



ATTORNEY GENERAL'S OPINION OUTLINE

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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions rendered by the Attorney General's Office. This issue contains synopses of opinions rendered from May 01, 2013 through May 31, 2013. When opinions are of state-wide application or interest, we will try to publish the entire opinion rather than a synopsis.

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Jim Hood
Attorney General

BONDS

Construction or completion of the construction of a sportsplex would be a proper object of the subject governmental entities' bonding authority. However, bonds cannot be issued jointly by public entities nor can one entity agree to repay the bonds issued by another entity. (Hemphill, 5/3/2013)(#034)(OP-13-00148)

CRIMINAL LAWS

The finding of guilt in a trial in absentia does not release the surety or discharge the bond. (Shirley, 5/17/2013)(#057)(OP-13-00156)

ELECTIONS

Section 23-15-219 authorizes a municipal election commission, with the approval of the municipal governing authority, to employ a technical advisor to assist the commissioners in the discharge of their duties. (Brock, 5/31/2013)(#069)(OP-13-00191)

The qualifying petitions of independent candidates filed with municipal clerks are public records and may be obtained by anyone pursuant to the provisions of the Mississippi Public Records Act of 1983. (Edwards, 5/3/2013)(#069)(OP-13-00164)

The thirty (30) day notice requirement containing a statement of the question to be voted on at a referendum on the sale, etc., of alcoholic beverages in the "manner prescribed by law" means that the publication should be made in the usual and ordinary way, that is, by publication in a newspaper following the publication requirements and procedures set forth in Mississippi Code Section 13-3-31 (Revised 2012). The statutory notice provisions of municipal special elections contained in Section 23-15-859 are not applicable to referenda. (Baker, 5/24/2013)(#072A)(OP-13-00180)

If a particular municipal ward has a population of one thousand (1,000) or more, a candidate seeking to represent that ward on a city governing board must file a petition asking that his name be placed on the municipal general election ballot personally signed by fifty (50) qualified electors of said ward. If the population of a ward is less than one thousand (1,000) the petition must be signed by fifteen (15) qualified electors of said ward. (DeCoux, 5/3/2013)(#071)(OP-13-00155)

HIGHWAY DEPARTMENT-STATE OFFICIALS

In the event that it is determined that an actual conflict exists between a federal law or regulation and state law, the federal law/regulation supersedes the state statute. (McGrath, 5/13/2013)(#087)(OP-13-00157)

INTERLOCAL AGREEMENTS

Interlocal Agreement between Hinds County and the Jackson Public School District regarding the resurfacing of the Jim Hill High School track is approved. (Gaylor, 5/24/2013)(#277)(OP-13-00186)

Approval of Interlocal Agreement providing for the resurfacing of streets and placement of pavement markings. (Gaylor, 5/7/2013)(#277)(OP-13-00165)

Approval of Interlocal Agreement providing that the school district will allow use of a school building and adjacent property by the sheriff's department for training and other law enforcement purposes. (Southerland, 5/7/2013)(#277)(OP-13-00171)

Interlocal Agreement between the Jackson County School District and Jackson County for the purpose of constructing recreational facilities is approved. (Frederic, 5/20/2013)(#277)(OP-13-00166)

Approval of Interlocal Agreement between Hinds County and the City of Jackson regarding resurfacing of city streets. (Williamson, 5/22/2013)(#277)(OP-13-00182)

MUNICIPALITIES

A municipality is restricted to using civil forfeiture funds for solely law enforcement purposes, regardless as to whether it has an active municipal police department or not, in accordance with Mississippi Code Annotated Section 41-29-181. (Blackledge, 5/31/2013)(#142)(OP-13-00179)

The classification of utilities as residential or commercial under Section 77-3-17 for the purposes of calculating the 2% payment required under the statute is a matter within the jurisdiction of the Public Service Commission. (Stringer, 5/20/2013)(#142)(OP-13-00020)

OTHER STATE AGENCIES, BOARDS & COMMISSIONS

If MDA determines as a factual matter that equipment to be financed comes within the purview of Section 31-7-14, MDA has the authority granted thereunder to arrange financing and approve any contracts therefore. This authority exists notwithstanding the fact that Section 31-7-10 might otherwise be applicable. (McPhillips, 5/31/2013)(#218C)(OP-13-00183)

Section 69-46-5 authorizes the Board to provide funds to MDA, the Department and/or the OSA if unrestricted funds are available and the Board makes appropriate factual determinations that any such payments are necessary to carrying out the purposes of the Mississippi Land, Water and Timber Resources Act. (Smith, 5/13/2013)(#218C)(OP-13-00161)

Once information is de-identified in such a manner that exemptions to the Public Records Act are no longer applicable, the data becomes a normal public record that must be produced if properly requested. (Upchurch, 5/17/2013)(#218C)(OP-13-00159)

SUPERVISORS-AUTHORITY

When necessary, to the operation of a county garbage and rubbish collection system, the county can place dumpsters on private property and maintain the access needed for county vehicles to service the dumpsters. (Creekmore, 5/31/2013)(#220)(OP-13-00181)

The Opinions Committee has reviewed and reconsidered the May 1, 2012 opinion to Scott Slover and has decided that such opinion shall stand. (Sojourner, 5/3/2013)(#220)(OP-13-00139)

A Board of Supervisors may publish a summary of the ordinance providing for adoption of the new districts and include a summary statement that the metes and bounds legal descriptions of the districts are on file with the Chancery Clerk and available and open for inspection by any citizen. (McWilliams, 5/13/2013)(#220)(OP-13-00170)

Upon a proper finding of fact, a county is authorized to refund the customer's overpaid charges for the garbage services he/she did not receive. (Shepard, 5/13/2013)(#220)(OP-13-00160)

TAXES

Upon a conveyance of real property to a grantee, a mobile home upon the land that has been certified as real property is included in such conveyance. We find no statutes mandating other forms of notice to taxpayers in regard to changes or potential loss in homestead exemption status. (Ladner, 5/17/2013)(#236)(OP-13-00163)

We are aware of no authority that would allow a governing authority to refund any penalty or interest which resulted from a taxpayer's failure to pay lawfully due taxes regardless of whether the taxpayer was mailed or received a tax statement. (Ross, 5/3/2013)(#254)(OP-13-00150)

The preceding opinion outlines are based upon opinions that were rendered by this office in response to specific facts and circumstances and therefore may not be applicable in all cases.

If you desire a copy of the complete opinion, please contact the Attorney General's Office at (601) 359-3680, citing the information in the two parentheses at the end of the synopsis.

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