WEST VIRGINIA CODE: §5-7-5

§5-7-5. Plans for coverage of employees of political subdivisions and of state and local instrumentalities; payments by subdivisions or instrumentalities; contributions by such employees.

(a) Each political subdivision of the state and each instrumentality of the state or of a political subdivision is hereby authorized to submit for approval by the state agency a plan for extending the benefits of Title II of the Social Security Act, in conformity with applicable federal law, to employees of any such political subdivision or instrumentality. If not precluded by applicable federal law and under such conditions as the state agency may by regulation prescribe, two or more such political subdivisions or instrumentalities may, for the purposes of this article, form a joint coverage unit and as such submit for approval a joint plan if otherwise, because of the requirements of the agreement entered into pursuant to section three or because of the requirements imposed by or under applicable federal law, any subdivision or instrumentality included in such unit would be unable to submit an approvable plan. Each such plan or any amendment thereof shall be approved by the state agency if it finds that such plan, or such plan as amended, is in conformity with such requirements as are provided in regulations of the state agency, except that no such plan shall be approved unless:

(1) It is in conformity with the requirements of the applicable federal law and with the agreement entered into under section three.

(2) It provides that all services which constitute employment as defined in section two and are performed in the employ of the political subdivision or instrumentality, or in the employ of any member of a joint coverage unit submitting the plan, by any employees thereof, shall be covered by the plan.

(3) It specifies the source or sources from which the funds necessary to make the payments required by paragraph (1) of subsection (c) and by subsection (d) are expected to be derived and contains reasonable assurance that such sources will be adequate for such purpose.

(4) It provides for such methods of administration of the plan by the political subdivision or instrumentality or members of the joint coverage unit as are found by the state agency to be necessary for the proper and efficient administration of the plan.

(5) It provides that the political subdivision or instrumentality or members of the joint coverage unit will make such reports, in such form and containing such information, as the state agency may from time to time require, and comply with such provisions as the state agency or the federal agency may from time to time find necessary to assure the correctness and verification of such reports.

(6) It authorizes the state agency to terminate the plan in its entirety or, in the discretion of

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the state agency, as to any member of a joint coverage unit, if it finds that there has been a failure to comply substantially with any provisions contained in such plan, such termination to take effect at the expiration of such notice and on such conditions as may be provided by regulations of the state agency and be consistent with applicable federal law.

(b) The state agency shall not finally refuse to approve a plan submitted under subsection (a), and shall not terminate an approved plan, without reasonable notice and opportunity for hearing to each political subdivision or instrumentality affected thereby.

(c) (1) Each political subdivision or instrumentality as to which a plan has been approved under this section shall pay into the contribution fund, with respect to wages, as defined in section two of this article, at such time or times as the state agency may by regulation prescribe, contributions in the amounts and at the rates specified in the applicable agreement entered into by the state agency under section three.

(2) Every political subdivision or instrumentality required to make payments under paragraph (1) of this subsection is authorized, in consideration of the employee's retention in, or entry upon, employment after enactment of this article, to impose upon its employees, as to services which are covered by an approved plan, a contribution with respect to wages, as defined in section two of this article, not exceeding the amount of tax which would be imposed by section one thousand four hundred of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that act, and to deduct the amount of such contribution from the wages as and when paid. Contributions so collected shall be paid into the contribution fund in partial discharge of the liability of such political subdivision or instrumentality under paragraph (1) of this subsection. Failure to deduct such contribution shall not relieve the employee or employer of liability therefor.

(d) Delinquent payments due under paragraph (1) of subsection (c) may, with interest at the rate of six per centum per annum, be recovered by action in a court of competent jurisdiction against the political subdivision or instrumentality liable therefor or may, at the request of the state agency, be deducted from any other moneys payable to such subdivision or instrumentality by any department or agency of the state.

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