



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

The purpose of the Opinion Outline is to inform, on a quarterly basis, state, county, and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from 01/01/2021 through 03/31/2021.

The synopses that follow are based upon opinions that were issued by this office in response to specific facts and circumstances and, therefore, may not be applicable in all cases. **Complete opinions are available on our website, www.ago.state.ms.us.**

Sincerely,

Lynn Fitch
Attorney General
State of Mississippi

DRAINAGE – LEVEE – DISTRICTS

Swayze – January 11, 2021 (OP-2020-00265)

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.

Whether the District may lease hunting rights and/or agricultural rights to a District commissioner should be addressed by the Mississippi Ethics Commission to ensure compliance with Mississippi's ethics in government laws.

E-911

McNeel – February 3, 2021 (OP-2020-00305)

The requirement within Section 25-53-171 that the Wireless Communications Commission provide “sign off approval” on certain wireless communications systems is only applicable to communication systems that are “owned and operated by any state or local governmental entity.”

ELECTIONS – QUALIFICATION OF CANDIDATES

Roberson – February 1, 2021 (OP-2020-00299)

Section 23-15-300 is clear that a supervisor must live in the district he or she seeks to represent. The language “or other territory that he or she seeks to represent in such office” is broad enough to include municipal wards. Therefore, candidates for a municipal ward office, in a municipality with a population of 1,000 or more, according to the latest federal decennial census, must have been a resident of the ward they seek to serve for a minimum of two years prior to the date of the election.

Finding that a municipal ward falls within the meaning of the phrase “other territory,” under Section 23-15-300 is consistent with the express legislative intent of Senate Bill 2030 (Reg. Sess. 2019), which was codified as Section 23-15-300. S.B. 2030 (Reg. Sess. 2019), Legislative History Project, Mississippi College School of Law, available at https://law-db.mc.edu/legislature/bill_details.php?id=7985&session=2019.

INSTITUTIONS OF HIGHER LEARNING

Rankins – March 16, 2021 (OP-2021-00031)

The plain language of Section 37-101-183 states that a faculty member granted sabbatical leave may be paid up to fifty percent of his or her annual salary, without regard to whether it is a one-semester or two-semester sabbatical. Nothing in Section 37-101-183 would prohibit a faculty member, who takes a one-semester sabbatical at half salary, from receiving the other half of his or her salary that year for teaching and/or working at the university.

MOTOR VEHICLE COMMISSION

Jernigan – February 16, 2021 (OP-2020-00308)

We find no statutory prohibition on a wholly owned subsidiary of a vehicle manufacturer obtaining a motor vehicle dealer’s license in Mississippi, so long as the subsidiary meets all applicable statutory and/or regulatory requirements for obtaining such license.

We know of no statutory provision explicitly preventing a manufacturer’s or distributor’s wholly owned subsidiary from obtaining a dealer’s license at some point after the manufacturer or

distributor has franchised dealerships within Mississippi, so long as such subsidiary meets all applicable statutory and/or regulatory requirements for obtaining such license. Determining whether this practice is impacted by existing or future franchise agreements entered into by the manufacturer requires us to interpret such agreements, which is beyond the authority of this office.

OTHER STATE AGENCIES, BOARDS AND COMMISSIONS

Armstrong – January 5, 2021 (OP-2020-00195)

Based on the plain language of Section 73-4-5(2)(b), the exemption provided to the licensure requirement for auctioneers only applies to the specified employees, not to independent contractors.

PORT COMMISSION

Stone – March 3, 2021 (OP-2021-00041)

The Mississippi State Port Authority (MSPA)—acting jointly with the Mississippi Development Authority (MDA)—may lease certain portions of the Port to a third party, with such lease providing the lessee exclusive use and possession of the leased area for a period not to exceed ninety-nine years. Further, the MSPA is authorized to enter into all contracts that are “incidental to or necessary for the . . . operation of any ports, harbors rivers, channels and waterways” Miss. Code Ann. § 59-5-37.

SCHOOLS – DISTRICTS

Wright – January 11, 2021 (OP-2020-00303)

The Achievement District has the same authority as the former school boards and, thus, has authority to issue debt obligations or otherwise borrow money in the same manner and to the same extent authorized by the former school boards.

The State Board of Education is the appropriate body to make any necessary findings of fact and adopt any resolutions necessary to issue debt obligations or borrow money.

SUPERVISORS – AUTHORITY

Eldridge – January 5, 2021 (OP-2020-00238)

Electronic signatures satisfy requirements for signatures and attestations on boards of supervisors’ minutes and signatures on boards of supervisors’ resolutions, orders, contracts, correspondence and purchase orders.

INTERLOCAL AGREEMENTS APPROVED

Chess – February 16, 2021 (OP-2020-00316)

The Interlocal Cooperation Agreement between Claiborne County, Mississippi and the City of Port Gibson, Mississippi regarding ad valorem tax collection is approved.

Woodard – March 4, 2021 (OP-2021-00002)

The Interlocal Cooperation Agreement between the Board of Supervisors of Sharkey County, Mississippi and the Board of Supervisors of Washington County, Mississippi for the exchange of certain road and bridge equipment, materials and services is approved.

Woodard – March 4, 2021 (OP-2021-00003)

The Interlocal Cooperation Agreement between the Board of Supervisors of Sharkey County, Mississippi and the Board of Supervisors of Holmes County, Mississippi for the exchange of certain road building equipment and services is approved.

Ashley – March 8, 2021 (OP-2021-00006)

The Interlocal Cooperation Agreement between the City of Laurel, Mississippi and Jones County, Mississippi for the collection of ad valorem taxes and special assessments on real and personal property is approved.

Ashley – March 8, 2021 (OP-2021-00007)

The Interlocal Cooperation Agreement between the Town of Sandersville, Mississippi and Jones County, Mississippi for the collection of ad valorem taxes and special assessments on real and personal property is approved.

Ashley – March 8, 2021 (OP-2021-00008)

The Interlocal Cooperation Agreement between the City of Ellisville, Mississippi and Jones County, Mississippi for the collection of ad valorem taxes and special assessments on real and personal property is approved.

Compton – March 8, 2021 (OP-2021-00010)

The Interlocal Cooperation Agreement between Lauderdale County, Mississippi and the Lauderdale County School District for their joint cooperative efforts to prepare a site for the placement of solar panels at Northeast Middle School and to cut certain grass and other foliage around the sewer lagoons on LCSD campuses is approved.

Slay – March 8, 2021 (OP-2021-00009)

The Interlocal Cooperation Agreement among the Rankin County Board of Supervisors, the

Rankin County Chancery Clerk, and the Rankin County School District for the use of excess fee income remitted to Rankin County by the Chancery Clerk is approved.

Slay – March 29, 2021 (OP-2021-00024)

The Interlocal Cooperation Agreement among the Rankin County Board of Supervisors, Rankin County Chancery Clerk and Pearl Public School District for use of excess fee income remitted to Rankin County by the Chancery Clerk is approved.

**Our website offers a FREE searchable database of
Official Opinions issued since 1979.**

Go to: www.ago.state.ms.us.

Select “Opinions and Policy”.

Select “Opinions”.

**In the search box, enter the opinion number
(ex. 2013-00367) and click search.**