

First Extraordinary Session, 2002

# ACT No. 111

HOUSE BILL NO. 168

BY REPRESENTATIVES LEBLANC AND MURRAY AND SENATOR  
DARDENNE

## AN ACT

To amend and reenact R.S. 39:87.5 and to enact R.S. 39:87.6, relative to governmental performance and accountability; to provide for implementation and administration of the Exceptional Performance and Efficiency Incentive Program; to provide for deposit and use of monies in the Incentive Fund; to establish and provide for implementation and administration of the Gainsharing Program; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:87.5 is hereby amended and reenacted and R.S. 39:87.6 is hereby enacted to read as follows:

§87.5. Exceptional Performance and ~~Gainsharing~~ Efficiency Incentive Program; Incentive Fund

A. The program. It is the intent of the legislature to create an incentive program whereby agencies of the state will be encouraged to achieve the maximum efficiency in their operations and maintain consistently high levels of performance as contemplated by the Louisiana Government Performance and Accountability Act. This program shall provide monetary rewards to ~~the employees~~ and rewards of supplemental funding for nonrecurring expenditures of programs and for agencies which demonstrate exceptional achievements in the efficient use of state resources and the ability to consistently meet or

~~exceed performance expectations. The program may also provide a reward for supplemental funding for expenditures for nonrecurring purposes, including new or enhanced employee training and productivity enhancements, including technology and other improvements. For purposes of this Section, "agency" shall mean an entity defined by R.S. 39:2(2) which receives funding through the General Appropriation Act or the Ancillary Appropriation Act.~~

~~B. To ensure equity and encourage the maximum utilization of this program by agencies of the state, the Department of State Civil Service shall develop a master reward plan to be used by all agencies which participate in the program. Such plan shall contain a reward structure for the range of supplemental compensation which may be provided to the employees of programs or agencies which earn a reward. The levels of compensation may be adjusted by the Department of State Civil Service as is necessary, but in no case shall they be adjusted more than once per fiscal year. The plan shall also contain provisions and guidelines for determining which employees are eligible to participate in a reward to an agency or program as a result of success in particular activities.~~

~~C. The Incentive Fund. (1) The "Incentive Fund", hereinafter referred to in this Section as the "fund", is hereby created within the state treasury.~~

~~(2) The source of monies deposited into the fund shall be a portion of the unexpended monies returned to the state general fund at the end of the fiscal year and any monies appropriated to the fund. The state treasurer shall transfer to the fund all cash balances from unexpended and unencumbered state general fund appropriations which~~

are subject to remission to the state treasury. The annual deposit into the fund from the unexpended and unencumbered appropriations shall cease when the balance in the fund reaches a total of four million dollars. The annual deposit of monies from unexpended and unencumbered appropriations shall recommence when the balance in the fund falls below three million two hundred thousand dollars. Monies may be appropriated to the fund regardless of the balance in the fund.

(3) All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. Monies in the fund shall be invested by the treasurer in the same manner as monies in the state general fund, and any interest earned on the investment of monies in the fund shall be credited to the fund.

(4) Monies in the fund shall be subject to appropriation exclusively for the purposes of this Subpart.

~~Ð: C. Committee review.~~ (1) The Joint Legislative Committee on the Budget, or a subcommittee thereof, hereinafter referred to as "the committee", shall annually review and consider proposals submitted by agencies seeking a reward, and shall determine which ~~programs or agencies receive a reward~~ rewards for the purposes of and in accordance with the provisions of this Section and R.S. 39:87.4. For purposes of this Section, "proposal" means the document by which an agency asserts a claim for a reward based on specific achievements in a particular fiscal year.

(2) The committee's determination on each proposal shall be based on the relative merit of the achievements upon which the proposal is based, and on verifiable evidence supporting the claims

asserted. The committee shall consider whether a proposal includes the specific elements required by law and rule of the committee or the Department of State Civil Service, and whether it contains sufficient factual or performance information to substantiate the claims made. The committee shall also give consideration to the individual resources and opportunities available to each agency to maintain or increase its efficiency and performance.

(3) The committee may suggest that an agency submit a proposal based on information developed in the committee's review of the Year-End Performance Progress Report.

(4) The commissioner of administration may recommend to the committee any program or agency proposal which he deems deserving of a reward.

(5) The committee may establish rules to implement the provisions of this Section and to administer this program.

D. Proposals. ~~The recommendation shall be~~ An agency may submit a proposal based on either of the following circumstances:

~~(a) An~~ (1) A proposal may be made based on monetary savings wherein an agency or program has demonstrated demonstrates empirically through identifiable methods or procedures that there has been a discernable reduction in funds expended by ~~that~~ the ~~agency or program for a~~ in the accomplishment of a particular activity, and program, function, or action, collectively referred to hereinafter as "the subject activity". The agency shall demonstrate that such reduction is attributable to specific acts of ~~the~~ its employees ~~of such entity~~ which ~~have~~ resulted in the ~~agency or program expending~~ expenditure of less money than was appropriated or allocated for ~~that agency or program~~

the subject activity while maintaining, and that the agency maintained the expected levels of performance related to that activity. The agency shall provide the performance indicators and performance standards related to the subject activity, and shall provide the actual performance achieved which demonstrates a maintenance of expected performance. In the event specific performance indicators reflecting the subject activity are not contained in the General Appropriation Bill, the Ancillary Appropriation Bill, or the Supporting Document, the agency shall provide either:

(a) Specific, measurable performance expectations which were established by the agency at the beginning of the fiscal year or before the activity was undertaken, along with accompanying verifiable evidence of actual performance achieved which reflects a maintenance of performance; or

(b) Verifiable factual information which substantiates the claim of maintenance of expected performance.

