

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

December 21, 2018

John Keith Perry, Jr., Esq.  
Perry Griffin PC  
5699 Getwell Road, Building G5  
Southaven, Mississippi 38672

Re: Transferring County Funds to the General Fund

Dear Mr. Perry:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply.

### Background

Your request states:

As attorney for the Tunica County Board of Supervisors (the "Board"), I am requesting an opinion regarding whether it is permissible for Tunica County ("the County") to transfer the County Road Department funds into a general fund.

Pursuant to Miss. Code Ann. Section 65-15-1, "The board of supervisors may raise funds for working, constructing, reconstructing, and maintaining public roads or for building bridges by an ad valorem tax on all assessed taxable property in the county, or be a bond issue, or by either or both of said methods." Miss. Code Ann. Section 65-15-17 further provides that "in counties which have heretofore created special or general funds under existing laws, in case the board of supervisors shall [. . .] relieve from the operation of the contract system any part of a county entitled to a special fund, the board may also order that such special fund shall become part of the general fund.

As stated in House Bill No. 1002 where the Legislature of the State of Mississippi amended the Act to revise the distribution of the gaming revenue tax imposed by the Board, twelve percent (12%) of the proceeds paid to the County "shall be deposited in the county general road fund and

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may be expended for any of the purposes for which monies in the general road fund of the county may be expended.”

We seek an opinion from you on whether this includes transferring the County Road Department funds into a general fund. If the answer is no, please advise regarding whether there is any other authority that allows such a transfer.

### Response

The answer to your question is no. The county may not transfer the money from the county general road fund to the county's general fund. House Bill 1002 of the 2014 Regular Session amended Chapter 866 of the Local and Private Laws of 1992. This amendment allows the Board of Supervisors in Tunica County to impose a fee of not more than 3.2% of the gross gaming revenue of a gaming vessel per month on any vessel docked on Buck Lake, Mhoon Landing, or on any other navigable waters that are zoned for gaming by the Tunica County Board of Supervisors.

The subsection you ask about is subsection (2)(b)(i), which requires that “twelve percent (12%) [of the 3.2%] shall be deposited in the county general road fund, and may be expended for any of the purposes for which monies in the general road fund of the county may be expended.” Conversely, subsection (2)(b)(ii)(3) dealing with funds deposited into a special fund explicitly states that money in the special fund may be used “for any of the purposes for which monies in the county general fund may be expended.”

We note that you cite Section 65-15-17 as potential authority to allow the county to transfer road funds into the county general fund. However, Section 19-2-13 provides that multiple code sections, including Section 65-15-17, are not applicable to any county that operates on a countywide system of road administration as described in Section 19-2-3. Because Tunica County utilizes a countywide system, Tunica County may not avail itself of any statutes listed in Section 19-2-13, including Section 65-15-17.

If our office may be of further assistance, please advise.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Emiko Hemleben  
Special Assistant Attorney General