

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

December 21, 2018

W. Bruce Lewis, County Administrator  
Wilkinson County Board of Supervisors  
Post Office Box 516  
Woodville, Mississippi 39669-0516

Re: Replacing Bridges with Culverts under Laws 2018, 1st Ex. Sess., Ch. 3 (SB 2002) Section 13

Dear Mr. Lewis:

Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for response. In your letter, you explain that in Subsection (2)(ee) of Laws 2018, 1st Ex. Sess., Ch. 3 (SB 2002) Section 13, Wilkinson County is provided funding to assist in the "repair, rehabilitation, replacement, reconstruction and/or construction of bridges."

You ask if Wilkinson County may utilize the funds provided under this law to replace existing or closed bridges by installing culverts.

The 2018 Transportation and Infrastructure Improvement Fund was created in Laws 2018, 1st Ex. Sess., Ch. 1 (HB 1) Section 7. This new fund was to be created with bond proceeds and other funds as established by the Legislature. An amendment to the expenditure of the 2018 Transportation and Infrastructure Improvement Fund is found in Laws 2018, 1st Ex. Sess., Ch. 3 (SB 2002) Section 13, particularly:

(2) Monies deposited into the fund shall be disbursed, in the discretion of the Department of Finance and Administration, as follows:

(ee) To assist Wilkinson County, Mississippi, in paying the costs associated with the repair, rehabilitation, replacement, reconstruction and/or construction of bridges in Wilkinson County, including those bridges on state-designated highways that are maintained by the county. . . . . \$1,700,000.00.

Counties have the duty to maintain roads and bridges as set out in Section 170 of the Mississippi Constitution of 1890. If a bridge is on a state highway, the County Board of

W. Bruce Lewis, County Administrator  
December 21, 2018  
Page 2

Supervisors must follow the direction, and seek the approval of the Mississippi Department of Transportation, as set out in Miss. Code Ann. Section 95-7-81 (1972 as amended.) Furthermore, Miss. Code Ann. Section 65-7-95 (1972 as amended), provides that a county may do all things necessary to build bridges.

Wilkinson County may replace existing or closed bridges with culverts if the materials are deemed sufficient by the County Engineer and/or the State Aid Engineer if the bridge is on a state aid road. However, if the bridge is on a state-designated highway that is maintained by the county, approval must be sought by the Mississippi Department of Transportation.

The Mississippi Legislature has left the method and materials used in the construction of a bridge up to the engineer in charge of the project, whether that be the County Engineer, the State Aid Engineer, or the Mississippi Department of Transportation's engineers. The original bridges were built at the discretion of the Board of Supervisors with the help of these engineers, and the Mississippi Constitution deems that it should continue to be "in their full jurisdiction" with the caveats mentioned hereinabove.

If this office may be of any further assistance to you, please let us know.

**OFFICIAL OPINION**

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Roy M. Tipton  
Assistant Attorney General

By: *lgreshine*