~~(b) The agency or program~~ (2) A proposal may be made based on exceptional performance wherein an agency demonstrates that it has consistently met or exceeded a significant number of the performance standards for their its key and supporting performance indicators related to a particular subject activity. The agency shall provide the performance indicators and performance standards related to the subject activity, along with actual performance achieved which demonstrates that the agency has maintained or exceeded its performance standards. In the event specific performance indicators reflecting the subject activity are not contained in the General

Appropriation Bill, the Ancillary Appropriation Bill, or the Supporting Document, the agency shall provide either:

(a) Specific, measurable performance expectations which were established by the agency at the beginning of the fiscal year or before the activity was undertaken, along with accompanying verifiable evidence of actual performance achieved which reflects a maintenance of performance; or

(b) Verifiable factual information which substantiates the claim of maintenance of expected performance.

~~(3) The committee may also receive or develop a recommendation for a reward based on the information developed in its consideration of the Year-end Performance Progress Reports. The committee may establish rules to provide for the conditions and format for development of such recommendations: Proposals shall contain and conform to the elements required by this Section and as may be further established pursuant to committee rule.~~

~~(4) The committee may consider only those recommendations for rewards proposals which are received no later than the fifteenth day of ~~December of any calendar year~~ November.~~

~~(5) Proposals shall be based on a specific fiscal year, and shall contain such prior year data as may be required by committee rule. Proposals shall be submitted by the head of the agency seeking the reward, and shall specify the discreet component entity, if any, of the agency which is responsible for the subject activity.~~

~~(6)(a) Each recommendation proposal shall contain a description of how the proposed reward funding would be utilized by the recipient ~~entity~~ agency, either for monetary rewards for employees~~

or for nonrecurring expenditures. Rewards shall be available only for those employees who are directly cited in the proposal as the staff responsible for the achievements evidenced in the proposal. Employees eligible for a reward must have been employed by the agency during the fiscal year upon which the proposal is based, and must still be employed by the agency at the time a committee resolution granting a reward is adopted.

(b) To ensure equity and encourage the maximum utilization of this program by agencies of the state, the Department of State Civil Service shall develop a master reward plan to be used by all agencies which participate in the program. Such plan shall be established in rule, and shall contain a reward structure for the range of supplemental compensation which may be provided to the employees of agencies which earn a reward. The levels of compensation may be adjusted by the Department of State Civil Service as is necessary, but in no case shall they be adjusted more than once per fiscal year. The plan shall also contain provisions and guidelines for determining which employees are eligible to participate in a reward to an agency as a result of success in particular activities.

(7) All evidentiary, corroborative, and supporting information for a proposal must be readily available for inspection, and exist at a level of detail sufficient for the legislative auditor to review and verify. At the time of submission of its proposal, each agency shall be prepared to provide to the legislative auditor written source documentation in support of all data in its proposal.

(8) The committee may establish a procedure for determining which proposals shall be forwarded to the legislative auditor for

verification of the proposal's material and substantive accuracy. Upon receipt of such ~~recommendations the committee shall immediately request proposals~~ the legislative auditor to shall review and verify the information for each agency, program, or activity which forms the basis of the respective recommendation, whether it be related to a successful efficiency initiative or achievement of performance standards for the preceding fiscal year. ~~The legislative auditor shall complete his verification and report back~~ contained therein, and provide his response to the committee not later than ~~thirty~~ sixty calendar days after receipt of the ~~request proposal~~ from the committee, but in no event later than the thirty-first day of January. No reward contemplated by this Section may be granted by the committee ~~without an affirmation by the legislative auditor that the data supporting the recommendation for the award are materially and substantively correct.~~ prior to the committee's receipt of the legislative auditor's verification on the respective proposal.

(5) ~~In any year in which a reward will be granted from the fund;~~ E. Rewards. (1) ~~The~~ committee shall adopt a separate resolution ~~to that effect for each agency to execute and document the granting of a reward.~~ Such resolutions shall be adopted no later than the first day of March, ~~which~~ and shall detail the ~~discrete agencies, programs, or activities which are to receive the reward, and in~~ amount of reward funding granted, and the authorized uses of such monies. In the case of monetary rewards for employees, it shall include a calculation of the aggregate amounts to be received by the employees ~~of the agencies, programs, or activities~~ which shall be based on the master reward plan

or any applicable rules developed by the Department of State Civil Service or the committee.

