



State of Louisiana

OFFICE OF

STATE INSPECTOR GENERAL

EMPLOYEE DOUBLE PAYMENTS

Report by

Inspector General Bill Lynch

Prepared for

Governor M.J. "Mike" Foster, Jr.

June 18, 1998

File No. 1-97-0049



State of Louisiana

**OFFICE OF
STATE INSPECTOR GENERAL**

Employee Double Payments

March 5, 1998

Report by

A handwritten signature in cursive script, appearing to read "Bill Lynch", written over a horizontal line.

Inspector General Bill Lynch

Approved by

A handwritten signature in cursive script, appearing to read "Mike Foster, Jr.", written over a horizontal line.

Governor M.J. "Mike" Foster, Jr.

File No. 1-97- 0049

Employee Double Payments

Thomas Wright, a state vocational educational employee who is also a member of the State Legislature, improperly received payments totaling \$5,753 for his state job, claiming "special leave" to which he was not entitled while serving in the House of Representatives.

The "special leave" was requested by Mr. Wright and approved by three supervisors who did not have the authority to grant the leave for attending Legislative functions.

The Board of Elementary and Secondary Education rules do not allow for "special leave" under the circumstances granted Mr. Wright.

On four occasions, Mr. Wright was paid for attendance at legislative committee meetings while his time sheets showed him working at his regular state job, for which he received \$494.

This report only covers calendar year 1996, for which this report was completed. Mr. Wright has continued to receive compensation for services in both the Legislature and the executive branch while the Board of Elementary and Secondary Education attempted to devise a rule change creating "legislative leave" to accommodate his unique situation.

However, in our opinion, BESE has no authority to adopt rules covering members of the Legislature.

Background

Mr. Wright is employed by the Department of Education, Louisiana Technical College system as a tech prep coordinator. This position reports to a consortium which includes the Alexandria Regional Technical Institute (ARTI) director, vocational director Rapides Parish Schools, and the vice chancellor of Academic Affairs at LSU-Alexandria.

The unclassified position is funded through a grant from the Federal Carl Perkins funds and administered through the Department of Education. Mr. Wright reports to the Alexandria regional director and is paid through the school's budget. Mr. Wright is currently on leave from his teaching position at the Jena, La., Technical College system campus.

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The general responsibilities of a tech prep coordinator include acting as liaison between the consortium institutions and local business and industry, presenting information to local student bodies and faculties, and coordinating the development and writing of the annual local plan.

Mr. Wright, who lives in Jena, was elected to the Louisiana House of Representatives serving District 22 in the fall of 1995, with the term beginning January 8, 1996. He is a member of the House Education Committee.

Unearned Leave

At the outset of his legislative service, Mr. Wright took annual leave or leave without pay. He began with a total of 77.73 hours of annual leave on the books and during the course of the next several months reduced that amount to zero. By using annual leave, Mr. Wright was able to continue receiving his pay from the Department of Education.

However, this changed after Mr. Wright requested in a letter to Ms. Patricia Juneau, ARTI director, dated May 13, 1996, that his status be altered. He stated:

"As you are aware, I was elected Representative of District 22 and request leave for days in which the legislature convenes. I am requesting my salary be reduced by the cost of a substitute teacher retroactive to January 08, 1996, for any days applicable, past, present, and future.

I am further requesting that leave time prior to May 13, 1996, used during legislative days, also be restored for any days applicable."

This request was approved by Ms. Juneau, Alferd Davis, regional director, and Thomas Dykes, superintendent of the Louisiana Technical College System.

Under the formula suggested by Mr. Wright, the Department of Education began granting him "special leave," paying him his regular salary of \$123.70 less \$34 a day, which

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ostensibly was for the cost of hiring a substitute teacher. Ms. Juneau stated that she arrived at the \$34 deduction based on the cost of a substitute teacher in the Rapides Parish school system. However, Mr. Wright's duties as defined in his job description do not include teaching. Ms. Juneau stated that no substitute was hired in his place.

Mr. Wright's previously used annual leave was restored.

