



ATTORNEY GENERAL'S OPINION OUTLINE

Volume 68, Number 6
June 2019

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 June 1, 2019 through June 30, 2019. 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

COUNTY ATTORNEY (PROSECUTING ATTORNEY)

Section 19-23-13 prohibits only the elected county prosecuting attorney from practicing within the limitations listed in the code section. Section 19-23-13 does not apply to prosecutors who are appointed on a case-by-case basis when the county prosecuting attorney needs to recuse himself.
(Brewer,6/21/2019)(#050)(OP-2019-00187)

ELECTIONS-COMMISSIONERS

While there is no specific statutory prohibition against "liking" or commenting on a candidate's Facebook page, there is an admonition from the Mississippi State Supreme Court that election commissioners must remain neutral and impartial. "Liking" or commenting on a candidate's Facebook page that indicates a preference for a particular candidate is not neutral and impartial and must be avoided to protect the integrity of the election process.
(Glaskox,6/21/2019)(#064)(OP-2019-00167)

Senate Bill 2706 was passed by the Mississippi Legislature and became effective on April 19, 2019 without the Governor's signature. It restored the suffrage of the individual in question. He is now a qualified elector of Clay County assuming, of course, that he is also a legitimate resident of that county and properly registered. Therefore, he could lawfully be appointed and paid as a poll worker in the upcoming elections.
(Ivy,6/21/2019)(#064)(OP-2019-00181)

When utilizing the DS 200 OMR equipment that collects and secures voted ballots for two separate party primaries, an executive committee does not have the authority to access the scanned and counted ballots after the voting is over and the polls are closed on election night for the purpose of separating the ballots by party.
(Smythe,6/21/2019)(#064)(OP-2019-00182)

ELECTIONS-QUALIFICATION OF CANDIDATES

An election commission may not proceed to rule on the qualifications of party nominees until the party executive committee officially certifies its nominees to the commission.

There is no requirement that a hearing officer preside over the hearing on candidate qualifications required by Section 23-15-359(9).
(Windsor,6/7/2019)(#071)(OP-2019-00144)

HOSPITALS-COMMUNITY

A county board of supervisors has the authority pursuant to Section 41-13-19 to cosign a loan with the community hospital. If the county guarantees re-payment of the loan to the community hospital, the board of supervisors must comply with the procedures outlined in Sections 41-13-19 through 41-13-23 for the issuance of bonds, notes and other evidence of indebtedness.
(Shepard,6/28/2019)(#092)(OP-2019-00186)

INTERLOCAL AGREEMENTS

The Interlocal Cooperation Agreement between the Long Beach Water Management District and the City of Long Beach for the maintenance of two (2) drainage canals primarily located within the corporate boundaries of the City of Long Beach is approved.
(Long,6/4/2019)(#277)(OP-2019-00155)

The Interlocal Cooperation Agreement between Hinds County and the Town of Learned regarding Public Infrastructure Project 2018-31 (Cross Drain Replacement Project) is approved.
(Teeuwissen,6/4/2019)(#277)(OP-2019-00150)

The Interlocal Cooperation Agreement between Hinds County and the City of Jackson regarding Public Infrastructure Project 2019-9 (January 22, 2019 Allocation for street paving) is approved.
(Teeuwissen,6/4/2019)(#277)(OP-2019-00151)

The Interlocal Cooperation Agreement between the City of Oxford, Mississippi and Lafayette County, Mississippi for tax increment financing bonds is approved.
(Fairbank,6/18/2019)(#277)(OP-2019-00153)

The Interlocal Cooperation Agreement between DeSoto County, the Cities of Southaven, Olive Branch, Hernando, Horn Lake, the Town of Walls, the Regional Utility Authority, and the DeSoto County Emergency 911 Commission for Digital Orthophotography is approved.
(Barber,6/20/2019)(#277)(OP-2019-00176)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Pearl, Mississippi for the preservation and improvement of public roads is approved.
(Slay,6/21/2019)(#277)(OP-2019-00194)

The Interlocal Cooperation Agreement between Rankin County, Mississippi and the City of Florence, Mississippi for solid waste collection services is approved.
(Slay,6/21/2019)(#277)(OP-2019-00195)

The Interlocal Cooperation Agreement between Madison County, Mississippi and the City of Ridgeland, Mississippi to complete roadwork to Old Agency Road and Old Agency Parkway is approved.
(Snell,6/21/2019)(#277)(OP-2019-00163)

The Interlocal Cooperation Agreement between Madison County, Mississippi and the City of Canton, Mississippi regarding the funding of improvements to Saab Park located in the City of Canton is approved.
(Snell,6/28/2019)(#277)(OP-2019-00164)

The Interlocal Cooperation Agreement between Madison County, Mississippi and the City of Canton, Mississippi regarding the funding of certain street improvements located within the City of Canton is approved.
(Snell,6/28/2019)(#277)(OP-2019-00165)

MUNICIPALITIES

In March of 1990, the City of Winona's minutes reflect that the board accepted a bid of three thousand five hundred dollars (\$3,500.00) from [the purchaser] for the purchase of a building. If the City of Winona makes a factual determination that it received the aforementioned payment from [the purchaser] in 1990, it has the authority to deed the property in question via quitclaim. If the municipality makes the factual determination that [the purchaser] did not pay the amount in question and wishes to sell the property, the city would need to do so pursuant to Section 21-17-1 of the Mississippi Code. Whether or not the defense of laches, or any other equitable doctrine or matter of law would prevail is a mixed question of law and fact to which this office cannot opine.
(Baum,6/7/2019)(#142)(OP-2019-00136)

The mayor of a code charter municipality is not required to attend the community public water system training provided for in Section 41-26-101 of the Mississippi Code.
(O'Neal,6/7/2019)(#142)(OP-2019-00147)

The authority to establish rules for the operation and use of the municipal video equipment belongs to the board of aldermen subject to mayoral veto. The determination of accessibility to video feed on municipal cameras must be made on an ad hoc basis. (Wakeland,6/21/2019)(#142)(OP-2019-00159)

The powers of a private charter municipality flow directly from its charter. Questions concerning the workings of a municipality operating under a private or special charter are answered by reference to the specific provisions of that charter.

