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ЗАКОНОДАТЕЛЬНЫЕ ПРИНЦИПЫ ПРАВОВОЙ СИСТЕМЫ АДМИНИСТРАТИВНОГО СТИМУЛИРОВАНИЯ С ПОЗИЦИИ СЕРВИСНО-ОРИЕНТИРОВАННОГО ГОСУДАРСТВА
LEGISLATIVE PRINCIPLES OF THE ADMINISTRATIVE INCENTIVE LEGAL SYSTEM FROM THE PERSPECTIVE OF A SERVICE-ORIENTED GOVERNMENT

Аннотация. Формирование сервисно-ориентированного государства является важнейшей составляющей административной реформы Китая и развития правового государства в новую эпоху. Правовая система административного стимулирования, выступая важным инструментом гибкого административного управления, посредством законодательно закреплённого механизма направления интересов трансформирует отношения сотрудничества между государством и обществом, а также между государством и рынком. Кроме того, она обеспечивает институциональную поддержку совершенствования социального управления.

В настоящем исследовании применяются методы анализа литературы, анализа практических примеров и нормативно-правового анализа. Исходя из трансформации административного права в контексте развития сервисно-ориентированного государства, рассматриваются теоретико-правовые основы, управленческие функции и институциональные риски правовой системы административного стимулирования. На этой основе предлагаются пять законодательных принципов: ориентация на человека, обеспечение баланса между эффективностью и справедливостью, соблюдение надлежащей правовой процедуры, взаимодействие различных заинтересованных сторон и непрерывная адаптация.

В исследовании обосновывается, что законодательное регулирование административного стимулирования должно обеспечивать баланс между реализацией публичных интересов и защитой прав и законных интересов участников административно-правовых отношений. Принцип соразмерности должен применяться для регулирования интенсивности стимулирующих мер, а соблюдение надлежащей правовой процедуры – служить ограничением административного усмотрения. Повышение эффективности управления должно обеспечиваться посредством взаимодействия различных заинтересованных сторон, а адаптивность институциональной системы – совершенствоваться на основе динамической оценки. Предложенные принципы представляют собой теоретическую основу для разработки национального законодательства об административном стимулировании, а также для стандартизации местных и отраслевых систем административного стимулирования.

Abstract. Building a service-oriented government is a key component of China's administrative reform and law-based government development in the new era. As an important instrument of flexible administrative governance, the administrative incentive legal system reshapes the collaborative relationship between the government and society as well as between the government and the market through a legally established interest-guidance mechanism. It also provides institutional support for refined social governance. This study adopts the methods of literature review, case analysis, and normative analysis. Based on the transformation of administrative law in the context of service-oriented government development, it examines the jurisprudential foundation, governance functions, and institutional risks of the administrative incentive legal system. On this

basis, it proposes five legislative principles: people-oriented governance, balancing efficiency and equity, due process, multi-stakeholder collaboration, and continuous adaptation. The study argues that legislation on administrative incentives should maintain a balance between the realization of the public interest and the protection of the rights and interests of administrative counterparts. It should apply the principle of proportionality to regulate the intensity of incentives, ensure due process to constrain administrative discretion, strengthen governance effectiveness through multi-stakeholder collaboration, and improve institutional adaptability through dynamic evaluation. These principles provide a theoretical reference for national legislation on administrative incentives and for the standardization of local and sector-specific administrative incentive systems.

Ключевые слова: Сервисно-ориентированное государство; административное стимулирование; правовая система; законодательные принципы; правовое государство.

Keywords: Service-oriented government; administrative incentives; legal system; legislative principles; law-based government.

INTRODUCTION

In the context of advancing law-based governance on all fronts, China's government is transforming from a traditional regulatory model to a service-oriented government. As social governance becomes increasingly complex, compulsory administrative measures alone are no longer sufficient to address the diverse needs of public service delivery, risk prevention, market compliance, credit governance, and collaborative governance. A service-oriented government is people-centered, public service-oriented, collaboration-driven, and safeguarded by the rule of law. Its objectives are consistent with the modernization of administrative law (Liu, 2009; Liao, 2025). Scholars have focused on the institutional design of the administrative system and its internal processes, as well as the interaction between internal and external governance structures. They argue that incorporating legal incentives into the understanding of the rule of law represents a shift from a punishment-oriented approach to an incentive-oriented approach. This shift is regarded as an innovative direction in the theory of the rule of law, and the development of law-based governance in China has created favorable conditions for its realization. Administrative incentives reshape the behavioral choices of administrative counterparts by increasing expected benefits, thereby encouraging social actors to voluntarily pursue public governance objectives (Shen, 2014; Feng, 2015).