In addition, on two occasions, the Department of Education did not properly compute the \$34 per day deduction for eight hours of special leave. Each occasion involved 16 hours special leave granted for the two week payroll period. On one occasion the \$68 was added to the gross salary amount, and on the other occasion the \$68 was not considered.

The amount paid to Mr. Wright for unearned leave during 1996 was \$5,753 including the two errors mentioned above.

Mr. Wright earns annual leave at a rate established by the State Board of Elementary and Secondary Education which is equivalent to the rates established by the State Department of Civil Service.

Rules of the Board of Elementary and Secondary Education do, in fact, provide for certain types of "special leave," but none of them include attendance at the Legislature. These situations are the following:

1. Death of a relative.
2. An act of God.
3. Local conditions or celebrations.
4. Exigent circumstances.
5. Graduation from college.

Both Mr. Dykes and Mr. Davis stated attendance at legislative functions would not constitute exigent circumstances.

Mr. Dykes said the Technical College system did not have a policy concerning employees' leave while attending legislative functions. Mr. Dykes said he approved Mr. Wright's request for leave based on his past experience as a teacher in a parish school system.

Two former legislators who are employed by the Technical College system state they were granted annual leave or received leave without pay while attending legislative functions.

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Mr. Wright received compensation for 492.5 hours of special leave amounting to \$7,615 which was reduced \$1,862 for the cost of a substitute teacher, leaving a balance paid \$5,753.

Under current Board of Elementary and Secondary Education rules Mr. Wright should have followed the same procedures as the two former legislators. Upon exhausting his annual leave, he would have been placed on leave without pay. Board of Elementary and Secondary Education rules do not allow an employee to earn annual or sick leave while receiving leave without pay. Mr. Wright earned both forms of leave while on "special leave."

Article 7, Section 14, of the Louisiana State Constitution provides that the funds, credit, property, or things of value of the state or of any political subdivision shall not be loaned, pledged, or donated to or for any person, association, or corporation, public or private.

Conclusions:

1. Mr. Wright requested and was approved to receive leave for which he was not entitled.
2. Three supervisors in the Department of Education improperly approved "special leave" for Mr. Wright.
3. Mr. Wright received \$5,753 because of the "special leave."
4. Mr. Wright earned annual and sick leave while on "special leave" when he should have been on leave without pay and not entitled to earn leave.

Recommendations:

1. Mr. Wright should reimburse the state \$5,753.83.
2. The Department of Education should recompute Mr. Wright's annual and sick leave balances to reflect the period he should have been on leave without pay.

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3. The Department of Education should take appropriate action regarding the approval by three supervisors of "special leave" for Mr. Wright.

Failure To Take Leave

On four occasions, Mr. Wright reported working eight hours per day on his state job in the Alexandria district while attendance records maintained by the House of Representatives indicate his presence in Committee meetings in Baton Rouge for which he was paid per diem and mileage.

As an elected member of the House of Representatives, Mr. Wright is paid \$1,400 per month, mileage reimbursements and \$75 per diem for each day he attends legislative functions.

Mr. Wright was paid the \$75 per diem for each of the four days questioned.

On Monday, July 29, 1996, and Tuesday, July 30, 1996, the House Committee on Education met in Baton Rouge. The hours for the meetings were 10:18 a.m. through 4:38 p.m., Monday, and 9:25 a.m. through 2 p.m., Tuesday. Mr. Wright reported on his time and attendance sheets working 7:30 a.m. to 3:30 p.m. both days. The time sheets appear to be initialed by Mr. Wright.

On September 9 and 10, 1996, the House Committee on Education met in Baton Rouge. These meetings were held during the times 10:07 a.m. through 4:04 p.m. Sept. 9, 1996, and 9:05 a.m. through 4:22 p.m. Sept. 10, 1996. Mr. Wright's time sheet indicates working 7 a.m. to 3 p.m. on both days. The time sheet is not initialed by Mr. Wright.

John Martin, ARTI, assistant director, said he signed the September time sheet for Mr. Wright. Mr. Martin states that before signing the time sheet the information was discussed and verified with Mr. Wright.

