



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

January 3, 2023

The Honorable Eddie Fair
Hinds County Tax Collector
Post Office Box 1727
Jackson, Mississippi 39215-1727

Re: Payroll for Elected Officials

Dear Mr. Fair:

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

Background

According to your request, the Hinds County Board of Supervisors is in the process of changing to a new system of payroll administration. There will be a new clock-in system, and the frequency of pay will change from monthly to semi-monthly on the new payroll system.

Questions Presented

1. Do the board of supervisors and county administrator have the authority to change the frequency of pay of elected officials and their employees, if the elected official has his or her own system of administration?
2. If not, can the board of supervisors and county administrator require elected officials to comply with the change in frequency of pay since there will be a change in the countywide payroll administration system? To what degree do elected officials have to comply with the changes being made?

Brief Response

1. An elected official who has adopted his or her own system of personnel administration pursuant to Section 19-2-9(2) of the Mississippi Code has the authority to determine the frequency of pay for his or her employees.

2. See Response 1. If an elected official has adopted his or her own system of personnel administration pursuant to Section 19-2-9(2), the countywide personnel system implemented by the board of supervisors would have no application to that elected official and his or her employees. However, if the elected official has not adopted his or her own personnel policy, the elected official “shall adopt the system of personnel administration adopted by the board of supervisors.” *Id.*

Applicable Law and Discussion

Section 19-2-9 provides, in relevant part:

(1) The board of supervisors of each county which is required to operate on a countywide system of road administration as described in Section 19-2-3 shall adopt and maintain a system of countywide personnel administration for all county employees other than those employees subject to subsection (2) of this section. The personnel system shall be implemented and administered by the county administrator. Such personnel system may include, but not be limited to, policies which address the following: hiring and termination of employees, appeal and grievance procedures, leave and holidays, compensation, job classification, training, performance evaluation and maintenance of records. . . .

(2) *The elected officials of any county* described in subsection (1) of this section, other than members of the board of supervisors, who are authorized by law to employ *shall adopt and maintain a system of personnel administration for their respective employees or shall adopt the system of personnel administration adopted by the board of supervisors.* The personnel system adopted and any amendments thereto shall be filed with the board of supervisors.

(Emphasis added.) This office has previously opined that “although any such system [of personnel administration adopted by an elected official] must be filed with the clerk of the board of supervisors, it is entirely independent of any policy adopted and implemented by the board of supervisors.” MS AG Op., *Haywood* at *4 (May 1, 2012) (citation omitted.)

In the *Lamar* opinion, county elected officials had decided not to use a time clock or computer login but instead wanted to continue with paper time sheets. MS AG Op., *Lamar* at *1 (June 26, 2020). We were asked whether a board of supervisors could require elected officials to manually upload their employees’ time from their time sheets to the payroll software for the payroll clerk to process and make payment. *Id.* We opined that the board of supervisors did not have the authority “to implement a new payroll system as part of its personnel administration and require other county elected officials to manually enter their employees’ time sheets into this system if the elected official has chosen . . . and filed with the board, his [or] her own system of personnel administration, i.e., paper time sheets.” *Id.* We have also opined that a system of personnel administration adopted by an elected official under Section 19-2-9(2) includes the method of payroll delivery. MS AG Op., *Barry* at *3 (Sept. 21, 2022). Similarly, it is the opinion of this office that an elected official who has adopted a system of personnel administration pursuant to Section 19-2-9(2) has the authority to determine the frequency of pay for his or her respective employees.

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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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION