MISSISSIPPI MUNICIPAL ATTORNEYS ASSOCIATION
2026 WINTER CLE SEMINAR

Attorney General Opinions Update
(for July 1, 2025 – December 31, 2025)

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I. PREFACE

The Mississippi Attorney General ("AG") is compelled to give written (official) opinions (without fee) to various public officials. This duty is set forth in Miss. Code Ann. § 7-5-25. Section 7-5-25 lists the specific officials who can request these opinions. Included in this list, among others, are the "boards of supervisors of the several counties, the sheriffs, the chancery clerks, the circuit clerks, the superintendents of education, the tax assessors, county surveyors, the county attorneys, the attorneys for the boards of supervisors, mayor or council or board of aldermen of any municipality of this state, and all other county officers (**and no others**)...." (Emphasis added). According to the statute (§ 7-5-25), requests for these opinions must be "in writing." The requirement that the AG issue these official opinions is "upon any question of law relating to [these officials'] respective offices."[1]

Again, the process for requesting and receiving opinions has changed within the past several years. Requests for opinions must be submitted electronically through the AG's website and via a set digital form in addition to a written letter on letterhead of the requesting party (see Exhibits 1 and 2 attached hereto). According to the AG's website, opinions are attempted to be issued within 100 days after receipt. For qualifying requests that are "emergencies," opinions are attempted to be issued within 45 days after receipt. In order to request an expedited opinion, the requesting party must minimally set forth: (1) the specific circumstances that necessitate an expedited opinion; and (2) the date by which the expedited opinion is needed. If the AG determines the emergency to be legitimate, "reasonable efforts shall be made to accommodate the request for an expedited response."[2]

Why an AG Opinion? Attorneys representing elected officials of political subdivisions may have several different reasons for requesting an official opinion from the AG. Section 7-5-25 provides the primary reason:

> *"When any officer, board, commission, department or person authorized by this section to require such written opinion of the Attorney General shall have done so and shall have stated all the facts to govern such opinion, and the Attorney Genera*

[1]Section 7-5-23 of the Mississippi Code requires the Attorney General to keep an "opinion book," "in which he shall record or cause to be recorded each and every opinion given by him, or by his assistants, in pursuant of law. Each of his opinions shall be prefaced with a clear and concise statement of the facts upon which it is predicated. The 'opinion-book' shall be kept well indexed, both as to subject matters and parties."

[2]For a copy of the AG's protocol for requesting official opinions (from the AG's website), see Exhibit 3 attached hereto.

has prepared and delivered a legal opinion with reference thereto, ***there shall be no liability, civil or criminal, accruing to or against any such officer, board, commission, department or person who, in good faith, follows the direction of such opinion and acts in accordance therewith*** *unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without any substantial support. However, if a court of competent jurisdiction makes such a judicial declaration about a written opinion of the Attorney General that applies to acts or omissions of any licensee to which Sections 63-19-57, 75-67-137 or 75-67-245 applies, and the licensee has acted in conformity with that written opinion, the liability of the licensee shall be governed by Sections 63-19-57, 75-67-137 or 75-67-245, as the case may be. No opinion shall be given or considered if the opinion is given after suit is filed or prosecution begun."*

Miss. Code Ann. § 7-5-25 (emphasis added). If a court of competent jurisdiction (after a full hearing) determines that an opinion is manifestly wrong and without substantial support, the opinion provides no protection. *See e.g.*, City of Durant v. Laws Construction Co., Inc., 721 So. 2d 598, 603 (Miss. 1998). The Supreme Court, when determining that an AG opinion is erroneous, has historically applied the correct construction prospectively, thereby not penalizing a party's reliance on the erroneous opinion. *See e.g.*, Meeks v. Tallahatchie County, 513 So. 2d 563, 568 (Miss. 1987).

However, a party is insulated from liability only when they are relying on an opinion specifically written (addressed) **to them** – and not to someone else. For example, the Supreme Court found that AG's opinions were manifestly wrong in City of Durant v. Laws Construction Co., Inc. and the City then argued that it should not be penalized because it had relied on them. The Court was quick to point out, though, that a municipality cannot merely rely on opinions issued to others.