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Mr. Wright was paid full salary in the amount of \$123.70 for each of the four days questioned, a total of \$494.80. There were no \$34 deductions for substitute teachers under the "special leave" formula.

Conclusion:

1. House Committee on Education records show Mr. Wright's presence while time sheets maintained by ARTI indicate regular work hours.

Recommendations:

1. Mr. Wright should repay the Department of Education \$494.80 for the four days in question.
2. This report should be reviewed by the appropriate authorities.

Responses:

1. Mr. Wright and Mr. Dykes disagree with the findings of this report. Their responses are attached.
2. Mr. Davis disagrees with the statement that he approved granting the leave. His response is attached.

Inspector General's Comment:

Mr. Wright cites rules dealing with local school personnel as justification for receiving special leave (with pay) from his vocational education coordinator job while being paid by the Legislature for attending his duties at the Legislature. However, Mr. Wright is a state employee in vocational education and the rules that apply to him are different from those that apply to local school employees. When Mr. Wright

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claims that, by law, he is entitled to equal treatment with local school personnel, he confines the "equal" only to those benefits which are favorable to him. For example, he currently earns fully paid annual and sick leave as a state employee at a rate of 18 days each a year while a teacher is guaranteed a minimum of 10 days of sick leave per year. Mr. Wright, as a state employee, receives leave benefits under a policy adopted by the Board of Elementary and Secondary Education, which does not afford leave with pay while serving in the Legislature.

Mr. Wright also cites BESE policy, Bulletin 1868, authorizing supervisors to "determine the best course of action" themselves "in the absence of written policy." Here there is no absence. Under Bulletin 1868 an employee whose leave does not fit one of the approved categories must take leave without pay once annual leave is exhausted.

Mr. Dykes, who approved the leave, relies on a 1948 opinion of the attorney general which relates to local schools and is not applicable to vocational education employees.

BESE Authority

Since this report was issued to the Governor in March, 1997, the Board of Elementary and Secondary Education has begun the process of changing its rules in order to allow Mr. Wright to continue receiving compensation for performing duties and functions in the vocational education system as an employee of the department while being paid for legislative service at the same time. Since the audit period, Mr. Wright has continued to receive compensation for both positions.

The proposed amended rule says:

"An employee shall be given time off without loss of pay, annual leave or sick leave when: Performing the duty of a legislator during any special or regular session. If a substitute is employed and actually served, during the teacher's absence, the substitute's salary may be deducted from the teacher's pay.

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This proposal was approved by BESE July 24, 1997, and is being advertised through a notice of intent in the Louisiana Register with final approval expected in February, according to W. Wayne Meaux, acting state director of the Louisiana Technical College System Office.

It is the opinion of this office that BESE lacks authority to authorize payment to an employee as payment for the same time serving in the Legislature.

Conclusion:

1. BESE has adopted a rule change affecting legislative service of one of its employees for which it has no authority.

Recommendation:

1. The rule should not become effective.

1-97-0049
BL/GD/fs



STATE OF LOUISIANA
HOUSE OF REPRESENTATIVES

T. D. "TOMMY" WRIGHT

District 22

Parishes of
Iberian, LaSalle, Northern Rapides
and Southern Catahoula

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101 S. First St., Suite 2A
Jena, Louisiana 71342
Telephone: (318) 992-8882
(800)-408-9758
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Civil Law & Procedure
Education
Municipal, Parochial & Cultural Affairs

February 25, 1997

Mr. Bill Lynch
Inspector General
P.O. Box 94095
Baton Rouge, LA 70804

Dear Mr. Lynch:

Thank you for making me aware of the two, two day periods of time in which I failed to take leave. Having been brought to my attention, the missed days were immediately recorded as leave, accordingly.

During this past year, I took more than 545 hours of leave affecting some 72 working days. In fact, above and beyond the days of leave in which I received legislative per diem, 19 days were recorded with 131.5 hours for leave in which I received no compensation.

It is probably no coincidence that the two calls missed occurred as the timekeeper/secretary, was in fact absent herself.

