

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

May 24, 2019

Thomas U. Reynolds, Esq.
State Representative
Post Office Box 1018
Jackson, MS 39215-1018

Re: Use of Funds Received under Section 27-67-35 of the Mississippi Code

Dear Representative Reynolds:

Attorney General Jim Hood has received your request for an official opinion of this office and assigned it to me for research and response.

Background and Issue Presented

Your letter states:

I am writing to request an official opinion regarding the authority of a municipality to expend funds that it receives under Section 27-67-35(1), Mississippi Code of 1972. That section of law, among other things, provides that the Department of Revenue will distribute monies from a special fund in the State Treasury to municipalities in this state to assist the municipalities in paying costs associated with repair, maintenance and/or reconstruction of roads, streets and bridges in municipalities and repair, maintenance and/or other improvements to water infrastructure and sewer infrastructure.

Specifically, my question is if a municipality borrows funds under Section 17-21-51, Mississippi Code of 1972, or other applicable law authorizing borrowing or other incurrence of debt,¹ for use solely to purchase asphalt

¹ The language referencing "other applicable law authorizing . . . other incurrence of debt" is presumably broad enough to cover issuing bonds. Without knowing the specifics and exact authority of any proposed bond issuance, we cannot issue a blanket opinion stating that the subject funds can be used for repayment of those obligations. Accordingly, this opinion is limited to loans under Section 17-21-51.

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or other materials for repair, maintenance and/or reconstruction of roads, streets and bridges in the municipality, may the municipality use some of the funds that it receives under Section 27-67-35(1) to repay the principal of the loan?

Response

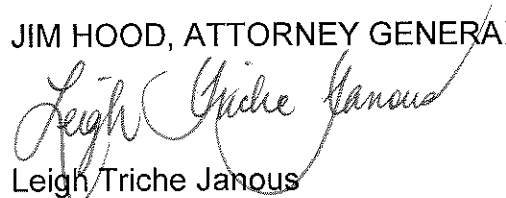
Section 27-67-35 of the Mississippi Code creates a special fund in the State Treasury that is to be administered by the Department of Revenue ("DOR") to provide funds "to assist municipalities in this state in paying costs associated with (i) repair, maintenance and/or reconstruction of roads, streets and bridges in municipalities and (ii) repair, maintenance and/or other improvements to water infrastructure and sewer infrastructure." Thus, we read the statute to require municipalities to use funds received from the DOR for the purposes listed above. Your question is whether a municipality may use funds received from the DOR to repay principal amounts on a loan where the proceeds of the loans were used "solely to purchase asphalt or other materials for repair, maintenance and/or reconstruction of roads, streets and bridges in the municipality." In our opinion, the proposed use of the loan funds fits squarely within the uses set forth in the statute. Thus, the use of the subject funds to repay loan principal amounts where the loan proceeds were expended for purposes within the scope of Section 27-67-35(1) is proper.

If this office can be of further assistance, do not hesitate to contact us.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Leigh Triche Janous
Special Assistant Attorney General