



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 April 1, 2018 through April 30, 2018. 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.

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Very truly yours,

Jim Hood
Attorney General

AIRPORTS

A municipal airport authority may invest surplus funds, other than bond funds, pursuant to Section 21-33-323.
(Walker, 4/6/2018)(#002)(OP-2018-00080)

CRIMINAL LAW

Section 99-19-20 of the Mississippi Code provides guidance on sentencing, imposition of fines, payment of fines, indigent defendants and work programs.
(Barton, 4/20/2018)(#057)(OP-2018-00103)

Pursuant to Section 99-19-20 of the Mississippi Code, a court may order a defendant who is unable to pay a fine to a work program rather than incarceration.
(Crow, 4/20/2018)(#057)(OP-2018-00087)

ELECTIONS-GENERAL

The maximum number of days a county election commissioner may be paid depends on the population of the county.

Election commissioners are entitled to be paid a per diem for not more than twelve (12) days per year for attending training events.

Circuit clerks are entitled to compensation based on the population of the county. Circuit clerks are entitled to the same daily per diem and limitation on days as provided for election commissioners.

Boards of supervisors are authorized to compensate resolution board members at a rate determined to be justified by their duties.

There is no statutory requirement to designate poll workers as "encoders."

Pay or compensation for student interns is not authorized.

Election commissions may not appoint a family member within the third degree of kinship to work in an election.
(Riley, 4/6/2018)(#067)(OP-2018-00084)

HOSPITALS-COMMUNITY

Although the Board of Supervisors may not donate land to the Community Hospital, the Board may contract with the Board of Trustees for the use of County real property to establish a medical facility. Additionally, the Board of Supervisors has the authority to lease real property to the Community Hospital for a term not to exceed 50 years. Whether the consideration proposed by the Community Hospital is adequate consideration for the lease of real property and a monetary payment made by the County to the Community Hospital is a factual question that must be determined by the Board of Supervisors.
(Lewis,4/6/2018)(#092)(OP-2018-00067)

Section 41-13-29(b) mandates that the board of trustees of a community hospital be appointed by the owners on a pro rata basis. A hospital owned by the county and city, both having fifty percent (50%) ownership, shall have the county appoint two trustees, the city appoint two trustees, and the fifth trustee appointed by both owners.
(Brock,4/20/2018)(#092)(OP-2018-00102)

INTERLOCAL AGREEMENTS

The Interlocal Cooperation Agreement between the City of Columbus and the Columbus-Lowndes Convention and Visitors Bureau involving the contribution of funds by the Columbus-Lowndes Convention and Visitors Bureau to the City of Columbus for tourism and recreational purposes is approved.
(Turnage,4/6/2018)(#277)(OP-2018-00090)

The Interlocal Cooperation Agreement between Forrest County, Mississippi, Jones County, Mississippi and the Hattiesburg-Laurel Regional Airport Authority involving the operation, revenue and cost of the Hattiesburg-Laurel Regional Airport Authority is approved.
(Stevens,4/13/2018)(#277)(OP-2018-00066)

The Interlocal Cooperation Agreement between Mississippi State University and Tallahatchie County regarding the management of county extension agents and staff is approved.
(Goodson,4/16/2018)(#277)(OP-2018-00109)

The Interlocal Agreement between Lafayette County, Lafayette County Sheriff's Department, the City of Oxford, the City of Oxford Police Department, and the University of Mississippi regarding a Multi-Jurisdictional Drug Enforcement Unit is approved.
(Atkinson,4/19/2018)(#277)(OP-2018-00117)

JUDGES

Although party executive committees are sometimes considered quasi-governmental in nature, they are not a part of any branch of the government. Thus, simultaneously serving on a county executive committee and as a municipal judge would not violate the constitutional separation of powers doctrine.
(Jones,4/25/2018)(#098)(OP-2018-00100)

MISCELLANEOUS

The Mississippi Department of Transportation's interpretation of statute that prescribes the sale of property is legitimate.
(Whitney,4/6/2018)(#115)(OP-2018-00072)

