

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1825

By: Greenwood

AS INTRODUCED

An Act relating to state employee incentive awards; amending 74 O.S. 1991, Sections 4111, 4113, 4114, 4115A, 4116, 4117, 4118, as amended by Section 1, Chapter 126, O.S.L. 1992, 4119, as amended by Section 2, Chapter 126, O.S.L. 1992 and 4120 (74 O.S. Supp. 1992, Sections 4118 and 4119), which relate to the Incentive Awards for State Employees Act; modifying short title; transferring the implementation of the incentive awards program for state employees from the Office of Personnel Management's Committee for Incentive Awards for State Employees to the State Auditor and Inspector; abolishing the Committee for Incentive Awards for State Employees; providing for the delivery of certain property; providing for the conduct and completion of certain business by the State Auditor and Inspector; preserving certain administrative rules, policies and procedures; stating duties of the State Auditor and Inspector; deleting obsolete language; updating statutory references; requiring the State Auditor and Inspector to promulgate certain rules; modifying procedures governing noncash incentive awards and individual incentive compensation awards; modifying the amount of

individual incentive compensation awards; providing procedure for determining levels of payment of individual incentive compensation awards; providing for the transfer of certain sums from the awarding state entity to the Office of the State Auditor and Inspector; creating the State Auditor and Inspector Incentive Award Revolving Fund; providing for payments to and expenditures from such fund; modifying statutory format; transferring from the Committee for Incentive Awards for State Employees to the State Auditor and Inspector the authorization to award unit incentive pay; modifying procedures governing the determination of unit dollar savings; modifying reporting responsibility of the Administrator of the Office of Personnel Management; prohibiting retaliatory actions against certain employees; defining term; providing for certain hearings and providing procedures related thereto; requiring the Oklahoma Merit Protection Commission to promulgate certain rules; repealing 74 O.S. 1991, Section 4112, which relates to the Committee for Incentive Awards for State Employees; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 74 O.S. 1991, Section 4111, is amended to read as follows:

Section 4111. Sections ~~±~~ 4111 and 4113 through ~~±~~ 4120 of this ~~act~~ title and Sections 2, 8 and 12 of this act shall be known and may be cited as the "Incentive Awards for State Employees Act".

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4111A of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Committee for Incentive Awards for State Employees created within the Office of Personnel Management is hereby abolished, and the powers, duties and responsibilities exercised by the Committee by law are hereby transferred to the State Auditor and Inspector.

B. The Committee shall deliver to the State Auditor and Inspector all books, papers, records and property of the Committee pertaining to the duties transferred to the State Auditor and Inspector pursuant to this section.

C. Any business or other matters undertaken or commenced by the Committee pertaining to or connected with the functions, powers, obligations and duties hereby transferred and assigned to the State Auditor and Inspector and pending on the effective date of this act may be conducted and completed by the State Auditor and Inspector as prescribed under this act.

D. All rules, policies and procedures of the Committee pertaining to the functions and powers transferred and assigned to the State Auditor and Inspector in force at the time of such transfer and assignment shall continue in force and effect as rules, policies and procedures of the State Auditor and Inspector until duly modified or abrogated by the State Auditor and Inspector.

SECTION 3. AMENDATORY 74 O.S. 1991, Section 4113, is amended to read as follows:

Section 4113. ~~The Committee~~ State Auditor and Inspector shall promulgate rules ~~and regulations~~ and adopt policies and procedures to implement an incentive awards program for state employees

pursuant to the provisions of the Incentive Awards for State Employees Act.

SECTION 4. AMENDATORY 74 O.S. 1991, Section 4114, is amended to read as follows:

Section 4114. With the exception of agencies and offices within the Legislature, the Office of the Governor, the Office of the Lieutenant Governor, and the Office of the State Auditor and Inspector, any agency, department, commission, or office of state government may participate in the incentive awards program provided for in Section ~~5~~ 4115 of this ~~act~~ title.

