

1 State of Arkansas *As Engrossed: H1/31/13 H2/11/13*

2 89th General Assembly

# A Bill

3 Regular Session, 2013

HOUSE BILL 1043

4

5 By: Representatives Bell, Alexander, D. Altes, Ballinger, Biviano, Bragg, Branscum, J. Burris, Clemmer,  
6 Collins, Cozart, Dale, Deffenbaugh, C. Douglas, D. Douglas, Eubanks, Farrer, Fite, Gillam, Gossage,  
7 Hammer, Harris, Hickerson, House, Hutchison, Kerr, Lea, Linck, Lowery, Mayberry, D. Meeks, S.  
8 Meeks, Neal, Rice, Scott, Slinkard, Westerman, Womack, *Dotson*

9 By: Senators J. Woods, *J. Key, D. Sanders*

10

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## For An Act To Be Entitled

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AN ACT TO AMEND ARKANSAS LAW TO PERMIT A REWARD TO A  
13 STATE EMPLOYEE WHEN A *COMMUNICATION* UNDER THE  
14 ARKANSAS WHISTLE-BLOWER ACT RESULTS IN A SAVINGS OF  
15 STATE FUNDS; AND FOR OTHER PURPOSES.

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### Subtitle

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*TO AMEND ARKANSAS LAW TO PERMIT A REWARD  
20 TO A STATE EMPLOYEE WHEN A COMMUNICATION  
21 UNDER THE ARKANSAS WHISTLE-BLOWER ACT  
22 RESULTS IN A SAVINGS OF STATE FUNDS.*

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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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27 SECTION 1. Arkansas Code § 21-1-602(4) is amended to read as follows:

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(4)(A) "Public employee" means a person who performs a full or  
29 part-time service for wages, salary, or other remuneration for a public  
30 employer~~+~~.

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(B) "Public employee" includes without limitation a state  
32 employee under § 21-1-610.

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34 SECTION 2. Arkansas Code Title 21, Chapter 1, Subchapter 6, is amended  
35 to add an additional section to read as follows:

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21-1-610. Reward to state employee when *communication* of waste or



1 violation results in savings of state funds.

2 (a) As used in this section:

3 (1) "State employee" means a person who performs a full or part-  
4 time service for wages, salary, or other remuneration for a state employer;  
5 and

6 (2) "State employer" means:

7 (A) An agency, department, board, commission, division,  
8 office, bureau, council, authority, or other instrumentality of the State of  
9 Arkansas, including without limitation the:

10 (i) Offices of the various Arkansas elected  
11 constitutional officers; and

12 (ii) General Assembly and its agencies, bureaus, and  
13 divisions; or

14 (B) A state-supported college, university, technical  
15 college, community college, or other institution of higher education or  
16 department, division, or agency of a state institution of higher education.

17 (b) A state employee making a communication under § 21-1-603 shall be  
18 eligible to receive a reward in an amount equal to ten percent (10%) of any  
19 savings in state funds attributable to changes made based on a communication  
20 under § 21-1-603.

21 (c) Except as provided in subsection (g) of this section, upon the  
22 resolution of a matter communicated to an appropriate authority under § 21-1-  
23 603, the appropriate authority shall provide a written report detailing the  
24 content of the communication and the outcome of the communication to the:

25 (1) State employee who made the communication; and

26 (2) State employer that was the subject of the communication.

27 (d) After receiving a written report under subsection (c) of this  
28 section, a state employer shall:

29 (1) Document the savings in state funds attributable to changes  
30 made based on the communication filed under § 21-1-603 for one (1) full  
31 fiscal year; and

32 (2)(A) Within thirty (30) days of the end of the first full  
33 fiscal year in which the changes made based on the communication filed under  
34 § 21-1-603 were implemented, issue a report containing:

35 (i) The total savings in state funds resulting from  
36 the communication under § 21-1-603 for the first full fiscal year in which

1 the changes were implemented;

2 (ii) The name of the state employee who made the  
3 communication resulting in the savings of state funds; and

4 (iii) The amount of the reward for which the state  
5 employee is eligible. The amount of the reward shall be equal to ten percent  
6 (10%) of the total savings in state funds reported under subdivision  
7 (d)(2)(A)(i) of this section. If the state employer concludes that the state  
8 employee is not eligible for a reward, the state employer shall state the  
9 reasons for that determination in the report.

10 (B) A report under subdivision (d)(2)(A) of this section  
11 shall be submitted to the:

12 (i) Performance Evaluation and Expenditure Review  
13 Subcommittee of the Legislative Council or, if the General Assembly is in  
14 session, the Review/PEER Subcommittee of the Joint Budget Committee;

15 (ii) State employee who made the communication under  
16 § 21-1-603 unless the state employee has elected to maintain confidentiality  
17 under subsection (g) of this section. The report to the state employee shall  
18 include a notice to the state employee of the right to an appeal under  
19 subsection (e) of this section; and

20 (iii) Clerk of the Arkansas State Claims Commission.

