



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

Opinion Outline - January to March 2024

The purpose of the Opinion Outline is to inform 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 01/01/2024 through 03/31/2024.

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

COUNTIES

[Espy – February 7, 2024 \(OP-2023-00214\)](#)

Pursuant to Section 104 of the Mississippi Constitution, statutes of limitation do not run against the State or political subdivisions. Thus, the three-year statute of limitation in Mississippi Code Annotated Section 15-1-49 for actions for which no other period of limitation is prescribed would not apply to a claim by a municipality against a county.

JUSTICE COURT JUDGES

Harrison – March 14, 2024 (OP-2023-00174)

There is no authority for a judge to allow a defendant to “sit out” or work off the mandatory \$1,000.00 Human Trafficking and Commercial Sexual Exploitation Fund state assessment imposed under Mississippi Code Annotated Section 99-19-75(2).

Reed – March 14, 2024 (OP-2023-00179)

There is no authority for a judge to allow a defendant to “sit out” the mandatory \$1,000.00 Human Trafficking and Commercial Sexual Exploitation Fund state assessment imposed under Mississippi Code Annotated Section 99-19-75.

LOTTERY

England – February 8, 2024 (OP-2023-00193)

There is currently no provision in the Alyce G. Clarke Mississippi Lottery Law (“Lottery Law”) allowing for the online “reservation” of lottery tickets through a lottery courier system as described in your request. The Lottery Law prohibits any person other than a duly certified lottery retailer from selling lottery tickets to the public. Further, the sale of lottery tickets using a computer, tablet, or smartphone would violate the prohibition against selling lottery tickets by any method involving “any personal computer, tablet, smartphone, mobile device or other similar equipment or type of device” in Mississippi Code Annotated Section 27-115-17(2)(d) and also would not comport with the age verification and signage requirements in Sections 27-115-73 and 27-115-67.

Whether a type of lottery business would be required to have a contract with the Lottery Corporation to operate in Mississippi, thus qualifying as a vendor as defined in Section 27-115-5(i), is ultimately a determination to be made by the Lottery Corporation and/or the Lottery Board and is a question that we cannot answer by official opinion.

MISSISSIPPI DEVELOPMENT AUTHORITY

Cork – February 8, 2024 (OP-2023-00216)

An auction is a type of sale, and 2019 Mississippi Senate Bill No. 2810 Section 1(3) explicitly prohibits the sale of the manufacturing company’s real property below the current appraised market value, without exception. However, the authority granted to sell, lease, or otherwise dispose of the property applies to said property “in whole or in part.” Thus, if the Mississippi Development Authority (“MDA”) determines that a part of the subject property may be sold at auction, conveyance by negotiation, conveyance as surplus, or otherwise for a price that meets or exceeds its fair market value, that part may be sold.

Article IV, Section 95 of the Mississippi Constitution prohibits the donation of “[l]ands belonging to, or under control of the State . . . to private corporations or individuals, or to railroad companies.” However, if MDA makes the factual determination that the definition of dispose as set forth in S.B. 2810 Section

1(1) includes donation, MDA may donate all or a portion of the property so long as it is not donated to a private company or individual or to a railroad company.

MUNICIPALITIES

Manley – January 9, 2024 (OP-2023-00137)

Mississippi Code Annotated Section 17-2-4(1) mandates certain minimum building codes for counties or municipalities. If the city of Southaven did not opt out of Section 17-2-4(1)'s application within 120 days of its effective date of August 1, 2014, as provided by Section 17-2-4(3), state law does not provide for exemptions from these mandatory minimum building codes. However, the City's requisite adopted code may exempt certain historical or other properties from the code requirements, but such determination is outside the scope of our authority.

Ladner – February 20, 2024 (OP-2023-00232)

Opinions of this office are limited to questions of state law and not federal law. This office cannot opine on the authority of federal agencies.

Unless specifically authorized by law, in the absence of consideration, municipal donations to private citizens violate the Mississippi Constitution.

Merchant – February 28, 2024 (OP-2023-00192)

Mississippi Code Annotated Section 25-1-47(1) provides municipalities with the authority and power, within their discretion, to “provide legal counsel for the defense of any claim, demand, or action, whether civil or criminal, made or brought against any . . . municipal officer, agent, servant, employee, or appointee as a result of his actions while acting in the capacity of such officer, agent, servant, employee, or appointee.”

Municipalities are likewise authorized “to pay for all costs and expenses incident to such investigation and defense” permitted by Section 25-1-47(1). Miss. Code Ann. § 25-1-47(1).

Bullard – February 29, 2024 (OP-2023-00054)

To ascertain whether the city of Corinth (“City”) may simply pass an ordinance to reopen a street or a portion thereof, the mayor and board of aldermen of the City must first determine whether the street or any portion thereof was actually closed and vacated. If the street was closed and vacated, and the Meigg Street Church of Christ was found to be the owner of the underlying fee, the City would now have to pursue eminent domain procedures to reopen the closed street and would not be able to do so merely by passing a new resolution.

