



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

June 30, 2023

The Honorable Michael Watson
Secretary of State, Mississippi
401 Mississippi Street
Jackson, Mississippi 39201

Re: 2023 Senate Bill No. 2077

Dear Secretary Watson:

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

Questions Presented

1. What effect, if any, does the title of 2023 Mississippi Senate Bill No. 2077 (“S.B. 2077”) have on the statutory language of S.B. 2077?
2. Does “cash basis measurement only” refer to contributions reported as defined in Mississippi Code Annotated Section 79-11-501?
3. Does “cash basis measurement only” refer to how the audit must be prepared?
4. What effect do the amendments contained in S.B. 2077 have on audits; specifically, the requirements outlined in Section 79-11-507(4), which require audited financial statements to be prepared in accordance with generally accepted accounting principles.

Brief Response

1. You have not identified any portion of S.B. 2077 or Section 79-11-507 that you contend is ambiguous. Where there is no ambiguity in a statute’s text, the title has no effect.
2. Please see the response to your first question.
3. Please see the response to your first question.

4. Please see the response to your first question. Beyond this, your fourth question is too broad to address by official opinion. For additional guidance on the requirements outlined in Section 79-11-507(4), we refer you to the Office of the State Auditor.

Applicable Law and Discussion

You ask what effect the title of S.B. 2077 has on the statutory language of S.B. 2077. The title of S.B. 2077 reads, “AN ACT TO AMEND SECTION 79-11-507, MISSISSIPPI CODE OF 1972, TO RAISE THE AUDIT THRESHOLD FOR CHARITY ORGANIZATIONS FROM \$500,000.00 TO \$750,000.00, *AND USE CASH BASIS MEASUREMENT ONLY*; AND FOR RELATED PURPOSES.” (emphasis added). However, neither the language of S.B. 2077 amending Mississippi Code Annotated Section 79-11-507 nor the statute itself includes the term “cash basis measurement.” Further, no statutory definition associated with S.B. 2077 or Section 79-11-507 includes the term “cash basis measurement.”

In considering statutory titles, the Mississippi Supreme Court has averred that when a statute is ambiguous, the title may be considered to discern the legislature’s intent. *Giles v. Friendly Fin. Co. of Biloxi*, 185 So. 2d 659, 662 (Miss. 1966). But when a statute is not ambiguous, the title should not be considered. *Id.* Moreover, “[t]he title cannot add to or extend the operation of the act” nor may it “be used to create an ambiguity in the act.” *Id.* (citations omitted). In expanding upon this rule, the Mississippi appellate courts have quoted the United States Supreme Court:

But headings and titles are not meant to take the place of the detailed provisions of the text. Nor are they necessarily designed to be a reference guide or a synopsis. . . . As a result, matters in the text which deviate from those falling within the general pattern are frequently unreflected in the headings and titles. Factors of this type have led to the wise rule that the title of a statute and the heading of a section cannot limit the plain meaning of the text. . . . For interpretative purposes, they are of use only when they shed light on some ambiguous word or phrase. They are but tools available for the resolution of a doubt. But they cannot undo or limit that which the text makes plain.

Giles, 185 So. 2d at 662 (quoting *Bhd. of R.R. Trainmen v. Baltimore & Ohio R.R.*, 331 U.S. 519, 528-29 (1947)); see also *Miss. Dep’t of Revenue v. Heath*, 185 So. 3d 1052, 1058 (Miss. Ct. App. 2015) (quoting *Giles*, 185 So. 2d at 662).

Applying this instruction to your questions, you have not identified any portion of S.B. 2077 or Section 79-11-507 that you contend is ambiguous, and where there is no ambiguity in a statute’s text, the title has no effect. Beyond this, your fourth question is too broad to address by official opinion. For additional guidance on the requirements outlined in Section 79-11-507(4), we refer you to the Office of the State Auditor.

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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/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General

OFFICIAL OPINION