



*Lynn Fitch*  
**ATTORNEY GENERAL**  
OPINIONS AND POLICY

January 11, 2021

Charles J. Swayze, III  
Attorney for Potacocowa Drainage District  
Post Office Box 941  
Greenwood, Mississippi 38935-0941

Re: Lease of property owned by drainage district

Dear Mr. Swayze:

The Office of the Attorney General has received your request for an official opinion.

### **Questions Presented**

You state that the Board of Commissioners of the Potacocowa Drainage District (the “District”) wishes to confirm that it does not have to seek competitive bids to lease hunting rights and agriculture/farming rights to property owned by the District. You then present two questions.

1. Are the provisions of Sections 51-33-49 and 51-33-55 applicable to lands belonging to the District, other than lands purchased from the State of Mississippi or purchased at a tax sale?
2. May the District lease hunting rights and or agricultural rights to a District commissioner?

### **Brief Response**

With respect to your first question, the authority set forth in Sections 51-33-49 and 51-33-55 to lease land owned by drainage districts on terms and conditions deemed appropriate by the commissioners, including not having to seek competitive bids, is limited to land purchased by such districts from the State of Mississippi or purchased at a tax sale.

Your second question should be addressed by the Mississippi Ethics Commission.

### **Applicable Law and Discussion**

Mississippi Code Annotated Section 51-33-49, the first section you reference, provides:

The board of commissioners of any drainage district operating under any of the laws of this state may sell, lease, or rent, on the terms and conditions as hereinafter set out, the *lands located within the limits of said district which have been heretofore purchased or may hereafter be purchased from the State of Mississippi, or such lands heretofore or hereafter purchased at any tax sale after the time for redemption has expired.*

Miss. Code Ann. § 51-33-49 (emphasis added).

Section 51-33-55, the second section referenced in your request, provides:

The lands authorized to be leased or rented under the terms of Sections 51-33-49 through 51-33-57 may be leased or rented by the board of commissioners of the drainage district owning the same for a term not to exceed three years at such annual rental and on such terms and conditions as may be prescribed and designated for the lease or rental thereof by an order to be duly adopted by the board of commissioners of said district and entered on their minutes.

Section 51-33-55 provides parameters by which a board of commissioners of a drainage district may lease property “authorized to be leased under the terms of Section 51-33-49 through 51-33-57.” Of those code sections, only Section 51-33-49 sets forth the “lands authorized to be leased or rented” by a drainage district—lands located within the district which have been purchased from the State of Mississippi or lands purchased at any tax sale after the time for redemption has expired.

Based on a plain reading of these statutes, Sections 51-33-49 and 51-33-55 do not apply to lands belonging to the District that were not purchased from the State of Mississippi or purchased at a tax sale. Therefore, the authority to lease land on such terms and conditions as may be prescribed and designated for the lease thereof by an order duly adopted by the Board of Commissioners of the District and entered on their minutes, including not having to seek competitive bids, is limited to land purchased from the State of Mississippi or purchased at any tax sale after the time for redemption has expired.

Your second question should be addressed by the Mississippi Ethics Commission to ensure compliance with Mississippi’s ethics in government laws.

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/ Phil Carter

Phil Carter  
Special Assistant Attorney General