Moore – February 29, 2024 (OP-2023-00183)

The city of Pascagoula may not clean a perpetual care cemetery and enroll the actual cost of cleaning as a lien on the land nor assess the actual cost of cleaning as a judgment against the cemetery's owner. To recover the actual cost of cleaning a perpetual care cemetery, the governing authority of the municipality must follow the procedure provided in Mississippi Code

The assessment of penalties against the cemetery's owner is expressly prohibited.

MUNICIPAL JUDGES

[Prewitt – March 19, 2024 \(OP-2023-00217\)](#)

There is not a mandatory waiting period for defendants being held in jail on a domestic violence charge. While Mississippi Code Annotated Section 99-5-37 previously authorized a “twenty-four-hour cooling-off period,” this language was removed by an amendment in 2012. Under current law the judge may, upon setting bail, impose a holding period of up to twenty-four hours that starts “from the time of the initial appearance or setting of bail.” *Id.* at (2).

NEPOTISM

[March – March 14, 2024 \(OP-2023-00231\)](#)

Mississippi Code Annotated Section 7-5-25 authorizes the Attorney General to issue official opinions to various public officials “upon any question of law relating to their respective offices.” Official opinions are not issued to advise one public officer about another public officer’s authority and responsibilities. Thus, we cannot issue an opinion to you regarding the board of supervisors’ authority to hire a county patrol officer. Because the sheriff has the authority to hire employees for the sheriff’s department, there is no authority for you, as sheriff, to seek to have the board of supervisors hire your brother and reassign him to the sheriff’s department. Additionally, the nepotism statute prohibits a sheriff from hiring his brother as a chief deputy sheriff.

[Clark – March 19, 2024 \(OP-2024-00007\)](#)

Social worker is not one of the five positions listed in the nepotism statute, Mississippi Code Annotated Section 25-1-53. Additionally, because the board of trustees of the Jefferson County Nursing Home and Jefferson County Hospital is not the hiring authority for the nursing home or hospital, the nepotism statute is not violated if the wife of a trustee of the nursing home and hospital is hired as a social worker for the nursing home and hospital.

[Knoblock – March 20, 2024 \(OP-2024-00010\)](#)

It would not be a nepotism violation for the mayor to appoint his son to the local school board if the mayor’s son waives all payments or reimbursements that come from public funds.

PAROLE BOARD

[Belk – February 28, 2024 \(OP-2023-00191\)](#)

In the context of probation and parole, Mississippi Code Annotated Section 47-7-2(q) defines a “technical violation” as “an act or omission by the probationer that violates a condition or conditions of probation placed on the probationer by the court or the probation officer.” Whether the commission of a new

misdemeanor crime fits within this definition is dependent upon the parolee's conditions of parole and is a determination of fact to be made by the parole board.

SCHOOLS

Compton – February 8, 2024 (OP-2023-00011)

While this office cannot make the factual determination that the Lauderdale County School District is owed prior years' taxes, if such determination is made by the local governing authorities, there is no limit on the number of years the School District may seek to be paid because Section 104 of the Mississippi Constitution provides that statutes of limitation shall not run against the State or political subdivisions.

Bullard – February 28, 2024 (OP-2023-00166)

The Alcorn School District may pay principals and other school district administrators an additional monthly stipend after they have completed the Mississippi School Safety Guardian Act program to be designated as School Safety guardians. Mississippi Code Annotated Section 45-9-181(6) provides that a school district shall pay a monthly stipend of not less than \$100 and not more than \$500 to employees who have completed training in accordance with the Mississippi School Safety Guardian Act. Section 37-11-27 does not apply to contracts entered pursuant to the Mississippi School Safety Guardian Act.

Ellzey – February 28, 2024 (OP-2023-00194)

The privilege tax proceeds received by a county pursuant to Mississippi Code Annotated Section 27-19-11 may not be distributed to municipal school districts within the county.

INTERLOCAL AGREEMENTS APPROVED

Heatherly – January 8, 2024 (OP-2023-00205)

The Interlocal Cooperation Agreement between Lee County, Mississippi and the City of Saltillo, Mississippi regarding the collection of city taxes is approved.

Heatherly – January 8, 2024 (OP-2023-00206)

The Interlocal Cooperation Agreement between Lee County, Mississippi and the City of Verona, Mississippi regarding the collection of city taxes is approved.

Heatherly – January 8, 2024 (OP-2023-00207)

The Interlocal Cooperation Agreement between Lee County, Mississippi and the City of Plantersville, Mississippi regarding the collection of city taxes is approved.

Heatherly – January 8, 2024 (OP-2023-00208)

The Interlocal Cooperation Agreement between Lee County, Mississippi and

the City of Shannon, Mississippi regarding the collection of city taxes is approved.

Heatherly – January 8, 2024 (OP-2023-00209)

The Interlocal Cooperation Agreement between Lee County, Mississippi and the City of Nettleton, Mississippi regarding the collection of city taxes is approved.

Heatherly – January 8, 2024 (OP-2023-00210)

The Interlocal Cooperation Agreement between Lee County, Mississippi and the City of Guntown, Mississippi regarding the collection of city taxes is approved.

