

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 6, 2019

J. Mack Varner, Esq.
Attorney, Warren County Port Commission
110 Jackson Street
Vicksburg, Mississippi 39183

Re: Warren County Port Commission

Dear Mr. Varner:

OFFICIAL OPINION

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

Background and Issues Presented

According to your request, the CERES Industrial Park and its assets and infrastructure are owned by the Warren County Board of Supervisors and managed by the Warren County Port Commission, which was created pursuant to Section 59-7-125 of the Mississippi Code. The CERES Industrial Park is located inside the certificated area served by the Culkin Water District. You further provide that the Culkin Water District directly bills those companies and facilities located inside the CERES Industrial Park for the water provided. You then ask:

Question 1: Will it be lawful for the Warren County Port Commission, as a body politic of the State of Mississippi, to allow in the future use by the Culkin Water District of public assets in the form of a water distribution system (owned by Warren County and managed by the Warren County Port Commission) without Culkin paying any type of fee, rent, or maintenance rider, even though the Culkin Water District makes a profit from the use of these assets in its operations at the CERES Industrial Park?

Question 2: Will it be lawful for the Warren County Port Commission to pay the approximately \$300,000 in cleaning, blasting, and other expenses that will be needed in the coming year to make sure that the water system at CERES passes the 2020 inspection by the Mississippi Department of Health, even though the system is in fact utilized for profit by the Culkin Water District and not the Port Commission.

Response and Discussion

Section 59-9-23 provides:

In addition to the powers and authority elsewhere conferred in this chapter, the board of supervisors of any county in which there has been created a county port authority or county development commission, acting through its county port authority or county development commission, may establish industrial parks with defined boundaries to develop and utilize lands for industrial operations and in such development may provide for water, sewage, drainage or similar facilities, or transportation, power or communication facilities which are incidental to the use of the lands as industrial parks.

Section 59-7-131 provides, in part:

It shall be the duty of such port commission, from time to time, to make recommendations to the board of supervisors of such county concerning expenditures to be made for the improvement, promotion, development, construction, maintenance and operation of the harbor and port facilities of such county, and shall annually submit to such board of supervisors a proposed budget for the operation and maintenance of such harbor and port facilities, which recommendations and budget shall be subject to approval of the board of supervisors. Except as provided in Section 59-7-111, the port fund shall be subject to expenditure by the port commission.

With regard to your questions, our office has previously opined that monies from the port fund may be expended for repair of roads into an industrial park if the port commission and board of supervisors determine that the repairs will constitute the improvement, promotion, development, construction, maintenance and operation of harbors or ports. MS AG Op., Norquist and Bridgforth (June 14, 1983). Similarly, it is the opinion of this office that a port commission has the authority to expend money from the port fund on the costs as described in your request. The provision of utility infrastructure is an authorized function of the commission. Of course, the Warren County Port Commission and the Culkin Water District may agree to share the costs of maintaining the infrastructure that delivers water to customers in the industrial park.

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

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Beebe Garrard
Special Assistant Attorney General

OFFICIAL OPINION