



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

The purpose of the Opinion Outline is to inform, on a quarterly basis, state, county, and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from 10/01/2023 through 12/31/2023.

The synopses that follow are based upon opinions that were issued by this office in response to specific facts and circumstances and, therefore, may not be applicable in all cases. **Complete opinions are available on our website, www.ago.state.ms.us.**

Sincerely,

Lynn Fitch
Attorney General
State of Mississippi

COMMUNITY AND JUNIOR COLLEGES

[Davis – November 28, 2023 \(OP-2023-00126\)](#)

Given the broad power of the Mississippi Delta Community College (“MDCC”) Board of Trustees, it is the opinion of this office that the MDCC Board of Trustees, in its discretion, may allow an elected official to use the college’s facilities at no charge to host a college and career fair for high school students in the region.

[Davis – December 21, 2023 \(OP-2023-00154\)](#)

A sheriff and a member of a community college board of trustees both serve within the executive branch, and the separation of powers doctrine does not prohibit a person from holding more than one position in the same branch of government.

COURTS

[Rasco – October 2, 2023 \(OP-2023-00114\)](#)

A bail bond is a court document as set forth in Mississippi Code Annotated Section 75-12-5(b)(4) and thus excluded from the provisions of the Uniform Electronic Transactions Act.

[Moore, Jr. – November 3, 2023 \(OP-2023-00124\)](#)

A misdemeanor ticket/citation that has been sworn to prior to filing will suffice to commence a criminal proceeding.

[Ross – November 28, 2023 \(OP-2023-00133\)](#)

As long as the salary of the county court judge meets the statutory minimum of the applicable subsection of Mississippi Code Annotated Section 9-9-11, the Coahoma County Board of Supervisors may not retroactively increase the salary of the County Court Judge. To do so would be a violation of Section 96 of the Mississippi Constitution, which prohibits extra compensation after services were rendered.

ELECTIONS

[Butler – November 2, 2023 \(OP-2023-00167\)](#)

The term “the state officers” as used in Mississippi Code Annotated Section 23-15-193 includes only the statewide elected offices of Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer, Auditor of Public Accounts, Commissioner of Agriculture and Commerce, and Commissioner of Insurance as referenced in Section 140 of the Mississippi Constitution. The requirement in Section 23-15-193(2) that a runoff election take place if no state officer candidate receives a majority of the votes does not apply to state district officers or legislators.

MS DEPARTMENT OF AGRICULTURE & COMMERCE

[Gipson – December 22, 2023 \(OP-2023-00213\)](#)

The Mississippi Department of Agriculture and Commerce (“Department”) is authorized to accept, budget, receive, and expend funds from any source for improvements to Department property and for marketing and promotion programs. Miss. Code Ann. § 69-1-48(2).

Funds received on behalf of the Mississippi Agriculture and Forestry Museum (“Museum”) may be spent for improvements to the Museum and for marketing and promotion programs for the Museum in a manner consistent with the Museum’s historical purpose. Miss. Code Ann. § 69-1-48(5)(c).

The Department is authorized to escalate funds received from advertising or lease of naming rights

with the Department of Finance and Administration in a manner consistent with the escalation of federal funds. Miss. Code Ann. § 69-1-48(3)(c).

MUNICIPALITIES

[Bassi – November 3, 2023 \(OP-2023-00115\)](#)

There is no authority for a municipality to expend public funds to improve a municipal street only to vacate the street for the benefit of a local business. To do so could be considered an impermissible use of public funds or a donation prohibited by Mississippi Code Annotated Section 21-17-5(2)(g) (“Unless such actions are specifically authorized by another statute or law of the State of Mississippi, this section shall not authorize the governing authorities of municipalities to . . . grant any donation . . .”).

[Crider – November 3, 2023 \(OP-2023-00131\)](#)

An alderman vacates his position when he abandons his municipal residence for another residence outside his district with no intent to return.

[Gaskin – November 3, 2023 \(OP-2023-00113\)](#)

Electronic signatures may not be used on a written protest against municipal bonds.

[Purdie – November 3, 2023 \(OP-2023-00092\)](#)

A municipality may settle a claim in accordance with Mississippi Code Annotated Section 25-1-47 if it makes the factual determination that it is legally obligated for the claim.

[Callaway – November 28, 2023 \(OP-2023-00136\)](#)

The city of Winona may only negotiate with the lowest and best bidder if the bid is not more than ten percent above the amount of funds allocated for the project, pursuant to Mississippi Code Annotated Section 31-7-13(d)(iv).

[Kirk – November 28, 2023 \(OP-2023-00145\)](#)

Pursuant to Mississippi Code Annotated Section 21-19-69, a municipality may donate funds out of the municipal treasury to a certified farmers’ market that is operating within the municipality. We find no prohibition against a municipality donating the use of a vacant city parking lot to a certified farmers’ market in lieu of a rental fee so long as the requirements of the statute are met, and the value of the donation does not exceed the amount established in the statute.

[Kirk – November 29, 2023 \(OP-2023-00144\)](#)

Under the authority of Mississippi Code Annotated Section 21-17-1(8), the city of Winona’s (“City”) governing authority has the discretion to “expend municipal funds *to match* any state, federal or private funding for any program administered by . . . any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.” (emphasis added). If

the governing authority of the City determines that a particular foundation qualifies as a “nonprofit organization that is exempt under 26 USCS 501(c)(3) from paying federal income tax,” then the City may spend funds to match other funding for the purpose of supporting a program administered by the nonprofit in question.

