

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

May 10, 2019

Kenneth I. Stokes  
Jackson City Council Member, Ward 3  
Post Office Box 17  
Jackson, Mississippi 39205-0017

Re: Section 27-65-241 of the Mississippi Code

Dear Councilman Stokes:

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

### Background

Your request states, in part:

The Commission created by the aforementioned statute, commonly known as the "One Percent Commission," has since the master plan for the City of Jackson was established, made decisions regarding the projects initiated and, regarding the scope of said projects. My concern is that the governing authorities of the City of Jackson are not exercising statutory discretion to choose projects and to determine the scope of said projects.

### Questions Presented

1. Whether the statutory discretionary authority of the governing authorities of the City of Jackson to initiate projects and to determine the scope of said projects is being usurped by the Commission.
2. Whether state law limits the role of the Commission to the establishment of a master plan and to monitor the compliance of said master plan by the governing authorities.

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### Applicable Law and Conclusion

Section 27-65-241(7)(h) of the Mississippi Code describes the duties of the commission and reads as follows:

(h) The commission shall, with input from the municipality, establish a master plan for road and street repair, reconstruction and resurfacing projects based on traffic patterns, need and usage, and for water, sewer and drainage projects. Expenditures of the revenue from the tax authorized to be imposed pursuant to this section shall be made at the discretion of the governing authorities of the municipality if the expenditures comply with the master plan. The commission shall monitor the compliance of the municipality with the master plan.

(Emphasis added).

Your first question concerns actions of the commission and would require this office to draw conclusions of fact in order to respond. Pursuant to Section 7-5-25 of the Mississippi Code, the Attorney General is authorized to issue official opinions on questions of law only; therefore, we are unable to respond to your first question with an official opinion.

In response to your second question, the language of Section 27-65-241(7)(h) defines the roles of the commission and governing authorities and states that expenditures of the revenue are made at the discretion of the municipal governing authorities "if the expenditures comply with the master plan." Pursuant to the statute, the commission, with the input of the municipality, is required to establish a master plan. The commission, however, is charged with monitoring the municipality's compliance with the master plan.

Finally, we note that in accordance with the statute, the governing authorities may not spend revenue resulting from the tax unless the expenditure complies with the master plan.

Please let us know if this office can be of further assistance.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Elizabeth S. Bolin  
Assistant Attorney General