SECTION 5. AMENDATORY 74 O.S. 1991, Section 4115A, is amended to read as follows:

Section 4115A. Pursuant to rules ~~and regulations~~ promulgated by the ~~Committee for Incentive Awards for State Employees~~ State Auditor and Inspector, state employees shall be recognized for their length of service to the state. Recognition shall consist of certificates and lapel pins. The longevity award shall be made at five-year intervals during the month following the anniversary date of the employee to recognize years of service as defined in Section 805.2 of ~~Title 74 of the Oklahoma Statutes~~ this title. The cost of the incentive award shall be billed to the employing agency.

SECTION 6. AMENDATORY 74 O.S. 1991, Section 4116, is amended to read as follows:

Section 4116. Pursuant to rules ~~and regulations~~ promulgated by the ~~Committee~~ State Auditor and Inspector, any state employee ~~occupying a supervisory position~~ in an agency, department, commission, or office eligible to participate in the incentive awards program provided for in Section 4115 of this title, ~~monthly,~~ may ~~nominate~~ apply for an incentive award ~~those employees who have~~ for demonstrated excellence by making an exceptional contribution to their respective work unit, to their agency or to state government in general resulting in increased productivity, cost curtailment,

improved safety, efficiency, or morale or better services to the citizens of this state. The ~~nomination~~ application of such employees shall be made directly to the Committee State Auditor and Inspector on forms prescribed and provided by the Committee State Auditor and Inspector. If, after reviewing such ~~nominations~~ applications, it is the decision of the Committee State Auditor and Inspector that a ~~nominated~~ an employee made a contribution as provided in this ~~subsection~~ section, the Committee State Auditor and Inspector shall approve the ~~nomination~~ application of said employee and appropriately award said employee with a certificate and lapel pin provided by the Committee State Auditor and Inspector. State agency supervisors, managers and agency directors may also ~~be nominated~~ apply for noncash incentive awards for making similar contributions. The Committee State Auditor and Inspector may promulgate rules and establish procedures to delegate ~~the receipt and review of nominations,~~ and the awarding of certificates and lapel pins to participating agencies, boards, commissions, and offices. The cost of the certificates and lapel pins shall be reimbursed to the Committee State Auditor and Inspector by the employing agency, board, commission, or office ~~that made the nomination~~.

SECTION 7. AMENDATORY 74 O.S. 1991, Section 4117, is amended to read as follows:

Section 4117. Pursuant to rules ~~and regulations~~ promulgated by the Committee State Auditor and Inspector, any state employee ~~occupying a supervisory position~~ in an agency, department, commission, or office eligible to participate in the incentive awards program provided for in Section 4115 of this title, ~~monthly,~~ may ~~nominate employees~~ apply for individual incentive compensation. ~~Nominations~~ Applications for such compensation shall be made in the same manner as provided for in Section 4116 of this title concerning ~~nominations~~ applications for individual incentive awards. ~~These~~

~~nominated~~ Applicants for such compensation, at a minimum must have made an exceptional contribution similar to, but greater than, that required by the provisions of ~~subsection A of~~ Section 4116 of this title. Employees determined by the ~~Committee~~ State Auditor and Inspector to be deserving of individual incentive compensation pursuant to the provisions of this section may be awarded an increase in compensation in a sum at least equal to ~~twenty-five percent (25%)~~ seventy-five percent (75%) of the amount determined by the ~~Committee~~ State Auditor and Inspector to be the total unit dollar savings to the state for the level of services rendered, but not to exceed the sum of Five Thousand Dollars (\$5,000.00). Said incentive compensation shall be paid in one lump sum from any funds available to the ~~nominating~~ employing agency, department, commission, or office for the eligible fiscal year. No ~~nominations~~ for an individual incentive compensation award shall be made until the ~~nominating~~ employing agency, department, commission, or office assures that funds for said award are available. Funds for the payment of individual incentive compensation awards shall be considered encumbered to the extent said awards are approved by the ~~committee~~ State Auditor and Inspector. The total unit of dollar savings to the state for the level of services rendered exceeding Five Thousand Dollars (\$5,000.00) and not otherwise awarded to an employee as provided in this section, shall be transferred by the employing agency, department, commission or office to the Office of the State Auditor and Inspector for immediate deposit to the State Auditor and Inspector Incentive Award Revolving Fund created in Section 8 of this act.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4117A of Title 74, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Office of the State Auditor and Inspector to be designated