In addition, AG opinions that might slip through and be issued on matters that are already in litigation are ineffectual. *See e.g.*, SASS Muni-V, LLC v. DeSoto County, 170 So. 3d 441, 447, n. 5 (Miss. 2015). Also, opinions have to be in writing (phone conversations do not meet the statutory requirement). *See e.g.*, Meeks v. Tallahatchie County, 513 So. 2d 563, 567, n. 1 (Miss. 1987).

Plus, an AG opinion that is based on a request that did not provide all of the relevant facts necessary for such an opinion is equally ineffectual. *See e.g.*, State ex rel. Summer v. Denton, 382 So. 2d 461, 467-68 (Miss. 1980).

Moreover, reliance on an AG opinion is no defense to failure to comply with a court order. See Donaldson v. Cotton, 336 So. 2d 1099, 1113 (Miss. 2022).

With respect to litigation, the Supreme Court has recognized that, while AG opinions are not binding, "they are certainly useful in providing guidance to this Court." In re Assessment of Ad Valorem Taxes on Leasehold Interest Held by Reed Manufacturing, Inc. ex rel Itawamba County Board of Supervisors, 854 So. 2d 1066, 1071 (Miss. 2003); *see also* Madison County v. Hopkins, 857 So. 2d 43, 50 (Miss. 2003).

Some Courts, when reviewing past actions taken by municipalities, have even made mention of whether city officials had previously sought an opinion from the AG. *See e.g.*, Hemphill Construction Company, Inc. v. City of Laurel, 760 So. 2d 720, 721 (Miss. 2000).

II. VARIOUS ATTORNEY GENERAL OPINIONS ISSUED FROM JULY 1, 2025, THROUGH DECEMBER 31, 2025

1.	**Meek – AG Opinion Issued on July 7, 2025 (OP-2025-00044)** A county cannot accept from a developer the conveyance of streets (in a private development) that are within the corporate limits of a city. Upon an appropriate factual determination, a county can contribute to or assist in the maintenance of municipal streets pursuant to state law (*e.g.*, Miss. Code Ann. § 65-7-79, § 65-7-83, § 65-7-85). Whether an interlocal agreement is required for a county's maintenance of a city street and which statute applies to a specific situation are factual determinations to be made by the County and the municipality. NOTE: The AG will NOT opine on the duties of someone other than the requesting party, and the AG will NOT issue an opinion on the necessity or terms of an interlocal agreement.
2.	**Simmons – AG Opinion Issued on July 11, 2025 (OP-2025-00048)** There is no statutory prohibition against a school district accepting a lawful donation from an individual, vendor, business, and/or entity currently under contract with the school district. There is also no statutory prohibition against a school district accepting a benefit - such as a waiver of interest or fees owed - from an individual, vendor, business, and/or entity currently under contract with the school district. However, the AG has cautioned against any action that could be considered improper or illegal, such as accepting a donation in exchange for favorable treatment.
3.	**Freeman – AG Opinion Issued on July 11, 2025 (OP-2025-00043)** In code charter municipalities, the executive power and the supervision of municipal officers and affairs are vested in the mayor. Superintending control entitles the mayor to "enact policies related to the overall supervision of employees and department heads," and "give duty specific direction to both." MS Att'y Gen. Op. to Honnoll at *1 (Aug. 13, 2010) (citing MS Att'y Gen. Op. to Goddard (June 16, 2006)). Further, "[n]o member of the board of alderman shall give orders to any employee or subordinate of a municipality other than the alderman's personal staff." Miss. Code Ann. § 21-3-15(2)(a). NOTE: The legislative power of a city here can only be exercised by the board of aldermen by a vote within a legally called meeting. Id.
4.	**Null – AG Opinion Issued on August 21, 2025 (OP-2025-00058)** Section 47-1-39 of the Mississippi Code authorizes the housing of municipal prisoners in a county jail under a contract between a municipality and the county's board of supervisors but is otherwise silent as to any point at which a "*municipal*" prisoner becomes a "*county*" prisoner for purposes of inmate expenses. While the AG

