

STATE OF MISSISSIPPI



JIM HOOD
ATTORNEY GENERAL

OPINIONS
DIVISION

August 20, 2018

Michael J. Wolf, Esq.
Attorney, Town of Pelahatchie
101 Highpoint Court, Suite C
Brandon, MS 39042

Re: Drug Forfeiture Funds

Dear Mr. Wolf:

Attorney General Hood is in receipt of your request for an official opinion, and it has been assigned to me for research and reply.

Background and Issues Presented

Your request states:

I have the pleasure of representing the Town of Pelahatchie, and on its behalf am requesting your opinion on the use of drug forfeiture funds, and the distinction between augment and supplement within that context.

The Town of Pelahatchie in preparing its annual budget is considering the necessity of reducing the size of its police force. If the Town ultimately decides it is necessary to reduce the size of the police force budgeted through its general fund, would it then be permissible to use drug forfeiture funds to pay the salaries of one or more part-time police officers?

The Town appreciates that Section 41-29-181 of the Mississippi Code provides that proceeds of drug forfeitures pursuant to Court Order may be used for any law enforcement purpose. The Town is further aware that funds must be used to augment and not supplant the existing budget, (See MS AG Op., Bobo (November 19, 2004)(citing MS AG Op., Bobo (March 15, 1994)). However, several Aldermen are concerned that paying salaries of part time officers to augment the budgeted force, may result in being

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second guessed by the State Auditor, and later being told this was supplemental.

Response

This office has previously opined that "whether payment of a particular salary is augmenting the budget or supplanting it is a factual determination." MS AG Op., Mercer (December 9, 1993). Pursuant to Miss. Code Ann. Section 7-5-25 (1972), opinions of the Attorney General are issued on questions of law for future guidance of those officials entitled to receive them. Therefore, because your inquiry requires this office to make determinations about issues of fact, we are unable to respond by way of an official opinion. We refer you to the Office of the State Auditor for guidance to your question.

If we can be of further assistance, do not hesitate to call us.

Very truly yours,

JIM HOOD, ATTORNEY GENERAL

OFFICIAL

By:



Emiko Hemleben

Special Assistant Attorney General