In recent years, administrative incentives have been widely applied in areas such as improving the business environment, credit regulation, public safety, ecological governance, administrative subsidies, and digital governance. For example, the mine safety credit point assessment mechanism reflects the use of point-based evaluations to strengthen the responsibility of regulated entities in the field of public safety. Local administrative subsidy programs demonstrate the institutional linkage between benefit-conferring administration and incentive-based administration (General Office of the People's Government of Shanxi Province, 2019; People's Government of Guangdong Province, 2023). At present, administrative incentives are mainly established through policy documents, local normative documents, and sector-specific regulations. However, there is still a lack of unified legislation at the national level. As a result, the rules governing incentive providers, target groups, eligibility requirements, procedures, supervision, and remedies remain inconsistent. In some regions, problems have emerged, including arbitrary incentive standards, expanding fiscal burdens, unbalanced regional competition, opaque algorithm-based evaluations, and the absence of effective exit mechanisms (Zhou, 2017; Liu, 2024). Although administrative incentives are benefit-conferring administrative acts, they involve the allocation of public resources, the use of public funds, qualification assessments, credit evaluations, and preferential policy treatment. Therefore, they must comply with fundamental principles of administrative law, including the principle of legal reservation, the principle of proportionality, and due process (Mo, 2015; Zhou, 2005). Consequently, the rule of law for administrative incentives requires the establishment of a stable, clear, and operable system of legislative principles.

This article examines how administrative incentives can be placed on a coherent legal footing within a service-oriented model of government. It addresses their jurisprudential foundations, governance functions and risks, and the legislative safeguards required for their lawful implementation. The analysis develops five interrelated principles and considers their implications for national framework legislation and differentiated local implementation.

LITERATURE REVIEW

Existing studies mainly focus on the development of the service-oriented government, the rule of law for flexible administration, the theory of benefit-conferring administration, the administrative incentive system, and its practical applications.

Research on the service-oriented government and the transformation of administrative law. A service-oriented government does not weaken government functions. Instead, it requires the government to shift from being a sole regulator to becoming a provider of public services, an organizer of collaborative governance, and a protector of the public interest. Liu (2009) examined the institutional foundation of the service-oriented government from the perspective of legal theory. Chen (2014) argued that its development depends on the support of the administrative law system. Li (2026) emphasized that building a law-based government in the new era requires both innovation in governance philosophy and institutional reform. Yang (2004) pointed out that service administration integrates two different concepts of interests at the level of governance objectives. Wang, Liu, and Zhang (2009) discussed the value objectives and practical requirements of building a service-oriented government from multiple perspectives.

Research on flexible administration, benefit-conferring administration, and the rule of law. Flexible administration is an important approach to building a service-oriented government. It emphasizes non-compulsory administrative instruments, including administrative guidance, administrative agreements, administrative subsidies, and credit-based incentives. Wang (2014) argued that the primary task of the Chinese government is to strike a balance between administrative power and citizens' rights. Ma (2024) proposed integrating the development of a law-based government with that of a service-oriented government. He (2023) maintained that both substantive and procedural administrative law should embody social equity, the spirit of public service, and the protection of human rights. Luo and Song (2009) argued that soft law is also law, and that non-compulsory administrative actions may still affect the rights and interests of administrative counterparts.

Research on the nature and governance functions of the administrative incentive system. Administrative incentives differ from administrative penalties and administrative coercive measures. Their core function is to encourage administrative counterparts to voluntarily engage in conduct that serves the public interest through positive benefit arrangements. Luo and Song (2009) argued that although soft law does not rely on state coercion for enforcement, it possesses normative authority, public legitimacy, and practical binding force. Therefore, it can contribute to social governance through consultation, consensus, and self-regulation. Feng (2015) examined the development of legal incentive theory from the perspective of changes in both legislative techniques and legislative philosophy. Li (2013) analyzed the shortcomings of China's administrative regulation and proposed incentive-based regulation as a path toward strengthening the rule of law in administration. Hu (2023) argued that benefit-conferring measures, such as subsidies, policy support, and rewards, constitute the core instruments of benefit-conferring administration and provide the theoretical foundation for administrative incentives.

