



*Lynn Fitch*

**ATTORNEY GENERAL**  
OPINIONS AND POLICY

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 01/01/2020 through 06/30/2020.

The synopses that follow 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 available on our website, [www.ago.state.ms.us](http://www.ago.state.ms.us).**

Sincerely,

Lynn Fitch  
Attorney General  
State of Mississippi

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## **AGRICULTURAL COMMISSION**

There is no present moratorium imposed by Section 49-17-29(3)(f) upon the issuance of permits for new swine concentrated feeding operations or the expansion of existing swine animal feeding operations.

(Gipson,6/5/2020)(#004)(OP-2020-00104)

## **BOARD OF NURSE EXAMINERS (MS BOARD OF NURSING)**

Based upon the Board's enabling statute, it is this office's opinion that "applicable state law" exists which exempts the Board from Section 73-77-5 of the Act. A determination of whether an applicant has met the requirements of the applicable statute(s) is a factual determination to be made by the Board.

Referencing Sections 73-15-19 and 73-15-29, Miss. Code Ann., quoted, in part, above, it is this office's opinion that "applicable state law" exists which exempts the Board from Section

73-77-7(1) of the Act. A determination of whether an applicant has met the qualifications set forth by the statute(s) is a factual determination to be made by the Board.

Section 73-77-9(1), Miss. Code Ann., does not differentiate between applicants and non-applicants, but refers only to “an individual.” Thus, this section applies to both applicants and non-applicants alike.

(Johnson,1/30/2020)(#028)(OP-2019-00427)

## **BOARD OF OPTOMETRY**

Section 73-19-23(1), Miss. Code Ann., grants the Board the authority to “refuse to grant a certificate of licensure to any applicant and may cancel, revoke or suspend the operation of any certificate by it granted for . . . the conviction of a crime involving moral turpitude. Pursuant to this statute, the Board is entitled to disqualify an individual from pursuing, practicing or engaging in the practice of optometry based upon the applicant’s conviction of a crime involving moral turpitude. It is this office’s opinion that “applicable state law” exists which exempts the Board from Section 73-77-5 of the Act. A determination of whether an applicant has met the licensure requirements of Section 73-19-23, Miss. Code Ann., is a factual determination to be made by the Board.

Reference is hereby made to the relevant portion of Section 73-19-23, Miss. Code Ann., set forth above. Pursuant to this statute, the Board is entitled to refuse to grant a license to any applicant and may cancel, revoke or suspend a license previously granted based upon an applicant’s conviction of a crime involving moral turpitude. It is this office’s opinion that “applicable state law” therefore exists which exempts the Board from Section 73-77-5 of the Act. A determination of whether an applicant has met the licensure requirements of Section 73-19-23, Miss. Code Ann., is a factual determination to be made by the Board.

Section 73-77-9(1), Miss. Code Ann., does not differentiate between applicants and non-applicants, but refers only to “an individual.” This section applies to both applicants and non-applicants alike.

(Limbaugh,1/30/2020)(#035)(OP-2020-00018)

## **CONSTABLE**

A constable is paid for each day, or part thereof, for civil and criminal cases, regardless of the number of judges he or she serves as bailiff for that day. Thus, a constable, serving as bailiff, may receive a fee of \$55.00 for attending each day or portion of a day in a civil case and may receive a fee of \$55.00 for attending each day or portion of a day for attending a criminal case on the same day for a combined total of \$110.00 if serving as a bailiff in both a civil case and criminal case on the same day. *See*, MS AG Op., Dulaney (October 26, 2007).

(White,5/13/2020)(#045)(OP-2020-00061)

## **COURTS**

The municipal court has the authority to enroll a judgment on the circuit clerk’s judgment roll to establish a lien on a defendant’s property. The enrollment may take place at any time after failure of a defendant to pay the fine, costs, or restitution. The municipal judge also has the authority to garnish a defendant’s wages. The fact that a defendant is determined to be indigent would not

prohibit the enrollment of the judgment. Any determination that the defendant is indigent would only affect the ability of the court to incarcerate the defendant for failure to pay a fine.  
(Bryan,6/26/2020)(#056)(OP-2020-00069)

The court may not assess a filing fee for an expungement or any filing before the court pursuant to Section 21-23-7(11). Thus, the municipal court may not impose a charge as “any other item of court cost” in the amount of fifty dollars (\$50.00).  
(Delgado,6/26/2020)(#056)(OP-2020-00034)

## **CRIMINAL LAW**

There is no requirement in Section 63-11-30 that a law enforcement officer submit a certification on a first time DUI. Section 63-11-30(8)(b) requires a law enforcement officer to submit a certification on second or subsequent DUI offenses prior to the judge accepting a guilty plea.

