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HB 4030
FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006

ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4030

(By Delegates Hamilton, Duke, Romine,
R. Thompson, Perdue, Leggett,
Howard, Stemple, Poling and Boggs)

Passed March 11, 2006

In Effect Ninety Days from Passage

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FOR

H. B. 4030

(BY DELEGATES HAMILTON, DUKE, ROMINE,
R. THOMPSON, PERDUE, LEGGETT,
HOWARD, STEMPLER, POLING AND BOGGS)

[Passed March 11, 2006; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §15-2-9, relating to legislative findings; and limiting the administration of a voluntary contribution fund or similar benefit plan by members and employees of the West Virginia State Police.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §15-2-9, to read as follows:

ARTICLE 2. WEST VIRGINIA STATE POLICE.

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

1 (a) The Legislature finds that from the year one thousand
2 nine hundred fifty-one to two thousand three, employees of the
3 West Virginia State Police or its predecessor agencies have
4 operated a voluntary contribution fund. Upon the death of a
5 member or employee of the West Virginia State Police who,
6 upon his or her death, was a member of the contribution fund,
7 active members and employees of the West Virginia State
8 Police who have voluntarily chosen to be members of the fund
9 have been permitted, as an expression of respect and gratitude
10 for the contributions and service of the deceased member in
11 protecting the public, to donate small financial contributions to
12 a designated beneficiary of the deceased member. The contribu-
13 tions were deposited into the contribution fund and the dis-
14 bursements were made from the fund.

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

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

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

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

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

47 (b) The limited use of State Police staff time, postage,
48 duplicating and incidental resources is authorized in the
49 continued administration of the contribution fund for the
50 purpose of facilitating contributions and disbursements from the
51 fund if the following conditions have been met:

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

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

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

71 (c) Membership in the State Police Contribution Fund is
72 voluntary. On or before the thirty-first day of July, two thou-
73 sand six, members or employees hired between the first day of
74 January, two thousand three, and the effective date of this
75 section may elect to participate in the fund, and within five days
76 of employment or reemployment with the West Virginia State
77 Police, a member or employee may elect to participate in the
78 fund: *Provided*, That any member of the original contribution
79 fund in good standing upon the effective date of this section
80 shall be presumed to be a member of the contribution fund. A
81 retired member may maintain membership in the fund. A
82 member may terminate membership in the fund at any time, by
83 written notice to the superintendent, or by ceasing to make
84 contributions to the fund. Upon the death of a member of the
85 fund, the superintendent is authorized to collect a contribution
86 not to exceed the sum of five dollars from all personnel
87 participating in the fund, payable to a designated beneficiary of
88 the deceased member. To aid administrative efficiency and ease
89 the burden of participation, the superintendent may collect
90 funds prospectively to cover an estimated number of deaths in
91 a given period: *Provided*, That any such remaining funds
92 credited to a deceased member shall be returned to the mem-
93 ber's designated beneficiary.

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

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

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

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

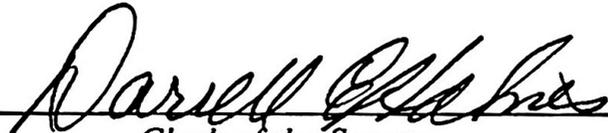
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

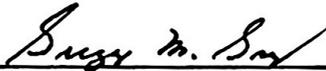

Chairman Senate Committee

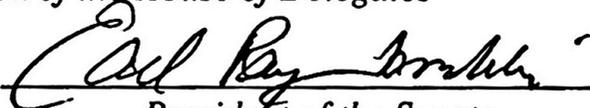

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

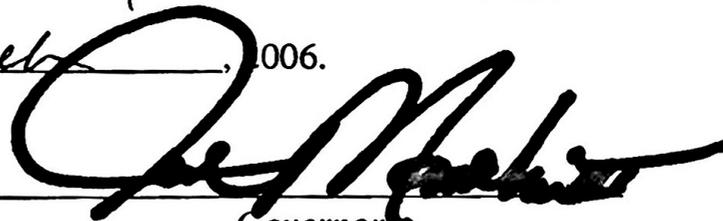

Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within is approved this the 30th
day of March, 2006.


Governor

PRESENTED TO THE
GOVERNOR

MAR 29 2006

Time

4:05 p