[Heck – December 28, 2023 \(OP-2023-00148\)](#)

2022 Mississippi Senate Bill No. 2998 (“S.B. 2998”) authorizes the governing authorities of the town of Sardis to levy and collect certain taxes “[f]or the purpose of providing funds for the enhancement of tourism and for the provision of parks and recreational facilities.” Whether paying a third-party contractor to cut and maintain a municipal cemetery constitutes an action “for the enhancement of tourism and for the provision of parks and recreational facilities,” as provided in S.B. 2998, is a factual determination that must be made by the governing authorities of the town of Sardis.

SCHOOL DISTRICTS

[Smith – November 3, 2023 \(OP-2023-00128\)](#)

There would be no violation of Mississippi’s nepotism statutes if the North Tippah School District (“School District”) hired the brother of the School District administrator to perform concrete work for the School District. However, there could potentially be a conflict of interest prohibited by Mississippi Code Annotated Section 37-11-27 or a violation of Mississippi Ethics in Government Laws.

SUPERVISORS

[Gaston – November 3, 2023 \(OP-2023-00125\)](#)

Mississippi Code Annotated Section 25-1-113 prohibits a county from employing a person convicted of embezzlement. It does not prohibit a county from contracting with a corporation or a limited liability company that is controlled or wholly owned by a person who would otherwise be prohibited under Section 25-1-113 from being employed by the county.

[Holleman – November 3, 2023 \(OP-2023-00116\)](#)

Claims against a county for unpaid compensation are subject to a three-year statute of limitations, which begins to run “when the plaintiff first had the right to demand payment of the officer or board authorized to allow or disallow the claim sued upon.” Miss. Code Ann. §§ 15-4-149 and 15-1-51. The point at which the statute of limitations begins to run for a particular claim and the salary owed are factual determinations to be made by the board of supervisors and cannot be made by this office.

[Lamar – November 28, 2023 \(OP-2023-00134\)](#)

Pursuant to Mississippi Code Annotated Section 11-27-47, a rural water association may access its water line underneath a county road; however, a county board of supervisors may likewise adopt

an ordinance regulating such access.

When a rural water association damages a country road while accessing its water line underneath, the rural water association “shall be responsible in damages for any injury caused by such construction or use thereof.” Miss. Code Ann. § 11-27-47. This includes injury to property.

Neither Section 11-27-47 nor any other state law prevents a county from making repairs to a county road damaged by a rural water association accessing its water line and sending an invoice to the rural water association for reimbursement to the county.

Section 19-5-30 provides the board of supervisors of any county with the authority and power “to render any assistance deemed necessary in order to defray the cost of the relocation of a water line operated within the county by a local water association when such relocation is required for the development of a public road or other county improvement.” To render such assistance, the board must find it would be in the best interest of the county.

[Shepard – November 28, 2023 \(OP-2023-00142\)](#)

If a county board of supervisors approves a salary increase under Mississippi Code Annotated Section 25-3-13(2), the board members “are not eligible for any additional salary increases for that fiscal year.”

[Pittman – December 21, 2023 \(OP-2023-00172\)](#)

The separation of powers doctrine prohibits a person from holding positions in two different branches of government if both positions exercise “core powers” within their respective branch. A member of the county board of supervisors exercises core powers within the judicial branch of government. The Pat Harrison Waterway District is a state agency, which falls within the executive branch of government. Whether the position of executive director of the Pat Harrison Waterway District is a position exercising “core powers” is ultimately a determination of fact upon which this office may not opine.

INTERLOCAL AGREEMENTS APPROVED

[Roy – October 2, 2023 \(OP-2023-00127\)](#)

The Interlocal Cooperation Agreement between Quitman County, Mississippi and Coahoma County, Mississippi regarding road asphalt overlay projects is approved.

[McWilliams – October 2, 2023 \(OP-2023-00138\)](#)

The Interlocal Cooperation Agreement between Sunflower County, Mississippi and the City of Moorhead, Mississippi regarding ad valorem and special assessment tax collection is approved.

[Huskison – October 17, 2023 \(OP-2023-00139\)](#)

The First Amendment to the Interlocal Cooperation Agreement between the City of Starkville,

Mississippi and Mississippi State University regarding operation and maintenance of a joint system for wastewater collection and treatment is approved.

Hammack – November 16, 2023 (OP-2023-00169)

The Interlocal Cooperation Agreement between Clarke County, Mississippi and the Quitman School District regarding the furnishing of School Resource Officers is approved.

Hammack – November 16, 2023 (OP-2023-00170)

The Interlocal Cooperation Agreement between Clarke County, Mississippi and the Enterprise School District regarding the furnishing of School Resource Officers is approved.

Murdock – November 16, 2023 (OP-2023-00157)

The Interlocal Cooperation Agreement between the City of Gulfport, Mississippi and Harrison County, Mississippi regarding the Gulfport Promenade TIF Project is approved.

Whitcomb – November 16, 2023 (OP-2023-00156)

The Interlocal Cooperation Agreement between the City of Oxford, Mississippi and the University of Mississippi regarding tourism and the improvements to Oxford-University Stadium is approved.

Pope III – December 14, 2023 (OP-2023-00173)

The Interlocal Cooperation Agreement between the City of Hattiesburg, Mississippi and the Hattiesburg Public School District regarding the construction and maintenance of a sidewalk along Gordon’s Creek is approved.

**Our website offers a FREE searchable database of
Official Opinions issued since 1979.**

Go to: www.ago.state.ms.us.

Select “Opinions and Policy.”

Select “Opinions.”

**In the search box, enter the opinion number
(ex. 2013-00367) and click search.**