

STATE OF MISSISSIPPI



JIM HOOD  
ATTORNEY GENERAL

OPINIONS  
DIVISION

September 6, 2013

Mr. Harry Sanders, President  
Lowndes County Board of Supervisors  
Post Office Box 1364  
Columbus, Mississippi 39703

Re: Reimbursement of unlawful travel expense

Dear Mr. Sanders:

**OFFICIAL OPINION**  
Attorney General Jim Hood is in receipt of your opinion request and has assigned it to me for research and reply.

### Background

The Mississippi Board of Supervisors' statewide meeting was held in Biloxi, Mississippi in June 2013. There was a late afternoon reception on June 17, 2013. Registration was June 18, 2013 and the meetings began on June 18, 2013. A Supervisor submitted a travel request to the County Administrator for June 16 through June 18, which was placed on the docket and approved by the Board of Supervisors. The County Administrator requested that the Supervisor reimburse the County for the hotel room and meals for June 16 in the amount of \$199.00. The Supervisor refused, stating he met and networked with other supervisors on June 16 and he considered this county business. At the July 31, 2013 board meeting, a motion passed requesting that the Supervisor reimburse the County \$199.00.

### Question Presented

May the Board of Supervisors deduct the amount stated from a supervisor's pay or from future mileage reimbursement due the supervisor?

### Response

The County is authorized to submit the debt of the Supervisor to the fiscal officer of the County for collection under Section 7-7-43.

### Research and Legal Analysis

Section 100 of the Mississippi Constitution addresses obligations owed to the State and provides:

No obligation or liability of any person, association, or corporation held or owned by this state, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the legislature, nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury; nor shall such liability or obligation be exchanged or transferred except upon payment of its face value; but this shall not be construed to prevent the legislature from providing by general law for the compromise of doubtful claims.

The Mississippi Supreme Court has interpreted this section to be applicable to liquidated amounts due to governmental entities. MS AG Op., Garrett (May 11, 2012) (citing *Jackson Electric Ry. & Power Co. v. Adams* 79 Miss. 408, 30 So. 694 (Miss. 1901); *Eastman, Gardiner & Co. v. Adams* 101 Miss. 460, 58 So. 221 (Miss. 1912)). It is our opinion that Section 100 is likewise applicable to the County. The County must make the determination as to whether its claims are liquidated or unliquidated. Unliquidated claims, like certain other obligations, liabilities and doubtful claims described in Section 100, do not fall within the Section's purview.

Miss. Code Ann., Section 7-7-43 provides:

(1) The State Fiscal Officer, any chancery or city clerk, or the fiscal officer of any county or separate school district, institution of higher learning, state college, university or state community college, shall not issue any warrant upon any allowance made to, or claim in favor of, any person, his agent, or assignee who shall be indebted to the state, or against whom there shall be any balance appearing in favor of the state; but such officer shall allow such debtor a credit on his account for such allowance or claim.

We have previously opined that Section 7-7-43 is applicable to the withholding of public employees' salaries and does not require the sum due to be reduced to judgment prior to submitting notice of the debt to the State Fiscal Officer. MS AG Op., Garrett (May 11, 2012) (citing MS AG Op., Jones (Nov. 5, 1999)).

It is the opinion of this office that Section 7-7-43 of the Mississippi Code prohibits the County from issuing a warrant to a County Supervisor, who is indebted to the County, and allows the Supervisor/debtor a credit on the debt. This prohibition, of course, presupposes the existence of a lawful debt to the County.

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### Conclusion

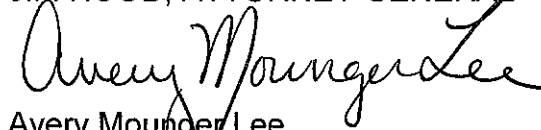
It is the opinion of this office that the Board of Supervisors is authorized to submit a portion of the debt to the fiscal officer of the County for collection under Section 7-7-43.

If this office may be of any further assistance to you, please let us know.

Sincerely,

JIM HOOD, ATTORNEY GENERAL

By:



Avery Moulder Lee  
Special Assistant Attorney General

OFFICIAL OPINION