

Department of Engineering/Road Management
Dan Gaillet, P.E., County Engineer/ Road Manager

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MEMORANDUM

October 28, 2016

TO: Sheila Jones, Supervisor, District I
Trey Baxter, Supervisor, District II
Gerald Steen, Supervisor, District III
David Bishop, Supervisor, District IV
Paul Griffin, Supervisor, District V

FROM: Dan Gaillet, P.E.
County Engineer/Road Manager *DG*

RE: Authority of County to Provide Bottle Water/Liquids to Employees Exposed
To Heat

On September 1, 2016, the Attorney General's Office determined that the County may provide bottled water and sports drinks to employees where their job duties and extreme working conditions require rehydration.

Therefore, it is requested that the Board authorize the expenditure of funds for bottled water and sports drinks for employees working in extreme conditions.

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WESTLAW Mississippi Attorney General Opinions

Anthony E. Nowak, Esquire

Office of the Attorney General
September 16, 2016

2016 WL 6122486 (Miss.A.G.)

Office of the Attorney General

State of Mississippi

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Opinion No.

2016

-00383

*1 September 16, 2016

Re: Authority of County to Provide Bottled Water/liquids to Employees Exposed to Heat

*1 Anthony E. Nowak, Esquire

*1 DeSoto County Board of Supervisors

*1 Post Office Box 346

*1 Hernando, Mississippi 38632

Dear Mr. Nowak :

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

Facts

*1 The Sheriff's Deputies, employees of the DeSoto County Road Department and other County employees who work outside in the elements often have no immediate access to hydration. These workers often work for hours in the extreme Mississippi heat and humidity, and the County has concerns for their health and safety in doing so without proper hydration.

*1 Your office has previously opined that a municipality is permitted to provide bottled water, as opposed to tap water, to its fire and rescue employees, provided that bottled water is the most efficient and cost effective way to provide water to such employees. MS AG Op., Turnage (August 21, 2015). I would assume that if the County finds that bottled water is the most efficient and cost effective way to provide water to Sheriff's Deputies, employees of the DeSoto County Road Department and other County employees who work outside in the elements, it may provide bottled water to such employees. I wish to confirm whether this assumption is correct.

*1 Your office has previously stated that it found no authority for a public entity to purchase Gatorade or similar drink for private consumption. MS AG OP., Wetzel (September 29, 1988). However, since that time numerous studies have been conducted regarding heat-related illnesses and the prevention of same. The medical community has long recognized that prolonged or intense exposure to hot temperatures can cause heat-related illnesses such as heat exhaustion, heat cramps, heat stroke, and heat rash and that drinking plenty of fluids during outdoor activities, especially on hot days, helps prevent these heat-related illnesses. It is commonly accepted that a combination of water and sports drinks which also provide electrolytes and other essentials, such as sodium and potassium, provide the best protection from heat-related illnesses. The County wishes to reduce the potential for heat-related illnesses to its employees as well as alleviate Workers' Compensation claims, sick days, and the like resulting from employees suffering from heat-related illnesses.

Issue Presented

*1 Can DeSoto County provide bottled water, sports drinks in powder form, or bottled sports drinks to Sheriff's Deputies, employees of the DeSoto County Road Department and other County employees who work outside in the elements?

Response

*1 Yes. If the board of supervisors makes a finding on its minutes that the rehydration of these employees is necessary due to their job duties and extreme working conditions, the county may provide bottled water, sports drinks in powder form to mix with water, and bottled sports drinks to these employees while they are performing their duties under these conditions.¹

*2 To the extent that prior opinions of this office, including MS AG Op., Wetzel (September 29, 1988), conflict with this opinion, such prior opinions are hereby modified accordingly. However, it remains the opinion of this office that counties may not lawfully expend public funds for the purchase of beverages for all officers and employees on a daily basis. MS AG Op., Mabus (March 4, 1985)(*citing* MS AG Op., Hall (January 27, 1984) and MS AG Op., Young (November 16, 1984)).

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

Sincerely,

*2 Jim Hood

*2 Attorney General

*2 By: Avery Mounger Lee

*2 Special Assistant Attorney General

Footnotes

- 1 Sports drinks generally consist of those beverages which rehydrate, boost energy, and replenish electrolytes due to sweating.
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