Research on the practical application of administrative incentives. Existing studies mainly examine administrative incentives in areas such as credit regulation, business environment improvement, corporate compliance, administrative subsidies, and digital governance. He (2025) analyzed the institutional framework and regulatory improvement of incentive-based administrative legislation from the perspective of business environment governance. Guo and Wang (2024) argued that administrative incentives should evolve from policy instruments into legally established institutions. Wu (2015) proposed using legal reforms to reshape the incentive structure of local

government officials in order to eliminate the underlying causes of campaign-style law enforcement. He and Gui (2022) examined the relationship among the intensity of administrative incentives, the measurability of grassroots governance tasks, and governance effectiveness. Zhang (2021) regarded incentive-based customs regulation as a new form of non-traditional administrative action within an open theoretical framework of administrative law. Liu (2022) argued that applying the principle of proportionality is essential for identifying legally appropriate solutions and minimizing disputes over the legality of government actions.

Taken together, these studies illuminate the evolution of service-oriented administration and the practical use of incentives, but they address the relevant theories, policy instruments and regulatory settings largely in isolation. The literature therefore provides an incomplete account of how administrative incentives can be governed through a coherent legislative framework.

Four related gaps emerge from this review: insufficient integration of service-oriented, flexible and benefit-conferring administration; limited articulation of overarching legislative principles; inadequate attention to discretion, transparency, remedies and exit procedures; and insufficient consideration of regional disparities, fiscal sustainability and digital governance risks.

RESEARCH METHODS

The study uses literature review, illustrative policy-case analysis and normative legal analysis. It synthesizes the theoretical literature, examines selected administrative incentive arrangements as illustrations of regulatory design, and interprets relevant legal and policy instruments to formulate legislative principles. The cases are not presented as a representative empirical sample, and the article does not claim to measure the causal effectiveness of incentive policies.

Literature review. This study systematically reviews the literature on the service-oriented government, flexible administration, benefit-conferring administration, administrative incentives, credit regulation, law-based government development, and digital administration. It summarizes the main scholarly views on the functions of the administrative incentive legal system, its legal boundaries, and approaches to legislative improvement. It also identifies the limitations of existing research.

Case analysis. This study conducts a normative analysis of representative cases, including the mine safety credit point assessment mechanism, local administrative subsidy programs, trustworthiness-based incentive mechanisms, and digital administrative incentives. The mine safety credit point assessment system in Shanxi Province illustrates how point-based mechanisms strengthen the responsibility of regulated entities in the field of public safety. Relevant institutional arrangements in Guangdong Province demonstrate local efforts to improve the rule of law in benefit-conferring administration and administrative incentive procedures. The trustworthiness-based incentive mechanism in credit regulation reflects the interaction between administrative incentives and the evaluation of market behavior. Digital administrative incentives further reveal the tension between algorithmic governance and procedural control of administrative power.

Normative analysis. This study draws upon legal and policy documents, including the Administrative Licensing Law of the People's Republic of China, the Administrative Penalty Law of the People's Republic of China, and the Implementation Outline for Building a Law-Based Government (2021–2025). Based on fundamental principles of administrative law, including popular sovereignty, due process, the principle of proportionality, collaborative governance, and the principle of protection of legitimate expectations, it defines the normative boundaries of the administrative incentive legal system and develops a system of legislative principles suited to China's governance context.

FINDINGS

The principle of people-oriented governance is a fundamental requirement for building a service-oriented government and the primary legislative principle of the administrative incentive legal system. The purpose of administrative incentives is not merely to improve administrative efficiency. Rather, it is to promote coordination between the public interest and the lawful rights and

interests of individuals through institutionalized benefit-guidance mechanisms. First, legislation on administrative incentives should be based on public needs. Before legislation is enacted, standardized mechanisms for public consultation and needs assessment should be established. These mechanisms should identify major public concerns, governance challenges in different sectors, and shortcomings in public service delivery. This helps ensure that administrative incentives respond to actual social needs rather than becoming instruments for political achievements or departmental interests. Second, legislation should emphasize the accurate response to changing governance needs. Since governance demands evolve over time, the administrative incentive legal system should include regular evaluation and adjustment mechanisms. Incentive conditions, standards, and scope should be revised in a timely manner to ensure that incentive measures remain consistent with governance realities. Third, legislation should give priority to protecting the lawful rights and interests of administrative counterparts. Although administrative incentives are benefit-conferring administrative acts, they may still affect fair competition, resource allocation, and the realization of rights. Therefore, legislation should clearly guarantee the rights of administrative counterparts, including the right to apply, the right to information, the right to make statements and defenses, the right to raise objections, and the right to legal remedies. It should also prohibit excessive or discriminatory incentives introduced in the name of the public interest.

