



ATTORNEY GENERAL'S OPINION OUTLINE

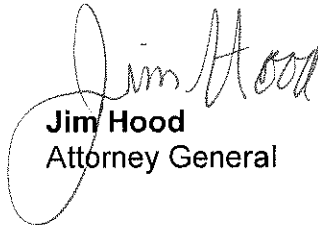
Volume 36, Number 12
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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions rendered by the Attorney General's Office. This issue contains synopses of opinions rendered from December 01, 2013 through December 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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Very truly yours,


Jim Hood
Attorney General

AUDITOR OF PUBLIC ACCOUNTS

Pursuant to Section 9-1-43, the State Auditor has the authority to adopt methods for the accounting of expenses with regard to both cap and non-cap income of chancery and circuit clerks (Pickering, 12/13/2013) (#017)(OP-13-00467)

E-911

The board of commissioners of an E-911 district selects the district's method of responding to emergency calls. (Rasco, 12/13/2013)(#062C)(OP-13-00470)

Proposed purchase and installation of a security door at the entrance to the 911 dispatch office is legally permissible upon a finding by the commissioners, consistent with the facts and documented on the commission minutes, that the expenditure is necessary and will be used for 911 purposes. (Shepard, 12/13/2013)(#062C)(OP-13-00489)

INTERLOCAL AGREEMENTS

Approval of Interlocal Agreement between the Town of DeKalb, Mississippi and Kemper County, Mississippi for the purchase and installation of weather warning sirens. (Wiggins, 12/23/2013)(#277)(OP-13-00483)

Approval of Interlocal Cooperation Agreement between Monroe County, Mississippi and the Town of Nettleton for Administration of a RIF Grant for Addition and Improvements upon Property of Monroe County, Mississippi. (Boozer, 12/4/2013)(#277)(OP-13-00465)

Approval of Interlocal Agreement between Lee County and the City of Tupelo relating to the collection of municipal taxes. (Rodgers, 12/13/2013) (#277) (OP-13-00497)

Approval of Interlocal Agreement between Stone and Harrison Counties and Pass Christian providing for the housing of Pass Christian inmates in the Stone County Regional Correctional Facility. (Holleman, 12/10/2013)(#277)(OP-13-00484)

Approval of agreement establishing the Coastal Narcotics Enforcement Team between the Board of Sueprvisors and Sheriff of Harrison County and the Governing Authorities and Chiefs of Police of the Cities of Gulfport, Biloxi, D'Iberville, Long Beach and Pass Christian; The District Attorneys Office for the Second Circuit Court District of Mississippi and the Mississippi Bureau of Narcotics. (Papania, 12/10/2013) (#277)(OP-13-00478)

Approval of Interlocal Cooperation Agreement between Lauderdale County and the City of meridian for improvements relating to the Certain Teed, Inc., Project. (Thaggard, 12/6/2013)(#277)(OP-13-00492)

Approval of Interlocal Cooperation Agreement between East Central Community College and the Town of Decatur for construction of sidewalks and related improvements. (Stewart, 12/20/2013) (#277)(OP-13-00513)

Approval of Interlocal Agreement between DeSoto County and City of Horn Lake for drainage construction project at Cow Pen Creek. (Neyman, 12/23/2013) (#277)(OP-13-00498)

MUNICIPAL CONTRACTS & PURCHASES

The issue presented in your letter involves past actions and the potential liability of the mayor and board of aldermen for those actions. For your future guidance, we are enclosing copies of Sections 21-39-5 through 21-39-17 of the Mississippi Code, which prescribe the method of accounting for and approving municipal claims. In addition, we are enclosing a copy of Section 31-7-13 of the Mississippi Code, which addresses public purchases. (Thurman, 12/20/2013) (#140)(OP-13-00491)

MUNICIPALITIES

Municipalities may only regulate the carry of firearms as set forth in Section 45-9-53 and consistent with the requirements for ordinances passed pursuant to the Home Rule statutes. Thus, any regulations or ordinances dealing with weapons restrictions must be consistent with state law. Ordinances that regulate beyond the scope of Section 45-9-53 or in a manner inconsistent with state law would be preempted. (Trapp, 12/2/2013)(#142)(OP-13-00217)

