

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1043

As Engrossed: 2/11/2013

Bill Subtitle: TO AMEND ARKANSAS LAW TO PERMIT A REWARD TO A STATE EMPLOYEE WHEN A COMMUNICATION UNDER THE ARKANSAS WHISTLE-BLOWER ACT RESULTS IN A SAVINGS OF STATE FUNDS.

Basic Change :

Rep. Bell

HB1043 as engrossed incorporates the changes from Amendment H2 to the method by which the Whistleblower reward is determined. The bill clarifies that the State employer is responsible for determining the amount of savings generated by a Whistleblower complaint. The investigating agency, or appropriate agency under the Whistleblower Act, is no longer responsible for determining the amount of savings under a successful Whistleblower report. Instead, the State employer where the whistleblowing has occurred must track the savings over the subsequent fiscal year.

If the whistleblower disagrees with the amount of savings, and the amount of the 10% reward under this bill, the appeal of the State employer decision is made to the Arkansas State Claims Commission.

The State Employer makes the initial determination of the amount of money saved from the whistleblower report, instead of the "appropriate agency" which may not have any direct method of determining the savings. The State employer makes a report to the Claims Commission and the whistleblower detailing the amount of savings, the applicability of the whistleblower reward provisions, and the amount of the reward. If the whistleblower disagrees with the amount saved or whether the reward is warranted, the whistleblower may appeal to the Claims Commission. The existing procedures and methodology for the Claims Commission are used, including the payment of the reward. PEER/JBC is notified of the resolution of the report and amount saved to for oversight concerns.

The bill as engrossed also clarifies the confidentiality provisions of the bill and adds a FOIA exception for appropriate agencies that are not already exempt from FOIA when the whistleblower has elected confidentiality.

Revenue Impact :

None

Taxpayer Impact :

None

Resources Required :

None

Time Required :

None

Procedural Changes :

None

Other Comments :

None

Legal Analysis :

As engrossed with amendment H2, HB1043 addresses previous technical and constitutional concerns raised by DFA. By shifting the responsibility of administering and executing the law on legislatively enacted guidelines from a legislative committee to an executive branch agency or the Claims Commission, the separation of powers concern is met. Additionally, the bill provides standards when viewed in concert with the existing whistleblower protection act, that give guidance to the executive branch on how to administer the provisions of the bill.