



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

February 28, 2024

Billy Ellzey, Superintendent
Pascagoula-Gautier School District
Post Office Box 250
Pascagoula, Mississippi 39568-0250

Re: Mississippi Code Annotated Section 27-19-11

Dear Superintendent Ellzey:

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

Background

In 2017, the Attorney General's Office opined: "[w]e are aware of no authority for Madison County to levy ad valorem taxes for the support of municipalities or municipal school districts. Consequently, the privilege tax proceeds received pursuant to Section 27-19-11 must be distributed only to the county and the county school district." MS AG Op., *Vance* at *2 (Jan. 20, 2017). You state that based on this opinion, the chancery clerk has advised the Pascagoula-Gautier School District that Jackson County will no longer split privilege tax proceeds with the municipalities and municipal school districts in Jackson County under Mississippi Code Annotated Section 27-19-11.

We understand from a later conversation with you that the Pascagoula-Gautier School District ("School District") is a municipal school district and that the city of Pascagoula ("City") is the levying authority for the School District in accordance with Section 37-57-1. Pursuant to an interlocal agreement, Jackson County collects the City's ad valorem taxes and then forwards them to the City for the benefit of the School District as allowed under Section 27-41-2.

Question Presented

Should privilege tax proceeds received by a county pursuant to Section 27-19-11 be distributed to municipal school districts within the county?

Brief Response

No. The privilege tax proceeds received by a county pursuant to Section 27-19-11 may not be distributed to municipal school districts within the county.

Applicable Law and Discussion

As an initial matter, opinions of this office are issued pursuant to Section 7-5-25 for prospective purposes and cannot validate or invalidate past action. We offer no opinion on the distribution of privilege taxes from prior years.

The highway privilege taxes you reference in your request are levied in accordance with Section 27-19-11 and must be distributed by the county “as they would if these collections were ad valorem taxes.” County boards of supervisors are generally required to levy and collect ad valorem taxes on behalf of county school districts while the governing authorities of municipalities levy and collect ad valorem taxes on behalf of municipal school districts. Miss. Code Ann. § 37-57-1. This section further provides that “the county or municipal tax collector, as the case may be, shall pay such tax collections . . . into the school depository and report to the school board of the appropriate school district at the same time and in the same manner as the tax collector makes his payments and reports of other taxes collected by him.”

In the *Vance* opinion, Madison County asked whether it “should . . . distribute privilege tax proceeds received pursuant to Section 27-19-11 to (1) the county, county school district, separate municipal school districts and municipalities; or, should distribution be only to the county and the county school district?” MS AG Op., *Vance* at *1 (Jan. 20, 2017). This office opined that “[w]e are aware of no authority for Madison County to levy ad valorem taxes for the support of municipalities or municipal school districts. Consequently, the privilege tax proceeds received pursuant to Section 27-19-11 must be distributed only to the county and the county school district.” *Vance* at *2. This office further opined that “[t]he fact that a county may, by agreement, collect ad valorem taxes for municipalities would not authorize the county to distribute these privilege tax proceeds to municipalities or municipal school districts.” *Id.* See also MS AG Op., *Vance* (July 7, 2017) (confirming that these privilege tax proceeds must only be distributed to the county and the county school district). This comports with the above cited statutory authority and remains the opinion of this office.

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