Pursuant to Miss. Code Ann. Section 7-5-25, this office may not make any factual determinations in the issuance of an official opinion. Which box is appropriate to mark is a factual determination, driven by the specific circumstances surrounding the issuance of the Uniform Traffic Ticket. We cannot, therefore, issue an official opinion in answer to your second question.  
(Wilson,6/26/2020)(#057)(OP-2020-00064)

## **ECONOMIC DEVELOPMENT DISTRICTS**

The Attorney General is unable to respond by official opinion to your questions based upon an interpretation of the Paycheck Protection Program Guarantee included within the federal CARES Act or the eligibility of the Mississippi Gulf Coast Regional Convention and Visitors Bureau (CVB) to participate therein. Official written opinions issued pursuant to Miss. Code Ann. Section 7-5-25 are limited to interpretations of Mississippi state law.

The enabling legislation for the CVB does not provide it with either the express or the implied authority to borrow money.  
(Keating,6/5/2020)(#266C)(OP-2020-00093)

## **ELECTIONS – COMMISSIONERS**

If the municipal governing authority adopts an ordinance pursuant to Section 23-15-221 by which to enter into an agreement with the county election commission to conduct its municipal elections, compensation of the county election commission would be in such amount as agreed upon by the municipal governing authorities and the county election commission as authorized by said statute.  
(Glaskox,6/5/2020)(#064)(OP-2020-00084)

The Election Commissioners Association of Mississippi (ECAM) is not a “public body” within the meaning of Section 25-41-3.  
(Glaskox,6/26/2020)(#064)(OP-2020-00082)

## **ELECTIONS – SPECIAL**

The deadline for candidates to qualify for a special election to fill a vacancy in the office of

circuit judge is sixty (60) days prior to the date of the special election. The qualifying deadline for the November 3, 2020 special election for circuit court judge is Friday, September 4, 2020, at 5:00 p.m.

(Robertson,6/5/2020)(#075)(OP-2020-00028)

## **JUDGES**

If a defendant is properly served and does not appear for court, both justice and municipal court judges have the authority to hold the defendant in contempt for failure to appear and issue a fine and/or arrest warrant as a result of such contempt. A defendant who is found in contempt of court would not be entitled to a bond as the contempt has been adjudicated.

(Turnage,1/31/2020)(#098)(OP-2020-00006)

It is the duty of the board of supervisors, as the general representative of the county in all fiscal matters, to furnish the courthouse and every county office therein with everything needed for the courtroom or offices. While it is the responsibility of the county to ensure the availability of the equipment in the courtroom, there is no authority nor prohibition in the law regarding who operates the equipment in the courtroom.

The Mississippi Ethics Commission should address that portion of your question pertaining to potentially unethical conduct.

(Hopson,5/13/2020)(#098)(OP-2020-00026)

## **MS STATE BOARD OF PHYSICAL THERAPY**

The enabling statute of the Board, Section 73-23-47, Miss. Code Ann., does not prohibit the issuance of a license to an applicant based upon a prior conviction of a crime. Based upon the Board's enabling statute, it is this office's opinion that the Board is not exempt from Section 73-77-5 of the Act.

Section 73-23-47(1), Miss. Code Ann., requires an applicant seeking licensure to "be of [g]ood moral character." Based upon the Board's enabling statute, it is this office's opinion that "applicable state law" exists which exempts the Board from Section 73-77-7(1) of the Act. A determination of whether an applicant has met the qualification as set forth by the enabling statute is a factual determination to be made by the Board.

Section 73-77-9(1), Miss. Code Ann., does not differentiate between applicants and non-applicants, but refers only to "an individual." Thus, this section applies to both applicants and non-applicants alike.

(Boyetette,1/30/2020)(#127)(OP-2019-00424)

## **MUNICIPALITIES**

Pursuant to Section 25-1-47 of the Mississippi Code, a municipality, may, as a part of a settlement of a doubtful claim, negotiate the amount of a customer's water usage fees to an amount consistent with the value of the service that the municipality has determined that the customer actually received. Likewise, if a municipality determines that the quality of the water was so poor that the customer received minimal utility service, the municipality may also negotiate the standard meter demand fees to an amount less than the face value of the demand

fees. In the event that a municipality concludes, based on the facts, that the customer, in essence, did not receive any water service, a settlement of zero dollars may be appropriate.  
(Moore,1/3/2020)(#142)(OP-2019-00404)

A municipal ordinance requiring commercial establishments holding a valid permit issued by the State Tax Commission for the sale and on-premise consumption of beer and light wine to first obtain a license for on-premise consumption of liquor from the ABC, pursuant to Sections 67-3-1 *et seq.*, would conflict with, and be preempted by, state statute.  
(Price,1/3/2020)(#142)(OP-2019-00403)

A municipal employee may use a municipally owned vehicle to travel to his/her residence outside the corporate limits or county boundaries if the municipal governing authorities have determined, consistent with the facts, that such travel is necessary to enable the employee to perform his/her duties and that such use is in the best interests of the City.

