WEST VIRGINIA CODE: §25-7-16

§25-7-16. Agreement between director and private person for manufacturing pursuant to Prison Industry Enhancement (PIE) Certification Program; wages; resident participation on voluntary basis; workers' compensation and unemployment compensation.

(a) The Director of the Division of Juvenile Services and a private person or entity may enter into an agreement to establish a program for residents to manufacture articles and products pursuant to the federal Prison Industry Enhancement (PIE) Certification Program. The agreement shall include the following:

(1) That a participating resident be paid at a rate not less than that paid for similar work in the same locality's private sector, including applicable wage increases for overtime work;

(2) That a resident's work or participation in a PIE certification program shall be only on a voluntary basis and only after the resident has been informed of the conditions of participation;

(3) That, in the discretion of the director or the director's designee, any resident may be removed from or refused participation in the PIE certification program;

(4) That the agreement will not result in the displacement of civilian workers; and

(5) That the private person or entity shall provide for workers' compensation insurance, or equivalent coverage, to residents participating in the PIE certification program: Provided, That, the director of the division of juvenile services may provide workers compensation or equivalent insurance coverage for persons participating in the PIE certification program, if reimbursement is made to the division by the private person or entity for all costs of the workers' compensation insurance or equivalent coverage, as a condition of the agreement.

(b) The provisions of this section shall not apply to correctional industry service contracts provided for in section four of this article or to operations authorized by section three of this article that are restricted from sale in the open market. (c) A commercial or agricultural enterprise established under this chapter is a private enterprise subject to federal and state laws governing the operation of similar enterprises.

(d) The earnings of a resident participating in a PIE certification program under this article shall be deposited in the Resident Trust Account with the Division of Juvenile Services. The earnings shall be paid to the resident after withholding of state, federal and local taxes, and after other deductions provided for in this chapter. The expenses of room and board, as fixed by the director and the budget agency for facilities operated by the director or, if the resident is housed in a facility not operated by the director, the amount paid by the Division of Juvenile Services to the operator of the facility or other appropriate authority for room

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and board, and other incidentals as established by agreement between the Division of Juvenile Services and the appropriate authority, shall be deducted: Provided, That the director shall adopt policies and procedures for the additional deduction from a resident's earnings of not less than five percent nor more than twenty percent, to be paid into the Crime Victims Compensation Fund created by article two-a, chapter fourteen of this code. Total deductions shall not exceed eighty percent of the resident's gross earnings. Earnings deposited by the director, with accrued interest, shall be paid to the resident no later than at the resident's discharge or release on parole.

When special circumstances warrant, or for just cause, the director may waive room and board charges by a facility operated by the Division of Juvenile Services or, if the resident is housed in a facility not operated by the Division of Juvenile Services, authorize payment of room and board charges from other available funds.

(e) Spousal support or child support shall be deducted from a resident's earnings as directed by the resident or by court order. If the resident's dependents are receiving Temporary Assistance for Needy Families (TANF), the disbursements shall be made to the Bureau for Child Support Enforcement or any other state's public assistance agency.

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