The principle of balancing efficiency and equity requires that administrative incentives pursue governance effectiveness while maintaining reasonable fiscal, institutional, and social costs. The effectiveness of administrative incentives does not increase simply because more benefits are provided. Instead, incentive measures should comply with the principle of proportionality and the requirements of sustainable public finance. First, social benefits should take priority. Legislation on administrative incentives should pursue the maximization of the public interest. It should primarily support objectives such as ecological protection, public safety, social welfare, public service delivery, and the maintenance of market order. Short-term economic gains or regional competitive advantages should not come at the expense of the public interest. Second, economic benefits should be sustainable. Administrative incentives often involve public funds, public resources, or preferential policy treatment. Legislation should clearly define funding sources, budget arrangements, performance evaluation mechanisms, and exit mechanisms. This helps prevent excessive incentives from creating long-term fiscal burdens for local governments. Third, a cost-benefit assessment mechanism should be established. During the legislative process, independent third-party evaluations or expert assessments should be introduced to examine implementation costs, expected benefits, alternative policy options, and potential risks. Incentive measures with excessively high costs, uncertain benefits, or a significant risk of market distortion should be designed with particular caution.

The principle of due process is essential to the fair implementation of the administrative incentive legal system. The more benefit-conferring administrative incentives become, the greater the risks of rent-seeking, selective incentives, and non-transparent decision-making. Therefore, administrative discretion must be regulated through procedural safeguards. First, the legislative process should be open and transparent. Draft legislation on administrative incentives, explanatory notes, consultation drafts, expert opinions, legal review opinions, and final legislative texts should be disclosed to the public in accordance with the law. A higher level of transparency is particularly necessary for incentive systems involving the allocation of public resources or the maintenance of market order. Second, public participation should be meaningful. During the legislative process, clear mechanisms should be established for responding to public comments. Where significant opinions are not adopted, the reasons should be explained. This helps prevent public consultation from becoming a purely procedural formality. Third, implementation procedures should be standardized. Legislation should clearly specify the procedures for application, acceptance, review, public disclosure, implementation, reconsideration, and exit. It should also define processing time limits, recusal requirements, documentation standards, and review criteria. For point-based assessment, credit evaluation, and qualification recognition, legislation should minimize unnecessary discretionary space.

The principle of multi-stakeholder collaboration reflects the shared governance philosophy of the service-oriented government. Administrative incentives are not simply benefits distributed unilaterally by the government. Instead, they establish a collaborative governance structure involving the government, the market, society, and the public through institutional design. First, incentive providers should be diversified and established by law. The government should formulate rules, coordinate resources, and supervise implementation. Industry associations may participate in credit evaluation, standard setting, and data verification. Market entities should fulfill compliance obligations and participate in incentive applications. Members of the public should participate in governance through reporting, evaluation, and supervisory mechanisms. Second, incentive instruments should be diversified. Administrative incentives should not be limited to financial rewards. They may also include additional credit points, reduced regulatory inspection frequency, more convenient administrative services, honorary recognition, priority access to preferential policies, and priority allocation of public resources. Different policy areas should adopt appropriate combinations of incentive instruments according to governance objectives and the characteristics of regulated entities. Third, collaborative mechanisms should be standardized. Cooperation among the government, market entities, and social organizations should clearly define their respective rights and obligations through administrative agreements, industry self-regulatory codes, credit commitments, and standardized evaluation rules. This helps prevent collaborative governance from becoming a means of shifting governmental responsibilities to other actors.