as the "State Auditor and Inspector Incentive Award Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies deposited to the fund in accordance with the provisions of Section 4117 of Title 74 of the Oklahoma Statutes; provided, however, all sums exceeding Four Hundred Thousand Dollars (\$400,000.00) shall be transferred by the State Treasurer to the credit of the General Revenue Fund of the State. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the State Auditor and Inspector to perform the duties imposed upon the State Auditor and Inspector under the Incentive Awards for State Employees Act and such other duties of the State Auditor and Inspector as may be prescribed by law. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 9. AMENDATORY 74 O.S. 1991, Section 4118, as amended by Section 1, Chapter 126, O.S.L. 1992 (74 O.S. Supp. 1992, Section 4118), is amended to read as follows:

Section 4118. A. The ~~Committee~~ State Auditor and Inspector, in addition to individual incentive awards and individual incentive compensation, may award unit incentive pay in accordance with the provisions of this section.

~~A.~~ B. To qualify for the award of unit incentive pay to its employees, an agency, department, commission, or office shall demonstrate to the satisfaction of the ~~Committee~~ State Auditor and Inspector that said agency, department, commission, office, work unit or work team identified by the respective agency, department, commission or office has met both of the following two criteria in its operations during the fiscal year, after adjustment for inflation or deflation:

1. Operated at a lower unit cost. "Unit cost" shall be defined as expenditures in dollars to complete a measurable unit of work.

a. For first-time participants the unit cost for the participating year shall be compared to either the unit cost for the immediately preceding fiscal year or a standard unit cost approved by the ~~Committee~~ State Auditor and Inspector, or

b. For participants with one or more years in the program, the unit cost for the participating year shall be compared to either the average unit cost of prior successful participating years in the program or a standard unit cost approved by the ~~Committee~~ State Auditor and Inspector; and

2. Operated at no greater total dollar expenditures, except:

a. in a case where unit costs are reduced but total expenditures increased due to the agency or office maintaining its level of service; or

b. in a case where the Legislature or department head specifically mandates an increase in the workload.

~~B.~~ C. The ~~Committee~~ State Auditor and Inspector shall satisfy ~~itself~~ himself that the claimed unit dollar cost of operation is real and not merely apparent, and that it is not, in whole or in part, the result of any of the following:

1. A lowering of the level or quality of the service rendered;

or

2. Reduced pass-through on transfer expenditures; or

3. Receipts realized in excess of amounts budgeted; or

4. Nonrecurrence of expenditures which were single outlay, or one-time expenditures, in the preceding fiscal year; or

5. Failure to reward deserving employees through promotions, reclassification, award of merit salary increments, or salary increases authorized by salary range revisions; or

6. Postponement of normal purchases and repairs to a future fiscal year; or

7. Stockpiling inventories in the immediately preceding fiscal year so as to reduce requirements in the eligible fiscal year; or

8. Substitution of federal funds or any funds which are not state funds for state appropriations; or

9. Unreasonable postponement of payments of accounts payable until the fiscal year immediately following the eligible fiscal year; or

10. Shifting of expenses to another agency, department, commission, or office of government; or

11. Any other practice, event, or device which the ~~Committee~~ State Auditor and Inspector decides has caused a distortion which misrepresents that a savings or increase in level of services has occurred.

~~C. D.~~ The ~~Committee~~ State Auditor and Inspector may consider but is not limited to considering as legitimate savings those reductions in expenditures made possible by such items as the following:

1. Reductions in overtime; or

2. Elimination of consultant fees; or

3. Less temporary help; or

4. Elimination of budgeted positions; or

5. Improved methods of communication; or

6. Improved systems and procedures; or

7. Better development and utilization of manpower; or

8. Elimination of unnecessary travel; or

9. Elimination of unnecessary printing and mailing; or

10. Elimination of unnecessary payments for advertising, memberships, dues, and subscriptions; or

11. Elimination of waste, duplication, and operations of doubtful value; or

12. Improved space utilization; or
13. Proven cost-reduction techniques; or
14. Any other items considered by the ~~Committee~~ State Auditor and Inspector as representing true savings.