However, allowing municipal employees to use municipally owned vehicles for personal use would result in unlawful donations of municipal funds which is specifically prohibited by Miss. Code Ann. Section 21-17-5(g).  
(Bass,5/13/2020)(#142)(OP-2020-00065)

A municipality may remove dilapidated buildings and structures in accordance with the authority granted by Miss. Code Ann. Section 21-19-11 if it provides due process to the property owner and makes the requisite factual findings upon its official meeting minutes.  
(Shaw,5/13/2020)(#142)(OP-2020-00019)

If the police chief is a full paid employee, the governing authorities of the City of McComb may not remove the civil service protection afforded to him/her by Miss. Code Ann. Sections 21-31-1, *et seq.*, including the right to request a hearing before the Civil Service Commission.  
(Lazarus,6/5/2020)(#142)(OP-2020-00096)

Your request is predicated upon a contract, such that the money was paid by an LLC to the City and services were to be provided by the City for the benefit of the LLC in exchange therefor, pursuant to a written contract. The Office of the Attorney General may not issue an official opinion which requires an interpretation of a contract.

However, based upon basic contract principles, the City of Hattiesburg may refund money paid to it pursuant to a contract if the City is not providing the service for which the money was paid. Such a refund would not constitute an illegal donation in violation of Section 66 of the Mississippi Constitution.  
(Pope,6/26/2020)(#142)(OP-2020-00081)

## **NEPOTISM**

The sheriff's son may serve as an unpaid auxiliary deputy without violating the Nepotism Statute, Miss. Code Ann. Section 25-1-53.

As an auxiliary deputy, he may use county equipment such as a vehicle, uniform, and weapon, in the performance of his duties.

The Sheriff's Department would be in violation of Miss. Code Ann. Section 25-1-53 if it sponsored the sheriff's son to attend the law enforcement training academy or paid the cost of his bond, as both would constitute a monetary benefit obtained through public funds.  
(Griffin,5/13/2020)(#151)(OP-2020-00046)

Whether the hiring of an elected official's grandchildren to perform the ministerial duties described in your letter would violate Miss. Code Ann. Section 25-1-53 would be a question of fact to be determined by the hiring authority.

Miss. Code Ann. Section 25-1-55 renders an appointing authority liable for all amounts paid to a person appointed in violation of the Nepotism Statute.

Questions pertaining to a potential conflict of interest and a resulting penalty arising from the proposed employment should be addressed to the Mississippi Ethics Commission.  
(Nowak,6/5/2020)(#151)(OP-2020-00014)

## **OPEN MEETINGS/OPEN RECORDS**

The total contribution amounts to the individual charitable organizations under the Children's Promise Act are not exempt from disclosure under the Public Records Act.  
(Frierson,1/31/2020)(#272)(OP-2020-00001)

## **OTHER STATE AGENCIES, BOARDS AND COMMISSIONS**

Although there is no requirement that the District prepare an annual financial audit performed by a certified public accountant, Section 19-29-18(4) provides that each railroad authority shall be subject to examination by the State Auditor. Thus, the District is subject to being audited by the State Auditor's office under Miss. Code Ann. Section 7-7-211(e).  
(Gandy,1/3/2020)(#218C)(OP-2019-00408)

The Board of the Mississippi Levee Commissioners has the authority to partner with the United States Army Corps of Engineers to construct a berm along the Mainline Mississippi River Levee in order to protect the property of their district from loss and destruction.  
(Douglas,1/8/2020)(#218C)(OP-2019-00400)

Section 73-53-13(d)(iv), Miss. Code Ann., requires an applicant seeking licensure to prove to the board's satisfaction, the "[a]bsence of conviction of a felony related to the practice of social work for the last ten (10) years." Based upon the Board's enabling statute, it is this office's opinion that "applicable state law" exists which exempts the Board from Section 73-77-5 of the Act. A determination of whether an applicant has met the requirements set forth by the enabling statute is a factual determination to be made by the Board.

Section 73-53-13(d)(ii), Miss. Code Ann., requires an applicant seeking licensure to prove to the board's satisfaction, "[g]ood moral character." Based upon the Board's enabling statute, it is this office's opinion that "applicable state law" exists which exempts the Board from Section 73-77-7(1) of the Act. A determination of whether an applicant has met the qualifications as set forth by the enabling statute is a factual determination to be made by the Board.

