



Lynn Fitch
ATTORNEY GENERAL

OPINIONS DIVISION

January 31, 2020

Jacorius O. Liner
Bolivar County Supervisor, District One
Post Office Box 798
Cleveland, Mississippi 38732

Re: Dual Employment

Dear Mr. Liner:

Attorney General Lynn Fitch is in receipt of your opinion request and has assigned it to me for research and reply.

OFFICIAL OPINION

Background and Issues Presented

Your request states:

Can the county administrator who is the newly elected tax assessor/collector also serve as the interim county administrator in a dual capacity? Is there authority that addresses this issue?

Response and Legal Analysis

The separation of powers doctrine places limitations upon an individual's ability to serve simultaneously in different branches of the government. See Article 1, Sections 1 and 2, Miss. Const. (1890). You have asked if it is permissible for someone to simultaneously serve as the tax assessor/collector and county administrator. A person who exercises "core powers" in one branch of government cannot simultaneously hold a position in another branch of government if that position also exercises "core powers." "Core power" has been defined by the Court to include those circumstances "where the acts are 'ongoing and are in the upper level of governmental affairs' and have a substantial policy-making character." *Dye v. State*, 507 So.2d 332 (Miss. 1987)(quoting *Alexander*, 441 So.2d at 1337).

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To respond to your question, a determination first must be made in which branch of government each job falls and if the position exercises core powers. This office has consistently opined that the tax assessor/collector exercises powers at the core of the executive branch. See MS AG Op., Estes (June 17, 2016); MS AG Op., Cowgill (January 26, 2007). While the county administrator is a member of the executive branch, the Mississippi Court of Appeals has held the county administrator does not exercise core powers. *Zimmerman v. Three Rivers Planning & Dev. Dist.*, 747 So. 2d 853, 860 (Miss. Ct. App. 1999). Therefore, serving as the county administrator and tax assessor/collector would not result in a violation of the separation of powers doctrine.

The scenario which you describe may also involve the State's Ethics in Government Law. Matters involving ethics in government are delegated to the Mississippi Ethics Commission. The contact information for the Ethics Commission is as follows:

Mississippi Ethics Commission
Post Office Box 22746
Jackson, MS 39225-2746
E-Mail: info@ethics.state.ms.us
Telephone: (601) 359-1285

If we may be of further assistance, do not hesitate to contact us.

OFFICIAL OPINION

Very truly yours,

LYNN FITCH, ATTORNEY GENERAL

By:



Emiko Hemleben
Special Assistant Attorney General