



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

The purpose of the Opinion Outline is to inform, on a quarterly basis, 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 10/1/2025 through 12/31/2025.

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

BOARD OF COSMETOLOGY AND BARBERING

[*Sclafani-Reeves, October 7, 2025 \(OP-2025-00125\)*](#)

“An officer de facto is one who exercises the powers and discharges the functions of an office, being then in possession of the same under color of authority, [even] without actual right thereto.” *Adams v. Miss. State Bank*, 23 So. 395, 398 (Miss. 1897). “[A]ppointment by the Governor [is] certainly color of title and of authority.” *Upchurch v. City of Oxford*, 17 So. 2d 204, 205 (Miss. 1944). In the unique and limited circumstance where two previously existing boards have been eliminated, and there is no current board to perform the statutory responsibilities, the Governor’s appointments to the Board of Cosmetology and Barbering are valid de facto officers and have the lawful right to serve until the Senate confirms, and during that time, their acts are valid and binding.

Our office cannot opine upon the question of whether such appointees are entitled to public official immunity because it is a matter of liability involving issues of both law and fact.

COUNTIES

[McFarland – December 4, 2025 \(OP-2025-00107\)](#)

The county may use funds from a nursing home for additional emergency services if the nursing home determines “that such action will benefit the health or welfare of the citizens of the service area” in accordance with Mississippi Code Annotated Section 41-13-38.

[Slover – December 30, 2025 \(OP-2025-00141\)](#)

The county has the discretion to allow private use of a public building so long as such use “accord[s] with a uniform policy enacted by the . . . governing authorities.” MS AG Op., *Bruni* at *1 (Dec. 8, 2025) (quoting MS AG Op., *Barton* at *1 (Oct. 5, 2020)). This said, the county “must collect from the user any expenses that [it] is required to expend as a result of the . . . facility being used.” *Id.*

ELECTIONS

[Mayo – November 12, 2025 \(OP-2025-00100\)](#)

The plain language of Mississippi Code Annotated Section 37-7-203 does not require a special election to fill a vacant board seat on the board of trustees of a municipal separate school district when an elected trustee resigns before January 1, 2028.

[Bounds – December 4, 2025 \(OP-2025-00095\)](#)

Absentee voting in a runoff election cannot begin until all counties in a multi-county or statewide district have completed certification, the appropriate state executive committee or the Secretary of State has tabulated the votes, the two candidates receiving the highest number of votes cast for the entire voting district have been determined, and the ballot has been approved at the state level.

JUSTICE COURTS

[Hines – October 31, 2025 \(OP-2025-00082\)](#)

In the *Thomas* opinion, our office opined that questions surrounding the Residential Landlord and Tenant Act are determinations to be made based on facts, the rental agreement, and the law and that “[t]he ‘rental agreement’ referenced in the definition [of the act] would control according to its terms.” MS AG Op., *Thomas* at *1 (Sep. 29, 2017). This remains the position of this office. Whether or how these laws apply to specific individuals remains a fact specific determination that is outside the scope of an opinion.

If a law enforcement officer wishes to request that a traffic ticket be dismissed after it has been presented to the court clerk, he or she should not contact the judge directly but should communicate with the prosecutor, who then has the discretion to file a motion to dismiss pursuant to Mississippi Code Annotated Section 99-15-51.

There is no statutory authority for a prosecutor to issue a standing motion to dismiss if an affiant officer requests a dismissal. Our office suggests that the requestor contact the Mississippi Judicial

College or the Mississippi Commission on Judicial Performance for further guidance on this question as it is more of a procedural matter than a question of law.

LAW ENFORCEMENT

[Barvie – October 3, 2025 \(OP-2025-00081\)](#)

Funds generated from an inmate canteen fund at a county jail may be used to purchase materials for educational programs that consist of vocational classes so long as the desired expenditure “was found to be an educational-related expense.” MS AG Op., *Adam* at *1 (Feb. 15, 2019). This is a factual determination to be made by the sheriff.

[Shepard – October 9, 2025 \(OP-2025-00070\)](#)

While a sheriff has sole authority to make expenditures from the inmate canteen fund, those expenditures are subject to county oversight and management, including the county board of supervisors’ approval and chancery clerk’s oversight and execution of the expenditures of the fund.

[Phelps – November 12, 2025 \(OP-2025-00090\)](#)

The sheriff must approve the use of the uniform, official weapon, and vehicle by deputy sheriffs for private security services in off-duty hours. Mississippi Code Annotated Section 17-25-11 does not require approval by the county board of supervisors.

MISSISSIPPI SOIL AND WATER CONSERVATION COMMISSION

[Ivy – December 16, 2025 \(OP-2025-00135\)](#)

If the Mississippi Soil and Water Conservation Commission determines that geologic and hydrologic studies fall within the category of “land use needs and problems in the State of Mississippi” and that the modeling/design of flood control solutions are part of “recommendations leading to adoption of land use policy and broad guidelines for meeting the needs and problems so identified,” as set forth in Mississippi Code Annotated Section 69-27-13(j), then the Commission has authority to administer federal funds to undertake these studies and the modeling/design of flood control solutions.