Section 73-77-9(1), Miss. Code Ann., does not differentiate between applicants and

non-applicants, but refers only to “an individual.” Thus, this section applies to both applicants and non-applicants alike.  
(Dilworth,1/30/2020)(#218C)(OP-2019-00423)

Among the eligibility requirements of Section 73-17-11(1), Miss. Code Ann., an individual must submit evidence of a criminal background check within the last six (6) months under Section 43-11-13.

Section 43-11-13(5)(c) provides, in relevant part:

If the criminal history record check discloses a felony conviction, guilty plea or plea of nolo contendere to a felony of possession or sale of drugs, murder, manslaughter, armed robbery, rape, sexual battery, sex offense listed in Section 45-44-34(h), child abuse, arson, grand larceny, burglary, gratification of lust or aggravated assault, or felonious abuse and/or battery of a vulnerable adult that has not been reversed on appeal or for which a pardon has not been granted, the employee applicant shall not be eligible to be employed by a covered entity.

It is this office’s opinion that “applicable state law” exists which exempts the Board from Section 73-77-5 of the Act. A determination of whether an applicant has met the requirements of the applicable statute(s) is a factual determination to be made by the Board.

Among the eligibility requirements of Section 73-17-11(1), Miss. Code Ann., an individual must submit evidence satisfactory to the board that he or she “is of good moral character.” Based upon the Board’s enabling statute, it is this office’s opinion that “applicable state law” exists which exempts the Board from Section 73-77-7(1) of the Act. A determination of whether an applicant has met the qualification as set forth by the statute is a factual determination to be made by the Board.

Section 73-77-9(1), Miss. Code Ann., does not differentiate between applicants and non-applicants, but refers only to “an individual.” Thus, this section applies to both applicants and non-applicants alike.  
(Rowden,1/30/2020)(#218C)(OP-2019-00430)

The enabling statute of the Board, Miss. Code Ann. Section 73-11-51, does not provide for the disqualification from the business or practice of funeral service based upon a prior conviction of a crime. It is this office’s opinion that the Board is not exempt from Section 73-77-5, Miss. Code Ann.

Miss. Code Ann. Section 73-11-51 requires, in pertinent part, that an applicant “furnish satisfactory evidence” he or she “[i]s of good moral character” in order to obtain a license from the Board. Based upon the Board’s enabling statute, it is this office’s opinion that “applicable state law” exists which therefore exempts the Board from Section 73-77-7(1) of the Act. A determination of whether an applicant has met the requirements set forth by the enabling statute is a factual determination for the Board.

Miss. Code Ann. Section 73-77-9(1) does not differentiate between applicants and non-applicants, but refers only to “an individual.” This section applies to both applicants and non-applicants alike.  
(Smith,1/30/2020)(#218C)(OP-2019-00422)

The Commission may not borrow money through the Mississippi Development Bank or the Mississippi Hospital Equipment and Facilities Authority, because it is expressly limited to borrowing money from private institutions in accordance with Miss. Code Ann. Section 41-19-33(1)(l).

The response to your first question renders your second question moot. However, Miss. Code Ann. Section 41-19-39 does authorize county tax levies to be used for repayment of any loans from private lending institutions made by the Commission under Section 41-19-33(l). (Turner,5/13/2020)(#218C)(OP-2020-00030)

## **PLANNING AND DEVELOPMENT DISTRICTS**

A public improvement district may utilize Miss. Code Ann. Section 19-7-3 or Section 17-25-25 to sell or otherwise dispose of real property acquired by the district. (Martin,Montgomery,6/5/2020)(#167A)(OP-2020-00078)

## **PUBLIC PURCHASES, CONTRACTS AND BIDDING**

Provided that a municipality is operating under the authority granted in Section 31-7-14 of the Mississippi Code, it may enter into an energy savings agreement for a term which exceeds the term of its current board, thereby binding a successor board to such energy savings agreement. (Childress,1/3/2020)(#280)(OP-2019-00419)

## **PUBLIC UTILITIES STAFF**

The Executive Director of the Public Utilities Staff is a fixed, six-year term position pursuant to Miss. Code Ann. Section 77-2-7.

A Legislator may be considered for the appointment of the Executive Director of the Public Utilities Staff provided he/she satisfies the statutory requirements of the position as set forth by Miss. Code Ann. Section 77-2-7(2).

