



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 1, 2025

Derek Hopson, Sr., Esq.
Attorney, City of Indianola
Post Office Box 266
Clarksdale, Mississippi 38614

Re: Municipal Authority to Contribute Funds to Nonprofit Organization

Dear Mr. Hopson:

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

Background

The Board of Supervisors of Sunflower County ("County") owns a building in the City of Indianola ("City") which serves as the Sunflower County Transition Center ("Transition Center"), a County facility addressing the needs of the area homeless population. The County has partnered with the Sunflower County Ministerial Alliance Counseling Service, Inc. ("Ministerial Alliance"), which you indicate is a 501(c)(3) tax-exempt Mississippi nonprofit corporation, to administer the daily operations of the Transition Center.

To assist with funding such operations, the County is authorized under Chapter 910, Local and Private Laws of 2022, to make an annual appropriation of up to \$40,000.00 to the Ministerial Alliance. According to your request, the County and the Ministerial Alliance contemplate and desire municipalities within the County, including the City, to also make an annual contribution, aside from and in addition to the County's appropriation.

In September 2024, the City pledged to give \$15,000 toward the shelter's operations and authorized you to seek an official opinion from the Attorney General's Office as to the legality of the proposed appropriation.

Questions Presented

1. Does Chapter 910, Local and Private Laws of 2022, as amended by House Bill No. 1801 of the 2025 Legislative Session, authorize the City to make a \$15,000.00 contribution to the County?

2. Can the City instead make the contribution directly to the Ministerial Alliance pursuant to Mississippi Code Annotated Sections 21-17-1(8) and 21-19-65?

Brief Response

1. No. Mississippi House Bill No. 1801 (2025 Legislative Session) only grants additional contribution authority to Sunflower County. It does not authorize the City of Indianola or any other municipality to donate funds to the County.
2. The City may make a contribution directly to the Ministerial Alliance if it makes the requisite factual determination under each applicable statute prior to making the contribution.

Applicable Law and Discussion

As a preliminary matter, you state in your request that “[i]n and about September 202[4], the City pledged to give \$15,000 toward the [Transition Center’s] operations. . . .” Pursuant to Mississippi Code Annotated Section 7-5-25, official opinions of the Attorney General are limited to prospective questions of state law only and can neither validate nor invalidate past action. *See MS AG Op., Turnage* at *1 (Oct. 11, 2021). While a pledge was made, we understand that no money has actually been paid by the City to the Ministerial Alliance; therefore, we provide guidance for prospective application only.

Section 21-17-5, the “home rule” statute, provides the governing authorities of municipalities with general control over municipal property and finances. However, donations are explicitly excluded from that control “[u]nless such actions are specifically authorized by another statute or law of the State of Mississippi. . . .” Miss. Code Ann. § 21-17-5(2). Such authorization can take the form of local and private legislation or a general law.

You first ask whether certain local and private legislation authorizes the City to make a \$15,000.00 contribution to the County.

House Bill No. 1801 of the 2025 Legislative Session (“H.B. 1801”) was signed by the Governor on March 28, 2025, and became immediately effective. The bill amends existing local and private law authorizing Sunflower County to contribute up to \$40,000.00 per year of county funds to the Ministerial Alliance for the administration of the Transition Center. 2022 Miss. Local and Private Laws, Ch. 910 § 2. As amended, the law now authorizes the County to annually contribute an additional sum “equal to no more than the yearly aggregate contributions that are made to the county by municipalities, faith-based groups, and/or private citizens for the specific purpose of assisting in the administration of the daily operations of the Sunflower County Transition Center.” Miss. House Bill No. 1801 (2025 Legislative Session).

While H.B. 1801 presupposes the authorization for municipalities to make contributions to the County, with such contributions to then be passed through to the Transition Center, the plain language of the bill does not provide such authorization. Instead, under the limited scope of local

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and private legislation, H.B. 1801 only grants authority to the Board of Supervisors of Sunflower County to contribute additional sums to the Ministerial Alliance, with certain limitations. Therefore, the City cannot make the contribution in question under the provisions of H.B. 1801.

Second, you ask whether the City may, instead, make the contribution directly to the nonprofit organization under a pair of related statutes.

Section 21-19-65 grants municipalities the specific “power to expend monies from the municipal general fund to match any other funds for the purpose of supporting *social and community service programs*” administered by the state or federal government or by a tax-exempt nonprofit organization. Miss. Code Ann. § 21-19-65 (emphasis added); *see* MS AG Op., *Thames* at *2 (Oct. 2, 2009) (“The phrase “any other funds” contained in Section 21-19-65 refers to ‘funds from any source whatsoever, including federal, state, and county funds and funds from private individuals, groups and organizations.’”) (internal citation omitted).

If the City makes the narrow factual determination that the operation of the Transition Center by the Ministerial Alliance is a “social and community service program . . . of the same type and nature as those outlined in Section 21-19-65[.]” then the City may contribute matching funds to the Transition Center as run by a 501(c)(3) tax-exempt Mississippi nonprofit corporation. MS AG Op., *Cook* at *1 (Sept. 17, 2010).

Section 21-17-1(8) provides broader supplemental authority:

In addition to the authority to expend matching funds under Section 21-19-65, the governing authority of any municipality, in its discretion, may expend municipal funds to match any state, federal or private funding for any program administered by the State of Mississippi, the United States government or any nonprofit organization that is exempt under 26 USCS Section 501(c)(3) from paying federal income tax.

“The authorization in Section 21-17-1(8) overrides the general prohibition against municipal donations. . . .” MS AG Op., *Kirk* at *1 (Nov. 29, 2023). Accordingly, if the City determines 1) that the Transition Center is a federally tax-exempt nonprofit organization, and 2) that the amount of the contribution matches existing state, federal, or private funding, then the City may make the contribution under Section 21-17-1(8).

It is mandatory that “any donation made pursuant to either of these two statutes must comply with the requirement for *matching* funds.” MS AG Op., *Bruni* at *2 (Nov. 19, 2024) (emphasis added).

In closing your request, you suggest a few potential methods of documenting compliance with the above statutes and ask for our concurrence. With regard to the same, this office has previously opined as follows:

Mississippi Code Annotated Sections 21-17-1(3) and 21-19-65 are silent with respect to the specific method of documentation required for authorized lawful donations, other than the adoption of a resolution duly and lawfully adopted and

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spread upon its minutes, which includes the requisite factual findings that the non profit entity qualifies for the entitled donation of funds. Thus, in the absence of any specific mandates with respect to documentation of donations, *it is the opinion of this office that a municipality may develop, in its discretion, its own method of documentation.* Whatever method of documentation the municipality employs, it should be sufficient enough to ensure that its donations are lawful.

MS AG Op., *Edwards, II* at *1 (Apr. 22, 2013) (emphasis added).

Finally, because your request deals with the expenditure of public funds, we also refer you to the Technical Division of the Office of the State Auditor.

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/ Caleb A. Pracht

Caleb A. Pracht
Special Assistant Attorney General

OFFICIAL OPINION