Office of the Attorney General is in receipt of your request for the issuance of an official opinion.

Question Presented

Is it mandatory or discretionary for the Tate County Board of Supervisors to reimburse the Tate County Tax Collector for expenses incurred by his attendance at educational conferences held in 2017, 2018, and 2019?

Background Facts

On December 30, 2019, the Tate County Tax Collector presented travel vouchers for expenses incurred by his attendance at mandatory educational conferences held in 2017, 2018, and 2019 to the Tate County Board of Supervisors. The Board had previously approved his attendance for all conferences, excluding, however, that held on July 17, 2017 and April 17, 2019.

Brief Response

While the Tax Collector is entitled to reimbursement of his expenses incurred by his attendance at mandatory educational conferences pursuant to Miss. Code Ann. Sections 25-3-41 and 27-3-59, the Board may only approve reimbursement of the late-submitted travel vouchers if the amounts are provided in this fiscal year's budget.

Applicable Law and Discussion

Sections 25-3-41 and 27-3-59 require payment by the Board of Supervisors of expenses resulting from the Tax Collector's attendance of mandatory training or conferences upon the proper presentment for approval and/or reimbursement. MS AG Op., *Younger* (June 24, 2005); *see also*, MS AG Op., *Bailey* (August 14, 1984).

Section 25-3-41 of the Mississippi Code Annotated provides, in pertinent part:

(2) **When any officer** or employee of any county or municipality, or of any agency, board or commission thereof, after first being duly authorized, **is required to travel in the performance of his official duties, the officer or employee shall receive as expenses** Twenty Cents (20¢) for each mile actually and necessarily traveled, when the travel is done by a privately owned motor vehicle; provided, however, that the governing authorities of a county or municipality may, in their discretion, authorize an increase in the mileage reimbursement of officers and employees of the county or municipality, or of any agency, board or commission thereof, in an amount not to exceed the mileage reimbursement rate authorized for officers and employees of the State of Mississippi in subsection (1) of this section.

* * *

(4) In addition to the foregoing, a public officer or employee **shall be reimbursed** for other actual expenses such as meals, lodging and other necessary expenses incurred in the course of the travel, subject to limitations placed on meals for intrastate and interstate official travel by the Department of Finance and Administration, provided, that the Legislative Budget Office shall place any limitations for expenditures made on matters under the jurisdiction of the Legislature. . . .

(Emphasis added).

More specifically, Section 27-3-59 provides, in part, as follows:

It shall be the duty of the Department of Revenue to call an annual conference of the county tax assessors and collectors. . . . It shall be the duty of every county tax assessor and collector to attend and participate in the meeting and if by reason of illness or other unavoidable cause, any tax assessor or collector is unable to attend, he shall require one (1) of his deputies to attend and participate in his place. . . . The Department of Revenue may call regional conferences during the year for the aforesaid purposes and it shall be the duty of the tax assessors and collectors, or deputies, to attend and participate in these regional conferences and each tax assessor and collector, or his deputy, who attends and participates in these regional conferences shall be reimbursed for his expenses in the same manner as those attending the annual conference.

Each tax assessor and collector attending and participating in the annual or regional conferences in person, or by deputy, **shall be entitled to receive** as expenses for attending the conferences, travel, meals, lodging and other necessary expenses at the rate provided for in Section 25-3-41, which expenses shall be paid from the county general fund or proceeds from the levy imposed for the maintenance of the reappraisal program in such county.

(Emphasis added).

We have previously opined that, once the board of supervisors has approved the travel budget for the tax assessor's office, no more prior authorization by the board for travel by the tax collector or tax assessor is necessary. However, before receiving reimbursement for any necessary travel, the tax collector must submit to the board of supervisors for approval an itemized and documented claim for travel and expenses actually and necessarily incurred. MS AG Op., *Younger*; MS AG Op., *Dobbs* (November 5, 1984). Thus, with regard to the attendance of the tax collector at educational conferences previously approved by the board and/or required by statute, such as the annual meeting of the Mississippi Assessors and Collectors Association, reimbursement is required when proper requests are submitted by the tax collector to the board of supervisors.

However, the Tate County Tax Assessor's claims were presented for reimbursement to the Tate County Board of Supervisors on December 30, 2019. Miss. Code Ann. Section 19-11-25 provides, in part:

All appropriations of funds made under the provisions of a budget for a fiscal year shall lapse at the end of such year, and all books shall close September 30. All disbursements and appropriations made on and after October 1 . . . shall be charged against the current budget, and all funds actually received on and after October 1 shall be credited to the current budget.

This office previously opined that, in accordance with Miss. Code Ann. Section 19-11-25, "any lawful claim incurred prior to the commencement of the current fiscal year and paid subsequent to the commencement of the current fiscal year, is to be provided for in the current fiscal year budget." MS AG Op., *Barrett* (October 24, 1979).

However, if the 1979-80 budget did contain estimated expenditure items for these obligations, then their payment would not necessarily be unlawful, although the failure to pay for these obligations in full during the fiscal year in which they were incurred could be an irregularity. If such obligations are otherwise lawful and for some reason their payment was not made during the previous fiscal year, such payment could be made from the current year's budget and funds, provided the budget contains an allocation for such obligations or could be amended to provide for such.

Here, the tax collector's claims were incurred in years before the current fiscal year. If these obligations are lawful, payment may be made to the Tate County Tax Collector by the Tate County Board of Supervisors from the current fiscal year's budget and funds, provided the current fiscal

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year budget contains an allocation for such obligations or could be amended to provide for such.
See, MS AG Op., Hatten (August 20, 1980).

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Avery Mounger Lee*

Avery Mounger Lee
Special Assistant Attorney General

OFFICIAL OPINION