A separate advisory opinion should be requested of the Mississippi Ethics Commission in order to determine whether an appointment of a member of the Legislature would violate Section 109, Miss. Const. of 1890 or Mississippi ethics statutes, specifically Miss. Code Ann. Section 25-4-105(2). (Carter,5/14/2020)(#167B)(OP-2020-00090)

## **RETIREMENT – PUBLIC EMPLOYEES**

It is the opinion of this office that you may not receive less than or waive any portion of your annual salary which is fixed by Miss. Code Ann. Section 25-3-31 at \$78,000 per year. Unless that amount (\$78,000) is twenty-five percent (25%) or less of your average retirement compensation, under Miss. Code Ann. Section 25-11-127(4)(b), you may not receive retirement benefits from PERS while serving as Transportation Commissioner. (Caldwell,5/19/2020)(#170)(OP-2020-00075)

## **SCHOOLS – COMMUNITY AND JUNIOR COLLEGES**

A community college board of trustees may take into account the lessee agreeing to pay all construction costs, ad valorem taxes and maintenance of the building that will be constructed as consideration when making its determination as to whether a donation exists from the proposed agreement. However, whether the consideration proposed by the private non-profit corporation is adequate consideration in return for a lease of real property is a question of fact that must be made by the board of trustees.

(Easterling,1/31/2020)(#172)(OP-2019-00429)

## **SCHOOLS – TRUSTEES**

Once appointed to an office for a specific term, an appointee is entitled to serve the entire term without being subject to removal, as long as he remains qualified to hold office.

The attempted appointment of an individual to an office prior to the expiration of the term of the lawfully-appointed incumbent who has not resigned or become disqualified is of no legal effect.

A school district has no authority to secure a bond for a person who is not lawfully occupying the office of trustee.

There is no statutory authority for a municipal separate school district to have a six member board of trustees.

(Rhodes,1/8/2020)(#211)(OP-2019-00417)

## **SEPARATION OF POWERS**

Serving as county administrator and tax assessor/collector would not result in a violation of the separation of powers doctrine. However, the matter involves the State's Ethics in Government Law. Matters involving ethics in government are delegated to the Mississippi Ethics Commission.

(Liner,1/31/2020)(#271)(OP-2020-00009)

Serving as county administrator and a member of the Mississippi House of Representatives would not result in a violation of the separation of powers doctrine. However, the matter may involve the State's Ethics in Government Law. Matters involving ethics in government are delegated to the Mississippi Ethics Commission.

(Hudson,6/26/2020)(#271)(OP-2020-00085)

## **SUPERVISORS – AUTHORITY**

In a county where there is not an elected prosecutor, the board of supervisors has the authority to employ any competent attorney to serve as county prosecutor pursuant to Section 19-3-49 of the Mississippi Code Annotated.

(Barry,1/3/2020)(#220)(OP-2019-00405)

In a county where there is not an elected prosecutor, the board of supervisors has authority to employ any competent attorney to serve as county prosecutor pursuant to Section 19-3-49 of the Mississippi Code Annotated. In counties where the prosecutor is appointed and not elected, the

prosecutor does not serve for a defined term and, therefore, does not hold “office.” Therefore, Article 12 Section 250 of the Mississippi Constitution does not apply to appointed prosecutors. (Wiggins,1/4/2020)(#220)(OP-2019-00415)

The Local Government Debt Collection Setoff Act does not authorize the County to delegate its statutory duties assigned under the Act except to its member organization and as specifically described in the Act. (Tutor,1/8/2020)(#220)(OP-2019-00409)

Pursuant to the authority granted in Section 19-5-93, a county is authorized to enter into a use agreement which allows an in-kind donation to the American Red Cross to use a county building so long as the value of the in-kind contribution does not exceed the annual monetary limit imposed by Section 19-5-93(1). (Barbour,1/31/2020)(#220)(OP-2020-00015)

Pursuant to Section 25-15-103(4)(b), a board of supervisors may lawfully provide group life insurance coverage for all or specified groups of its public employees and group hospitalization benefits for such public employees and their dependents, and the county may pay the total of the cost of all benefits. (Munn,1/31/2020)(#220)(OP-2020-00016)

The Humphreys County Board of Supervisors may hire and pay for with county funds a private attorney to represent the current tax assessor/collector if the board determines it has an interest in the litigation and spreads that factual determination upon its minutes. (Henderson,5/13/2020)(#220)(OP-2020-00036)

While the Tax Collector is entitled to reimbursement of his expenses incurred by his attendance at mandatory educational conferences pursuant to Miss. Code Ann. Sections 25-3-41 and 27-3-59, the Board may only approve reimbursement of the late-submitted travel vouchers if the amounts are provided in this fiscal year’s budget. (Lamar,5/13/2020)(#220)(OP-2020-00003)

In response to your first question, the County may issue refunding bonds pursuant to Sections 31-27-1, *et seq.* to refinance the county’s outstanding general obligation bonds previously issued pursuant to Section 19-9-1 for improvements made to the George County Regional Hospital. In response to your second question, the County may issue refunding bonds if the County makes a factual determination that the proposed financial structure falls within the authority provided in Sections 31-15-1 through 31-15-19.