Provisions affording the Commission authority to act would only apply to counties within a levee district when “an order [is] passed by the board of supervisors of such county after thirty (30) days notice by publication of its intention to do so” pursuant to Section 69-27-5.

MUNICIPALITIES

[Robinson – October 24, 2025 \(OP-2025-00068\)](#)

Mississippi Code Annotated Section 31-5-3 requires “the usual bond with good and sufficient sureties” for municipal public works contracts, and Section 31-5-25(1)(b)(iv) prohibits final payment absent the written consent of an existing surety. The fact that such surety does not exist does not permit the municipality to circumvent Section 31-5-25 and pay the contractor anyway.

[Rutland – November 12, 2025 \(OP-2025-00105\)](#)

A municipality may lawfully pay the cost of a water tap into the municipality’s water supply system for a nonprofit organization if the municipality makes the requisite factual determinations under Mississippi Code Annotated Sections 21-19-65 and 21-17-1(8) authorizing municipal contributions to nonprofit organizations. Under Section 21-19-65, the municipality must determine whether the nonprofit organization is a “social and community service program” similar in type and nature to those listed in the statute and whether there are matching funds for the municipal contribution. Miss. Code Ann. § 21-19-65. Under Section 21-17-1(8), the municipality must determine whether the nonprofit organization is a federally tax-exempt nonprofit organization and whether the contribution matches existing state, federal, or private funding for the program.

[Bruni – December 8, 2025 \(OP-2025-00115\)](#)

A municipality has the discretion to allow private individuals or groups, including a political party’s municipal executive committee, to use municipal facilities for private meetings if it is in accordance with a uniform policy enacted by the municipal governing authorities allowing such use. The municipality is not required to charge a fee if the no-cost usage is in accordance with its uniform policy, but it must collect any required expenses to avoid making a prohibited donation.

[Young – December 16, 2025 \(OP-2025-00121\)](#)

Where a municipality has a joinder agreement with the Public Employee Retirement System of Mississippi (“PERS”) that provides PERS coverage to its locally elected officials, it may accept a “waiver of all salary or compensation” pursuant to Mississippi Code Annotated Section 25-11-127(6)(a) from a PERS member retiree elected as alderman.

Pursuant to Section 25-11-127(6)(a)(i), a PERS member must annually file such waiver “in the office of the employer and the office of the executive director of the system.” There is no requirement that the board make a finding of acceptance of the PERS waiver form.

[Pope – December 23, 2025 \(OP-2025-00131\)](#)

Municipal funds may be used to secure documents required for homeless individuals to apply for housing or a job if the municipality’s governing authorities determine that 1) the Homeless Coordinator provides a “social and community service program” as contemplated under Mississippi Code Annotated Section 21-19-65, and 2) there are matching funds for the municipality’s contribution.

[Collins – December 30, 2025 \(OP-2025-00133\)](#)

Unless specifically authorized by statute, a municipality is prohibited from granting any donation, which would include leasing property for nominal consideration. However, multiple statutes allow a municipality to lease public property to a non-profit organization for less than fair market value. *See* Miss. Code Ann. §§ 21-17-1(3) (specific to non-profit entities), 21-37-53 (Property Not Used for Governmental Purposes), 57-7-1 (Surplus Land), 21-19-44 (Economic Development Organizations; Funding). Additionally, a municipality must have specific statutory authority, such as that found in Section 57-7-1, to enter a long-term lease. Whether any of the referenced statutes are applicable to a particular factual scenario is a determination to be made by the municipal governing authorities.

NEPOTISM

[Jones – October 3, 2025 \(OP-2025-00067\)](#)

A board of supervisors may employ a family member of one of the supervisors in the position of economic development director without violating Mississippi Code Annotated Section 25-1-53, commonly known as the nepotism statute, because the position of “director” is not one of the prohibited classes of employment listed therein.

It would not be a violation of the nepotism statute for the county administrator to hire and supervise the father of one of the supervisors in the position of economic development director.

TAXES

[Hussey – November 12, 2025 \(OP-2025-00091\)](#)

As provided by Section 5(2) of Chapter 1001, Local and Private Laws of 1996, as amended April 23, 2008, proceeds collected by a county convention and visitors bureau from the county’s convention tourist promotion tax may be used for start-up costs and operation costs for the bureau and for indebtedness, lease payments or “other obligations the county may incur for acquisition, construction and maintenance of a civic center.” The tax may not be used for start-up costs and operation costs for other county facilities and properties intended to draw tourists and convention business to the county.

Pursuant to Section 4(2), “[t]he bureau is authorized to . . . purchase, lease or sell real property; own, furnish, equip and operate any and all facilities and equipment necessary or useful in the promotion of the convention business and tourism; . . . receive and expend, subject to the provisions of this act, revenues from any source.”