SECTION 10. AMENDATORY 74 O.S. 1991, Section 4119, as amended by Section 2, Chapter 126, O.S.L. 1992 (74 O.S. Supp. 1992, Section 4119), is amended to read as follows:

Section 4119. At the conclusion of the eligible fiscal year, subject to the rules ~~and regulations~~ promulgated by the ~~Committee~~ State Auditor and Inspector, the ~~Committee~~ State Auditor and Inspector shall compare the unit dollar expenditures for that year of each agency, department, commission, office, or defined work unit or work teams against the base year data and, after making such adjustments as in the judgment of the ~~Committee~~ State Auditor and Inspector are required to eliminate distortions, shall determine the amount, if any, that the agency, department, commission, office, or defined work unit or work teams has reduced its unit dollar cost of operations or increased its level of services in the eligible fiscal year. Adjustments to eliminate distortions may include any legislative increases in employee compensation and inflationary increases in the cost of services, materials, or supplies. If the ~~Committee~~ State Auditor and Inspector shall determine an agency, department, commission, or office qualifies for award, ~~it~~ he may award, after consultation with the Office of State Finance, to the employees of that agency, department, commission, office, defined work unit or work teams a sum not in excess of twenty-five percent (25%) of the amount determined to be the total unit dollar savings to the state for the level of services rendered. Incentive pay awards provided pursuant to the provisions of the Incentive Awards for State Employees Act shall be exempt from retirement contributions and shall not be included for the purpose of computing a retirement allowance pursuant to any public retirement system of

this state. The amount awarded shall be divided and distributed in equal shares to the employees of the agency, department, commission, office, defined work unit or work teams except that employees who have worked for the agency, department, commission, office, defined work unit or work teams less than the full twelve (12) months of the fiscal year shall receive only a pro rata share based on the fraction of the year said employees have worked for that agency, department, commission, office, defined work unit or work teams. Employees voluntarily leaving the employment of state government or employees dismissed for cause shall forfeit their share. Funds for this incentive pay shall be drawn from the operating expenses of the agency, department, commission, or office for the eligible fiscal year. No ~~nominations~~ applications for a unit incentive compensation award shall be made until the ~~nominating~~ agency, department, commission, or office assures that funds for said award are available. Funds for the payment of unit incentive compensation awards shall be considered encumbered to the extent said awards are approved by the ~~Committee~~ State Auditor and Inspector.

SECTION 11. AMENDATORY 74 O.S. 1991, Section 4120, is amended to read as follows:

Section 4120. The ~~Administrator of the Office of Personnel Management~~ State Auditor and Inspector shall cause to be prepared and submitted to the Governor, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate a comprehensive annual status report on the activities, decisions, awards, and recommendations of the ~~Committee~~ State Auditor and Inspector with respect to the employee incentive award program.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4121 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. No officer or employee of any state agency, department, commission or office eligible to participate in the incentive awards

program provided for in Section 4115 of Title 74 of the Oklahoma Statutes shall take disciplinary action against an employee of such agency, department, commission or office, whether subject to the merit system or in the unclassified service for submission of an incentive cost-saving suggestion.

B. As used in this section, "disciplinary action" means any direct or indirect form of discipline, reprisals, dismissal, demotion, transfer, reassignment, suspension, reprimand, admonishment, warning of possible dismissal, work reassignment, withholding of work, reduction in force, reduction in status, reduction in rank or removal from committees, task forces, or other work units.

C. Any employee or former employee aggrieved pursuant to this section may file an appeal with the Oklahoma Merit Protection Commission within thirty (30) days of the alleged disciplinary action. The Oklahoma Merit Protection Commission shall promulgate rules to establish procedures for the conduct of investigations. If, after investigation, the Executive Director of the Oklahoma Merit Protection Commission determines a violation of this section may have occurred, the Executive Director shall appoint a hearing examiner to hear the case as provided for in Section 841.15 of Title 74 of the Oklahoma Statutes. If, after the hearing, it is determined that a violation has occurred, the Commission or hearing examiner shall order corrective action pursuant to Section 841.15 of Title 74 of the Oklahoma Statutes.

SECTION 13. REPEALER 74 O.S. 1991, Section 4112, is hereby repealed.

SECTION 14. This act shall become effective September 1, 1993.

44-1-6002 PS