



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

September 3, 2021

Mr. Robert Hensarling
President, McComb-Pike County Airport Board
1018 Pinehurst West
McComb, Mississippi 39648

Re: Amendment of the McComb-Pike County Airport Board Joint Agreement

Dear Mr. Hensarling:

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

Background

According to your request, the McComb-Pike County Airport is owned jointly and equally by the City of McComb and Pike County. A Joint Agreement of the two governing authorities created the airport and the airport board and specifies that three members of the board shall be appointed from McComb, three members from Pike County, and one member shall be appointed by joint agreement of both owners. Additionally, the Joint Agreement states that “each public agency shall pay and be responsible for one-half of all cost of acquisition, establishment, construction, enlargement, improvement, cost of operation and maintenance, regulation and protection of the airport.” However, according to your request, for the past several years Pike County has provided twice the financial funding of that provided by the City of McComb, and such a situation is not addressed by the Joint Agreement.

Question Presented

May the number of airport board members be adjusted to reflect the amount of financial support from each owner until such time as equal financial support is once again achieved?

Brief Response

Yes. The statutes governing joint airport boards allow for the revision and amendment of joint agreements.

Applicable Law and Discussion

Pursuant to the authority granted to this office in Mississippi Code Annotated Section 7-5-25, official opinions of the Attorney General are limited to questions of law for future guidance of

those officials entitled to receive them. We are unable to interpret or opine on local policies or agreements, and, therefore, cannot offer any guidance on specific language in any amendment to or analyze provisions of the Joint Agreement.

As part of the chapter regulating airport facilities, Section 61-5-33 authorizes public agencies, such as municipalities and counties, to operate an airport jointly. The subsequent section authorizes those public agencies to enter into agreements with each other for joint airport action. Miss. Code Ann. § 61-5-35. Specifically, Section 61-5-35 states, in pertinent part:

Each such agreement shall specify its duration, the proportionate interest which each public agency shall have in the property, facilities and privileges involved, the proportion to be borne by each public agency of preliminary costs and costs of acquisition, establishment, construction, enlargement, improvement, and equipment of the airport or air navigation facility, the proportion of the expenses of maintenance, operation, regulation and protection thereof to be borne by each, and such other terms as are required by the provisions of sections 61-5-33 to 61-5-41. The agreement may also provide for: amendments thereof, and conditions and methods of termination of the agreement

Such agreements shall also establish a joint board consisting of members appointed by each agency's governing body. Section 61-5-37 states that "[t]he number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement." The joint board is also authorized to "adopt and amend from time to time rules for its own procedure." Miss. Code Ann. § 61-5-37. Both sections authorize a joint airport board to amend its rules and agreements.

This office has previously opined that under the authority of Sections 61-3-69 and 61-3-71—which govern joint airport authorities and largely mirror Sections 61-5-35 and 61-5-37—the membership of a joint airport board may be increased, "provided that the agreement is lawfully and properly amended to reflect the same." MS AG Op., *Seals* at *1 (Aug. 22, 1990). This office is of the opinion that *Seals* is equally applicable to the situation faced by the McComb-Pike County Airport Board.

While this office cannot opine on the factual question of the board membership's makeup reflecting the proportional financial contribution of the respective governing authorities, it is our opinion that the board has the statutory authority to amend its agreement to appoint additional members.

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/ *Misty Monroe*

Misty Monroe
Special Assistant Attorney General