	cannot opine on the interpretation of contract terms, the AG here pointed out that it has previously opined that a "*municipal*" prisoner becomes a "*county*" prisoner when the prisoner is either: (1) bound over to the grand jury at a preliminary hearing; or (2) waives the preliminary hearing. Therefore, following either the holding of a preliminary hearing in a court or waiver thereof, once a municipal prisoner's case has been bound over to a grand jury for indictment, the County becomes responsible for the defendant inmate's expenses.
5.	**Sims – AG Opinion Issued on August 25, 2025 (OP-2025-00061)** The AG's office has consistently opined that "the intent of [Miss. Code Ann. §] 63-3-519 is to prohibit the use of all devices for the detection of the speed of automobiles, not just those which use emission of electronic waves." MS Atty Gen. Op. to Ewing at *1 (Feb. 10, 1993). Therefore, "laser speed detection devices" fall within the prohibition of radar speed detection equipment in § 63-3- 519." Miss. Atty Gen. Op. to McFatter at *1 (May 31, 2002). The AG has opined that "the legislative intent of Section 63-3-519 is to prohibit the use of speed detection devices by those agencies not authorized to use them." Id.
6.	**Dunlap – AG Opinion Issued on August 25, 2025 (OP-2025-00051)** The maximum amount of land a county operating under the traditional district —or "beat"—system of county road maintenance can purchase as a "station for the working of the public roads" under Miss. Code Ann. § 65-7-91 is ten (10) acres. The only "reasonable and appropriate" use of such property is as "a station for the working of the public roads." If property used as a road working station is no longer needed for that purpose, § 19-7-3 governs the disposal of county real estate no longer being used for county purposes.
7.	**Liddell – AG Opinion Issued on August 25, 2025 (OP-2025-00066)** Simultaneous service in two different elected positions is not necessarily prohibited. However, such a scenario could raise several issues: (1) separation of powers; (2) incompatible offices; and (3) conflict of interest / ethical issues (addressed by the Ethics Commission). As there is no prohibition against running for the elected office of Sheriff while currently serving in the elected office of Constable, there is no requirement that such a person resign their current position for purposes of the election.
8.	**Sims – AG Opinion Issued on August 27, 2025 (OP-2025-00062)** A city attorney does not exercise power at the core of the executive branch of government and, therefore, there is no violation of the separation of powers doctrine when a person serves simultaneously as city attorney and municipal judge. However, the duties as municipal judge must be performed during the hours the individual serving as city attorney is not paid as city attorney and vice versa. Plus, there could be potential conflicts of interest issues that would arise and the need to

	address these with the Ethics Commission and the Commission on Judicial Performance.
9.	**Evans – AG Opinion Issued on August 28, 2025 (OP-2025-00071)** As highlighted by the Mississippi Supreme Court in City of Greenville v. Queen City Lumber Co., 86 So. 2d 860, 863 (Miss. 1956), a municipality's decision to construct and maintain a sewer system is discretionary, not mandatory. The AG "has consistently opined that '[a] municipality has authority to maintain the main sewer line to the point of connection with the service line, and the property owner has responsibility to maintain the service line from the point of connection with the main line to the residence.'" Miss. Atty Gen. Op. to Brannon at *2 (June 29, 2023) (quoting Miss. Atty Gen. Op. to Snowden at *2 (Feb. 12, 1999)). The AG further opined that there is no prohibition against a city expending public funds to repair and maintain a sewer lagoon rather than constructing a new main line, as the City is authorized under Miss. Code Ann. § 21-27-23.
10.	**Lockley – AG Opinion Issued on August 28, 2025 (OP-2025-00064)** Meals are included in the statutory daily rate when a municipality is paying a county to hold a municipal detainee or prisoner in the county jail. However, in accordance with Miss. Code Ann. §§ 19-25-73(3) and 47-5-909(3), medical treatment and related transportation are an additional responsibility. Mississippi law does not address whether transportation unrelated to medical treatment is included in the contracted daily rate; accordingly, such decision is left to the discretion of the parties.
11.	**Rhodes – AG Opinion Issued on August 29, 2025 (OP-2025-00093)** The Governor may not reappoint one or more of the same nominees while the Senate is in vacation. The Senate's failure to confirm results in the annulment of those appointments. Pursuant to Miss. Code Ann. § 7-1-35, "the vacancy shall not be filled if caused by the Senate's refusal to confirm any appointment or nomination." However, if the Governor were to appoint different individuals to the Board while the Senate is in vacation, subject to the advice and consent of the Senate during the 2026 legislative session, such nominees would be considered de facto officers until confirmed by the Senate. Remember that the acts of "de facto officers" are valid and binding under Miss. Code Ann. § 25-1-37 (but these persons are NOT entitled o receive salary ore per diem for their service).
12.	**Griffin – AG Opinion Issued on September 24, 2025 (OP-2025-00108).** In light of a community hospital's overarching objective to adapt to the healthcare needs of its community, a community hospital may sell an unused parcel of hospital property under Miss. Code Ann. § 57-7-1, after the required factual determination that the subject property is