Pursuant to Rule 1.13 of the Mississippi Rules of Professional Conduct, the city attorney's client is the city as a whole, not individual office holders. (Barton,6/28/2019)(#142)(OP-2019-00166)

Questions concerning the workings of a municipality operating under a private or special charter should be answered by reference to the specific provisions of that charter. (Carouthers,6/28/2019)(#142)(OP-2019-00161)

A municipal tourism commission created by local and private legislation may spend available funds in accordance with authorizing legislation. (Morgan,6/28/2019)(#142)(OP-2019-00162)

PUBLIC PURCHASES, CONTRACTS AND BIDDING

Barring application of the statutory exemption found in Section 31-7-13(m)(i) or the alternative procurement manner outlined in Section 31-7-13(d)(ii), the Madison County School District must comply with the provisions of Section 31-7-13 of the Mississippi Code when purchasing athletic equipment and uniforms. (Adams,6/7/2019)(#280)(OP-2019-00134)

SCHOOLS-COMMUNITY AND JUNIOR COLLEGES

Section 37-29-65 does not authorize the board of trustees of Northwest Mississippi Community College to enlarge the board representation from any individual county to six trustees without enlarging representation from the other counties. The current Board of Trustees may not, by resolution, set the number and makeup of the subsequent board of trustees to be appointed by the board of supervisors of the eleven counties that make up the Northwest Community College District when House Bill 1247 takes effect July 1, 2019. (Lamar,6/11/2019)(#172)(OP-2019-00118)

SCHOOLS-MISCELLANEOUS

Mississippi law does not specifically address how to provide educational services to compulsory school age children housed in residential mental health centers. (Armistad,6/14/2019)(#187)(OP-2019-00140)

Itawamba County School District employees do not have authority to file truancy actions in the youth court. Section 37-13-91(7) of the Mississippi Code specifically authorizes "school attendance officers" hired pursuant to Section 37-13-89 and law enforcement officers to file truancy actions. (Floyd,6/21/2019)(#187)(OP-2019-00171)

SCHOOLS-TAXES

Any amount of delinquent taxes received in the current tax year by the Clarke County School District which exceeds the increase limitation described in Section 37-57-107 must be deposited into a special account and calculated into the budget for the succeeding fiscal year. Section 37-7-301(x) allows a school district to employ counsel as it deems necessary to represent it in any action at law; however, it does not authorize the payment of fees for an attorney employed by and representing another entity in an action to which the school district is not a party. Such would be a violation of Article 4, Section 66 of the Mississippi Constitution of 1890. (Compton,6/21/2019)(#193)(OP-2019-00135)

SCHOOLS-TEACHERS

Senate Bill 2770 raises the minimum salary by \$1,500.00 for every assistant teacher. (Turner,6/7/2019)(#206)(OP-2019-00139)

According to the plain language of Section 37-3-2(b)(viii), an individual going through the Teach Mississippi Institute program would be paid at Step 1 during the period of time that he or she is completing the internship requirements. If a second year of an internship is needed to complete the TMI program, the statute does not provide for an increase on the salary scale. An individual who participates in TMI is only to be compensated at Step 3 upon the completion of TMI license requirements. (Floyd,6/21/2019)(#206)(OP-2019-00148)

SUPERVISORS-AUTHORITY

A Board of Supervisors is prohibited from allowing an additional homestead exemption in prior years where the eligible homeowner did not file a proper written application in time. However, Section 27-33-31(r) authorizes an applicant who has filed a timely application, but has failed to make known his eligibility for an additional exemption as provided for in Section 27-33-3(b) and Section 27-33-67(2), to amend his application under such rules and regulation as the tax commission shall prescribe.
(Teeuwissen,6/28/2019)(#220)(OP-2019-00192)

SUPERVISORS-CONTRACTS AND PURCHASES

If the delivery of the equipment to the Harrison County Board of Supervisors is made in the last six (6) months of the Board's term, it may not accept and make payment for the same as it would be a violation of Section 19-11-27.
(Holleman,6/28/2019)(#224)(OP-2019-00169)

TAXES-EXEMPTIONS

Upon the factual determination by the county that a private commercial business is leasing property owned by the housing authority, the county may assess ad valorem taxes on the leasehold interest.
(Seard,6/21/2019)(#242)(OP-2019-00146)

TAXES-MUNICIPAL

Section 17-21-5 provides the governing authority of a municipality the discretion to approve an exemption on a residential unit in a mixed-use development that the developer intends to sell to individuals. Our office does not by official opinion interpret resolutions and ordinances of local governmental entities. In addition to a homestead exemption, an ad valorem tax exemption allowed pursuant to Section 17-21-5 is also available to a subsequent purchaser of the property, upon written application, during the statutory exemption period of up to seven (7) years.
(Elmore,6/7/2019)(#251)(OP-2019-00130)

WATER DISTRICTS

The Mississippi Major Economic Impact Authority ("MMEIA") has the authority to contract for the sale of water to the Pearl River Valley Water Supply District ("District") for a period not to exceed thirty (30) years.
(McCullough, Jr.,6/28/2019)(#266)(OP-2019-00154)

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.