



# ATTORNEY GENERAL'S OPINION OUTLINE

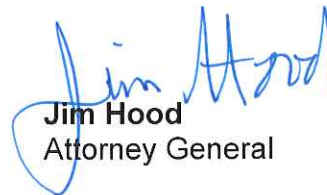
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The purpose of the Opinion Outline is to inform state, county and municipal officials and other interested persons of official opinions issued by the Attorney General's Office. This outline contains synopses of opinions issued from May 1, 2018 through May 31, 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.

**Complete opinions are also available on our internet website at: [agjimhood.com](http://agjimhood.com)**

Very truly yours,

  
**Jim Hood**  
Attorney General

## CIRCUIT CLERKS

No additional compensation in the form of overtime pay or "comp time" may be paid to these county employees unless there was a policy authorizing such payment spread on the board of supervisors' minutes and in effect when the extra work was done. (Lee, 5/18/2018)(#042)(OP-2018-00130)

## COUNTY COURTS

Rule 5 of the youth court rules provides that media and electronic media coverage of judicial proceedings is strictly prohibited except upon findings of facts and conclusions of law by the court of extraordinary and compelling circumstances. (Alfonso, 5/18/2018)(#051)(OP-2018-00135)

## CRIMINAL LAW

Rule 7 of the Mississippi Rules of Criminal Procedure with Comments sets forth in detail an indigent defendant's right to appointed counsel and a determination of indigency. (Brown, 5/11/2018)(#057)(OP-2018-00115)

## GAMING COMMISSION

House Concurrent Resolution No. 85 (2018) is not binding upon the authority delegated to the Gaming Commission under State law. (Hopkins, 5/18/2018)(#276)(OP-2018-00132)

## INTERLOCAL AGREEMENTS

The Interlocal Cooperation Agreement between Kemper County, Mississippi and the Town of Scooba, Mississippi involving the repair of existing dugouts and the booster house located at the town-owned and operated baseball fields is approved.  
(Bailey,5/21/2018)(#277)(OP-2018-00142)

The Interlocal Cooperation Agreement between Lauderdale County, Mississippi and the City of Meridian, Mississippi involving the construction of a temporary boat ramp at the Long Creek Reservoir on the premises of the Lakeview Golf Course facility is approved.  
(Thaggard,5/21/2018)(#277)(OP-2018-00143)

The Interlocal Cooperation Agreement between the City of Richland and the City of Pearl regarding cooperative drug interdiction and policing activity is approved.  
(Berry,5/24/2018)(#277)(OP-2018-00156)

The Interlocal Cooperation Agreement between Lauderdale County, Mississippi and the Lauderdale County School District for the purpose of building recreational facilities, including access roads and a parking lot, at West Lauderdale Elementary School is approved.  
(Compton,5/24/2018)(#277)(OP-2018-00144)

## MISCELLANEOUS

An advertisement which identifies a health care practitioner's area of practice using the corresponding letters identified in Miss. Code Ann. Section 41-121-5 (c) complies with the requirements for advertising found in Miss. Code Ann. Section 41-121-7(1). A routine telephone conversation between either a health care practitioner, or his staff, and a patient is not an advertisement under Miss. Code Ann. Sections 41-121-5 and 41-121-7(1).  
(Watson,5/11/2018)(#115)(OP-2018-00116)

## MUNICIPALITIES

Pursuant to Section 19-5-3 and Section 21-21-5 of the Mississippi Code, a county and municipality may enter into negotiations among themselves to jointly purchase a law enforcement dog and provide for each party's participation resulting from the joint ownership.  
(Barton,5/10/2018)(#142)(OP-2018-00111)

Miss. Code Ann. Section 27-39-333 authorizes the issuance of a shortfall note when a political subdivision faces a shortfall in the collection of budgeted revenue.  
(Alexander,5/11/2018)(#142)(OP-2018-00127)

A city council is authorized to establish a municipal department for proper municipal purposes. However, once the municipal department is established, administration of said department would fall under the jurisdiction of the mayor, who is the chief executive officer of the municipality.  
(Banks,5/11/2018)(#142)(OP-2018-00120)

Section 21-19-49 of the Mississippi Code expressly authorizes a municipality to make donations to any public school district located within the boundaries of the municipality for the purposes of assisting the voluntary character development or public service programs of such school district. Assuming the municipality finds that the proposed expenditures are consistent with the purposes of advertising and bringing into favorable notice the opportunities, possibilities and resources of the municipality and do not exceed the monetary limitations imposed in Section 17-3-1, it may make such expenditures. Such determinations are factual ones to be made by the municipality.  
(Barton,5/11/2018)(#142)(OP-2018-00110)

The law in effect at the time the tax was imposed includes provisions that require that "the tax shall be distributed to the Columbus-Lowndes Convention and Visitor's Bureau." If any tax is charged prior to the repealer, such tax would be remitted to the Columbus-Lowndes Convention and Visitor's Bureau regardless of the delay in distribution.  
(Turnage,5/11/2018)(#142)(OP-2018-00108)

A municipality is not authorized to provide broadband services to consumers as a part of its municipal utility system.  
(Barton,5/25/2018)(#142)(OP-2018-00137)

In the absence of a statute requiring an individual bond for a particular position, a blanket bond may be utilized.  
(Campbell,5/25/2018)(#142)(OP-2018-00140)

## SCHOOLS-COUNTY BOARDS

Pursuant to Section 37-7-104.6 (3)(a), the current members of the Board of Trustees of the Greenwood Public School District serving on November 1, 2017, will continue to serve until their successors are elected in accordance with Section 37-7-104.6(3)(a)(i),(ii), and (iii). Since Section 37-7-104.6(3)(a) provides that the current members of the Board of Trustees of the Greenwood Public School District serving on November 1, 2017, will continue to serve as the new County Board of Education, we are of the opinion that vacancies, both pre consolidation and post consolidation, would be filled pursuant to Section 37-5-19.  
(Palmer,5/25/2018)(#179)(OP-2018-00138)



## SEPARATION OF POWERS

Article 1, Sections 1 and 2 of the Mississippi Constitution prohibit an individual from simultaneously serving as a county road manager for Harrison County and as a member of the Stone County Board of Supervisors.

(Pearson,5/25/2018)(#271)(OP-2018-00149)

## STATE OFFICES & EMPLOYEES

To reimburse the travel costs of an individual who plans to work for a state agency in the near future but is not an employee at the time he is traveling would constitute an unlawful donation in violation of Art. 4, Section 66 of the Mississippi Constitution. Our office has previously opined that an agency may pay moving expenses as long as the original contract of employment included those expenses as part of the compensation package.

(Robertson,5/11/2018)(#218)(OP-2018-00124)

## SUPERVISORS-CONTRACTS & PURCHASES

If the County makes a proper factual determination that the software is ancillary to the professional services for the design, customization and implementation of the enterprise resource planning (ERP) system, and the software is of no use without the services necessary to design, customize and implement the entire ERP system, the purchase is not subject to the statutory mandates of Section 31-7-13.

(Nowak,5/11/2018)(#224)(OP-2018-00123)

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