	surplus and not needed for other governmental purposes. However, such a sale must be made for commercial or industrial purposes only.
13.	**Jones – AG Opinion Issued on October 3, 2025 (OP-)** The nepotism statute lists five prohibited classes of employment: "an officer, clerk, stenographer, deputy or assistant." Miss. Atty. Gen. Op to Meek at *1 (Oct. 26, 2007) (quoting Miss. Code Ann. § 25-1-53). The position of "director" is not one of the prohibited classes of employment." Id.; see also Miss. Atty Gen. Op. to Fisher at *1 (Mar. 5, 2010) ("We have stated in two prior opinions that a county emergency management director, or like position, is not one of the five positions proscribed in the [n]epotism statute."); Miss. Atty. Gen. Op. to Alexander at *2 (Feb. 2, 2004) ("[T]he appointment of the nephew of a member of the City Council to the position of airport director does not violate the nepotism statute."). The AG opined here that a board of supervisors may employ the father of one of the supervisors in the position of economic development director without violating the nepotism statute and that it would not be a violation of the nepotism statute for the county administrator to hire and supervise the father of one of the supervisors in the position of economic development director.
14.	**Sclafini – AG Opinion Issued on October 7, 2025 (OP -)** In this Opinion, the AG noted that the law has recognized the viability of the actions taken by individuals serving in an official capacity even though, as here, the Senate had not yet confirmed appointments. The existence of "de facto officers" who act in an official capacity and whose acts are valid and binding is evidence of the public policy purposes that underlie § 25-1-37. See 43 Am. Jur. Public Officers § 495, at 242 (1942) (stating that "[t]he principle is placed on the high ground of public policy, and for the protection of those having official business to transact, and to prevent a failure of public justice.").
15.	**Robinson – AG Opinion Issued on October 24, 2025 (OP-)** Section 31-5-3 of the Mississippi Code requires "the usual bond with good and sufficient sureties" for municipal public works contracts, and § 31-5-25(1)(b)(iv) prohibits final payment of a municipal public works contract absent the written consent of an existing surety. Since there was no surety here, the City could not pay its contract a final payment owed under the contract even though the work was completed to the satisfaction of the City and the lack of having a performance bond was not discovered until near the end of the project.
16.	**Hines – AG Opinion Issued on October 31, 2025 (OP-)** The AG opined here that if a law enforcement officer wishes to request that a traffic ticket be dismissed after it has been presented to the court clerk, he or she should not contact the judge directly but should

	communicate with the prosecutor, who then has the discretion file a motion to dismiss pursuant to Miss. Code Ann. § 99-15-51. There is no statutory authority for a prosecutor to issue a standing motion to dismiss if an affiant officer requests a dismissal.
17.	**Phelps – AG Opinion Issued on November 12, 2025 (OP -)** The sheriff must approve the use of the uniform, official weapon and vehicle by deputy sheriffs for private security services in off-duty hours. Section 17-25-11 of the Mississippi Code does not require approval by the county board of supervisors.
18.	**Rutland – AG Opinion Issued on November 12, 2025 (OP -)** While municipalities are generally prohibited from donating public funds under Section 66 of the Mississippi Constitution, they may, pursuant to Miss. Code Ann. § 21-17-5(2), grant a donation if "such actions are specifically authorized by another statute or law of the State of Mississippi…." Section 21-19-65 grants municipalities the specific "power to expend monies from the municipal general fund to match any other funds for the purpose of supporting social and community service programs" administered by the state or federal government or by a tax-exempt nonprofit organization. Miss. Code Ann. § 21-19-65 (emphasis added). A City can therefore make an appropriation or donation under this Section if it makes a factual determination that an organization is a "social and community service program . . . of the same type and nature as those outlined in Section 21-19-65" and there are matching funds for the municipal contribution.
19.	**McFarland – AG Opinion Issued on December 4, 2025 (OP-)** Pursuant to Miss. Code Ann. § 41-13-38, the board of trustees of a community hospital, which includes a nursing home established in accordance with §§ 41-13-10 et seq., "may provide financial assistance or provide grants to nonprofit health-care provider groups and other recognized nonprofit entities and charities where it is determined by the board that such action will benefit the health or welfare of the citizens of the service area." According to the AG's Office, counties are equated to nonprofits under § 41-13-10 and, provided that the source of the funds (e.g., community hospitals) make the necessary factual determination regarding allocation of funds benefiting the health or welfare of citizens in their service areas, counties can be the recipients of such monies under this statute. Using the same logic, municipalities can similarly be the recipient of funds under such a scenario pursuant to § 41-13-10.
20.	**Bruni – AG Opinion Issued on December 8, 2025 (OP-)** The Attorney General's Office has consistently opined that public entities are authorized to permit the use of public facilities by private individuals or groups so long as the public entity has adopted a uniform policy that allows such use. Miss. Atty Gen. Op. to Short at *1 (Apr.

