



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

August 22, 2022

Thomas U. Reynolds, Esq.
Attorney, Tallahatchie County Board of Supervisors
Post Office Drawer 350
Charleston, Mississippi 38921

Re: Bond for Damage to County Roads

Dear Mr. Reynolds:

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

Question Presented

Where the Tallahatchie County Board of Supervisors (the "Board") has determined that the damage to county roads by excessive weights is occasioned by out-of-county persons, firms, or entities, can the Board require bond of these persons, firms, or entities when such bond is not required of county residents?

Brief Response

While the Board may require a permit and security for damage to highways under its jurisdiction caused by excessive size or weight of a vehicle or load, such regulations must be applied uniformly to all vehicles exceeding the established size and weight limits.

Applicable Law and Discussion

The board of supervisors has full jurisdiction over all matters relating to county roads. Miss. Const. Art. 6, Section 170; Miss. Code Ann. §§ 19-3-41 and 65-7-1.

The board of supervisors of any county, pursuant to maximum load limits established in Sections 63-5-1, *et seq.*, and Section 65-7-43's posting authority, may declare what is an unusual or uncommon weight or load to be carried over roads and bridges. Miss. Code Ann. § 65-7-43. Section 63-5-27, which establishes gross single or tandem axle weights of vehicles operating on public roads provides in subsection (5) that "[t]he board of supervisors of any county . . . by appropriate resolution, may impose limitations more restrictive than those permitted in this section upon the county highways of such county" It is within the discretion of the board of

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supervisors to regulate the maximum load of any vehicle using public roads and bridges in the county “by order spread on its minutes, which order shall, before being in full force and effect, be first published in a newspaper published in the county for three (3) consecutive weeks, whereupon such resolution shall be in force and effect.” Miss. Code Ann. § 65-7-45. However, any such limitation on size and weight must be applied uniformly to all vehicles exceeding such limitations. MS AG Op., *Thach* at *2 (Apr. 23, 2001) (finding no authority to impose weight regulations solely upon vehicles in a particular industry).

Additionally, Section 63-5-51(1)(a) states that with respect to highways under their jurisdiction, local authorities have the discretion to issue special permits, upon written application and for good cause shown, “authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in this chapter or otherwise not in conformity with the provisions of this chapter upon any highway under the jurisdiction of the party granting such permit and for the maintenance of which said party is responsible.” Moreover, the local authority “may require such undertaking or other security as may be deemed necessary to compensate for any injury to any roadway or road structure.” Miss. Code Ann. § 63-5-51(1)(c).

Therefore, the Board “is authorized, in accordance with Miss. Code Ann. Section 63-5-51, to require the issuance of special permits for the temporary operation of vehicles which exceed the legal size and weight limitations and, under such circumstances, to require the posting of security necessary to compensate for any injury to county roads.” MS AG Op., *Hemphill* at *2 (Oct. 4, 2013) (citing MS AG Op., *Jones* at *2 (Jan. 7, 2011)). The type and amount of security required, however, is left to the discretion of the Board. MS AG Op., *Robinson* at *1 (Oct. 15, 2010). Any size and weight restrictions and corresponding security must be applied to the operators of all vehicles. *Thach* at *2 (Apr. 23, 2001). This opinion does not apply to state-maintained highways regardless of their location. MS AG Op., *Satcher* at *2 (Dec. 6, 2013).

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
Assistant Attorney General