



ATTORNEY GENERAL'S OPINION OUTLINE

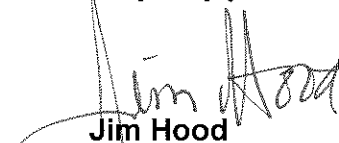
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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from November 01, 2014 through November 30, 2014. 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:
<http://www.agjimhood.com>

Very truly yours,



Jim Hood
Attorney General

CHANCERY CLERKS

A chancery clerk is authorized to deny the recording of a marriage license if it is not a "properly recordable" instrument under Section 89-5-25.
(Clarke, 11/14/2014)(#041)(OP-2014-00439)

CIRCUIT CLERKS

If a circuit clerk is requested to provide marriage records, such request should be handled under the auspices of the Mississippi Public Records Act. In the opinion of this office, information such as addresses, telephone numbers, and other related personal information should not be made public.
(Stanton, 11/7/2014)(#042)(OP-2014-00432)

DEPARTMENT OF EDUCATION

To the extent the Mississippi Board of Education has any statutory duties to manage and invest school funds, the common and ordinary meanings of the terms "manage" and "invest" apply to the handling of school funds.
(Wright, 11/7/2014)(#058)(OP-2014-00412)

DISTRICT ATTORNEYS

The salary of a victim assistance coordinator may be supplemented the same as a criminal investigator pursuant to the provisions of Section 25-31-10.1 of the Mississippi Code.
(Harper, 11/13/2014)(#059)(OP-2013-00509)

INTERLOCAL AGREEMENTS

Interlocal agreement between Hinds County and the City of Byram regarding the resurfacing of Big Creek Road from Keriville Lane to Siwell Road is approved.
(Teeuwissen, 11/4/2014)(#277)(OP-2014-00421)

Approval of Interlocal Agreement between Lauderdale County, Mississippi and the City of Meridian, Mississippi for the purchase of equipment with grant funds.
(Thaggard, 11/21/2014)(#277)(OP-2014-00463)

Approval of Interlocal Agreement between Hinds County, Mississippi and the City of Jackson, Mississippi for the purchase of equipment with grant funds.
(Burnett, 11/21/2014)(#277)(OP-2014-00472)

Approval of Interlocal Agreement between Holmes County, Mississippi and the City of Lexington, Mississippi allowing the County to assist in the clean up of derelict property within the City. (Riley, 11/21/2014)(#277)(OP-2014-00473)

The Interlocal Cooperation Agreement Amendment between the City of Natchez and Natchez Water Works regarding the provision of engineering services is approved. (Brown, 11/21/2014)(#277)(OP-2014-00462)

The Interlocal Cooperation Agreement between Leake County and the Town of Walnut Grove regarding the collection and disposal of garbage and rubbish is approved. (Webb, 11/21/2014)(#277)(OP-2014-00471)

Approval of Interlocal Agreement between Monroe County, Mississippi, the City of Aberdeen, and the City of Amory for emergency services. (Boozer, 11/12/2014)(#277)(OP-2014-00427)

The Interlocal Cooperation Agreement between Union County and the Town of Blue Springs regarding the enforcement of the municipal animal control ordinance is approved. (Mueller, 11/14/2014)(#277)(OP-2014-00449)

Interlocal Cooperation Agreement between Forrest County, Mississippi and the City of Hattiesburg, Mississippi in connection with the Tax Increment Financing Plan, Midtown Market Project is approved. (Eaton, 11/17/2014)(#277)(OP-2014-00445)

MUNICIPALITIES

A municipality must give the property owner of record proper notice as outlined in Mississippi Code Annotated Section 21-19-11 and must strictly comply with the statutory provisions enumerated in Section 21-19-11. In its efforts to determine the property owner(s) of record, a municipality could file a petition to determine heirship in accordance with Section 91-1-29. Any reasonable costs associated with determining the property owner(s) of record would constitute "administrative costs and legal costs of the municipality" and would become either a civil debt against the property owner or assessed against the property as other costs associated with the clean up. (Miller, 11/21/2014)(#142)(OP-2014-00451)

In accordance with Mississippi Code Annotated Section 27-43-4, the responsibilities associated with tax sales conducted for the nonpayment of taxes and redemption of lands would be completed by the municipal clerk when a municipality is collecting its own taxes and performing its own tax sale. (Barton, 11/7/2014)(#142)(OP-2014-00418)

A customer has no authority to "opt out" of a municipal garbage collection service and may be required to pay a fee for such service regardless as to whether said customer actually receives the service or not. (Graves, 11/7/2014)(#142)(OP-2014-00426)

Motor vehicle ad valorem taxes are to be collected by the municipality as of the effective date of the annexation decree.