Huskison – January 8, 2024 (OP-2023-00188)

The Interlocal Cooperation Agreement between the City of Starkville, Mississippi; Oktibbeha County, Mississippi; and Mississippi State University regarding the Spring Street Pedestrian Project is approved.

Karanja – January 8, 2024 (OP-2023-00187)

The Interlocal Cooperation Agreement between the City of Ocean Springs, Mississippi and Jackson County, Mississippi regarding the 1515 Government Street TIF Project is approved.

Ross – January 8, 2024 (OP-2023-00195)

The Interlocal Cooperation Agreement between Coahoma County, Mississippi and the Town of Lyon, Mississippi regarding tax collection is approved.

Ross – January 8, 2024 (OP-2023-00196)

The Interlocal Cooperation Agreement between Coahoma County, Mississippi and the Town of Friars Point, Mississippi regarding tax collection is approved.

Ross – January 8, 2024 (OP-2023-00197)

The Interlocal Cooperation Agreement between Coahoma County, Mississippi and the Town of Coahoma, Mississippi regarding tax collection is approved.

Ross – January 8, 2024 (OP-2023-00198)

The Interlocal Cooperation Agreement between Coahoma County, Mississippi and the Town of Lula, Mississippi regarding tax collection is approved.

Ross – January 8, 2024 (OP-2023-00199)

The Interlocal Cooperation Agreement between Coahoma County, Mississippi and the Town of Jonestown, Mississippi regarding tax collection is approved.

Thaggard – January 8, 2024 (OP-2023-00211)

The Interlocal Cooperation Agreement between the City of Meridian, Mississippi and Lauderdale County, Mississippi regarding construction of an entry boulevard to the Lauderdale County Courthouse is approved.

Williams – January 8, 2024 (OP-2023-00203)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Brandon, Mississippi regarding construction of the I-20 Connector Loop – East Loop is approved.

Williams – January 8, 2024 (OP-2023-00204)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the Cities of Pearl, Mississippi and Brandon, Mississippi regarding construction of the I-20 Connector Loop – KCS Grade Separation is approved.

Barber – January 16, 2024 (OP-2023-00202)

The Interlocal Cooperation Agreement between DeSoto County, Mississippi and the Cities of Southaven, Mississippi and Olive Branch, Mississippi regarding the 2023 Edward Byrne Justice Assistance Grant is approved.

Ferguson – February 2, 2024 (OP-2023-00226)

The Interlocal Cooperation Agreement between Pontotoc County, Mississippi and the City of Pontotoc, Mississippi regarding the collection of city taxes is approved.

Ferguson – February 2, 2024 (OP-2023-00227)

The Interlocal Cooperation Agreement between Pontotoc County, Mississippi and the Town of Ecrú, Mississippi regarding the collection of city taxes is approved.

Karcher – February 2, 2024 (OP-2023-00219)

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the City of Ocean Springs, Mississippi regarding tax collection is approved.

Karcher – February 2, 2024 (OP-2023-00220)

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the City of Gautier, Mississippi regarding tax collection is approved.

Karcher – February 2, 2024 (OP-2023-00221)

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the City of Pascagoula, Mississippi regarding tax collection is approved.

Karcher – February 2, 2024 (OP-2023-00222)

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the City of Moss Point, Mississippi regarding tax collection is approved.

Williams – February 29, 2024 (OP-2024-00001)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Pearl, Mississippi regarding contributions for Trustmark Park is approved.

Karanja – March 15, 2024 (OP-2024-00009)

The Interlocal Cooperation Agreement between the City of Brandon, Mississippi and Rankin County, Mississippi regarding the Crossgates Crossing TIF Project is approved.

Houston – March 29, 2024 (OP-2024-00024)

The Interlocal Cooperation Agreement between Monroe County, Mississippi and the City of Nettleton, Mississippi regarding enhanced water services is approved.

Karanja – March 29, 2024 (OP-2024-00013)

The Interlocal Cooperation Agreement between the City of Louisville, Mississippi and Winston County, Mississippi regarding the Bypass West TIF Project is approved.

Karanja – March 29, 2024 (OP-2024-00018)

The Interlocal Cooperation Agreement between the City of Moss Point, Mississippi and Jackson County, Mississippi regarding the Cannon Nissan and Cannon Ford Lincoln TIF Project is approved.

Karanja – March 29, 2024 (OP-2024-00022)

The Interlocal Cooperation Agreement between the City of Moss Point, Mississippi and Jackson County, Mississippi regarding the Chief Automotive Group TIF Project is approved.

Karcher – March 29, 2024 (OP-2024-00020)

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the Ocean Springs School District regarding funding for baseball field improvements at Ocean Springs High School is approved.

Nowak – March 29, 2024 (OP-2024-00039)

The Interlocal Cooperation Agreement between DeSoto County, Mississippi; the DeSoto County Regional Utility Authority; the DeSoto County Emergency 911 Commission; and the Municipalities of Southaven, Mississippi, Hernando, Mississippi, Horn Lake, Mississippi, and Walls, Mississippi regarding Digital Orthophotography is approved.

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