The principle of continuous adaptation requires the administrative incentive legal system to maintain legal stability while remaining responsive to changes in governance. Administrative incentives should neither change too frequently nor remain inflexible. First, continuity in the application of the law should be maintained. Incentive rules, point-based assessment standards, eligibility requirements, and reward mechanisms should not be changed arbitrarily. Where amendments are necessary because of changing governance needs, a reasonable transitional period should be provided to protect the legitimate expectations of administrative counterparts. Second, legislation should preserve institutional flexibility. The administrative incentive legal system may adopt a legislative structure combining framework legislation at the national level with detailed local implementation rules. National legislation should establish fundamental principles, core procedures, and minimum standards for legal remedies. Local governments and competent authorities should formulate more detailed rules based on regional conditions and sector-specific characteristics. Third, a regular evaluation mechanism should be established. Administrative authorities should periodically assess the administrative incentive legal system by considering factors such as industry compliance, public satisfaction, fiscal sustainability, governance effectiveness, and market responses. Based on these evaluations, incentive conditions, point-based assessment weights, and reward standards should be adjusted when necessary.

DISCUSSION

The application of digital technologies, including big data, artificial intelligence, and blockchain, may improve the targeting and administration of incentives. However, it may also create risks such as algorithmic opacity, data misuse, and technology-based discrimination. Future legislation on administrative incentives should establish basic rules concerning the disclosure of core algorithmic logic, human review, and data security protection. Algorithms used for risk assessment, point calculation, and eligibility screening should disclose their basic evaluation indicators, weighting structures, and operational logic. Algorithms should serve only as supporting tools. Key eligibility determinations and major adjustments to interests must be subject to human review. Legislation should also clearly define the scope of data collection, the purposes of data use, data retention periods, and the boundaries of data sharing. For small and medium-sized enterprises, self-employed individuals, and entities in less-developed regions, digital application requirements should be simplified. Differences in technological capacity should not be allowed to develop into institutional inequality.

At present, most administrative incentive systems are developed independently by local governments and sectoral authorities. This may lead to fragmented rules and imbalanced regional competition. Therefore, basic national rules on administrative incentives should be formulated. These rules should define the scope of application, fundamental principles, procedural requirements, supervisory mechanisms, and channels for legal remedies. At the same time, local governments should be allowed to adopt differentiated measures based on their industrial structures, fiscal capacity, and governance priorities. Legislation on administrative incentives may adopt a model based on a unified national baseline and differentiated local implementation. At the national level, minimum rule-of-law standards should be established to prevent local governments from engaging in unfair competition in the name of incentives. At the local level, differentiated incentive measures may be designed for key local industries and deficiencies in public services and social welfare. For less-developed regions, disparities in governance resources may be reduced through central government transfer payments, regional coordination mechanisms, and mechanisms for coordinating standards across regions.

Administrative incentive systems in other countries are often based on contractual administration, consultative governance, and market autonomy. They generally emphasize equal cooperation between the government and social actors. China may draw on international experience in procedural transparency, performance evaluation, contractual governance, and credit-based incentives. However, such experience should not be copied mechanically. China's legislation on administrative incentives should adapt international experience to its national conditions. First, the contractual incentive model used in other countries should be transformed into a governance model characterized by government guidance, sectoral implementation, and public participation. Second, point calculation methods, evaluation weights, and incentive conditions should be improved in light of China's practices in mine safety, ecological governance, market regulation, and public service delivery. Third, the emphasis on market efficiency in some international systems should be adjusted to reflect people-centered and public-interest-oriented institutional objectives. Greater attention should be given to improving people's well-being, safeguarding public security, and promoting social equity.

CONCLUSION

The analysis proposes five mutually reinforcing legislative principles: people-oriented governance; a balance between efficiency and equity; due process; multi-stakeholder collaboration; and continuous adaptation. Together they connect the public-interest objectives of incentives with proportionality, transparent procedures, accountable participation and periodic evaluation. Their contribution is a normative framework for legislative design rather than an empirically tested assessment of policy outcomes.

A coherent national legislative framework could support the transition on administrative incentives and transform them from policy instruments into legally established institutions. Legislation should clearly define their fundamental principles, scope of application, procedural requirements, supervisory mechanisms, and channels for legal remedies. It should also include specific provisions on the application of digital technologies, regional coordination, and incentive exit mechanisms. Only when operating within the framework of the rule of law can administrative incentives effectively contribute to the development of a service-oriented government and continuously improve the effectiveness of national governance.

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