



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

April 2, 2024

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Attorney, Walthall County Board of Supervisors
Post Office Drawer 311
Tylertown, Mississippi 39667

Re: County's Authority to Install Culverts on Private Property Used for a
Polling Place

Dear Mr. Mord:

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

Background

According to your request, Walthall County's fourth district Tylertown polling place is owned by the American Legion. The property currently has a ditch cutting off a potentially large parking area from the voting public as well as presenting a danger to pedestrians. The American Legion has requested that the county place culverts in the ditch and cover them to make a parking area and eliminate the danger of someone falling into the ditch.

Question Presented

May the board of supervisors, pursuant to Mississippi Code Annotated Section 23-15-281(2) and consistent with the facts presented, purchase and install culverts and cover them to improve private property used for a polling place?

Brief Response

Section 23-15-281(2) does not authorize the board of supervisors to purchase and install culverts and cover them to improve private property used for a polling place.

Applicable Law and Discussion

To the extent your request involves any action already taken by the board of supervisors, this office may not validate or invalidate any past action. Rather, pursuant to Section 7-5-25, this office may

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only opine upon prospective questions of law.

Section 23-15-281(2) provides:

The board of supervisors is authorized, by order spread upon the minutes of the board setting forth the cost and source of funds therefor, to purchase improved or unimproved property and to construct, reconstruct, repair, renovate and maintain polling places, or to pay to private property owners reasonable rental fees when the property is used as a polling place for a period not to exceed the day immediately preceding the election, the day of the election, and the day immediately following the election. On or before May 1, 2019, the county board of supervisors shall ensure each polling place is accessible to all voters, structurally sound, capable of providing air conditioning and heating and compliant with the Americans with Disabilities Act.

In sum, Section 23-25-281(2) allows boards of supervisors to “construct, repair, renovate and maintain polling places” located on “improved or unimproved propert[ies]” purchased by the board of supervisors—but not on private properties. Rather, private property owners may receive “reasonable rental fees when the property is used as a polling place.” It is thus the opinion of this office that Section 23-15-281(2) does not authorize the board of supervisors to purchase and install culverts and cover them to improve private property used for a polling place.

To the extent any previous opinions conflict, they are modified prospectively to conform herewith.
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