[Hammack – December 16, 2025 \(OP-2025-00136\)](#)

There is no mechanism to hold a hearing and amend a school district’s millage rate levy after the fiscal year has begun. Ad valorem taxes collected pursuant to Mississippi Code Annotated Section 27-39-329(2)(b), which are collected from the entire county, cannot be used to avoid or mitigate a school district, which only encompasses part of the county, having to issue a shortfall note under Section 37-57-108.

[Moore – December 23, 2025 \(OP-2025-00127\)](#)

The language of House Bill No. 1547 of the 2023 Regular Legislative Session provides that the funds generated by the tax first authorized by Local and Private Laws 2004, Ch. 1005, and most recently amended by House Bill No. 1547, may be used “[f]or the purpose of providing funds to promote tourism, economic development and recreation[.]”

Espy – December 30, 2025 (OP-2025-00147)

If a religious society acquires real property on or after January 1 of a given year, the property is subject to the tax lien for that year. The exemption in Mississippi Code Annotated Section 27-31-1(d) would not apply until January 1 of the following year, assuming that all of the statutory requirements have been met to qualify for the exemption.

Personal property that meets the statutory requirements of Section 27-31-1(d) acquired by a religious organization [on or] after March 1 is subject to the tax lien for that year. The exemption for personal property would not apply until March 1 of the year following the acquisition of the personal property, assuming that all of the statutory requirements have been met to qualify for the exemption.

The board of supervisors can only “change, cancel or decrease an assessment” pursuant to Section 27-35-143 under certain listed circumstances “and no others.” Whether any of the circumstances listed in Section 27-35-143 apply to a specific scenario implicates a factual determination that is outside the scope of an official opinion.

Section 27-35-89 provides a procedure for the board of supervisors to hear objections to assessments. Whether an assessment is erroneous or whether the board of supervisors has the authority to correct an assessment roll under Section 27-35-89 implicates a factual determination that is outside the scope of an official opinion.

INTERLOCAL COOPERATION AGREEMENTS APPROVED

Compton – October 2, 2025 (OP-2025-00102)

The Interlocal Cooperation Agreement Between Quitman School District and Clarke County Regarding School Resource Officers is approved.

Fulton – October 2, 2025 (OP-2025-00111)

The Regional Economic Development Act Agreement Between Lowndes County and the City of Columbus Regarding the Former Kmart Redevelopment Project is approved.

McWilliams – October 2, 2025 (OP-2025-00101)

The Interlocal Cooperation Agreement Between Sunflower County and the Town of Inverness Regarding Tax Collection is approved.

Sessoms – October 2, 2025 (OP-2025-00104)

The Interlocal Cooperation Agreement Between the City of Pascagoula and the Pascagoula-Gautier School District Regarding Recreational Improvements at Colmer Middle School is approved.

Tullos – October 2, 2025 (OP-2025-00098)

The Interlocal Cooperation Agreement Between Smith County and the Town of Raleigh Regarding the Use of a County Garbage Truck is approved.

Cummings – October 20, 2025 (OP-2025-00112)

The Interlocal Cooperation Agreement Between Tishomingo County and the Town of Tishomingo Regarding the Collection of Ad Valorem Taxes is approved.

Delaney – October 20, 2025 (OP-2025-00110)

The Interlocal Agreement Between Issaquena County and Washington County Regarding the Exchange of Certain Road and Bridge Equipment, Materials, and Services is approved.

Hammack – October 20, 2025 (OP-2025-00130)

The Interlocal Cooperation Agreement Between Clarke County and the Town of Stonewall Regarding Investigative Services and Housing of Prisoners is approved.

Hammack – October 20, 2025 (OP-2025-00137)

The Interlocal Cooperation Agreement Between Clarke County and the Town of Enterprise Regarding Investigative Services and Housing of Prisoners is approved.

Richards – October 20, 2025 (OP-2025-00128)

The Interlocal Cooperation Agreement Between Wayne County and the City of Waynesboro Regarding the Collection of Taxes is approved.

Sugg – October 20, 2025 (OP-2025-00134)

The Regional Economic Development Act Agreement Between Adams County and the City of Natchez Regarding the Trace Town Center Revitalization Project is approved.

Krag – December 14, 2025 (OP-2025-00140)

The Interlocal Cooperation Agreement Between Oktibbeha County and the City of Starkville Regarding the Northstar Park Sewage Pump Station Project is approved.

Davis – December 22, 2025 (OP-2025-00146)

The Interlocal Cooperation Agreement Between Lauderdale County and the City of Meridian Regarding the 2023 Byrne Justice Assistance Grant Program Award is approved.

Turnage – December 22, 2025 (OP-2025-00158)

The Interlocal Cooperation Agreement Between the City of Columbus and the Columbus-Lowndes Convention and Visitors Bureau Regarding Improvements and Completion of the Senator Terry Brown Amphitheater is approved.

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