~~(2)~~ (2) The payment of such rewards shall be effectuated through presentation of a warrant by the respective agency to the state treasurer, accompanied by a copy of the committee resolution indicating the granting of the reward and the amount to be paid from funds appropriated from the Incentive Fund in that fiscal year. Notwithstanding any other provision of Title 39 to the contrary, the commissioner of administration shall implement any internal budgetary adjustments necessary to incorporate reward monies into the budget of the recipient agency for expenditure pursuant to the respective resolution.

~~(6)~~ (3) Notwithstanding any other provision of law to the contrary, no retirement contributions shall be based on any monetary reward of supplemental compensation for employees nor shall such monies be considered in the determination of retirement benefits.

~~(7)~~ (4) Reward monies received by an agency shall not be used by the commissioner of administration to supplant funding for the agency in the next executive budget.

#### §87.6. Gainsharing Program

A. The program. There is hereby established the "Gainsharing Program" whereby state agencies are encouraged to implement gainsharing plans for achievement of efficiencies in their operations which yield monetary savings while at the same time maintaining expected levels of performance. The employees responsible for achievement of gainsharing plans and the resulting efficiencies shall

participate in the benefits of such savings. The Gainsharing Program shall consist of a process by which an agency which implements and accomplishes a gainsharing plan may submit a request for a gainsharing authorization to the commissioner of administration, hereinafter the "commissioner". The commissioner may grant gainsharing authorizations as he deems appropriate under the provisions of this Section and administrative rule. For purposes of this Section, "agency" shall mean an entity defined by R.S. 39:2(2) which receives funding through the General Appropriation Act or the Ancillary Appropriation Act. Monetary savings eligible for consideration under this program shall be limited to state general fund monies and other monies which are subject to remission to the state general fund at the close of the fiscal year.

B. Request process. (1) The head of an agency who can empirically prove the successful achievement of a gainsharing plan which resulted in a discernable reduction in monies expended for the accomplishment of a particular activity, program, function, or action, collectively referred to hereinafter as "activity", may submit a request to the commissioner for the granting of a gainsharing authorization. The request shall include an explanation of the efforts of the employees responsible for achievement of the gainsharing plan. The request shall further contain all evidence, data, and performance information which may be required by the commissioner for verification and consideration of the request.

(2) Prior to any review of an agency's request, the commissioner shall determine the agency's eligibility for a gainsharing authorization by confirming that the performance standards for the program or budget

unit comprising the activity which forms the basis for the request were met as evidenced in its most recently completed Mid-Year or Year End Performance Progress Report. Requests from agencies which have not met all of their performance standards shall be ineligible for further review by the commissioner.

(3) The commissioner shall review the requests and determine whether sufficient evidence is presented to support the claim made. The commissioner shall complete his review within sixty days of receipt of each request.

C. Gainsharing authorizations. The commissioner is authorized to grant a gainsharing authorization to an agency based on his satisfaction that the agency's request demonstrates accomplishment of a gainsharing plan resulting in verified efficiencies, monetary savings, and maintenance of performance. Any gainsharing authorization for a particular agency which exceeds fifty thousand dollars in the aggregate shall require approval of the Joint Legislative Committee on the Budget, or a subcommittee thereof, hereinafter referred to as "the committee".

(1) A gainsharing authorization shall permit an agency to utilize state general fund monies, and other monies which are subject to remission to the state general fund, for the listed purposes and in the amounts specified in the gainsharing authorization.

(2) A gainsharing authorization shall be executed no later than the thirtieth day of June, and shall be made for a specific fiscal year and agency, and for a dollar amount not to exceed the amount of the monetary savings evidenced in the request. Fifty percent of monies available pursuant to the authorization shall be returned to the state

treasury, and fifty percent shall be distributed to the employees cited in the agency's request as the staff responsible for achievement of the efficiencies and savings. Such distributions to employees shall be subject to the approval of the Department of State Civil Service in accordance with applicable rules and regulations. The commissioner may provide by rule for distributions to unclassified employees. Distributions to employees shall be made within sixty days of the granting of a gainsharing authorization.

(3) Notwithstanding any other provision of this Title to the contrary, the commissioner is authorized to implement any internal budgetary adjustments necessary to incorporate monies made available pursuant to a gainsharing authorization into the budget of the respective agency for expenditure pursuant to the authorization.

(4) The commissioner shall notify the committee of any gainsharing authorization granted at the time it is made.

(5) No retirement contributions shall be made based on funds distributed to employees and no funds so distributed shall be considered in the determination of retirement benefits.

(6) An agency receiving a gainsharing authorization shall continue the practices and policies contained in the successful gainsharing plan in subsequent years.

D. The commissioner shall establish rules and regulations in accordance with the Administrative Procedure Act for the administration of this program. The rules and regulations shall be submitted to the committee for approval prior to adoption and implementation.

Section 2. The state treasurer is directed to transfer and credit the sum of Three Million Dollars from the Incentive Fund to the State General Fund on the effective date of this Act.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_