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Via U.S. Mail and Email

June 19, 2018

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Ms. Rachel Rice
Project Manager
Georgia Superior Court Clerk's Cooperative Authority
Suite 100
1875 Century Blvd
Atlanta, Georgia 30345

Re: Remittance of pretrial diversion fees to POABF post Senate Bill 369

Dear Ms. Rice:

This letter responds to your request for informal advice regarding the remittance of fees paid to the Peace Officers Annuity and Benefit Fund ("POABF"). Specifically, you asked how certain collections made from fees paid in conjunction with pretrial diversion programs are paid to POABF after the recent amendments to O.C.G.A. §§ 15-18-80 and 47-17-60 by Senate Bill 369. O.C.G.A. § 15-18-80 now provides:

(f) The prosecuting attorney shall be authorized to assess from each offender who enters the program a fee not to exceed \$1,000.00 for the administration of the program. Such fee may be waived in part or in whole or made payable in monthly increments upon a showing of good cause to the prosecuting attorney. Any fee collected under this subsection **shall be collected by the clerk of court and made payable to the general fund of the political subdivision in which the case is being prosecuted.** For purposes of subsection (a.1) of Code Section 47-17-60, **the clerk of court shall provide the political subdivision all relevant records and completed forms for compliance with such Code section.**

O.C.G.A. § 47-17-60 now provides:

Rachel Rice
June 18, 2018
Page 2

(a.1) Five dollars of each fee collected prior to adjudication of guilt for purposes of pretrial diversion pertaining to any criminal or quasi-criminal case for violation of state statutes, county ordinances, or municipal ordinances as provided for in subsection (f) of Code Section 15-18-80, which case is before any court or tribunal in this state, shall be paid to the secretary- treasurer. **The political subdivision as provided for in subsection (f) of Code Section 15-18-80 shall pay such amounts to the secretary-treasurer on the first day of the month following that in which they were collected or at such other time as the board may provide.** With such payment there shall be filed an acceptable form from the clerk of court which shows the number of cases in each of the above categories and the amounts due in each category. **It shall be the duty of the clerk of court to keep accurate records of the amounts due the board so that the records may be audited or inspected at any time by any representative of the board under its direction.** Sums remitted to the secretary-treasurer under this Code section shall be used as provided for elsewhere in this chapter.

Based on the aforementioned language of O.C.G.A. §§ 15-18-80 and 47-17-60, it appears that the pretrial diversion fees must be remitted to the clerk of courts, and then to the respective political subdivision, who remits the portion of the fees designated for POABF to the secretary-treasurer of POABF on a monthly basis. It is the Clerk of Court's responsibility to file an acceptable form which shows the number of cases and the amounts due in each category and to keep accurate record of the amounts due.

I hope this letter is helpful. Please keep in mind that this letter is informal advice and does not constitute the official or unofficial opinion of the Attorney General. Please do not hesitate to contact me if you have any questions.

Sincerely,



AMY L. PATTERSON
Assistant Attorney General

Rachel Rice
June 18, 2018
Page 3

cc: John Earle, Director, Georgia Superior Court Clerk's Cooperative Authority