In response to your third question, Section 31-15-11 provides that the County shall annually levy a tax upon all taxable property sufficient to pay the principal of and interest on all refunding bonds issued pursuant to that section.

In response to your fourth question, Section 31-15-11 provides “the full faith, credit, and resources of such subdivision shall be and are hereby irrevocably pledged to the payment of such bonds, both as to principal and interest.” (Shepard,5/13/2020)(#220)(OP-2020-00023)

The Board of Supervisors is not authorized to implement a new payroll system as part of its

personnel administration and require other county elected officials to manually enter their employees' time sheets into this system, if the elected official has chosen to, and filed with the board, his/her own system of personnel administration, i.e., paper time sheets.  
(Lamar,6/26/2020)(#220)(OP-2020-00086)

## **SUPERVISORS – CONTRACTS AND PURCHASES**

Provided the Board has made, or will soon make, the required finding that an “emergency” exists as defined in Section 31-7-1(f), the Board must follow the procedures for emergency purchases as set forth in Section 31-7-13(k)1.

The County may purchase equipment with a seven (7) year life. However, any long-term agreement for the maintenance and service of a 911 system that would bind successor boards without specific statutory authority would be voidable by successor boards. New quotes would not be required by law as requirements for competitive bidding do not apply to emergency purchases under Miss. Code Ann. Section 31-7-13(k).  
(Espy,1/31/2020)(#224)(OP-2019-00418)

## **SUPERVISORS – FUNDS**

Section 49-19-23 does not set forth a specific formula by which the County must apportion the funds it has received to the school districts in which national forest lands are located. In the absence of such a statutory requirement, it is within the discretion of the Board of Supervisors to determine the distribution of the funds received pursuant to Section 49-19-23.

Miss. Code Ann. Section 7-5-25 provides the Office of the Attorney General the authority to issue official opinions upon matters of state law as they relate to the requestor's own office or agency. For this reason, we are unable to issue an official opinion in response to your second question which pertains to action on the part of the North Tippah School District.  
(Akins,6/26/2020)(#226)(OP-2020-00083)

## **SUPERVISORS – MISCELLANEOUS**

The Board of Supervisors may not change an order of the Circuit Court for compensation to counsel for an indigent defendant.  
(Slover,6/26/2020)(#227)(OP-2020-00066)

## **TAXES – ASSESSMENTS**

If the Board of Supervisors determines that an error was made by the tax assessor in not having properly assessed the taxpayer for the correct parcel of real property, then the Board would have the authority to determine that the property owner does not owe penalties and interest for the unpaid taxes.  
(Miller,6/26/2020)(#235)(OP-2020-00072)

## **TAXES – ASSESSORS – TAX COLLECTORS**

As tax collector in a county with two judicial districts, and one who maintains two separately-staffed, full-time offices, you are required to be paid an additional \$7,000.00 by the

Board of Supervisors. The Hinds County Board of Supervisors, upon its determination that a failure to do so was previously in error, may retroactively pay to you an additional \$3,500.00. (Fair,1/29/2020)(#237)(OP-2020-00022)

The board of supervisors must determine whether the tax assessor/collector maintains a second, full-time office. If the board of supervisors does make such a factual determination, the tax assessor/collector is entitled to additional compensation in the amount of Three Thousand Five Hundred Dollars (\$3,500.00) in accordance with Miss. Code Ann. Section 25-3-3(5). (Halford,6/5/2020)(#237)(OP-2020-00068)

## **TAXES – EXEMPTIONS**

A production or processing facility located at the same physical address as a licensed free port warehouse, but located in a completely separate facility, structure, place or area, qualifies for an exemption pursuant to Section 27-31-53(d), at the discretion of the governing authority of the county or municipality where the warehouse or storage facility is located.

