



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

December 30, 2024

The Honorable George Flaggs, Jr.
Mayor, City of Vicksburg
1401 Walnut Street
Vicksburg, Mississippi 39180

Re: Municipal Garbage Fee Increase

Dear Mayor Flaggs:

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

Questions Presented

May the City of Vicksburg (“City”) allocate a portion of its general fund to help cover the rising costs of its waste disposal services, thereby preventing the need for further increases in fees or taxes on its residents?

Brief Response

The City may adopt an ordinance granting an exemption of a portion of the fees or charges for certain generators of garbage and/or rubbish pursuant to Mississippi Code Annotated Section 21-19-2(d). However, the City may only use monies as authorized under Sections 21-19-1, 21-19-2, and 19-5-109, and therefore, may not use general funds.

Applicable Law and Discussion

Municipalities are responsible “for the collection and disposal of garbage and the disposal of rubbish” and may do so by contract with a private contractor. Miss. Code Ann. §§ 17-17-5(1) and 21-19-1(2). Municipalities may defray the cost of providing these waste disposal services either by collecting fees and charges from its residents or by levying an ad valorem tax pursuant to Section 21-19-2. Section 19-5-109 further provides that:

Each county and municipality shall make a good faith effort to estimate the cost of garbage and rubbish collection and disposal services. These costs may be met, in amounts necessary to defray the cost of the system, by any combination of generator fees, ad valorem tax revenues as authorized under Section 19-5-21 or

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Section 21-19-2, or county or municipal special funds as authorized under Section 19-5-21 or 21-19-2.

Pursuant to Mississippi Code Annotated Section 21-27-27, municipalities are prohibited from providing free waste disposal services, except to specifically listed entities, such as municipal agencies and public schools, or in accordance with an exemption as allowed by Section 21-19-2(d), which provides:

The governing authority of a municipality may adopt an ordinance authorizing the granting of exemptions from the fees or charges for certain generators of garbage and/or rubbish. The ordinance shall define clearly those generators that may be exempted and shall be interpreted consistently by the governing authority when determining whether to grant or withhold requested exemptions.

See also Miss. Code Ann. §21-27-11(b) (defining system to include garbage and rubbish disposal systems). When asked whether a municipality had the authority to exempt senior citizens from municipal garbage fees, our office opined that the exemption in Section 21-19-2(2)(d) must be tied to differing volumes of garbage, not on factors such as age. MS AG Op., *Jones* at *1 (Apr. 22, 2016) (further stating that “[w]hile Section 21-27-27 prohibits the provision of free utility services, we have previously opined that the specific language of Section 21-19-2(2)(d) is controlling over Section 21-27-27.”) (internal citation omitted).

Accordingly, it is the opinion of this office that pursuant to the above cited authority, the City may adopt an ordinance exempting its residents from a percentage of the fees or charges for waste disposal services. However, the City must comply with Sections 21-19-1, 21-19-2, and 19-5-109, which specify the monies that can be used for waste disposal services. In 2016, Section 19-5-109 was amended to remove general funds as a source of funds for this purpose, thus, the City may not use general fund monies to cover these costs.¹ Additionally, we note that opinions of this office are limited to prospective questions of state law pursuant to Section 7-5-25. We do not by official opinion opine on or approve the terms of local ordinances. We suggest that you speak with your municipal attorney to determine whether any ordinance the City is seeking to adopt is in compliance with Section 21-19-2 and any other applicable statutes.

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

¹ MS AG Op., *Barber* at *2 (August 31, 2020) and MS AG Op., *Webb* at *4 (2016) cite the pre-amendment version of Section 19-5-109. To the extent that these or any other opinions conflict, there are modified prospectively to conform herewith.