

# HOUSE BILL REPORT

## HB 1604

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### As Reported by House Committee On:

Commerce & Labor

**Title:** An act relating to increasing the number of health care facilities that are prohibited from requiring employees to perform overtime work.

**Brief Description:** Increasing the number of health care facilities that are prohibited from requiring employees to perform overtime work.

**Sponsors:** Representatives Cody, Edwards, Conway, Schual-Berke, Morrell, Moeller, Clibborn, Simpson, Wood and Campbell.

### Brief History:

#### Committee Activity:

Commerce & Labor: 2/24/03, 2/26/03 [DPS].

#### Brief Summary of Substitute Bill

- Adds certain home health agencies and various public facilities, including state hospitals, veterans' homes, residential habilitation centers, and correctional facilities, to the health care facilities prohibited from requiring overtime from their nursing staff.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Crouse, Hudgins, Kenney and McCoy.

**Minority Report:** Do not pass. Signed by 3 members: Representatives Chandler, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; and Holmquist.

**Staff:** Chris Cordes (786-7103).

### Background:

Both federal and Washington 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 (DSHS) 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 overtime prohibition law, 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. A nursing home or a home health agency is considered part of a health care facility if the nursing home or home health agency is operating under the license of the health care facility.

The state psychiatric hospitals and other institutions operated by the DSHS or the DOC are not licensed under the statutes specified in the overtime prohibition law. Home health agencies are not authorized to operate under a license of a health care facility.

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### **Summary of Substitute Bill:**

The following entities are added to the list of health care facilities covered by the overtime prohibition law for certain registered and licensed practical nurses:

- State hospitals that are operated and maintained by the state for the care of the mentally ill. (These facilities are Western State Hospital, Eastern State Hospital, and the Child Study and Treatment Center.)
- Residential habilitation centers established to provide services to persons with developmental disabilities. (These centers are Lakeland Village, Rainier School, Yakima Valley School, Fircrest School, Frances Haddon Morgan Children's Center, Interlake School, and facilities at Harrison Memorial Hospital.)
- State veterans' homes. (These homes are the Washington Soldiers' Home, the Washington Veterans' Home, and the Eastern Washington Veterans' Home.)
- State or local correctional institutions with respect to facilities owned and operated by the state or by local governments that provide health care services to adult inmates.
- Facilities that provide health care in an institution for juveniles committed to the custody of the DSHS or in a county detention facility where juveniles are confined.
- Home health agencies, but only with respect to those home health agency

employees who are in a bargaining unit with employees of covered hospitals.

Overtime requirements for certain employees of the DSHS or the DOC who are entitled to overtime compensation are subject to the overtime prohibition law if they are covered employees of a health care facility under that law.

**Substitute Bill Compared to Original Bill:**

The substitute bill clarifies that health care facilities include those in institutions for juveniles in the custody of the DSHS or confined in a county detention facility.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Substitute Bill:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** This bill is working well in the private sector. It has not created any financial hardships and is helping to keep nurses in the profession. Nurses are much more willing to volunteer to work overtime when it is not mandatory. This bill is needed to stop nurses from leaving the public sector to go to the private sector. There is no reason why the same standard should not apply to the public sector. Working conditions are dangerous in some of the state institutions and injury rates can be reduced if staffing is managed better. Creating good working conditions is a tool for state managers to retain nurses, especially when cost concerns prevent wage improvements. Nurses in the public sector are very willing to work cooperatively with state managers to solve staff shortage problems. There is no prohibition against the state hiring temporary workers from being used in staff shortage situations. There is a potential issue in rural institutions where a shortage of qualified nurses has required closure of the health facilities.

**Testimony Against:** None.

**Testified:** (In support) Representative Cody, prime sponsor; Chris Barton, Service Employees International Union; Bev Hermanson, Washington Federation of State Employees; and Tamara Warnke, Washington State Nurses Association.

(No position) Beth Anderson, Department of Corrections.