



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

July 30, 2024

Jeffrey J. Turnage, Esq.
Attorney, City of Columbus
Post Office Box 1366
Columbus, Mississippi 39703-1366

Re: Residency Requirements for Municipal Office

Dear Mr. Turnage:

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

Questions Presented¹

- 1) If the City of Columbus (“City”) prevails in its annexation case before the next election, does a county resident’s period of residency outside the City (which is then annexed into the City) count toward his or her residency for purposes of qualifying to run for office?
- 2) If the ward lines change before the election as a result of redistricting, does MS AG Op., *Sautermeister* (Apr. 30, 1991) still apply?

Brief Response

- 1) Assuming the City’s special charter is silent on this question, a county resident’s continued and uninterrupted period of residency in an area that is annexed by the City should be considered residency within the City for the purposes of determining whether the requirements in Mississippi Code Annotated Section 23-15-300(1) have been met.
- 2) Assuming the City’s special charter is silent on this question, consistent with our opinion in *Sautermeister*, if the City’s ward lines change prior to the election, an individual whose residency is continuous and uninterrupted may apply his or her previous period of residency in his or her former district to the period he or she has resided in the newly created district to satisfy the residency requirements in Section 23-15-300(1).

¹ In your request, you ask several questions regarding potential conflicts between the City’s special charter and Mississippi law. However, we do not interpret special charters by official opinion. MS AG Op., *Lowe* at *1 (Nov. 3, 2000). Thus, this opinion is limited to your two questions that do not require an interpretation of the City’s charter.

Applicable Law and Discussion

As an initial matter, if the City's special charter speaks to these issues, then the charter controls. See MS AG Op., *Gaylor* at *1 (Dec. 15, 2006) (“[W]here the provisions of a special charter conflict with general law[,] . . . the specific provisions of a municipal special charter will take precedence over the provisions of general municipal law.”); MS AG Op., *Lowe* at * 1 (“[P]rovisions of a private or special charter that are contrary to general statutory provisions are viewed by this office as exceptions to the statutory provisions except where the general statutes expressly provide otherwise.”) However, because this office cannot interpret special charters, this opinion is limited to interpretation of state law.

Pursuant to Section 23-15-300(1), “[a]ny candidate for any municipal, county or county district office shall be a resident of the municipality, county, county district or other territory that he or she seeks to represent in such office for two (2) years immediately preceding the day of election.” We have previously opined that “an individual's continuous and uninterrupted residency in territory that is annexed by a municipality should be considered residency within the municipality when determining whether the individual meets the residency duration requirement in Section 23-15-300(1).” MS AG Op., *Blackwell* at *2 (Apr. 26, 2023) (citing MS AG Op., *Sautermeister* (Apr. 30, 1991)).

In *Sautermeister*, we were asked about the effect of redistricting in two different situations: one in which the potential candidate's residency remained the same and only the district lines changed, causing him to reside in a newly created district, and another in which the candidate was redistricted out of his former district and he moved back into an area within the new lines of his former district. With regard to the first situation, we opined “that a candidate whose residency is continuous and uninterrupted may apply his previous period of residency in his former district to the period he has resided in the newly created district to satisfy the residency requirements for holding office from such district.” *Sautermeister* at *2. As to the second situation, we stated:

It is the opinion of this office that where a candidate is “redistricted” out of his old district and he moves back into an area or location within the new configuration of his former district, he cannot utilize his previous period of residency for the purpose of satisfying residency requirements. On the other hand, if the office sought requires only that the individual be a qualified elector of the county and a resident of the district, such as that required for county supervisors and constables, an individual could meet the residency requirements if the redistricting and the change in residency occurred on or before the date the party executive committee, or the election commission for independent candidates, meet to determine candidate qualifications.

Id. The above cited sections of *Blackwell* and *Sautermeister* remain the opinion of this office.

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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/ Beebe Garrard*

Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION