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# Attorney General Opinions

A. F. Summer

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# ATTORNEY GENERAL'S OPINIONS

*The Authority To Issue An Attorney General's Opinion*

The Attorney General of Mississippi is empowered by the law of this state to issue written answers to questions posed by authorized persons. Section 7-5-25, Miss. Code Ann. (1972) sets forth a list of those authorized to request such opinions. In general, the list includes the governor, the legislature, the chancery and circuit court clerks, the secretary of state, the various state departments, state officers and commissioners operating under the laws of this state, the heads and trustees of state institutions, district attorneys, the various county and city officials and their attorneys.

The Attorney General's Opinions function as a protective measure, so that there can be no civil or criminal liability against any person or governmental entity who has properly requested the opinion, setting forth all governing facts on the basis of which the Attorney General's Office has prepared and delivered a legal opinion, and which the requesting party has followed in good faith. This general proposition holds true, unless a court of competent jurisdiction, after a full hearing, shall judicially declare that such opinion is manifestly wrong and without substantial support. No opinion shall be given or considered if said opinion is given after suit is filed or prosecution begun.

*Issuance Of An Attorney General's Opinion**

Attorneys in the Attorney General's Office are assigned to specific areas of law in which they specialize. After an opinion request is received by the Office of the Attorney General, it is assigned to the attorney whose area of law it might concern. He then researches the problem and prepares a draft of the opinion or answer. This draft is then submitted to the Opinion Committee which is composed of nine attorneys in the office, including the Attorney General. The Opinion Committee meets twice weekly, on Tuesday and Thursday. At the meeting of the Committee, the draft is discussed and reviewed. The Committee either suggests changes, requests more information, or approves the draft if it is agreed that the analysis of the law is correct.

Should changes be suggested or more information requested, the Committee sends the draft back to the attorney for revision. Upon correction or addition, the draft is returned to the Committee where it is again processed. If there are no further changes, additions, or corrections suggested, the draft will be given final approval and issued as an official Attorney General's Opinion.

*Prepared by Attorney General's Office

OPINION NO. CR 79-01

*SUBJECT:* FORCE TO BE USED IN ARRESTS. Even though a person may escape arrest, a law enforcement officer still owes that person a duty to exercise reasonable care not to intentionally injure him. Thus, in a pursuit a law enforcement officer must not discharge his firearm in an effort to cause physical injury except to save the officer's own life or to prevent harm to himself.

*DATE RENDERED:* October 5, 1978

*REQUESTED BY:* Mr. L. H. Ramage

*OPINION BY:* A. F. Summer, Attorney General, by Oscar P. Mackey, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General A. F. Summer has received your letter dated September 30, 1978, requesting an opinion from this office and has referred it to the undersigned for research and reply.

To avoid any possible misunderstanding and for future reference, please permit me to quote the text of your inquiry, which is as follows:

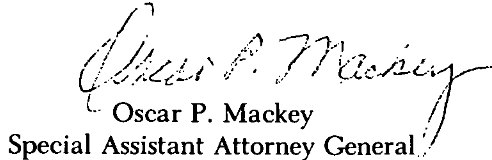
> Recently there has been much controversy regarding resistance to arrest. If I have a warrant for arrest and the subject is placed under arrest but breaks loose, and is ordered to stop and he refuses—what measures then can I use to stop him?
>
> Do I have authority to shoot to stop him or must I just let him go? It seems no one feels safe in demanding him to stop.
>
> If subject is shot then he gets the axe, so I feel the need for reassurance in this controversy.

Based on the decisions of our Supreme Court, it is the opinion of this office that an officer owes a fugitive a duty to exercise reasonable care and precaution not to injure him and he must not intentionally shoot him nor must he discharge a firearm while in pursuit in such a manner as to cause injury in arresting or preventing escape and may exert such physical force as is necessary to effect arrest by overcoming resistance he encounters but cannot take the life of an accused or inflict upon him great bodily harm except to save the officer's own life or to prevent harm to himself. *Holland v. Martin*, 56 So.2d 398 (1952). A custom among police officers is to fire their pistols when pursuing fugitives, even though they are misdemeanants, as a ruse to prevent their further flight, is illegal as a reckless use of firearms. *State v. Cunningham*, 65 So. 115 (1914).

An officer, in attempting to arrest a misdemeanant, may use force necessary to overcome resistance encountered but is not justified in resorting to the use of firearms except to protect himself from reasonably apparent bodily harm or death at misdemeanant's hands. *Holland v. Martin*, 58 So.2d 62 (1952).

Trusting this is adequate to answer your inquiry and with kindest personal regards, I remain

Yours very truly,
A. F. SUMMER, ATTORNEY GENERAL

BY: 
Oscar P. Mackey
Special Assistant Attorney General

OPM:hs

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OPINION NO. SO. 79-O1

*SUBJECT:* AUTHORITY OF COUNTY SCHOOL DISTRICTS TO SIGN NOTES OF INDEBTEDNESS. There is now authority in Mississippi for the trustees of public school districts to sign notes of indebtedness. Such a transaction would be null and void since the legislature has never granted such authority to the public school districts.

*DATE RENDERED:* May 29, 1978

*REQUESTED BY:* Hon. Robert Oswald

*OPINION BY:* A. F. Summer, Attorney General, by George M. Swindoll, Assistant Attorney General

*Full test of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your letter of request dated May 23, 1978, and has assigned it to me for research and reply.

In your letter you state as follows:

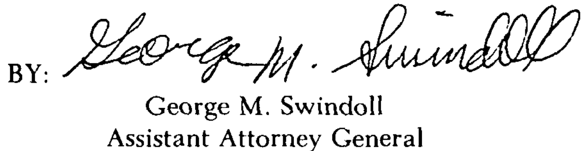
> "The St. Martin High School Band Association has purchased uniforms for the members of the band and has raised $5,000 to apply on the total purchase price of $20,000. They state that years in the past, the school board, as such, had endorsed with them a note guaranteeing payment of the remaining balance when prior purchases of band uniforms were made. They have now requested the school board to endorse a note with them for the balance of $15,000. The uniforms which are purchased will be left with the school and will be utilized by future band members. The Band Association plans to pay off the remaining balance of $15,000 over a period of approximately three years by having fund-raising activities each year for that purpose.
>
> Will you please advise me whether the school board may lawfully sign or endorse such a note on behalf of the Jackson County School District."

There is no legal authority in the State of Mississippi for trustees of public school districts to borrow money or sign notes or certificates of

indebtedness to secure the purchase of any equipment used by the pupils or employees of the school district. If such is done, the school district is not liable for payment since the legislature has not granted authorization therefor. In addition, there is no authority for the trustees to enter into installment purchase contracts beyond the fiscal year in which any supplies or equipment are purchased unless such is by lease purchase agreement duly and lawfully entered into.

With kind regards, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

George M. Swindoll
Assistant Attorney General

GMS: cm

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OPINION NO. CV 79-01

*SUBJECT:* TAX DEEDS. Under the guidelines of Sections 27-45-23 and 27-43-1 et seq., Miss. Code Ann. (1972), a tax purchaser has the right to demand a tax deed from the Chancery Clerk if the time has matured from the date of the tax sale. Just like the prior owner, the tax purchaser has the same responsibility to protect his interest by paying property taxes as they become due. He too may lose the land as a result of his own failure to pay the property taxes, followed by a tax sale and a subsequent maturation of the sale, whereby the new tax purchaser is entitled to tax deed.

*DATE RENDERED:* May 22, 1978

*REQUESTED BY:* Hon. Joe Moore

*OPINION BY:* A. F. Summer, Attorney General, by William James Cole III, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your opinion request and has assigned it to the undersigned for research and reply.

In your letter you state:

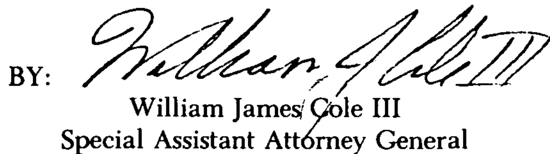
> Section 27-45-23 of the Mississippi Code of 1972 states in part that when the period of redemption has expired, the Chancery Clerk shall, on demand, execute deeds of conveyance to individuals purchasing land at tax sales.
>
> On the 15th day of September, 1975, the County Tax Collector, at the 1975 Tax Sale for Delinquent 1974 Taxes, sold a parcel of land to

> an individual. As required by Section 27-43-1 et seq. I notified the owners of the sale, and they did not redeem the land by the expiration date of the redemption period.
>
> As of this 29th day of April, 1978, I have not executed a deed of conveyance to the individual purchasing the land. Said individual is a non-resident of Mississippi, and he has not made a demand in any form on me to execute the tax deed.
>
> Should I have already executed a tax deed to the purchaser although he has not made any demand whatsoever? If the purchaser must make some form of demand before the Clerk executes a tax deed, then is there a limit to a period in which the purchaser must make such a demand? Should a demand be required to be made before a tax deed is executed, and such a demand not be made within some reasonable period of time, then what should be the final disposition of the land and the tax sale thereof?

The statute does not set a time limit upon which a tax purchaser may make demand for his tax deed from the Chancery Clerk. It is the opinion of this office that a tax purchaser would have a right to a tax deed at any time after title has matured to him by virtue of the tax sale and before title might vest in a subsequent tax purchaser.

In other words, if a tax purchaser has property from a tax sale mature, then he acquires the right to demand a tax deed. However, if after the maturity date, and the subsequent tax years the tax purchaser fails to protect his interest by paying the taxes or purchasing the property and the property sells to someone else, then upon expiration of the period of redemption the subsequent tax purchaser acquires a right to demand a tax deed. At that time of the subsequent maturing sale and issuance of a tax deed, the previous tax purchaser would no longer be entitled to a tax deed since it would vest nothing in him since there had been an intervening tax sale.

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

William James Cole III
Special Assistant Attorney General

WJCIII:lm

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OPINION NO. CV 79-02

*SUBJECT:* COUNTY SUPERVISORS; CONTRACTS WITH U.S. GOVERNMENT: SOVEREIGN IMMUNITY. The federal government is immune from lawsuits in tort, except in instances where the Federal Tort Claims Act shall apply. The state and its subdivisions

are also immune from tort liability, except in proprietary affairs and where immunity has been abrogated by statute. *See Owens v. Jackson Municipal Separate School District*, 264 So. 2d 892 (Miss. 1972).

*DATE RENDERED:* May 17, 1978

*REQUESTED BY:* Hon. William E. Ready

*OPINION BY:* A. F. Summer, Attorney General, by John M. Weston, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Your letter request of May 15, 1978, addressed to Honorable A. F. Summer, Attorney General, has been received and assigned to this writer for research and reply. Your letter states:

> Pursuant to authority and direction so to do, I am writing to inquire as to the legality and propriety of a County Board of Supervisors signing any contract with the U.S. Government or other entity if said contract contains the following or similar language.
>
> > *Release of claims.* The Contractor agrees to hold and save the Government, its officers, agents and employees, harmless from liability of any nature or kind, for or on account of any claims for damages that may arise during the performance of the law enforcement services by the Contractor under this contract.
>
> In addition to the Federal Government, numerous Mississippi agencies include such a paragraph within most of their proposed contracts and this local counsel feels that such provisions are an improper and unauthorized attempt to pierce the County's immunity.
>
> In many cases, the Board of Supervisors find it extremely difficult to forego the signing of contracts containing such provisions because of the large benefits to be derived for the public and the irrevocably firm position of the other party to the proposed contract in including such a provision.

This office has previously responded to a request of a similar nature in an opinion by Honorable S. E. Birdsong, Jr., Special Assistant Attorney General, to General Guy N. Rogers, dated March 14, 1978, involving a review of the terms and conditions of a contract between the U.S. Government and the State of Mississippi as contractor to give funds to operate and maintain state-controlled Army National Guard Annual and Weekend Training Sites.

Answering your specific inquiry, we quote verbatim from the Rogers opinion:

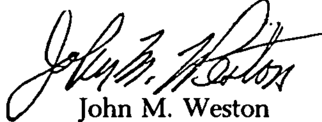
> IV. *Liability And Indemnity.*
>
> The Contractor is required to indemnify and hold harmless the Government and its agents from all claims, damage actions, and judgments in tort cases, save in instances where the Federal Tort Claims Act shall apply.

The State and its subdivisions are immune from suit in tort actions except in matters concerning proprietary affairs and where immunity has been abrogated by Statute; such doctrine will not be abrogated. *Owens v. Jackson Municipal Separate School District, et al*, Miss., 264 So. 2d 892 (1972).

*Owens* is still the case law on this subject. There are no Mississippi Statutes which abrogate this immunity.

With kind regards, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 
John M. Weston
Special Assistant Attorney General

JMW/ped

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OPINION NO. SO 79-02

*SUBJECT:* BEER; DISPOSAL OF CONTRABAND. Section 25-1-51, Miss. Code Ann. (1972), requires that seized contraband is to be turned over to the sheriff for sale. When beer or other contraband is seized in a dry county, the sale may be made in an adjacent county where possession is not illegal.

*DATE RENDERED:* May 10, 1978

*REQUESTED BY:* Hon. Mayo Grubbs

*OPINION BY:* A. F. Summer, Attorney General, by R. Hugo Newcomb, Sr., Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your letter of recent date and assigned it to the undersigned for research and reply.

You ask, "If officers raid a place or search and find beer, is the beer contraband? If the beer is contraband and seized, how should it be disposed of?"

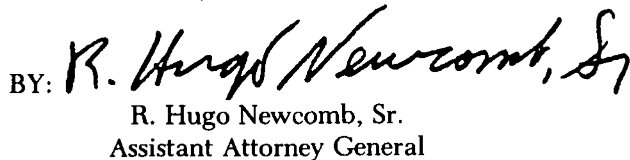
"Contraband" is the possession or transportation of anything prohibited or excluded by law. *Brinegar v. State*, 262 P.2d 464, 477, 970 Okla. Cr. 299. (Implied but not specifically defined in *Reynolds v. State* [1924] 136 Miss. 329, 101 So. 485, as cited according to definition and followed therein in *Cofer v. State* (1928) 118 So. 613.

Code Section 25-1-51 requires that all seized contraband property be turned over to the sheriff for sale and prescribes the procedure to be followed thereunder. Section 67-3-13 prohibits the possession of

such beverage within dry counties. The sale could be made in an adjacent county wherein the possession is not illegal, or, after judicially authorized sale, could be delivered by the sheriff to the purchaser in such adjacent county, or might be legally transported by such purchaser in accordance with Section 67-3-67.

If, in the sound judicial discretion of the judge, the merchantable value of such contraband should be determined to be insufficient to meet the costs of advertising and sale, then it would follow that the judge could order the sheriff to destroy (under necessary safeguards and adequate inventories, receipts and reports) the contraband.

Sincerely,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

R. Hugo Newcomb, Sr.
Assistant Attorney General

RHN:hs

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OPINION NO. SO 79-03

*SUBJECT:* JURISDICTION OF PRISONERS; MEDICAL AND DENTAL SERVICES TO PRISONERS. A circuit court order in and of itself does not make a subject a state prisoner. The subject must be sentenced to the State Department of Corrections. The determination of the jurisdiction in which a prisoner is to be confined will depend upon how the prisoner is classified. For instance, city court can only try misdemeanors. A felony becomes a circuit court case under the jurisdiction of the county. A prisoner accused of a felony should be immediately turned over by the city to be placed under the county's jurisdiction.

Sections 47-1-57, 59, Miss. Code Ann. (1972), set forth the procedures for furnishing medical aid to prisoners. The board of supervisors can authorize payment of reasonable medical bills incurred in the treatment of prisoners.

*DATE RENDERED:* April 14, 1978

*REQUESTED BY:* Hon. James M. Hall

*OPINION BY:* A. F. Summer, Attorney General, by John M. Weston, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Your letter request of April 6, 1978, addressed to Honorable A. F. Summer, Attorney General, has been received and assigned to this writer for research and reply. Your letter states:

> Enclosed are copies of doctor's and dental bills recently filed for payment with the Board of Supervisors. Ruby Evans is incarcerated in the Stone County Jail and was so incarcerated at the time these bills were incurred. This incarceration is pursuant to the enclosed Order of the Circuit Court dated December 20, 1977. Initially, the Board needs to know whether the enclosed Circuit Court Order makes Ruby Evans a state prisoner, rather than a county prisoner, such that her housing and medical expenses would be paid by the state, rather than by the county. If not, please tell us at what point in the criminal process a prisoner, arrested by the city police and charged with a felony and thereafter bound over to the Grand Jury by the City Judge upon preliminary hearing, becomes a county, rather than a city prisoner, and thus is to be maintained at county expense. Secondly, at what point does a county prisoner, upon conviction of a felony, become a prisoner to be maintained at state, rather than county expense.
>
> Thirdly, I have reviewed Sections 47-1-57 & -59 of the Mississippi Code with respect to payment of the enclosed doctor's and dental bills. I find no authority whereby the county can pay Wiggins Clinic anything other than $5.00 per visit, rather than the regular $8.00 office charge per visit, and therefore, request you to inform me whether they could pay the additional $3.00 visit charge and also the apparent $3.00 charge for the injection of February 13, 1978.
>
> Finally, I find no authority for payment of a dental bill and ask whether the county can pay a dentist $5.00 for a visit plus his reasonable and necessary charges incurred in the x-rays and filling work.

From the contents of your letter, we are unable to determine what happened after the attached order was entered or what the present status of the prisoner is.

However, based upon the information furnished, it is the opinion of this office that:

1(a). The enclosed Circuit Court Order does not, in and of itself, make the subject a state prisoner.

1(b). As to the city-county prisoner situation, we enclosed a prior opinion of this writer to Hon. Frank M. Deramus dated April 1, 1975 which answers that question.

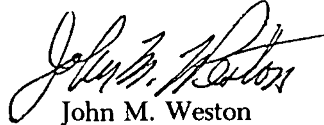
2. A person has to be sentenced to the Department of Corrections before becoming a state prisoner.

3 & 4. Section 47-1-57 and -59 deal respectively with furnishing medical aid to prisoners by calling in a doctor to treat him and hospitalization expenses of prisoners. We note from the doctor bill that the prisoner was not treated in the jail but was carried to the clinic. It is the opinion of this office that dental treatment would fall within the purview of medical attention. If the Board determines in its sound discretion that the facts of the case justified carrying the prisoner to the doctor and dentist and that the charges are not unreasonable, then the Board can authorize payment of the bills in question.

In passing, we would observe that a failure to obtain medical treatment for a prisoner could lay the sheriff and the county wide-open to a civil suit for damages.

Trusting the above has answered your inquiries, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 
John M. Weston
Special Assistant Attorney General

JMW/ped
Enclosure

Attorney General Summer has your letter of request dated February 3, 1975 and has assigned it to me for research and reply.

Your letter states as follows:

> The problem presented is as follows: The County Jail in Winston County, Mississippi, is used both by the city and county authorities. In the past, after a city prisoner was bound over for Grand Jury action the county authorities undertook the feeding of that prisoner. Recently, however, the county authorities refused to feed prisoners after they are bound over by the city authorities for Grand Jury action.
>
> The particular question upon which I would like to have an opinion rendered is whether or not the city is required to feed city prisoners after they are bound over for Grand Jury action or whether this becomes the responsibility of the county authorities at such time. Please prepare an opinion on the question posed in this letter as soon as possible.

Section 47-1-39, Mississippi Code of 1972, Annotated, states in pertinent part:

> The governing authorities of municipalities shall have the power . . . to contract with the board of supervisors, which is empowered in the premises, for the use of the county jail by the municipality; . . .

The cited Section does not state the terms and conditions on which a contract should be made.

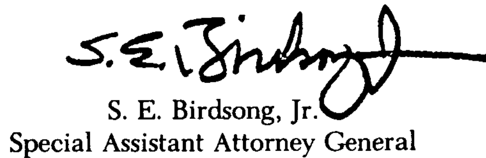
It appears that the answer to what authority sustains the expense of confinement of a prisoner confined in the county jail depends on how the prisoner is classified—whether a municipal or county prisoner.

In my opinion when a prisoner confined in the county jail is bound over for grand jury action by a municipal authority who would be acting in his capacity as an ex-officio justice of the peace, the person

would then become a prisoner of the county and the county governing authorities should sustain the expense of confinement.

Trusting the above answers your inquiry and with all good wishes, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 
S. E. Birdsong, Jr.
Special Assistant Attorney General

SEBjr:va

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OPINION NO. SO 79-04

*SUBJECT:* MUNICIPALITIES; NEPOTISM. Sections 31-7-39, 41, Miss. Code Ann. (1972), provides that municipal construction contracts and repair work can be solicited only when the municipality has given ten days advertising notice. Section 21-39-1, Miss. Code Ann. (1972), provides the guidelines whereupon conflicts of interest in municipal projects are prohibited. Section 25-1-53, Miss. Code Ann. (1972), sets forth the prohibition against nepotism in governmental hiring and appointing. The prohibition extends to those persons related by blood or marriage within the third degree to the person or any member of the board of trustees having the authority to make such appointment, when they would be paid out of public funds.

Section 21-3-15, Miss. Code Ann. (1972), sets forth the duties of the mayor. The regular and special meetings of the board of aldermen are guided by Sections 21-3-19, 21, Miss. Code Ann. (1972).

*DATE RENDERED:* April 12, 1978

*REQUESTED BY:* Mrs. Shirley Ellard

*OPINION BY:* A. F. Summer, Attorney General, by S. E. Birdsong, Jr., Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your letter of April 3, 1978, and has assigned it to me for research and reply.

Your letter mentions several subjects relevant to the conduct of municipal government including municipal contracts, hiring of municipal employees, information about municipal business, fixing salaries, meetings, water rates and municipal audits.

Several sections of the Mississippi Code of 1972 are relevant to these subjects and their applicable provisions are set out below.

Section 31-7-39 provides that municipal construction contracts and real property repair work are let on bids solicited by advertising; the following Section 31-7-41 provides for 10 days' notice in the advertisement. Copies of these are enclosed for your convenience.

The relationship of municipal officers to municipal contracts is specifically set out in Section 21-39-1 of the Code:

> . . . . *Municipal officers and employees not to be interested in contracts.*
>
> It shall be unlawful for any officer or employee of any municipality to enter into or to have or to own any interest or share, individually or as agent or employee of any person or corporation, either directly or indirectly, in any contract made or let by the governing authorities of such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies, or property of any description, or for any other purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefrom or connected therewith. In addition to the penalties prescribed by law, any person violating the provisions of this paragraph shall be removed from the office or employment then held by him, and shall not be eligible to succeed himself.
>
> No officer or employee of any municipality shall be personally interested in the profits of any contract with the municipality. . . . No elective officer of any municipality shall be in the service of any person, firm, or corporation having contractual relations with such municipality during his term of office. A violation of this paragraph shall constitute a misdemeanor and, upon conviction, the person violating same shall be punished by a fine of not more than two hundred fifty dollars and, in addition, shall be removed from office. . . .

Prohibition against nepotism in municipal appointment and hiring are stated in Section 25-1-53:

> . . . . *Nepotism prohibited.*
>
> It shall be unlawful for any person elected, appointed, or selected in any manner whatsoever to any state, county, district, or municipal office, or for any board of trustees of any state institution to appoint or employ, as an officer, clerk, stenographer, deputy, or assistant who is to be paid out of the public funds, any person related by blood or marriage within the third degree, computed by the rule of the civil law, to the person or any member of the board of trustees having the authority to make such appointment, or contract such employment as employer. This section shall not apply to any employee who shall have been in said department or institution prior to the time his or her kinsman, within the third degree, became the head of said department or institution or member of said board of trustees.

The prohibition applies only to the specific types of positions and to persons related by blood or marriage within the third degree computed by civil law. The statute does not apply to elected positions. A wife is within the third degree. The brother of a daughter-in-law is not within the third degree. A son is within the third degree.

The penalty for nepotism is stated in Section 25-1-55:

> Any person violating the provisions of Section 25-1-53 shall forfeit to the State of Mississippi, and shall be liable on his official bond for, an amount equal to the sum of all moneys paid to any person appointed or employed in violation of the provisions aforesaid.

Pittsboro is classed as a Code charter municipality, or mayor-alderman form of municipality. The office of mayor and the office of alderman each have functions as prescribed by statute and decided by case law; the first, being an executive office, and the second being a legislative office.

Together the mayor and aldermen are the governing authorities. In acting, these authorities are governed in the conduct of their duties by the provisions of Section 21-3-15:

> . . . . *Duties of the mayor.*
>
> The mayor shall preside at all meetings of the board of aldermen, and in case there shall be an equal division, he shall give the deciding vote. He shall have the superintending control of all the officers and affairs of the municipality and shall take care that the laws and ordinances are executed. He shall have power to veto, in writing, giving his reasons therefor, any measure passed by the board of aldermen, but a measure vetoed may be adopted notwithstanding, if two-thirds of the aldermen vote therefor.

Acting accordingly, the governing authorities are empowered under the provisions of Section 21-17-5 of the Code and the Mississippi Supreme Court case of *Alexander v. Edwards*, 71 So. 2d 785 (Miss. 1954) to fix and to raise the salaries of municipal officers and employees.

Information concerning municipal affairs may be communicated to the governing authorities by the Mayor:

> § 25-15-7. *Mayor—duty to give information to the governing body.*
>
> The mayor shall from time to time communicate in writing, to the governing body such information and recommend such measures as in his opinion may lead to the improvement of the finances, the police, health, security, ornament, comfort and general prosperity of the municipality.

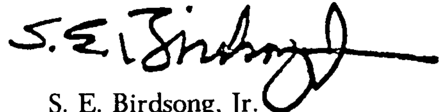
There are no statutes requiring audits of municipalities by the State. However, there is no statutory prohibition against the Pittsboro governing authorities requesting an audit by the State Auditor of Public Accounts.

The regular and special meetings of the board of aldermen are regulated by the provisions of Section 21-3-19 and 21-3-21, copies of which are enclosed for your convenience.

We trust the above will be of assistance to you.

With kind regards, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

S. E. Birdsong, Jr.
Special Assistant Attorney General

SEB,Jr./mg
Enclosures

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OPINION NO. SO 79-05

*SUBJECT:* MUNICIPALITIES; ACQUISITION OF STREETS. A municipality can acquire use in a street by several methods. One method is prescription. Prescription acquisition occurs after the road has been habitually used by the public for a period of ten years. A municipality may also acquire use in a street by grant or dedication and by eminent domain. The municipality does not necessarily obtain title in such instances, but only an easement. The acquisition of "title in a street" by a municipality is a judgmental determination by the board of aldermen and the courts.

*DATE RENDERED:* April 10, 1978

*REQUESTED BY:* Hon. Cason Rankin

*OPINION BY:* A. F. Summer, Attorney General, by Richard M. Allen, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your letter dated March 27, 1978 and assigned it to me for research and reply, your letter stating:

> Does a municipality gain any title in a street that has never been dedicated by virtue of public use?

"*The* case" which I find on the subject is that of *Gulf and S. I. R. Co. v. Atkinson*, 117 Miss. 118, 77 So. 954 (1918) wherein the court states:

> A highway is a road or way upon which all persons have the right to travel at pleasure. It is the right of all persons to travel upon a road,

> and not merely their travelling upon it, that makes it a public road or highway. This right may be acquired in various ways, one of which is by prescription; but in order for it to be so acquired, the road must be habitually used by the public in general for a period of ten years; and such user must be accompanied by evidence, other then mere travel thereon of a claim by the public of the right so to do. . . .

Other ways a municipality may acquire a street are by grant (or dedication) or by eminent domain. I would add that the municipality does not get *title* to the street by the above methods, but only the "easement" to use as used.

For a recent general discussion, see *Medina v. State Ex Rel. Summer*, 354 So. 2d 779 (Miss. 1977).

As to whether your municipality has gained "title in a street" in this particular instance is a judgmental decision to be made by the Board, based on *all* the facts as reflected by the above cited cases, relative to which a final determination may only be made by a court of competent jurisdiction.

Hoping the above will be of some help and thanking you for giving this office this opportunity to be of service to you, I remain

Yours very truly,
A. F. SUMMER, ATTORNEY GENERAL

BY:

Richard M. Allen
Special Assistant Attorney General

RMA/ped

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OPINION NO. SO 79-06

*SUBJECT:* OIL, GAS, AND MINERAL LEASES ON SIXTEENTH SECTION LAND. Section 29-3-99, Miss. Code Ann. (1972), was recently amended by Senate Bill 2430 to allow the respective county boards of education to lease sixteenth section lands for the exploration of oil, gas, and other minerals. Prior to the amendment, this power was held by the respective county boards of supervisors. The amendment empowers the board of education to oversee and supervise bidding, lease terms, drilling, royalties, and production of the lease.

*DATE RENDERED:* April 3, 1978

*REQUESTED BY:* Mr. E. L. Robbins

*OPINION BY:* A. F. Summer, Attorney General, by William James Cole III, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your opinion request and has assigned it to the undersigned for research and reply.

In your letter you state:

> Enclosed is copies of two orders adopted by the Pearl River County Board of Supervisors on May 8, 1970 and January 11, 1974.
>
> We would like you to render a legal opinion on whether or not a 16th Section lease subleased by lessee, after the above mentioned orders and without the approval of the Board of Supervisors, is legal.

The particular parts of the two orders in question are stated as follows:

> That any lease on Sixteenth Section Lands in Pearl River County, Mississippi, may not be, other than those permitted by law to be leased for a gross rental, transferred or assigned by the Lessee without the written consent of the Board of Supervisors of Pearl River County.
>
> . . . that no sixteenth section lease may be transferred, assigned or subleased without the approval of the Board of Supervisors of Pearl River County and if any lease is transferred, assigned or subleased without the approval of the Board of Supervisors of Pearl River County then that lease is automatically cancelled and void.

As you know, the Legislature has adopted and sent to the Governor Senate Bill 2430 which materially amends the various 16th Section Land statutes. The legislation, upon signature by the Governor is to take effect July 1, 1978.

This bill contains provisions which are directly related to the question you present.

Section 31, Page 32, of the bill states:

> Sub-leasing or assignment of any lease of school trust lands executed after July 1, 1978, shall only be allowed when provided in the lease contract or at the discretion of the board of education; provided that permission to sublease or assign shall not be arbitrarily withheld.

Under the provisions of this act subleasing will only be permitted when so allowed by the terms of the lease or upon approval of the Board of Education within its discretion.

We would note that this applies only to leases executed after July 1, 1978. Leases already in existence cannot be altered by the Board of Supervisors or Board of Education.

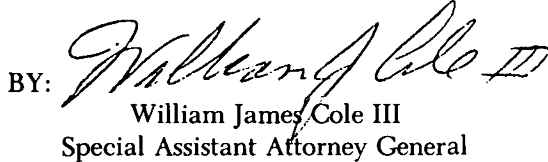
A lease agreement is a contract and under authority of law the Board can determine the terms and conditions of the lease contract in accordance with state law.

After a contract is made, the terms and conditions of the contract cannot be unilaterally altered so as to destroy or limit a right that has been vested under the contract.

Once a lease has been executed, it continues on the terms and conditions in existence at the time of execution and upon which it was executed.

I trust that this information will be of assistance to you.

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

William James Cole III
Special Assistant Attorney General

WJCIII:lm

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OPINION NO. SO 79-07

*SUBJECT:* SUPERVISORS; HOSPITALIZATION INSURANCE; SHERIFF'S INSURANCE. Section 25-25-101, Miss. Code Ann. (1972), allows the Board of Supervisors of each county to determine which types of group coverage they wish to secure. The privilege of discretion, however, is subject to limitations. The cost of all group coverages contributed by the governing board cannot exceed one hundred percent of the coverage for employees only. Thus, the employee must pay for his dependents' coverage himself. Also, all group insurance plans must be submitted to the Commission of Budget and Accounting for approval.

Under Section 19-25-13, Miss. Code Ann. (1972), a county board can purchase a Special Risk Accident Policy for the Sheriff if the board determines that the policy is necessary, proper, and reasonable.

*DATE RENDERED:* March 8, 1978

*REQUESTED BY:* Mr. Carley R. Parker

*OPINION BY:* A. F. Summer, Attorney General, by John M. Weston, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Your letter request of February 23, 1978, addressed to Honorable A. F. Summer, Attorney General, has been received and assigned to this writer for research and reply. Your letter states:

> The authority given under Code Section 25-15-101 and 25-15-103, to the Board of Supervisors to provide insurance for employees and dependents, leaves some question as to what insurance is included. Specifically these are:
>
> 1. Where group hospitalization is provided with major medical, such as Blue Cross/Blue Shield, may the county also provide

group coverage for accidents and/or for cancer coverage where either all, or part of the benefits are payable to the insured on a per week or per month basis.

2. Is the county allowed to purchase a Special Risk Accident Policy for Sheriff and Deputies under the above, or any other section of the Code, and if so, what are the limits for which the county may pay.

For reference, § 25-15-101, Code of 1972, provides in part:

> The governing board of any county . . . are hereby authorized and empowered in their discretion, to negotiate for and secure for all or specified groups of employees and their dependents of such county . . . a policy or policies of group insurance covering the life, health, accident and hospitalization, as well as a group contract or contracts covering hospital and/or medical and/or surgical services or benefits (including surgical costs, so-called 'hospital extras,' medical expenses, allied coverages, and major medical costs) of such of its employees and their dependents as may desire such insurance and other coverage under such service or benefit contracts, . . . . In no instances shall the amount of contributions by any governing board or head of a political subdivision . . . exceed an average of one hundred percent (100%) of the cost of all such group coverages for employees.

and the first paragraph of § 25-15-103 reads:

> The maximum amount of group insurance or other coverage used in determining employer's limitation of one hundred percent (100%) of such costs shall be determined by regulations promulgated by the governing board or head of any political subdivision, school district, junior college district, institution, department or agency named in section 25-15-101 and 25-15-103, but the life insurance for each employee shall not be in excess of twenty thousand dollars ($20,000.000) or the amount of the employee's annual wage to the next highest one thousand dollars ($1,000.00), whichever may be less but in no case less than two thousand dollars ($2,000.00), with a like amount for accidental death; accident and health insurance, providing benefits not exceeding forty percent (40%) of the employee's income and in no case in excess of sixty dollars ($60.00) per week; hospitalization benefits for room and board not exceeding the average semi-private cost per day; and the other coverages authorized hereinabove.

In response to your first question, it is the opinion of this office that the broad language of § 25-15-101 above-quoted leaves it up to the Board to determine, in its discretion, as to just exactly what types of coverage they wish to secure and provide for the employees and their dependents, subject to the limitations of § 25-15-103, supra, and the further limitation that the amount of such coverage shall be that which is considered reasonable as determined by the Commission of Budget and Accounting.

Additionally, as provided in § 25-15-101, supra, the cost of all group coverages for *employees* can be paid one hundred percent

(100%) by the county but the employee must pay for *dependents* coverage.

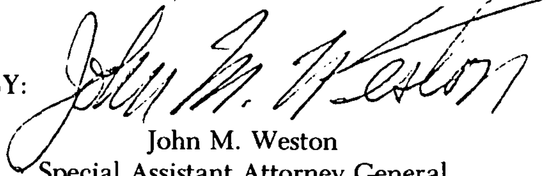
Concerning your second inquiry, our opinion is that § 19-25-13 is applicable. Said section provides in part:

> The sheriff shall, at the July meeting of the board of supervisors, submit a budget of estimated expenses of his office for the ensuing fiscal year beginning October 1. . . . The board shall examine this proposed budget and determine the amount to be expended by the sheriff in the performance of his duties for the fiscal year and may increase or reduce said amount as it deems necessary and proper.
>
> The budget shall include amounts . . . for insurance providing protection for the sheriff and his deputies in case of disability, death, and other similar coverage, . . . . In addition, the budget shall include amounts for the payment of premiums on . . . and hospitalization insurance as provided for in section 25-15-101 and 25-15-103, Mississippi Code of 1972.

Consequently, if the Sheriff requests in his submitted budget a Special Risk Accident Policy for himself and his deputies and the Board, in its discretion, determines the coverage and amount thereof to be necessary, proper and reasonable, the County can purchase such insurance.

Trusting this is responsive to your letter, I am

Sincerely,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

John M. Weston
Special Assistant Attorney General

JMW/ped

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OPINION NO. SO 79-08

*SUBJECT:* SUPERVISORS; AUTHORITY; ATTORNEYS FEES; LIABILITIES FOR JUDGMENT AGAINST OFFICIALS. Under Section 19-3-47, Miss. Code Ann. (1972), if the county is interested in the litigation, the board is authorized to pay such counsel a reasonable fee for service in a civil suit. This would include a county officer who is being sued in federal court for actions allegedly committed in the official performance of his duties.

County law enforcement officials are required to be bonded. In the event an official's bond is discontinued by the bonding company, it is the responsibility of that official to secure another bond. If he is unable to do so, he must submit two letters of refusal from the bond-

ing companies and in turn, find two or more personal sureties as set forth in Section 25-1-35, Miss. Code Ann. (1972).

Although a claimant may succeed in obtaining a judgment against a county official, if the judgment exceeds the bond of the official, the county would not be liable for any of the judgment. This is due to the doctrine of sovereign immunity. However, the doctrine of sovereign immunity does have its exceptions when the county is a party defendant in federal court. *See Monell v. City of New York*, ____ U.S. ____, 98 S. Ct. 2018 (1978); *County of Lincoln v. Luning*, 133 U.S. 529 (1890).

*DATE RENDERED:* March 8, 1978

*REQUESTED BY:* Hon. Gilford F. Dabbs, III

*OPINION BY:* A. F. Summer, Attorney General, by John M. Weston, Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Your letter request of February 27, 1978, addressed to Honorable A. F. Summer, Attorney General, has been received and assigned to this writer for research and reply. Your letter states:

> The Board of Supervisors of Clarke County have several questions concerning attorney fees, expenses and liability in regard to lawsuits filed against the Sheriff and/or his Deputies of Clarke County. Therefore, on behalf of the Board of Supervisors of Clarke County, Mississippi, I would like your opinion on the following:
>
> 1. If the Sheriff of Clarke County and/or a Deputy Sheriff of Clarke County were sued in a civil rights action in Federal Court for actions they allegedly committed in their official performance of duties as Sheriff or Deputy Sheriff during the term of office, may the Board pay all attorney fees and expenses incurred in the defense of this suit?
>
> 2. If at any time should the bonding company of an official discontinue its bond, whose responsibility is it to see that the official is bonded?
>
> 3. In any suit filed against an official, the possibility exists that if the claimants were successful and obtained a judgment which would exceed the bonds of the official, then would the county be liable for any part of this judgment or could the county, in its discretion, pay any or all of said judgment?

In answer to your first question, we enclose a copy of an opinion from Mrs. Mary Libby Payne, Assistant Attorney General, to Honorable Pat M. Barrett, Attorney for the Lexington County Board of Supervisors.

The enclosed copy interprets amended § 19-3-47(1)(b), Mississippi Code of 1972, (formerly § 2958, Mississippi Code of 1942) and I believe it will satisfactorily respond to your question.

As for your second inquiry, if the bonding company should discontinue its bond on a county official required to have bond, it would be the responsibility of that official to secure another one, as it is a necessary qualification for holding his office. In the event the official was unable to secure such bond from a surety company authorized to do business in this State, he may make his official bond as provided under the last paragraph of § 25-1-35, Mississippi Code of 1972, which reads:

> Any such officer or deputy may make affidavit, such affidavit to include two letters of refusal of such bond by bonding companies licensed to do business in the State of Mississippi, that he has made a diligent effort to obtain the surety bond required by this section and was unable to do so. In such event, such officer or deputy may make his official bond with two or more personal sureties, qualified as provided by law.

In response to your third question, it is the opinion of this office that the county would not be liable. The doctrine of sovereign immunity is held by the Mississippi Supreme Court to extend to counties. See headnote to *Owens v. Jackson Municipal Separate School District*, 264 So. 2d 892 (1972) and also *State v. Sanders*, 203 M. at 490, 35 So. 2d at 532-533. There the Court stated:

> Thus it will be found, . . . that nearly all the cases, wherein the rule of immunity from suit against the state, or a subdivision thereof, has been applied and upheld, are those which demanded a money judgment, and wherein the discharge of the judgment, if obtained, would require an appropriation or an expenditure therefrom, which being legislative in its character is a province exclusively of the political departments of the state.

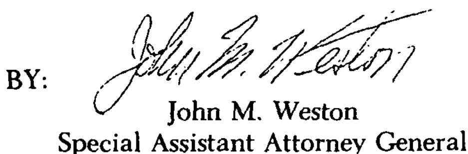
Additionally, sovereign immunity extends only to governmental agencies and would not extend to the employee for his personal negligence.

Furthermore, if the county paid any part of such judgment, it would be in violation of § 66 of the Mississippi Constitution of 1890.

Under certain particular circumstances, it should be noted that a county is amenable to suit in Federal Court when the county is properly named as a party. See *County of Lincoln v. Luning*, 133 U.S. 529, 33 L. Ed. 766, 10 S.Ct. 363 (1890).

With kind personal regards, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

John M. Weston
Special Assistant Attorney General

JMW/ped
Enclosure

Attorney General Summer has received your letter of request of January 22, 1974, and has assigned it to the undersigned for research and reply. In that letter you state:

> A civil suit has been filed against the Sheriff of Holmes County, three of his deputies and the Holmes County Coroner, all in their respective official capacities. This suit arose from an incident in the Holmes County Jail.
>
> The Board of Supervisors feels that the County definitely has an interest in this case as it will directly affect the law enforcement generally in the County and the Board wishes to know if they may employ counsel to assist these officers in the defense of this case.

In past opinions to John W. Dulaney, Jr., dated October 14, 1971, and to Tom S. Lee, dated April 19, 1973, you will note that we have said if the Board of Supervisors determines that the County "is interested" in the litigation, that the Board is authorized to pay such counsel a reasonable fee for service in the civil suit. Copies of those two opinions are attached to this one for your information.

It is our continuing pleasure to serve you in your official capacity. Please do not hesitate to call upon us in the future as the need should require.

Yours most sincerely,
A. F. SUMMER, ATTORNEY GENERAL

BY:

(Mrs.) Mary Libby Payne
Assistant Attorney General

MLP:lm
enclosures: Opinion to Tom S. Lee, April 19, 1973
Opinion to John W. Dulaney, Jr., October 14, 1971

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OPINION NO. SO 79-09

*SUBJECT:* CONSTABLES; JURISDICTION. A constable has jurisdiction only within the limits of his district except in special situations. *See* Sections 99-3-13, 15, Miss. Code Ann. (1972). Where a district does not have a qualified constable to perform said duties, then process should be sent to the sheriff's office in accordance with Section 11-9-107, Miss. Code Ann. (1972). Section 11-9-109, Miss. Code Ann. (1972), allows the justice court judge of the respective district to appoint someone in cases of emergency to execute process if the constable or sheriff's office cannot be used. Such condition is on an individual case basis only, not a blanket assignment.

*DATE RENDERED:* March 1, 1978

*REQUESTED BY:* Hon. Flynn G. Wells

*OPINION BY:* A. F. Summer, Attorney General, by R. Hugo Newcomb, Sr., Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer has received your letter of request dated February 22, 1978, and assigned it to the undersigned for research and reply.

You refer to a situation wherein a constable is unable to perform his duties by reason of illness. You also state that, "At the moment, a reliable and trustworthy constable from an adjoining district has been appointed to serve papers in said constable's absence," but that the constable of your district will apparently be unqualified for some time. You asked as to the proper procedure in such a case.

Before answering your question, it is necessary to correct a misapplication of the law as described in paragraph 2 of your letter.

An elected constable has jurisdiction only within the limits of his district. Outside the boundaries of his district, except for certain special situations, such as hot pursuit, he is not a constable and his powers and duties are no more than any other citizen.

If you do not have a constable of your district duly qualified to act, or for other good reason he cannot or should not execute certain process (such as service of process on himself, or a close relative, or someone or some business with whom he has a close interest and therefore possibility of conflict of interest), then the process should be sent to the sheriff in accordance with provisions of Section 11-9-107, Mississippi Code of 1972. The record should show and the notification to the sheriff should indicate this as the reason why such process is being sent to the sheriff for his service.

In addition, in case of emergency, Section 11-9-101 would apply wherein, if the constable or the sheriff or a deputy sheriff cannot be had in time, you may appoint some reputable person to execute any process, your being liable on your bond for all damage which may result to a party to the cause or other person from his appointment of an insolvent or incompetent person. Under such conditions, the assignment must be made on an individual process basis (not blanket assignment of all process for a period of time), and the records should show why a regularly qualified constable or a sheriff and a deputy sheriff is not available, and there is an emergency condition.

Sincerely,
A. F. SUMMER, ATTORNEY GENERAL

BY:

R. Hugo Newcomb, Sr.
Assistant Attorney General

RHN:hs

OPINION NO. SO 79-10

*SUBJECT:* MUNICIPALITY AND COUNTY MAINTENANCE OF STREETS. Sections 65-7-81 through 85, Miss. Code Ann. (1972) provide the statutory authority for county maintenance of municipal streets. Section 65-7-81 pertains to the board's rights once a highway has been taken over by the state highway department. Section 65-7-83 pertains to the board's right to assume concurrent jurisdiction with a municipality over certain streets. Section 65-7-85 pertains to the right of the board of supervisors to expend monies on county roads located within municipalities.

*DATE RENDERED:* February 17, 1978

*REQUESTED BY:* Hon. Sam S. Bass

*OPINION BY:* A. F. Summer, Attorney General, by S. E. Birdsong, Jr., Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer is in receipt of your letter of February 10, 1978, and has assigned it to me for research and reply.

Your letter stated:

> This is to request an opinion as to the authority of the Leflore County Board of Supervisors, or any one of the Supervisors, to act on a request from the Greenwood City Council or the Commissioner of the Street Department to furnish materials and labor at no cost to the City, inside the corporate limits of the City, to repair streets and alleys.
>
> Please note, if this authority exists, for which streets: state highways, major thoroughfares, feeder arteries, any dedicated streets and alleys, or undedicated streets and alleys.

Statutory authority for county maintenance of municipal streets is found in Chapter 7 of Title 65 of the Mississippi Code of 1972, Annotated.

Provisions of each section within this chapter pertaining to your inquiry are set out below:

> § 65-7-81. *State highways within or without municipalities.*
>
> The board of supervisors of any county in the state may construct, reconstruct, maintain, or contribute to the construction, reconstruction, and maintenance of any state highway declared by legislative act expressly to be such highway or which, in accordance with law, has been taken over by the state highway department for construction, reconstruction, or maintenance; and this section shall apply to such state highway within as well as without the limits of any municipality and, when within such limits, with or without the consent of the municipal authorities. . . .
>
> § 65-7-83. *Assumption by counties of concurrent jurisdiction over municipal streets for maintenance purposes.*
>
> The board of supervisors of any county may, by consent or agreement with the proper governing authorities of any municipality within

such county, assume concurrent jurisdiction over any street in such municipality for maintenance purposes where such street is a continuation of or intersects a local or county road already under the jurisdiction of such board of supervisors.

Such consent or agreement to the assumption of said concurrent jurisdiction shall be entered into only by the entering of an order on the minutes of both of said boards. . . .

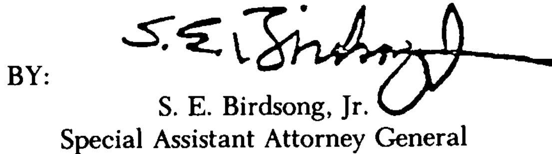
§ 65-7-85. *Construction and maintenace by county of streets within municipalities.*

The several counties of the state, acting by and through the board of supervisors thereof, are hereby invested, within their discretion, with full authority to expend monies and to do, within any municipalities of the county all acts regarding construction and maintenance of roads and streets that they may do within the county outside the limits of said municipalities.

The authority granted under this section shall be construed as additional and cumulative to all existing authority for the expenditure of county funds within municipalities.

Trusting that the above will be of assistance to you, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL



BY:

S. E. Birdsong, Jr.
Special Assistant Attorney General

SEB,Jr./mg

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OPINION NO. SO 79-11

*SUBJECT:* MUNICIPAL LIABILITY INSURANCE. Section 21-15-6, Miss. Code Ann. (1972) allows the governing authorities of municipalities to purchase general liability insurance. Section 21-15-6 further provides that in the event a judgment is rendered against a municipality, a judgment creditor shall have recourse only to the proceeds of such liability insurance coverage. The existence of such liability insurance may not be suggested at any time during the course of the trial.

*DATE RENDERED:* February 17, 1978

*REQUESTED BY:* Hon. Kent F. Hudson

*OPINION BY:* A. F. Summer, Attorney General, by S. E. Birdsong, Jr., Special Assistant Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

Attorney General Summer is in receipt of your letter of February 9, 1978, and has assigned it to me for research and reply.

Your letter states:

> The City officials of Purvis are concerned about purchasing liability insurance for the City. I would like to get your opinion as to whether or not the City can purchase liability insurance, what types of liability insurance are available to the City and if liability insurance is purchasable, is it necessary to advertise each year before taking a policy.

Authority for a municipal purchase of general liability insurance is found in Section 21-15-6 of the Mississippi Code of 1972, Annotated:

> . . . . *Purchase of general liability insurance coverage; effect on municipal liability.*
>
> Municipalities are hereby authorized, in the discretion of the governing authorities, to purchase general liability insurance coverage, including errors and omissions insurance for municipal officials and municipal employees.
>
> Nothing contained herein shall be considered as a waiver of immunity in whole or in part as to any governmental function attempted or undertaken by the municipality except that where the municipality has liability insurance coverage as to any action brought against it, then such action may be maintained against such municipality, but any recovery in such action shall be limited solely to the proceeds of any such liability insurance coverage and a judgment creditor shall have recourse only to the proceeds of such liability insurance coverage. Any judgment rendered in excess of the limits of such insurance shall, on motion of the court, be reduced as to the municipality to the amount of said liability insurance coverage but not as to any joint tort-feasor, if any. No attempt shall be made in the trial of any case to suggest the existence of any insurance which covers in whole or in part any judgment that may be rendered against any municipality.

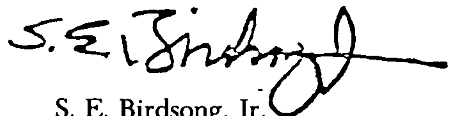
As to what types of liability insurance are available, we suggest consulting a reputable general insurance agent.

We are not aware of any statutory requirement that a municipality must advertise for bids for the purchase of any type of insurance.

Therefore, it is the opinion of this office that the governing authorities of Purvis are not legally required to advertise for bids and may negotiate for the purchase of liability insurance.

Trusting that the above will be of assistance to you, I am

Very truly yours,
A. F. SUMMER, ATTORNEY GENERAL

BY: 

S. E. Birdsong, Jr.
Special Assistant Attorney General

SEB,Jr./mg

OPINION NO. SO 79-12

*SUBJECT:* PURCHASE OF LICENSE TAGS. Under Section 27-19-31, Miss. Code Ann. (Cum. Supp. 1978), the expiration month for any vehicle acquired after November 1, 1976, shall be the month prior to the registration month. This change does not alter the past practice of purchasing license tags during October of each year if the vehicle was acquired prior to November 1, 1976.

*DATE RENDERED:* February 7, 1978

*REQUESTED BY:* Mr. Chester H. Geiger

*OPINION BY:* A. F. Summer, Attorney General

*Full text of Attorney General's Opinion is reprinted as follows:

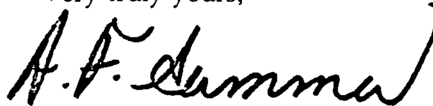
I am in receipt of your letter of January 31, 1978, wherein you inquire about the law concerning expiration dates for Mississippi license tags.

Accordingly, please be advised that prior to 1977 Mississippi law provided that license plates expired on October 31 of each year. New tags were required to be purchased during the month of October with the new tax year beginning on the first day of November. This rule is presently in effect for any vehicle that was owned on November 1, 1976. However, in the 1977 Session of the Mississippi State Legislature a law was enacted which in effect provides that the expiration month for any vehicle acquired after November 1, 1976, shall be the month prior to the registration month. Thus, if you bought a vehicle in December, 1976, then the expiration month would have been November, 1977. For your convenience, I am attaching a copy of the statute as it was in 1976 and also a copy of the statute as amended in 1977.

On a personal note, I sincerely appreciate your comments concerning the Rotary Club and agree with you wholeheartedly. I hope that I have been of some service to a fellow Rotarian and look forward to seeing you upon your next visit home.

With personal regards, I am

Very truly yours,



A. F. SUMMER
ATTORNEY GENERAL

AFS:lm
enclosure