



## ATTORNEY GENERAL'S OPINION OUTLINE

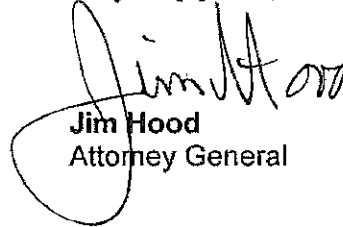
Volume 51, Number 3  
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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from March 01, 2015 through March 31, 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:  
<http://www.agjimhood.com>

Very truly yours,



**Jim Hood**  
Attorney General

### CRIMINAL LAW

In a criminal case in Justice Court, the matter is ripe for trial once an arrest warrant is served. The affiant is a potential witness and may or may not be called to testify at trial.

(Ray, 3/6/2015)(#057)(OP-2015-00047)

The fines imposed pursuant to Section 99-15-26 (2)(a)(iii) for first offense DUI cannot exceed the statutory limit established in Section 63-11-30 (2)(a).  
(Gardner, 3/20/2015)(#057)(OP-2015-00040)

### DEPARTMENT OF EDUCATION

Miss. Code Ann. Sections 37-13-63 and 37-13-64 authorize public school districts to receive extreme weather exemptions from the minimum school sessions of one hundred eighty (180) days.  
(Wright, 3/18/2015)(#058)(OP-2015-00057)

### ELECTIONS-BALLOTS

It is the duty of the chairman of the election commission to have ballots printed in an amount not less than seventy-five percent (75%) of the registered voters eligible to vote in each primary. Accordingly, the number of ballots printed for the Democratic Primary must be at least seventy-five percent (75%) of the registered voters in the county, and the same number must be printed for the Republican Primary.  
(Cochran, 3/27/2015)(#063A)(OP-2015-00061)

### INTERLOCAL AGREEMENTS

Approval of Interlocal Cooperation Agreement between the City of Jackson, Mississippi and Hinds County, Mississippi for the resurfacing of city roads.  
(Teeuwissen, 3/4/2015)(#277)(OP-2015-00033)

Interlocal Agreement between Madison County and the City of Madison regarding the funding of Hoy Road improvements is approved.  
(Hedglin, 3/6/2015)(#277)(OP-2015-00051)

Interlocal Agreement between Madison County and the City of Madison regarding the funding of certain street improvements is approved.  
(Hedglin,3/6/2015)(#277)(OP-2015-00052)

Interlocal Agreement between East Leflore County Water and Sewer District and Leflore County regarding the maintenance of and repairs to certain storm water drain pumps owned by the county is approved.  
(Fonda,3/31/2015)(#277)(OP-2015-00078)

## MUNICIPALITIES

Any public officer, including municipal officers, may be removed from office for the willful neglect of duty in accordance with Article 6, Section 175 of the Mississippi Constitution of 1890. A municipal clerk/deputy clerk has no authority to preside over a municipal meeting, even when the mayor attempts to delegate his authority to preside over municipal meetings to such clerk.  
(Bryant,3/6/2015)(#142)(OP-2015-00038)

The failure of a municipality to follow its meeting agenda would not result in a nullification or voiding of the action taken by a board in a properly called meeting. A board may reconsider any action previously taken by it provided that the reconsideration "does not impair contractual obligations already entered into by the board or work to the harm or detriment of those legally entitled to rely on and actually relying on the board's previous action."  
(Levingston,3/6/2015)(#142)(OP-2015-00037)

Chapter 5, Title 51, Mississippi Code Annotated (Revised 2003) regulates, inter alia, the drilling of water wells. Any proposed municipal ordinance that is inconsistent with those statutory provisions is prohibited.  
(Lowery,3/13/2015)(#142)(OP-2015-00039)

A contract with a gym for services for municipal employees is not required to be bid. Nevertheless, this office encourages the seeking of competitive bids or quotes.  
(Austin,3/20/2015)(#142)(OP-2015-00059)

Municipalities may regulate the use of municipal streets and state maintained highways located within the municipality; but any such regulation is subject to judicial review.  
(Logan,3/20/2015)(#142)(OP-2015-00048)

## OPEN MEETINGS/OPEN RECORDS

Generally, and unless authorized or required by statute, information such as addresses, telephone numbers, and other related personal information including dates of birth, social security numbers, and driver's license numbers should not be made public pursuant to a public records request. With regard to candidate qualifying forms, we are of the opinion that information which is necessary to verify or evaluate the candidate's qualifications, such as a residential address, or date of birth, is not subject to redaction.  
(Turner,3/27/2015)(#272)(OP-2015-00065)

## OTHER STATE AGENCIES, BOARDS AND COMMISSIONS

It is the opinion of this office that Pearl River Valley Water Supply District could amend its rules and regulations to provide that in order to lawfully enter into specified parks in a vehicle, the person must have paid the daily or annual fee or the vehicle must have "The Rez" license plate so long as the District has determined the regulations to be reasonable and in the best interest of the District.  
(Huskey,3/6/2015)(#218C)(OP-2015-00046)

## PUBLIC PURCHASES, CONTRACTS AND BIDDING

The Mississippi Department of Marine Resources may accept the amendment if it finds that the error and the intended correct bid are evident on the face of the bid documents. Assuming that no contract has been entered into between the public entity and the apparent low bidder, it may reject all bids and restart the bid process.  
(Miller,3/6/2015)(#280)(OP-2015-00032)

## SEPARATION OF POWERS

Under the City of Grenada's particular form of government, the City Council, in addition to its legislative powers, exercises substantial executive functions. Therefore, simultaneous service as a councilman and state representative is prohibited by the doctrine of separation of powers.  
(Johnson,3/6/2015)(#271)(OP-2015-00045)

A municipal public works director, being in the executive branch of government and exercising "core powers", may not simultaneously serve as a county supervisor which is in the judicial branch of government regardless of the fact that an individual is employed as the public works director of a municipality located in one county and is a candidate for county supervisor in another county.  
(Phillips,3/27/2015)(#271)(OP-2015-00063)

## SUPERVISORS-AUTHORITY

A county may pay a higher price than the value established by an appraisal as long as the purchase price is commensurate with the fair market value of the property.

(Coleman,3/27/2015)(#220)(OP-2015-00060)

## SUPERVISORS-VOLUNTEER FIRE DEPARTMENT

If the Board of the Emergency Management District determines allowing its technicians to program the radios owned by the volunteer fire department will assist in quickly and efficiently answering and dispatching calls for emergency services to the public, then the Board has the authority to do so.

(Thompson,3/13/2015)(#220B)(OP-2015-00041)

## UTILITY DISTRICTS

District "revenue" includes fees and taxes collected from customers. Section 19-5-177(d) and (f) specifically authorize the district to incur debts, borrow money, and pledge all or any part of its revenues to the payment of its obligations.

(Savarese,3/6/2015)(#266A)(OP-2015-00044)

## WATER DISTRICTS

If the Pearl River Valley Water Supply District determines that the issuance of new leases at current market values to New Lost Rabbit, LLC will further the business of the district, as described in Section 51-9-101 et seq., then the district is authorized to issue such leases.

(Sigman,3/27/2015)(#266)(OP-2015-00054)

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