	24, 2009). The AG has previously opined that while a municipality is not required to charge a fee when allowing non-municipal individuals or entities to use municipal property, such use must be in accord with a uniform policy enacted by the municipal governing authorities. Also, the municipality must collect from the user any expenses that the municipality is required to expend as a result of the municipal facility being used – e.g., cleaning fees or charges for utilities. Otherwise, such uncompensated use would constitute a donation, which is prohibited by Article 4, Section 95 of the Mississippi Constitution unless explicitly authorized by law. Miss. Atty Gen. Op. to Barton at *1 (Oct. 5, 2020). Therefore, a City has the discretion to allow private individuals or groups to use municipal facilities if it is in accordance with a uniform policy enacted by the municipal governing authorities allowing such use.
21.	**Young– AG Opinion Issued on December 16, 2025 (OP-)** It is lawful for a municipality to accept "a waiver of all salary or compensation" pursuant to Miss. Code Ann. § 25-11-127(6)(a). Pursuant to § 25-11-127(6)(a)(i), a member must annually file such waiver "in the office of the employer and the office of the executive director of the system." There is no requirement that the board make a finding of acceptance of the PERS waiver form.
22.	**Pope– AG Opinion Issued on December 23, 2025 (OP-)** This is another AG opinion discussing Miss. Code Ann. § 21-19-65. Here, the question surrounded whether the City could utilize municipal / public monies to "secure documents required for homeless individuals to apply for housing or a job." Generally, this would be considered an unlawful donation (impermissible use of public monies without specific statutory authority). The AG noted that § 21-19-65 could potentially authorize the proposed use of funds here, as this statute allows expenditure of monies from the municipal general fund to support "social and community service programs," provided that such monies "match any other funds" for this purpose. The AG noted that these funds are to come from "another source" ("[s]uch municipal donation may not constitute the sole source of funds for the program" - See Miss. Atty Gen. Op. to Cook (Sept. 17, 2010)). So, in order to avail itself of the relief provided by § 21-19-65, the city's governing authority must: (1) determine that the city's employee administering this program (a "Homesless Coordinator") "provides a 'social and community service program' as contemplated under Section 21-96-65"; and (2) "there are matching funds for the City's contribution." All of these are factual determinations and must appear in the governing authority's minutes.

23.	**Collins– AG Opinion Issued on December 30, 2025 (OP-)** Unless specifically authorized by statute, a municipality is prohibited from granting any donation, which would include leasing property for nominal consideration. However, multiple statutes allow a municipality to lease public property to a non-profit organization for less than fair market value. See Miss. Code Ann. § 21-7-1(3) (specific to non-profit entities), § 21-37-53 (property not used for governmental purposes), § 57-7-1 (surplus land) § 21-19-44 (economic development organizations; funding). Additionally, though, a municipality must have specific statutory authority to enter a long-term lease (e.g., Miss. Code Ann. § 21-37-53). Whether such a statute is applicable to a particular scenario is subject to a determination made by the municipal governing authorities.
24.	**Slover– AG Opinion Issued on December 30, 2025 (OP-)** The AG noted that a public entity (here a County) has the discretion to allow private use of a public building so long as such use "accord[s] with a uniform policy enacted by the . . . governing authorities." Miss. Atty Gen. Op. to Bruni at *1 (Dec. 8, 2025) (quoting Miss. Atty Gen. Op. to Barton at *1 (Oct. 5, 2020)). However, the public entity "must collect from the user any expenses that [it] is required to expend as a result of the . . . facility being used." Id.