

HOUSE BILL REPORT

HB 1290

As Passed Legislature

Title: An act relating to the prohibition on mandatory overtime for certain health care employees.

Brief Description: Concerning mandatory overtime for certain health care employees.

Sponsors: Representatives Green, Cody, Van De Wege, Sells, Kenney and Reykdal.

Brief History:

Committee Activity:

Labor & Workforce Development: 1/21/11, 2/11/11 [DP];

General Government Appropriations & Oversight: 2/16/11, 2/21/11 [DP].

Floor Activity:

Passed House: 3/3/11, 97-0.

Senate Amended.

Passed Senate: 4/8/11, 47-1.

House Concurred.

Passed House: 4/13/11, 96-0.

Passed Legislature.

Brief Summary of Bill

- Adds correctional facilities to the health care facilities prohibited from requiring overtime from their nursing staff.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass. Signed by 13 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Moeller, Ormsby, Roberts, Taylor and Warnick.

Staff: Alison Hellberg (786-7152).

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: Do pass. Signed by 13 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Armstrong, Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Van De Wege and Wilcox.

Staff: Alex MacBain (786-7288).

Background:

Both federal and Washington state minimum wage laws establish requirements related to overtime work. These laws require covered employees to receive overtime pay for hours worked over 40 hours per week. Another state law requires overtime compensation for certain full-time employees, including nursing staff, of state institutions under the control of the Department of Social and Health Services or the Department of Corrections (DOC) after eight hours of work in a work day or 40 hours of work in a work week. With some exceptions, these wage laws do not prohibit an employer from requiring employees to work overtime.

One exception, enacted in 2002, prohibits covered health care facilities from requiring overtime, except in limited circumstances, for registered nurses and licensed practical nurses who are involved in direct patient care and paid an hourly wage. For this prohibition on mandatory overtime, overtime means work in excess of an agreed upon, regularly scheduled shift of not more than 12 hours in a 24-hour period or 80 hours in a 14-day period. A health care facility means a facility that is licensed under specified laws as a hospital, a hospice, a rural health care facility, or a psychiatric hospital. Institutions operated by the DOC are not licensed under the statutes specified in the overtime prohibition law.

Summary of Bill:

State or local correctional institutions that provide health care services to adult inmates are added to the list of health care facilities covered under the prohibition on mandatory overtime for certain registered and licensed practical nurses.

The bill is contingent on funding in the 2011-13 State Omnibus Operating Appropriations Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony (Labor & Workforce Development):

(In support) This is not a new issue. This has already been done in the private sector. Archers have found that the chance for errors occur at much higher rates when nurses work overtime. One of the main medical errors is giving the wrong amount of medication. There

is no time for error, especially when inmates are on psychiatric drugs. This is particularly dangerous in a correctional setting.

Health care workers in DOC facilities are working around violent offenders. Nurses are required to work long hours of overtime and become incredibly fatigued. This can be very dangerous. It not only puts the nurse at risk, but also has the potential of causing harm to patients. It is hard to attract nurses to the profession with these working conditions. Nurses are depressed and ill because of how much they work. Mandatory overtime leads to fatigue, which leads to sick time, which leads to more mandatory overtime.

The inmates are savvy and they know the rules and laws. They are just waiting to file lawsuits. It costs the state money every time an inmate files lawsuits or if they are sick. Inadequate access to health care is one of the main reasons that inmates riot.

(Opposed) None.

Staff Summary of Public Testimony (General Government Appropriations & Oversight):

(In support) Nurses that work at the University of Washington and at Harborview Hospital are state workers, but do not have to work mandatory overtime, so why do nurses at the DOC? Nurses are fatigued and ill because of the amount of overtime they are required to work. There are many studies that show that when nurses are forced to work overtime, they may commit errors. One of the main medical errors is giving the wrong amounts of medications. This can lead to costly lawsuits and puts licenses for nurses at risk. In addition, there are safety concerns for the nurses. Working 16 hours in a row in the dangerous environment of a prison is unacceptable. Nurses at the DOC work in an environment where being tired and working long hours around violent offenders can cost you your life. Inadequate access to health care is one of the main reasons that inmates riot.

(Opposed) The DOC has made a concerted effort to end the reliance on costly contract nurses and to convert jobs to full-time positions. If the DOC is no longer able to require mandatory overtime, it will result in heavy reliance on costly contract nurses again.

Persons Testifying (Labor & Workforce Development): Representative Green, prime sponsor; Anna Jancewicz and James Smith, Teamsters Local 117; Joyce Clegg; and Terry Hutchins.

Persons Testifying (General Government Appropriations & Oversight): (In support) Terry Hutchins, Steve Ford, Anna Jancewicz, and James Smith, Teamsters 117.

(Opposed) Julie Murray, Office of Financial Management.

Persons Signed In To Testify But Not Testifying (Labor & Workforce Development): None.

Persons Signed In To Testify But Not Testifying (General Government Appropriations & Oversight): None.