Distributions of funds seized under the Uniform Controlled Substance Law, Miss. Code Ann. Section 41-29-101, *et seq.*, should be made in accordance with Section 41-29-181. Interlocal Agreements that involve distribution of funds seized under these laws must comply with the statutorily prescribed distribution percentages.
(Baker,4/27/2018)(#115)(OP-2018-00106)

MS DEPARTMENT OF CORRECTIONS

Off-duty MDOC law enforcement officers can be allowed to hold a second job in the law enforcement field, subject to Section 47-5-49 and any applicable employment policies limiting outside employment.
(Hall,4/6/2018)(#156A)(OP-2018-00074)

MUNICIPALITIES

A municipality may accept funds donated for a specific purpose, provided that such purpose is a proper municipal purpose and the funds are expended like other municipal funds.
(Brown,4/6/2018)(#142)(OP-2018-00077)

The separation of powers doctrine found at Article 1, Sections 1 and 2 of the Mississippi Constitution of 1890 would prohibit a city councilman, in a mayor-council municipality, and an alderman, in a special charter municipality that operates like a code charter municipality, from serving on a utility district board.
(Haas,4/20/2018)(#142)(OP-2018-00094)

Assuming that the city council has authorized the mayor to approve minutes from its meetings, the ten day time frame for a mayor to exercise his veto power begins to run from the time the minutes are presented to the mayor for approval. As to the enforcement of ordinances, Section 21-8-17 expressly states that the mayor, in a mayor council form of government, "shall enforce the charter and ordinances of the municipality and the general laws applicable thereto." Assuming the mayor refuses to enforce a lawfully enacted ordinance, the city council may seek judicial relief in a court of competent jurisdiction.
(Banks,4/27/2018)(#142)(OP-2018-00097)

NATIONAL GUARD

An eligible employee ordered to military duty is allowed up to fifteen days of paid military leave each calendar year pursuant to Section 33-1-21.
(Jones,4/26/2018)(#150)(OP-2018-00098)

NEPOTISM

There is no violation of the nepotism statute for the sheriff of a county to hire a relative of a member of the board of supervisors and send him to attend the law enforcement training program.
(Holcomb,4/27/2018)(#151)(OP-2018-00113)

SCHOOLS-COUNTY BOARDS

Section 37-7-301(f) unambiguously grants the school board the discretion in whether to visit the schools in the district to determine what can be done for the improvement of the school in a general way.
(Lamar,4/27/2018)(#179)(OP-2018-00114)

SCHOOLS-SUPERINTENDENTS OF EDUCATION

Administrative experience earned by a principal under the Star System can be counted toward the administrative experience required by Section 37-9-13(1) to be eligible to serve as a school superintendent. However, administrative experience earned by a principal under the Level 1-5 system or any prior accountability system cannot be counted toward the administrative experience required under Section 37-9-13(1) to be eligible to serve as a school superintendent. When calculating the experience required under Section 37-9-13(1), one should look at the school year for which the accountability ratings were earned, not the date the accountability ratings were released.
(Turner,4/13/2018)(#198)(OP-2018-00083)

In order to qualify for the assistant superintendent exception under Section 37-9-13(4), one must have been employed as an assistant superintendent within the last five years as indicated on his or her employment contract with the local school district.
(Garner,4/20/2018)(#198)(OP-2018-00096)

SCHOOLS-TAXES

Taxes in a sale of real estate may not be prorated to the school district. The school district is not liable for, nor can it pay, the taxes owed on the purchased property.
(Jones,4/27/2018)(#193)(OP-2018-00099)

SCHOOLS-TRUSTEES

All current board members and school superintendents serving in school districts with one or more failing schools must attend the additional training mandated by Section 37-3-4(5)(c).
(Turner,4/6/2018)(#211)(OP-2018-00088)

SHERIFFS-AUTHORITY

Pursuant to Section 47-5-453 of the Mississippi Code, the board of supervisors may adopt regulations for a work program as authorized by the Department of Corrections for joint state-county work programs.
(Carnathan,4/20/2018)(#213)(OP-2018-00033)

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