



ATTORNEY GENERAL'S OPINION OUTLINE

Volume 63, 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 1, 2016 through March 31, 2016. 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: agjimhood.com

Very truly yours,

Jim Hood
Attorney General

COURTS

After a defendant fails to respond to a traffic ticket and fails to respond to the 10-day notice required by Section 63-1-53 (1) of the Mississippi Code, the Court may try the defendant in absentia pursuant to Section 99-17-9 of the Mississippi Code.
(Thomas, 3/25/2016)(#056)(OP-2016-00108)

HOSPITALS-COMMUNITY

A community hospital may jointly operate a comprehensive inpatient rehabilitation facility. However, this office will not opine regarding the details of the proposed transactions, as such business and corporate transactions are outside the scope of an Attorney General's Opinion.
(Cockrell, 3/4/2016)(#092)(OP-2015-00430)

INTERLOCAL AGREEMENTS

Interlocal Agreement between the Town of New Augusta and the Perry County School District regarding the expansion of the Town's sewer system to replace the existing sewer lagoon on Perry Central High School property is approved.
(Pope, 3/3/2016)(#277)(OP-2016-00089)

Interlocal Agreement between the City of Pickens and Holmes County whereby the Holmes County Tax Collector will collect all City ad valorem taxes for the City of Pickens is approved.
(Riley, 3/11/2016)(#277)(OP-2016-00092)

Interlocal Agreement between the City of Lexington and Holmes County whereby the Holmes County Tax Collector will collect City ad valorem taxes within the City of Lexington is approved.
(Riley, 3/11/2016)(#277)(OP-2016-00093)

Interlocal Agreement between the City of Tchula and Holmes County whereby the Holmes County Tax Collector will collect all City ad valorem taxes for the City of Tchula is approved.
(Riley,3/11/2016)(#277)(OP-2016-00094)

Interlocal Agreement between the City of Meridian and Lauderdale County relating to the financing of the construction of infrastructure improvements and facilities and to jointly pledge revenues to fund the debt service of indebtedness incurred pursuant to the Tax Increment Financing Act (TIF) (Sections 21-45-1 et seq., Mississippi Code of 1972, as amended) is approved.
(Hammack,3/16/2016)(#277)(OP-2016-00103)

Approval of Interlocal Cooperation Agreement between DeSoto County, Hernando, and Horn Lake, Mississippi for Cooperative Public Ambulance Service.
(Nowak,3/18/2016)(#277)(OP-2016-00105)

Approval of Interlocal Cooperation Agreement between DeSoto County and Olive Branch, Mississippi for Cooperative Public Ambulance Service.
(Nowak,3/18/2016)(#277)(OP-2016-00106)

Approval of Interlocal Agreement between Harrison County, Mississippi and the City of Long Beach, Mississippi for assistance with roads, bridges, and parking facilities, law enforcement services, fire protection services, and the operation and maintenance of parks and recreational facilities.
(Holleman,3/28/2016)(#277)(OP-2016-00109)

Approval of Interlocal Agreement between Harrison County, Mississippi and the City of Biloxi, Mississippi for assistance with roads, bridges, and parking facilities, law enforcement services, fire protection services, and the operation and maintenance of parks and recreational facilities.
(Holleman,3/28/2016)(#277)(OP-2016-00110)

Approval of Addendum adding Lawrence County and the Lawrence County Sheriff to the 2015-2016 Interlocal Agreement between Pike, Walthall and Lincoln Counties; the Sheriffs of Pike, Walthall and Lincoln Counties; the Cities of McComb and Brookhaven; and the Chiefs of the McComb and Brookhaven Police Departments establishing the Southwest Mississippi Inter-Jurisdictional Narcotics Enforcement Unit.
(Sutton,3/30/2016)(#277)(OP-2016-00104)

MUNICIPALITIES

A city council may adopt an ordinance or resolution establishing the process for procuring professional services and, in its efforts to do so, should take caution to ensure that it does not encroach or interfere with the authority of the executive branch of the municipality. Whether the enactment of the proposed ordinance would result in an encroachment of, or interference with, the executive branch of government is a factual determination to be made by the governing authorities, subject to review by a court of competent jurisdiction.
(Anderson,3/18/2016)(#142)(OP-2016-00078)

PUBLIC PURCHASES, CONTRACTS AND BIDDING

The determination of whether a particular contract is a contract for services, rather than for software, is a factual determination that must be made by the hospital, subject to judicial review. In instances in which software is an ancillary part of the procurement itself and is of no use without services necessary to design and implement a system for its use, such purchase of software and services is not required to be bid under Section 31-7-13.
(Phillips,3/25/2016)(#280)(OP-2016-00070)

SCHOOLS-MISCELLANEOUS

Pursuant to Miss. Code Ann. Section 37-9-111(4), the school board is responsible for preparing a record of the hearing. If an appeal is taken from the school board's decision, the school board should transmit the record to the chancery court.
(Howell,3/4/2016)(#187)(OP-2016-00068)

SEPARATION OF POWERS

An alderman serving simultaneously as a school resource officer who has not been designated a peace officer does not violate the doctrine of separation of powers.
(McDonald,3/4/2016)(#271)(OP-2016-00088)

SUPERVISORS-AUTHORITY

If a Board of Supervisors makes a factual determination that the Salvation Army is a National Voluntary Organization Active in Disaster pursuant to Section 19-5-93(u), the Board may donate a cumulative sum not to exceed one-fourth (1/4) mill on all taxable property within the county during the fiscal year in which the donations are made.
(Carnathan,3/2/2016)(#220)(OP-2016-00051)

If a governing authority of a county finds consistent with fact and spread upon the minutes that a non-profit organization provides a literacy program as contemplated by Section 19-5-93, then they may provide county general funds to such program.
(Farese,3/4/2016)(#220)(OP-2016-00062)

When there is no county vehicle available, the medical examiner may utilize his/her private vehicle for transportation of a dead body when an autopsy is required, and the county may compensate the county coroner/medical examiner for the expense of transporting a body. Section 41-61-61 allows for a county coroner/medical examiner to receive payment for mileage reasonably incurred as a direct result of an investigation of a death, including mileage incurred by the county coroner/medical examiner during the transportation of a dead body in his/her vehicle in a case requiring an autopsy.
(White,3/4/2016)(#220)(OP-2016-00055)

A county should utilize Miss. Code Ann. Section 19-3-85 as a guide in the absence of express statutory authority if the county is compelled to dispose of the personal property found on an unclaimed body.
(Grant-Gulledge,3/11/2016)(#220)(OP-2016-00086)

Section 19-3-85 sets forth the process the Simpson County Board of Supervisors must follow when disposing of both the abandoned personal property found on Simpson County Economic Development District property and the copier equipment already in possession of Simpson County. However, if the Board of Supervisors complies with the above statutory provisions and the property is not claimed or purchased at auction, it may then convert the property to county use. If the County has no use for the property, it may then declare the property surplus and dispose of it in accordance with Miss. Code Ann., Section 17-25-25.
(Moore,3/25/2016)(#220)(OP-2016-00098)

TAXES-COLLECTIONS

Taxpayer B as owner of the parcel is authorized pursuant to Section 27-41-77 to demand from the tax collector the amount in excess of amount owed to the county for taxes and all costs.
(Teeuwissen,3/25/2016)(#238)(OP-2016-00091)

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