
Commerce & Labor Committee

HB 1371

Brief Description: Modifying the nurse mandatory overtime prohibition.

Sponsors: Representatives Morrell, Conway, Moeller, Hasegawa, Cody, Green, Campbell, McCoy, Appleton, Simpson, Hudgins, Sells, Williams, Kenney and Chase.

Brief Summary of Bill

- Adds 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.
- Limits exceptions to the prohibition on mandatory overtime for circumstances relating to prescheduled on-call time and patient care in progress.

Hearing Date: 2/10/05; 1/16/06

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 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. 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.

The prohibition on mandatory overtime does not apply to overtime work that occurs in certain specific circumstances. These exceptions include work that occurs because of prescheduled on-call time or because the work is required to complete a patient care procedure already in progress.

Summary of Bill:

Coverage under the Prohibition on Mandatory Overtime Law

The following entities are added to the list of health care facilities covered under the prohibition on mandatory overtime 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.)
- State veterans' homes. (These homes are the Washington Soldiers' Home, the Washington Veterans' Home, and the Eastern Washington Veterans' Home.)
- 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 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.

The requirement is deleted for home health agencies to be covered if operating under the license of a health care facility.

For certain employees of the DSHS or the DOC who are entitled to overtime compensation, the applicable overtime requirements are subject to the prohibition on mandatory overtime law if the employees are covered employees of a health care facility under that law.

Exceptions from the Prohibition on Mandatory Overtime Law

Limitations are added to two of the exceptions to the prohibition on mandatory overtime law. First, prescheduled on-call time is an exception unless it is used (1) to fill chronic, foreseeable staff shortages, or (2) in patient care units typically staffed on a twenty-four hour basis. Second, completing a patient care procedure already in progress is an exception only if the health care facility makes a good faith effort to schedule such procedures without requiring overtime.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.