Monetary compensation for comp time is authorized by state law only when there is a formalized policy authorizing such payment in place at the time the extra work was performed. (Tindell, 12/13/2013) (#142)(OP-13-00477)

A municipality is authorized to issue a special permit, and charge a corresponding fee, to operators of vehicles that exceed the municipally-established weight limit when operating on municipal roads. (Satcher, 12/6/2013)(#142)(OP-13-00412)

It is well-established in the state of Mississippi that a municipality has no authority to use public funds, equipment or labor for the purpose of making improvements to private property, as such would result in an unlawful donation, pursuant to Section 66 of the Mississippi Constitution. In the event that a "claim" is made with the municipality by the property owner for any alleged damage, a municipality is authorized to settle a claim for damages, pursuant to Mississippi Code Annotated Section 25-1-47(2). As a result of such settlement, the municipality may compensate the private landowner for the damage incurred or make the repairs itself, as long as the landowner does not receive compensation which exceeds the actual assessed damage or a better quality driveway than what he had before the damage occurred. (Logan, 12/13/2013)(#142)(OP-13-00472)

OTHER STATE AGENCIES, BOARDS & COMMISSIONS

It is the opinion of this office that a same sex marriage partner is not within the definition of a legal spouse for enrollment in the State and School Employees' Life and Health Insurance Plan. Depending on various factual issues, it is possible that a child of that union may be eligible for enrollment. (Upchurch, 12/20/2013) (#218C)(OP-13-00504)

It is the opinion of this office that a public entity providing data to the SLDS is entitled to only one representative on the SLDS Governing Board. A public university or local school district providing data to the SLDS Governing Board would be an entity separate and distinct from either IHL or MDE. To the extent that a community college president has already been appointed to the SLDS Governing Board, we offer no opinion on this past action. (Moon, 12/13/2013) (#218C)(OP-13-00471)

SHERIFFS-AUTHORITY

A sheriff's right to set the salaries of and provide raises to employees of a regional correctional facility is subject to the board of supervisors authority to approve the budget for such facilities. (Simmons, 12/13/2013) (#213)(OP-13-00482)

SUPERVISORS-AUTHORITY

If the Tishomingo County Board of Supervisors desires to contribute funds to a new successor private entity that now leases the property, new legislation or statutory authority must be created for it to do so. (Whitehead, 12/13/2013)(#220)(OP-13-00459)

The authority granted to a county in Section 3-3-7(2) does not include the days set forth in the Proclamation of the Governor. The county is limited to substitution of those legal holidays set forth in subsection (1) only. (Coleman, 12/12/2013)(#220)(OP-13-00486)

The legislative intent of the Mississippi Gulf Coast Region Utility Act is that water service agreements for the benefit of the citizens of Harrison County be executed by the Harrison County Utility Authority. We find no authority for the Harrison County Board of Supervisors to execute such agreements. (Holleman, 12/13/2013)(#220)(OP-13-00468)

Section 19-7-7 provides statutory authority for the Boards of Supervisors from two (2) or more counties to pool their risks together for the purchase of single or multiple insurance policies or to establish a self-insurance fund or self-insurance reserves, or any combination thereof. (Moseley, 12/13/2013) (#220)(OP-13-00473)

A county may enter into an agreement with MAS to perform bidding services, including a reverse auction, in order for the county to make certain make purchases of certain frequently used materials, commodities and equipment at the lowest cost to the county. (Moseley, 12/13/2013)(#220)(OP-13-00474)

WATER DISTRICTS

It is the opinion of this office that Pelahatchie and the proposed portions of Rankin County to be included in the Appollonia District are not members of the WRUA. Likewise, we are of the opinion that the entities are not required to contract with or use WRUA for water and wastewater services. (Tollison, 12/20/2013) (#266)(OP-13-00481)

The preceding opinion outlines 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.

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.

Complete opinions are also available on our internet web site at: <http://www.ago.state.ms.us/>