



ATTORNEY GENERAL'S OPINION OUTLINE

Volume 67, Number 12
December 2018

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 December 1, 2018 through December 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

Very truly yours,

Jim Hood
Attorney General

CHANCERY CLERKS

The DeSoto County Chancery Clerk may keep the tax book in electronic format and any certification required pursuant to Section 27-43-9 may be certified by electronic signature. However, the chancery clerk must ensure that there is free access to the tax book on public computer terminals.

(Barber, 12/7/2018)(#041)(OP-2018-00388)

COUNTIES-CLASSIFICATIONS

The subject local and private legislation does not authorize the county to transfer funds to the county general fund from the county general road fund. 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. (Perry, 12/21/2018)(#049)(OP-2018-00424)

ECONOMIC DEVELOPMENT DISTRICTS

The Clay County Economic Development District may dispose of real property owned by the District if it will be used for industrial and warehouse purposes as set forth in Mississippi Code Section 19-5-99. State law does not authorize the District to convey real property owned by the District to Clay County in the absence of good and valuable consideration.

(Ford, 12/21/2018)(#266C)(OP-2018-00423)

INTERLOCAL AGREEMENTS

The Interlocal Cooperation Agreement between Jackson County, Mississippi and the Cities of Gautier, Moss Point, Ocean Springs and Pascagoula for the housing of animals apprehended within the boundaries of the cities is approved.

(Karcher, 12/20/2018)(#277)(OP-2018-00411)

MUNICIPAL FUNDS

The Board of Aldermen may not reimburse a police officer for his attorney fees for successful defense of a criminal action where the officer failed to get pre-approval of representation from the Board pursuant to Section 25-1-47.
(Lawrence, 12/14/2018)(#141)(OP-2018-00412)

MUNICIPALITIES

Assuming the area is not serviced by another certificated provider, a municipality can extend sewer lines where it finds that there is reasonable demand and the extension is justified by the facts. Where proper easements or rights of way are obtained, sewer lines may be constructed on private property where the "construction is part of the overall purpose and plan of providing present and future utility service to the general public" A municipality is precluded from using public funds to extend a sewer line for the "sole purpose of serving the property owner only." MS AG Op., Smith (July 31, 1986).
(Stockton, 12/7/2018)(#142)(OP-2018-00410)

A municipality may contribute, donate or appropriate funds to its Main Street program for economic development purposes in accordance with Mississippi Code Annotated Sections 21-19-44 and 21-19-44.1. In doing so, a municipality may earmark such contributions for a specific purpose provided that it is a lawful one.
(Abide, 12/14/2018)(#142)(OP-2018-00407)

Mississippi Code Section 17-23-1 does not authorize municipalities to incur debt to provide matching funds required under the Rural Fire Truck Acquisition Assistance Program. A municipality is authorized to incur indebtedness for such a purpose pursuant to Sections 21-33-301, 17-21-51, 17-21-53 and 57-1-301.
(Barton, 12/14/2018)(#142)(OP-2018-00409)

A municipality has the discretion to pay its employees, including the fire chief, compensation which it has deemed reasonable provided that the compensation is commensurate with the duties and responsibilities of the position and the resources of the municipality.
(Sims, 12/21/2018)(#142)(OP-2018-00422)

PUBLIC PURCHASES, CONTRACTS AND BIDDING

The term "allocated funds" as contemplated in Section 31-7-13(d)(iv) is limited to the funds specifically allocated for the letting of the construction contract itself. Regardless of whether the funds are a "separate line item" in the county's project budget, the allocated funds must correspond directly to the specifications contained in the invitation for bids. With respect to the "movement" of funds, the only funds that may be considered when determining whether the construction project negotiations authority granted in Section 31-7-13(d)(iv) has been triggered are the funds that the governing authority intends on using to procure the construction contract for which it has solicited bids.
(Nowak, 12/7/2018)(#280)(OP-2018-00402)

Assuming that the county determines that it has, in fact, accepted the low bid and has entered into a contract with the low bidder, it would be required to re-advertise the project as its acceptance of the low bid manifested an intent to reject the other bids submitted. In the event that the county determines that it did not, in fact, enter into a contract with the low bidder, it could accept any other submitted bids provided that those bids are still valid.
(Phillips, 12/7/2018)(#280)(OP-2018-00399)

A school district may contract with a private registered surveyor for professional services where the services to be performed are necessary to the District's management of sixteenth section lands. Procurement of professional services of a registered surveyor by a school district does not require competitive bidding.
(Rhodes, 12/21/2018)(#280)(OP-2018-00434)

REAL ESTATE COMMISSION

Licensees facing license revocation due to a felony conviction are entitled to proper notice of the charge and a hearing prior to revocation.
(Praytor, 12/21/2018)(#168)(OP-2018-00413)

SCHOOLS-16TH SECTION LEASES, ETC.

If the school board determines that audio and video equipment for use by students and teachers in their classrooms is needed for the operation and maintenance of schools in the district and that the Board has the authority to purchase the equipment using other available school funds, the school board is authorized to purchase the equipment using sixteenth section expendable funds under Sections 29-3-115 and 37-7-301(d) of the Mississippi Code.
(Adams, 12/21/2018)(#192)(OP-2018-00414)

SHERIFFS-MISCELLANEOUS

Neither a municipality nor a county may lawfully utilize prison labor in the maintenance of a non-profit 501(c)(3) animal shelter except as provided in Section 47-1-19. This section provides the only time that prisoners may be worked to benefit a 501(c)(3) organization is if the nonprofit charitable organization provides food to charities, or public service work for churches according to criteria approved by the Department of Corrections. Additionally, any prisoner who works for the county or a municipality must be paid in accordance with Section 99-19-20 which mandates the lowest rate paid to a prisoner for working be not less than the highest current federal minimum wage.
(Fulton, 12/7/2018)(#216)(OP-2018-00401)

SUPERVISORS-AUTHORITY

A county may adopt an ordinance authorizing an increase in salary equivalent to the monthly group insurance premium for individual coverage for officers and employees who do not participate in the county group insurance plan.
(Mord, 12/7/2018)(#220)(OP-2018-00392)

House Bill 1630 (Reg. Sess. 2018) authorizes Chickasaw County to expend funds distributed pursuant to the local and private legislation on the repair of roads crossing the Chuquatonchee Creek that are otherwise in the jurisdiction of the Chickasaw County Board of Supervisors.
(Carnathan, 12/21/2018)(#220)(OP-2018-00426)

Wilkinson County may replace existing or closed bridges with materials deemed sufficient by the County Engineer and/or the State Aid Engineer if the bridge is on a local or state aid road. If the bridge is on a state designated highway, then the Mississippi Department of Transportation's engineers must approve the materials. The Mississippi Legislature has left this decision to the appropriate engineer.
(Lewis, 12/21/2018)(#220)(OP-2018-00416)

TAXES-EXEMPTIONS

A new enterprise that is the lessee of real property is not entitled to a tax exemption authorized by Section 27-31-101 on the real property it is leasing as it is not the owner listed on the tax rolls. An expanded enterprise that is the lessee of real property is not entitled to a tax exemption authorized by Section 27-31-105 on the real property it is leasing as it is not the owner listed on the tax rolls.
(Nowak, 12/14/2018)(#242)(OP-2018-00391)

Our website now offers a FREE searchable database of Official Opinions issued since 1979.

1. Go to: ago.state.ms.us
2. Scroll down to AGO Quick Links and click on OPINIONS SEARCH.
3. In the search box, enter the opinion number (ex. 2013-00367) and click search.