



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 14, 2026

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Post Office Box 2009
Meridian, Mississippi 39302-2009

Re: County Authority to Install Culvert Pipes and to Provide Gravel or Grade Entrances from Private Property to State Highways

Dear Mr. Thaggard:

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

Questions Presented

1. What legal authority does a board of supervisors have to install culvert pipe or to build an entrance ramp from private property to an adjacent state highway when such would be factually necessary for the preservation and maintenance of the state highway and would be for the benefit of the public, not the benefit of the private landowner?
2. Similarly, what legal authority does a board of supervisors have to provide such maintenance in the form of grading and/or graveling such entrance when grading and/or providing gravel to a degraded or eroded entrance from private property to an adjacent state highway would be factually necessary for the preservation and maintenance of the state highway, and would be for the public benefit, not the benefit of the private landowner?

Brief Response

1. Mississippi Code Annotated Section 65-7-81 gives county boards of supervisors discretionary authority, subject to the approval of the Mississippi Department of Transportation, to maintain state highways within their county, including installing culverts and providing ingress and egress from private property to the state highways where it is necessary for the preservation and maintenance of the highways. MS AG Op., *Hollimon* at *1 (Feb. 22, 1989).
2. Please see response to question one.

Applicable Law and Discussion

Section 65-7-81 provides:

The board of supervisors of any county in the state may construct, reconstruct, maintain or contribute to the construction, reconstruction and maintenance of any state highway declared by legislative act expressly to be such highway or which, in accordance with law, has been taken over by the State Highway Department for construction, reconstruction or maintenance; and this section shall apply to such state highway within as well as without the limits of any municipality and, when within such limits, with or without the consent of the municipal authorities.

Miss. Code Ann. § 65-7-81 (countywide/unit road system).¹

This office has thus opined that Section 65-7-81 gives county boards of supervisors, “subject to the approval and specifications of the State Highway Department . . . discretionary authority to maintain state highways within the county.” MS AG Op., *Hollimon* at *1; *see also* MS AG Op., *Gamble, III* at *1 (Aug. 25, 2000). “[S]uch maintenance may include the installation of culverts and the provision of ingress and egress from private property to such state highways to the extent necessary for the preservation and maintenance of such roads.” *Id.*; *see also* MS AG Op., *Coleman* at *2 (June 3, 2005) (providing same and noting such action may not be “for the benefit of the landowner”).

This said, as noted in your request, the types of maintenance “necessary for the preservation and maintenance of the road[s]” are ultimately determinations of fact to be made by the board of supervisors “subject to review by a court of competent jurisdiction.” MS AG Op., *Welch* at *1 (Apr. 7, 1993); *see also* Miss. Code Ann. § 7-5-25 (authorizing the Attorney General to opine upon matters of state law only). It is therefore the opinion of this office that if the Board makes findings by entry upon its minutes that installing culverts at or grading or graveling an entrance from private property to an adjacent state highway is (1) “reasonably and necessarily calculated to preserve” the public road or right-of-way and (2) for the benefit of the public and not the landowner, then it may, subject to the approval of the state highway department, perform such maintenance. MS AG Op., *Younger* at *1 (Nov. 27, 1991); *see also* MS AG Op., *Coleman* at *2; MS AG Op., *Bishop* at *1 (Dec. 10, 1999).

This office generally does “not opine as to the propriety of an act with regard to a general application of ‘applicable law,’ and instead, . . . opine[s] where a discrete question of law has been posed.” MS AG Op., *Baker* at *1 (Jan. 26, 2018); *see also* MS AG Op., *Dye* at *1 (July 27, 2018). This said, we note that other more specific statutes may also apply to the situation posed in your request depending on the underlying facts. For example, Section 19-3-42(1) allows county boards

¹ The Mississippi Code Annotated contains two versions of Section 65-7-81. One version applies to countywide/unit systems of road administration, and the other applies to the beat system of road administration. According to the Mississippi Association of Supervisors, Lauderdale County operates as a countywide/unit system of road administration. <https://www.mssupervisors.org/ms-counties/lauderdale>.

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of supervisors to maintain private driveways established as school bus turn-arounds; Section 19-3-42(5) authorizes boards to maintain driveways and parking lots of certain nonprofit organizations and private, nonprofit cemeteries; and Section 19-3-75 authorizes boards to maintain roads or driveways to public cemeteries. Further, this office has opined that boards have the authority to take necessary action “to maintain a public county road right-of-way and provide for the proper drainage thereof.” MS AG Op., *Mabus* at *3 (Apr. 24, 1984).

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/ Kristi D. Kennedy*

Kristi D. Kennedy
Special Assistant Attorney General

OFFICIAL OPINION