



ATTORNEY GENERAL'S OPINION OUTLINE

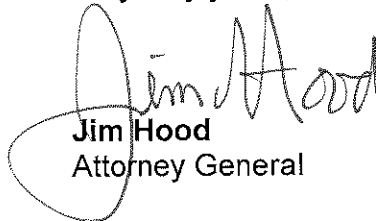
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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from February 01, 2015 through February 28, 2015. When opinions are of state-wide application or interest, we will try to publish the entire opinion.

The following 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.

Complete opinions are also available on our internet website at:
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Very truly yours,


Jim Hood
Attorney General

ARCHITECTURAL BOARD

Miss. Code Ann. Section 73-13-45(1)(a) does not prohibit the state, or any of its political subdivisions, such as a county, city or town, from awarding a contract for the design of a public work involving the practice of landscape architecture to a landscape architect as the lead design professional as long as the plans, specifications and estimates involving solely the practice of engineering or architecture have been prepared and supervised by either a registered professional engineer or architect as a consultant to the landscape architect.
(Wilkinson, 2/6/2015)(#014)(OP-2014-00518)

INTERLOCAL AGREEMENTS

Approval of Interlocal Cooperation Agreement between the City of Flowood and Rankin County, Mississippi regarding tax increment financing bonds.
(Edds, 2/6/2015)(#277)(OP-2015-00025)

Approval of Interlocal Cooperation Agreement between DeSoto County, Mississippi, the City of Olive Branch, Mississippi and the DeSoto County Regional Utility Authority. This Agreement involves the bank stabilization and improvement of Nolehole Creek which runs through the City and County.
(Nowak, 2/18/2015)(#277)(OP-2015-00031)

Approval of Interlocal Cooperation Agreement between Madison County, MS and Ridgeland, MS regarding the funding of street improvements.
(Espy, 2/24/2015)(#277)(OP-2015-00030)

MUNICIPAL OFFICERS

Whether a municipal alderman has removed herself from the ward from which she was elected thereby vacating her office is a question of fact to be determined by the board of aldermen.

The acts of *de facto* officers are valid.

De facto officers cannot claim compensation and are liable to all penalties imposed by law for usurping or unlawfully holding the office.

(Custom, 2/27/2015)(#149)(OP-2015-00035)

MUNICIPALITIES

It is the opinion of this office that a municipality may regulate either open or concealed carrying of weapons only in those places authorized under Section 45-9-53. Any regulations or ordinances on open carrying of weapons would have to meet federal constitutional muster. Additionally, a municipality is authorized to utilize the signage requirements set forth in Section 45-9-101(13) subject to the restrictions and specified limiting language as set out in Section 45-9-53(4), (4)(a) and (4)(b).
(Mitchell,2/3/2015)(#142)(OP-13-00224)

A municipality is authorized to enact an ordinance which imposes a sewer surcharge on its residents, regardless as to whether the resident is connected to the municipal sewer system or not, based on the fact that all municipal residents enjoy the benefits of the municipal sewer system.
(Manley,2/6/2015)(#142)(OP-2015-00018)

A professional services contract with an underwriter of municipal bonds, entered into on behalf of a municipality, is not effective until it has been approved by the board of aldermen and the action is recorded in the meeting minutes.
(Young,2/6/2015)(#142)(OP-2015-00021)

A municipality may donate the use of office space, along with any utilities and janitorial services associated with such use, provided that such donation is being made to a qualified local economic development organization or a designated Main Street program, as contemplated in Sections 21-19-44 and 21-19-44.1.
(Dye,2/13/2015)(#142)(OP-2015-00024)

It is the opinion of this office that subject to general laws applicable to settlement of claims by municipalities, certain causes of action can be assigned by a municipality as consideration for a settlement agreement.
(Wilkinson,2/13/2015)(#142)(OP-2015-00026)

The forfeiture of funds obtained in the arrest and conviction for gambling are accomplished in accordance with the provisions of Mississippi Code Annotated Section 97-37-3. The forfeiture of funds obtained in the arrest and conviction of an individual in possession of a controlled substance are made pursuant to the provisions of Sections 41-29-176 through 41-29-181.
(Bryant,2/27/2015)(#142)(OP-2015-00027)

SCHOOLS-TEACHERS

The Educational Employment Procedures Law applies to part-time licensed educators who have contracts with a local school district issued in accordance with Miss. Code Ann. Section 37-9-17 and in forms prescribed by the State Board of Education, so long as the educator has been employed by such school district for a period of two (2) continuous years. The EEPL also applies to part-time licensed educators employed by educator contracts who have been employed for a period of two (2) continuous years with any Mississippi public school district, so long as the educator has been employed full-time with the current school district for one (1) school year. The EEPL does not apply to part-time licensed educators employed casually through means other than educator contracts executed in accordance with Miss. Code Ann. Sections 37-9-17, 37-9-23 and 37-9-24.
(Griffin,2/6/2015)(#206)(OP-2014-00306)

SEPARATION OF POWERS

None of the current duties and responsibilities as municipal fire chief described in your letter appear to rise to the level of "core powers" of the executive branch of government as defined by the Mississippi Supreme Court. However, whether any potential changes to those duties and responsibilities in the future could result in the exercise of "core powers" is a question of fact that cannot be addressed in this opinion.
(Pope,2/20/2015)(#271)(OP-2015-00028)

SHERIFFS-AUTHORITY

Sheriffs do not have any independent authority to regulate the carry of firearms in courthouses. Sheriffs may post signage pursuant to Section 45-9-101(13) as limited by and set forth in Section 45-9-53. Counties may regulate the possession of firearms by ordinance in those places and events set forth in Section 45-9-53(1)(f).
(Broom,2/6/2015)(#213)(OP-2014-00363)

SUPERVISORS-AUTHORITY

Although a separate legal entity may not be established, a county and cities within the county may enter into an interlocal agreement to finance a joint or cooperative undertaking for the purpose of advertising and bringing into favorable notice the opportunities, possibilities and resources of the county and cities.
(Munn,2/13/2015)(#220)(OP-2014-00507)

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