The Board of Supervisors is not required to exempt personal property pursuant to a free port warehouse exemption granted for a five (5) year term effective January 1, 2016, some two years before the effective date of the 2018 amendments. A new application should be submitted for a free port warehouse license that includes the production or processing facility that was not previously considered by the Board. (Miller,5/13/2020)(#242)(OP-2020-00032)

## **WATER DISTRICTS**

This office is aware of no authority which would prohibit the District from entering into an agreement granting lessee's lender a security interest in the leasehold interest. Of course, should the deed of trust be foreclosed upon, the lender would take the leasehold interest subject to all of the terms and conditions of the lease and subject to all of the terms and conditions imposed by law pursuant to Sections 51-15-1, *et seq.* See MS AG Op., Webb (September 13, 1996). (Matthews,1/31/2020) (#266)(OP-2020-00010)

The District is specifically authorized to maintain the real property within the project area and to contract with political subdivisions to carry out its statutory obligations. Thus, if the District makes the factual determination that the repairs are necessary for the performance of the purposes and services authorized in Title 51 Chapter 9, Article 3, of the Mississippi Code, it has the authority to contract with the County for said repairs. (Sigman,1/31/2020)(#266)(OP-2020-00004)

## **YOUTH COURT**

Any paperwork necessary to commence a filing in the youth court would be the responsibility of the youth court prosecutor. However, any paperwork for "taking a juvenile into custody and disposition of a case" is the responsibility of the youth court staff that is hired by the judge and paid by the county out of the court budget. Therefore, creating the orders of the court would be the responsibility of the court staff hired by the judge. (Cotton,1/31/2020)(#101)(OP-2020-00020)

## **INTERLOCAL AGREEMENTS**

The Interlocal Cooperation Agreement between the DeSoto County School District and the Lewisburg Water Association for the construction of a waterline along Highway 305 to service the school district is approved.

(Bondurant,1/2/2020)(#277)(OP-2019-00406)

The Interlocal Cooperation Agreement between Stone County, Mississippi and the City of Wiggins, Mississippi regarding Stone County's use of the City's animal control officer and equipment for a fee on a per use basis is approved.

(Gibson,1/2/2020)(#277)(OP-2019-00431)

The Amended Interlocal Cooperation Agreement between the City of Jackson, Mississippi and the Hinds County Board of Supervisors involving the striping and paving of several roadways including Sheffield Court, Sheffield Drive, Sheffield Place, and Staton Drive, rehabilitation of curbs and gutters and landscaping of rights-of-way within the City of Jackson, Mississippi is approved.

(Teeuwissen,1/2/2020)(#277)(OP-2019-00420)

The Interlocal Cooperation Agreement between Choctaw County, Mississippi and the Town of Weir, Mississippi for the collection of taxes is approved.

(Baum,1/3/2020)(#277)(OP-2019-00425)

The Interlocal Cooperation Agreement between the Mississippi Department of Wildlife, Fisheries and Parks and the Pearl River Valley Water Supply District regarding aquatic vegetation spraying is approved.

(Huskey,1/9/2020)(#277)(OP-2019-00407)

The Interlocal Cooperation Agreement between Hinds County, Mississippi and the City of Jackson, Mississippi for Public Infrastructure Project 2020-03 (Jayne Avenue Park) is approved.

(Prince,1/10/2020)(#277)(OP-2019-00421)

The Interlocal Cooperation Agreement between Stone County, Mississippi and the City of Wiggins, Mississippi for the collection of taxes is approved.

(Cook,1/15/2020)(#277)(OP-2020-00012)

The Interlocal Cooperation Agreement between Stone County, Mississippi and the City of Wiggins, Mississippi for the collection of tax redemption payments is approved.

(Cook,1/15/2020)(#277)(OP-2020-00013)

The Interlocal Cooperation Agreement between Clay County, Mississippi and the City of West Point, Mississippi for the West Church Hill Road Project is approved.

(Berry,1/31/2020)(#277)(OP-2020-00005)

The Interlocal Cooperation Agreement between Kemper County, Mississippi and the Town of Scooba, Mississippi for police protection and law enforcement services is approved.

(Barry,2/7/2020)(#277)(OP-2020-00024)

The Interlocal Cooperation Agreement between Tallahatchie County, Mississippi and the Town

of Tutwiler, Mississippi for the renovation of a building to be utilized as a museum and welcome center is approved.  
(Reynolds,2/7/2020)(#277)(OP-2020-00037)

The Interlocal Cooperation Agreement between the City of Collins, Mississippi and Covington County, Mississippi in connection with the Tax Increment Financing Plan and Tax Increment Financing Revenue Bonds is approved.  
(Davis,4/14/2020)(#277)(OP-2020-00055)

The Interlocal Cooperation Agreement between the City of Starkville, Mississippi and Oktibbeha County, Mississippi in connection with the Tax Increment Financing Plan and Tax Increment Financing Revenue Bonds is approved.  
(Davis,4/14/2020)(#277)(OP-2020-00056)

The Interlocal Cooperation Agreement between the Town of Brooksville and Noxubee County for the collection of city ad valorem taxes is approved.  
(Lyles,4/14/2020)(#277)(OP-2020-00040)

The Interlocal Cooperation Agreement between the City of Macon and Noxubee County for the collection of city ad valorem taxes is approved.  
(Lyles,4/14/2020)(#277)(OP-2020-00041)