(Turnage, 11/7/2014)(#142)(OP-2014-00405)

NOTARIES-PUBLIC

Justice court clerks' notary powers include attestation of court related matters pursuant to Section 11-1-1 of the Mississippi Code and attestation of non-court related matters pursuant to Section 25-33-17 of the Mississippi Code.

(Quimby, 11/14/2014)(#152)(OP-2014-00450)

SCHOOLS-16TH SECTION FUNDS

Sixteenth Section principal funds and interest and income funds may not be pledged as collateral for any loan. Any security interest in or lien placed on such funds would be void. Sixteenth Section principal funds and interest and income funds may be included in a school district's financial statement for the purpose of demonstrating the financial strength of the school district.

(Caves, 11/7/2014)(#191)(OP-2014-00338)

SCHOOLS-COMMUNITY AND JUNIOR COLLEGES

Mississippi Gulf Coast Community College is authorized to enter into an agreement with its bank to make payments to the College's vendors electronically as long as (1) such payments are lawfully authorized; (2) the process is consistent with systems and procedures established by the Department of Audit; and (3) vendors have authorized the College's bank to act as the vendors' authorized receiver of funds.

(Ford, 11/14/2014)(#172)(OP-2014-00447)

SCHOOLS-NEPOTISM-CONFLICT OF INTEREST-INCOMPATIBILITY OF OFFICE

Pursuant to the Mississippi Code Section 37-9-21, a school board member is prohibited from participating in the vote for his nephew who is an applicant for the position of superintendent.

(Gordon, 11/7/2014)(#188)(OP-2014-00423)

SEPARATION OF POWERS

Based on the plain language of Section 18 of the Columbus Special Charter, if a Councilman assumes the office of State Senator, he automatically vacates his city council office.

(Turnage, 11/7/2014)(#271)(OP-2014-00424)

SHERIFFS-MISCELLANEOUS

Back pay owed by a county to a sheriff under Section 47-5-935 can be legally paid upon demand of the sheriff. A county's authority to pay is limited to the applicable three year statute of limitations of Miss. Code Ann. Section 15-1-49.

(Montgomery, 11/7/2014)(#216)(OP-2014-00436)

SUPERVISORS-AUTHORITY

A board of supervisors does not have the statutory authority to remove a board member from office. (Holmes, 11/7/2014)(#220)(OP-2014-00431)

If an individual erroneously paid the taxes in question, the Clay County Tax Collector, on order of the Board of Supervisors, would be authorized pursuant to Miss. Code Ann., Section 27-73-7 to refund those taxes subject to the three-year statute of limitations, Miss. Code Ann., Section 15-1-49, which cannot be waived. Erroneously paid taxes for those years that are not within the three-year period may not be refunded. (Marshall, 11/7/2014)(#220)(OP-2014-00435)

The Board may authorize improvements to the property owned privately provided the Board determines, consistent with the facts, that such improvements are necessary and further provided that the value of such improvements does not exceed a reasonable rental amount as predetermined by the Board.

(Coleman, 11/14/2014)(#220)(OP-2014-00434)

Pursuant to Mississippi Code Annotated Section 17-3-1 (Revised 2012), a board of supervisors may lawfully expend county funds to support a local Mayor's Youth Council provided it determines, consistent with the facts, that such expenditure is for the purpose of bringing into favorable notice the opportunities, possibilities and resources of the county.

(Brown, 11/21/2014)(#220)(OP-2014-00455)

TAXES-MUNICIPAL

Whether a particular entity meets the definition of a hotel or motel within the meaning of a local and private law authorizing a tourism tax and whether guests of such an entity are transient guests within the meaning of such a statute are factual matters on which this office cannot opine. Accordingly, we suggest that the City submit this issue to the Mississippi Department of Revenue.

(Dowdy, 11/21/2014)(#251)(OP-2014-00460)

TAXES-SALES (LAND)

Pursuant to Section 19-31-17, a Public Improvement District has the authority to acquire, by purchase, gift, devise or otherwise, real property that has been forfeited to the state for nonpayment of taxes. The Public Improvement District assessment is not held in abeyance, but rather, is extinguished as of the date the property was struck off to the State.

(Dulaney, 11/5/2014)(#256)(OP-2014-00408)

WATER DISTRICTS

The Tombigbee River Valley Water Management District is subject to the construction provisions in Section 51-13-113, which specifically apply to the District, rather than the provisions in Section 31-7-13, which generally apply to agencies and governing authorities.

(Nichols, 11/14/2014)(#266)(OP-2014-00442)

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