WEST VIRGINIA CODE: §15-2-9

§15-2-9. State Police Voluntary Contribution Fund.

(a) The Legislature finds that from the year 1951 to 2003, employees of the West Virginia State Police or its predecessor agencies have operated a voluntary contribution fund. Upon the death of a member or employee of the West Virginia State Police who, upon his or her death, was a member of the contribution fund, active members and employees of the West Virginia State Police who have voluntarily chosen to be members of the fund have been permitted, as an expression of respect and gratitude for the contributions and service of the deceased member in protecting the public, to donate small financial contributions to a designated beneficiary of the deceased member. The contributions were deposited into the contribution fund and the disbursements were made from the fund.

The Legislature further finds, upon the reports of the Legislative Auditor, that over the years, without statutory authority to do so, administrators of the West Virginia State Police and its predecessor agencies assumed control of the administration of the contribution fund, performing or directing the administrative functions necessary to receive contributions to and disbursements from the contribution fund.

The Legislature further finds that the State of West Virginia had not established the contribution fund or any similar benefit plan for the members and employees of the West Virginia State Police or its predecessor agencies, nor approved the same as an official state benefit program or plan in any manner whatsoever. In the absence of the establishment or approval of such a program or plan by the Legislature, the exercise of administrative powers for these purposes is inappropriate.

The Legislature further finds that the contribution fund is not a state program, but a private activity to which individual employees of the West Virginia State Police have committed state time and resources.

The Legislature further finds that the contributions and service of deceased members and employees of the West Virginia State Police merit sincere, dignified and personal voluntary expressions of respect and gratitude from fellow members and employees of the deceased. The Legislature further finds that the continuance of the contribution fund or similar benefit plan for the purposes of facilitating those personal voluntary expressions of respect and gratitude may be appropriate under certain circumstances.

It is therefore the intent of the Legislature to authorize the limited use of staff and other resources incidental to the continued administration of the private contribution fund in accordance with the provisions of this section.

(b) The limited use of State Police staff time, postage, duplicating and incidental resources is authorized in the continued administration of the contribution fund for the purpose of

WV Legislature

facilitating contributions and disbursements from the fund if the following conditions have been met:

(1) The superintendent has provided each member and employee of the West Virginia State Police a copy of this section and a statement in writing that clearly advises the member or employee that the contribution fund is a private activity established and maintained by members and employees of the West Virginia State Police in their private capacity with limited administration by the West Virginia State Police and is not in any manner a benefit or other plan provided by or on behalf of the State of West Virginia and that participation in the fund or plan is not required, but is only permitted if the member or employee elects to participate on a voluntary basis with no obligation to give nor opportunity for coerced participation and that the purpose of the fund is to facilitate participating members' expressions of admiration, appreciation and bereavement to the survivors of deceased members;

(2) All rosters, records and accounts of the contribution fund are available for public inspection and audit; and

(3) State Police administration is consistent with all applicable federal and state tax requirements.

(c) Membership in the State Police Contribution Fund is voluntary. On or before July 31, 2006, members or employees hired between January 1, 2003, and the effective date of this section may elect to participate in the fund, and within five days of employment or reemployment with the West Virginia State Police, a member or employee may elect to participate in the fund: Provided, That any member of the original contribution fund in good standing upon the effective date of this section shall be presumed to be a member of the contribution fund. A retired member may maintain membership in the fund. A member may terminate membership in the fund at any time, by written notice to the superintendent, or by ceasing to make contributions to the fund. Upon the death of a member of the fund, the superintendent is authorized to collect a contribution not to exceed the sum of $5 from all personnel participating in the fund, payable to a designated beneficiary of the deceased member. To aid administrative efficiency and ease the burden of participation, the superintendent may collect funds prospectively to cover an estimated number of deaths in a given period: Provided, That any such remaining funds credited to a deceased member shall be returned to the member's designated beneficiary.

(d) Use of coercion in an attempt to influence a West Virginia State Police officer's or employee's election to participate in the contribution fund is prohibited and grounds for dismissal from employment.

(e) The superintendent is authorized to establish and maintain a nongovernmental bank account established by agreement with a bank within the state to receive contributions to and make disbursements from the fund. These receipts are not to be deposited or held in the state Treasury.

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(f) The superintendent shall verify any death of a member of the fund and authorize the dissemination of a notice of the death to members of the fund. The superintendent shall use the most cost efficient means of communication available in making these notifications.

(g) The superintendent is authorized to develop a written internal department policy for the operation of the contribution fund, which may include terms and conditions of membership and the development of any necessary forms or agreements for enrollment in the fund and the designation of a beneficiary.

WV Legislature