The Interlocal Cooperation Agreement between the Town of Shuqualak and Noxubee County for the collection of city ad valorem taxes is approved.  
(Lyles,4/14/2020)(#277)(OP-2020-00042)

The Interlocal Cooperation Agreement between the City of Carthage and Leake County in connection with the collection of municipal ad valorem taxes is approved.  
(Webb,4/20/2020)(#277)(OP-2020-00062)

The Interlocal Cooperation Agreement between the Town of Walnut Grove and Leake County in connection with the collection of municipal ad valorem taxes is approved.  
(Webb,4/20/2020)(#277)(OP-2020-00063)

The Interlocal Cooperation Agreement between the City of Poplarville and Pearl River County, Mississippi pertaining to the collection of motor vehicle ad valorem taxes by Pearl River County is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00047)

The Interlocal Cooperation Agreement between the City of Picayune and Pearl River County, Mississippi pertaining to the collection of motor vehicle ad valorem taxes by Pearl River County for the City of Picayune is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00048)

The Interlocal Cooperation Agreement between the City of Lumberton and Pearl River County, Mississippi pertaining to the collection of motor vehicle ad valorem taxes by Pearl River County within the Lumberton Municipal Separate School District is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00049)

The Interlocal Cooperation Agreement between the City of Picayune and Pearl River County, Mississippi pertaining to the collection of school district ad valorem taxes and the redemption of property sold by Pearl River County is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00050)

The Interlocal Cooperation Agreement between the City of Picayune and Pearl River County, Mississippi pertaining to the collection of motor vehicle ad valorem taxes within the Picayune Municipal Separate School District by Pearl River County is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00051)

The Interlocal Cooperation Agreement between the City of Poplarville and Pearl River County, Mississippi pertaining to the collection of ad valorem taxes by Pearl River County is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00052)

The Interlocal Cooperation Agreement between the City of Picayune and Pearl River County, Mississippi pertaining to the collection of ad valorem taxes and redemption of property sold by Pearl River County for the City of Picayune is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00053)

The Interlocal Cooperation Agreement between the City of Lumberton and Pearl River County, Mississippi pertaining to the collection of ad valorem taxes and redemption of property sold by Pearl River County is approved.  
(Beech,5/11/2020)(#277)(OP-2020-00054)

The Interlocal Cooperation Agreement between the Jefferson Davis County School District and the Jefferson Davis County Board of Supervisors to provide the use of sports facilities at the John H. Thompson Athletic Complex for the use of sporting events for Jefferson Davis County students is approved.  
(Daughdrill,6/3/2020)(#277)(OP-2020-00080)

The Interlocal Cooperation Agreement between Mississippi State University and Jefferson Davis County documenting the relationship between the Mississippi State University Extension Service and Jefferson Davis County is approved.  
(Lucas,6/3/2020)(#277)(OP-2020-00087)

The Interlocal Cooperation Agreement between Mississippi State University and Newton County documenting the relationship between the Mississippi State University Extension Service and Newton County is approved.  
(Lucas,6/3/2020)(#277)(OP-2020-00088)

The Interlocal Cooperation Agreement between Mississippi State University and Harrison County documenting the relationship between the Mississippi State University Extension Service and Harrison County is approved.  
(Lucas,6/3/2020)(#277)(OP-2020-00089)

The Interlocal Cooperation Agreement between Mississippi State University and Clarke County documenting the relationship between the Mississippi State University Extension Service and Clarke County is approved.  
(Lucas,6/3/2020)(#277)(OP-2020-00120)

The Interlocal Cooperation Agreement between Sunflower County and the City of Indianola for the collection of city ad valorem taxes is approved.  
(McWilliams,6/3/2020)(#277)(OP-2020-00106)

The Interlocal Cooperation Agreement between the Village of Paden and Tishomingo County relating to the collection of municipal taxes for the Village of Paden by Tishomingo County, Mississippi is approved.  
(Cummings,6/25/2020)(#277)(OP-2020-00126)

The Interlocal Cooperation Agreement between the Town of Golden and Tishomingo County relating to the collection of municipal taxes for the Town of Golden by Tishomingo County, Mississippi is approved.  
(Cummings,6/25/2020)(#277)(OP-2020-00127)

The Supplemental Interlocal Cooperation Agreement for the North Mississippi Narcotics Unit is approved.  
(Dodson,6/25/2020)(#277)(OP-2020-00105)

The Interlocal Cooperation Agreement between the Pearl River Valley Water Supply District and Rankin County regarding the Northshore Causeway Guardrail Project is approved.  
(Sigman,6/25/2020)(#277)(OP-2020-00129)

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