21 (e)(1) A state employee may appeal to the Arkansas State Claims  
22 Commission in the same manner for filing a claim under § 19-10-208 if the  
23 state employee believes that:

24 (A) A report under subdivision (d)(2)(A) of this section  
25 does not accurately reflect the savings attributable to the changes made  
26 based on the communication under § 21-1-603; or

27 (B) The state employer did not accurately assess the  
28 determination of a reward under this section, including without limitation  
29 denying a reward to the state employee.

30 (2) A state employee who pursues an appeal under subdivision  
31 (e)(1) of this section is granted the same protection provided to a public  
32 employee under § 21-1-603.

33 (3)(A) A written request for an appeal under subdivision (e)(1)  
34 of this section shall be filed within forty (40) days of the submission of  
35 the report under subdivision (d)(2)(A) of this section.

36 (B) An appeal to the commission under subdivision (e)(1)

1 of this section shall follow the rules and procedures of the commission.

2 (4) In an appeal to the commission, a state employee shall have  
3 the burden of proving by a preponderance of the evidence that the:

4 (A) Amount of savings reported by the state employer under  
5 subdivision (d)(2)(A) of this section does not accurately reflect the savings  
6 attributable to the changes made based on the communication under § 21-1-603;  
7 or

8 (B) State employer did not accurately assess the  
9 determination of a reward under this section.

10 (5)(A) The decision of the commission in a matter appealed under  
11 this subsection may be appealed only to the Claims Review Subcommittee of the  
12 Legislative Council or, if the General Assembly is in session, the Claims  
13 Subcommittee of the Joint Budget Committee.

14 (B)(i) Notice of appeal under subdivision (e)(5)(A) of  
15 this section shall be filed with the commission within forty (40) days after  
16 the commission renders a decision.

17 (ii) The commission, in a timely manner, shall  
18 notify the Legislative Council or the Joint Budget Committee and all parties  
19 to the matter when a notice of appeal to the Claims Review Subcommittee of  
20 the Legislative Council or Claims Subcommittee of the Joint Budget Committee  
21 is filed with the commission.

22 (iii) When the commission notifies parties of a  
23 decision of the commission, it shall advise the parties of the right of  
24 appeal.

25 (f)(1)(A) Except as provided in subdivision (f)(2) of this section,  
26 within thirty (30) days of the end of the period for appeal under subdivision  
27 (e)(3)(A) of this section or the resolution of an appeal under subsection (e)  
28 of this section, whichever is later, the clerk of the commission shall notify  
29 a state employer of the amount of a reward to be paid to a state employee.

30 (B) Upon receipt of notification under subdivision (f)(1)  
31 of this section, the state employer shall deliver a check to the clerk of the  
32 commission who shall deposit the same as a nonrevenue receipt into the  
33 Miscellaneous Revolving Fund from which he or she shall disburse the amount  
34 of the reward to the state employee.

35 (2)(A) No reward under this section shall be paid in excess of  
36 twelve thousand five hundred dollars (\$12,500).

1 (B) If the amount of a reward is greater than twelve  
2 thousand five hundred dollars (\$12,500), the reward shall be referred to the  
3 General Assembly for an appropriation.

4 (C) If a reward is appropriated to a state employer for  
5 the benefit of a state employee, it shall be paid from the funds available to  
6 the state employer.

7 (g)(1) A state employee wishing to maintain confidentiality under §  
8 21-1-607 or who otherwise chooses to forego a reward under this section shall  
9 request to the appropriate authority that the report under subsection (c) of  
10 this section not include the state employee's name or identifying  
11 information.

12 (2) A state employee making a request under subdivision (g)(1)  
13 of this section shall not receive a reward under this section.

14 (3) The name and identifying information of a state employee who  
15 requests confidentiality under subdivision (g)(1) of this section shall be  
16 exempt from disclosure under the Freedom of Information Act of 1967, § 25-19-  
17 101 et seq.

18 (h)(1) Except as provided in subdivision (h)(2) of this section, a  
19 reward under this section shall not be payable for a communication made by a  
20 state employee in the normal course of the state employee's job duties.

21 (2) If a communication in the normal course of a state  
22 employee's job duties detailing waste or a violation is not acted upon by the  
23 state employer within ninety (90) days, the state employee may make a  
24 communication under § 21-1-603 to an appropriate authority and be eligible  
25 for a reward under this section.

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28 /s/Bell