My office is located at the technical college in Jena, while payroll information is maintained and recorded in Alexandria, some 43 miles away. The procedure was for me to place a call to the timekeeper/secretary in Alexandria for days in which I took leave.

Most often, I would report any scheduled leave days for the week that I was planning on taking leave with a single call for the week, save an unexpected absence. The timekeeper/secretary would record those days and fill out a leave slip. During my next visit to the Alexandria campus, I would fill in the blank days with my standard working hours across the page and sign any leave slips. If any days were inadvertently unmarked, I would have filled them in with standard working hours.

In an effort to eliminate this from occurring in the future, I am now faxing memos for leave, thus maintaining a hard copy.

Your letter states that on two occasions (no dates), the Department of Education did not properly compute my payroll information, which as you realize, was through no fault of mine. My point-in mentioning same is that mistakes do occur in spite of our best attempts to be accurate. I can only assume your findings are correct.

Including myself, there are two current legislators in the House that follow rules promulgated by the Board of Elementary and Secondary Education. It was upon learning from the other Louisiana Certified Teacher (Supervisor) that rules provide for leave for any member of the teaching staff of a public school in Louisiana that I requested the same leave.

BESE Bulletin 1868, Chapter B: Employee Benefits, 153 B: Leave, Postsecondary Technical System states:
This policy establishes the Leave Record and Regulations for unclassified employees. Classified employees are governed by Civil Service Rules.

It is the policy of the Board that unclassified employees deserve equal treatment with other classes of State employees, and these rules and polices are promulgated under that concept. In addition, this policy recognizes the teacher benefits as established by law for the Postsecondary Technical System.

1. General Provisions and Definitions

a. General Provisions

(1) For the purpose of leave earning under this plan, the Assistant Superintendent for Vocational Education shall establish work weeks that define full-time employees.

It is clear that Civil Service Rules govern Classified employees. It is equally clear that the Board expresses its desire to provide unclassified employees with equal treatment as other classes of State employees and specifically recognizes any teacher benefits established by law to be provided to applicable teachers within the Postsecondary Technical System.

Bulletin 1868, Chapter B, Paragraph 113: Authority and Responsibilities, B. Duties, 7. Administration in Policy Absence,
a. It shall be the responsibility of the Superintendent/Regional Management Center/Institute/Resource Center Director to carry out the applicable laws and approved policies for personnel management. In the absence of written policy, it shall be the responsibility of the Superintendent/Regional Management Center/Institute/Resource Center Director to determine the best course of action to take. This decision shall be based on historical knowledge of past

activities and the sense of what is the most efficient and effective action for the operation of the school.

Throughout Bulletin 1868, Directors, Regional Directors and Superintendents have each been granted the authority to make decisions, including leave policies, based on historical knowledge.

As a teacher under BESE, I requested and was approved by all three supervisors to receive leave (unspecified). And in fact, the leave requested by me was being granted to the only other current legislator/Louisiana public school teacher (supervisor) serving in the House.

Quite frankly, I had never looked at Bulletin 1868 in my eight and one-half years in vocational education before receiving your letter. Since that time, in reviewing the bulletin and talking with legal counsel with the Department of Education, I do believe that those persons granting me leave had and have the authority to do so.

In summary:

There were two, two consecutive days in which my pay was incorrect and if I was responsible in any way for this error, then I apologize. Upon learning of same, the days were properly recorded and pay adjustments made. I feel very strongly that the 94% accuracy in leave taken substantiates my desire and intent to "do the right thing."

Regarding leave requested and granted, I strongly feel that I was correct in asking for benefits to which any Louisiana Public Teacher is entitled and was granted same by my three supervisors, all of whom have both implied and expressed decision making authority.

Other items:

Just as a matter of information, I would like to make you aware of the following information.

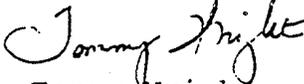
Coincidentally, my legislative district (Grant, LaSalle, Rapides and Catahoula) and the educational district (Grant, LaSalle, Rapides and Winn) in which I work are almost the same. Prior to my election, I averaged from \$100 to \$300 monthly educational travel which was reimbursed to me. Following my election and taking of office last January, I decided to discontinue charging miles for travel associated with my educational job so as not to appear questionable; this by my own doing and at my own option.

In addition, I am eligible for compensatory time as I am often not in Jena upon making an eight hour day and am eligible for both mileage and time until I return to Jena, my working domicile.

Lastly, I would like to point out that the consortium in which I work consists of four parish school systems, two vocational schools and a community college. The fiscal agent is one of the vocational schools. There would not be a problem in moving the fiscal agent from the vocational school to one of the parish schools.

I trust this letter accurately and thoroughly addresses your concerns. Thank you for your consideration.

Sincerely,


Tommy Wright

mailed: 03/06/97

faxed: 03/07/97



STATE OF LOUISIANA
DEPARTMENT OF EDUCATION

P. O. BOX 94064
BATON ROUGE, LOUISIANA 70804-9064

March 3, 1997

Mr. Bill Lynch
State Inspector General
Office of State Inspector General
P. O. Box 94095
Baton Rouge, LA 70804-9095

Dear Mr. Lynch:

Re: File No. 1-97-0049

The following are responses to findings as stated in your letter to me of February 14, 1997:

Finding No. 1:

I do not concur with this finding. When the request came to me for Mr. Wright to be placed on leave to attend the Legislative Session, I first consulted BESE's Bulletin 1868 - Personnel Manual. No mention of this type leave could be found in Bulletin 1868. It neither permitted nor refused it. However, Bulletin 1868, Section 151A does establish the fact that Mr. Wright is a "teacher" and is entitled to leave according to R.S. 17:1201A and R.S. 17:1202 and by an Attorney General Opinion.

I then considered other members of the Legislature that are affiliated with secondary schools or universities. In researching this, I found several ways that this leave was being used. Some members were using "K" time, some were using annual leave, and some were using special leave where the cost of a substitute was deducted from their salary and they received the remainder. Since I could not find any objection to approval of the leave with a substitute's pay being deducted, and this being familiar to me from my past experience, the leave was approved.

Finding No. 2:

I do concur with your finding in that there is a discrepancy of four days when Mr. Wright was recorded as being present at Legislative committee meetings and no leave slips were recorded at the payroll office.

Mr. Bill Lynch
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March 3, 1997

I have researched this information, and I believe that there was a misunderstanding between Mr. Wright and the secretary at the school regarding Mr. Wright's requesting leave. This situation occurred as a result of telephone conversations, and these four days were inadvertently omitted on the leave slip request. Steps have been taken to ensure that this situation will not reoccur.

If you have any questions or require further information, please contact me.

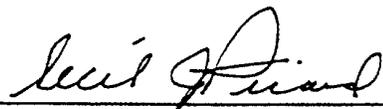
Sincerely,



Thomas J. Dykes
Assistant Superintendent
Vocational Education

TJD:cf

APPROVED:



Cecil J. Picard
State Superintendent of Education

c Mary L. Peabody
Dudley Garidel



LOUISIANA TECHNICAL COLLEGE
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February 19, 1997

State of Louisiana
Office of State Inspector General
Attn: Mr. Bill Lynch
State Inspector General
Post Office Box 94065
State Capitol Annex
Baton Rouge, Louisiana 70804-9095

Dear Mr. Lynch:

I am writing this letter in response to File No. 1-97-0049.

In response to conclusion #1 and #2 as it relates to "special leave", I do not concur. The letter in which I signed did not specify the type of leave being requested. Mr. Thomas Wright verbally informed me that he had spoken to Mr. Thomas Dykes, Superintendent of the Louisiana Technical College System, concerning the leave request and had received verbal approval. I was told that my approval was needed to submit the written request to Superintendent Thomas Dykes who had the authority to approve this type of leave. As I am not one of Mr. Thomas Wright's supervisors, I have no authority to approve any type of leave for him.

Respectfully yours,


Aiferd V. Davis
Director

AVD/lbs