

# HOUSE BILL REPORT

## HB 1153

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**As Reported by House Committee On:**  
Labor & Workforce Development

**Title:** An act relating to mandatory overtime for employees of health care facilities.

**Brief Description:** Regulating mandatory overtime for employees of health care facilities.

**Sponsors:** Representatives Reykdal, Sells, Green, Moscoso, Dunshee, Ryu, Van De Wege, Pollet, Morrell and Hunt.

**Brief History:**

**Committee Activity:**

Labor & Workforce Development: 1/29/13, 2/12/13 [DP].

**Brief Summary of Bill**

- Extends the prohibition on mandatory overtime in health care facilities to additional employees.
- Prohibits employers from using prescheduled on-call time to fill chronic or foreseeable staff shortages.
- Modifies exceptions to the prohibition on mandatory overtime related to prescheduled on-call time and completion of patient care procedures.

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### HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

**Majority Report:** Do pass. Signed by 5 members: Representatives Sells, Chair; Reykdal, Vice Chair; Green, Moeller and Ormsby.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Holy and Short.

**Staff:** Alexa Silver (786-7190).

**Background:**

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*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.*

Both federal and state minimum wage laws establish requirements related to overtime work. These laws require that covered employees receive overtime pay for hours worked over 40 hours per week. With some exceptions, these wage laws do not prohibit an employer from requiring employees to work overtime.

One exception prohibits covered health care facilities from requiring overtime for registered nurses and licensed practical nurses who are involved in direct patient care and are paid an hourly wage. Health care facilities covered by this prohibition on mandatory overtime are hospitals, hospices, rural health care facilities, psychiatric hospitals, some nursing homes, and facilities owned or operated by prisons and jails that provide health care services to inmates in the custody of the Department of Corrections. In the context of this prohibition, 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.

The prohibition on mandatory overtime does not apply to overtime work that occurs:

- because of an unforeseeable emergency or disaster;
- because of prescheduled on-call time;
- when the employer documents reasonable efforts to obtain staffing; or
- when an employee must work overtime to complete a patient care procedure already in progress where the employee's absence would have an adverse effect on the patient.

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### **Summary of Bill:**

The prohibition on mandatory overtime in health care facilities applies to surgical technologists, diagnostic radiologic technologists, cardiovascular invasive specialists, respiratory care practitioners, and certified nursing assistants. The prohibition applies to employees who are covered by a collective bargaining agreement in addition to those who receive an hourly wage.

For health care facilities owned and operated by prisons and jails, the requirement that the facility provide care "to inmates" in state custody is deleted.

Employers are prohibited from using prescheduled on-call time to fill chronic or foreseeable staff shortages.

The exceptions to the prohibition on mandatory overtime are modified. The exception for prescheduled on-call time applies only if it is necessary for immediate and unanticipated patient care emergencies. For the exception related to procedures in progress, employers may not schedule nonemergency procedures that would require overtime.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill is similar to a bill that passed the committee last year. The exception in current law for prescheduled on-call time has become a problem. On-call nurses used to be the backup plan when there was a major accident or emergency, but they have become the solution to filling chronic shortages. Hospitals do not have an incentive to appropriately staff units when they use this loophole. Employers also take advantage of the loophole that says nurses cannot leave during ongoing procedures. It is common in health care to work long shifts, but after 20 hours it becomes hazardous. Health care workers are three times as likely to miss things when they work long hours. Hospitals need to staff accordingly. The working conditions drive nurses from the field.

This bill would expand to cover other technical positions that are being taken advantage of, especially in imaging departments where people are kept on shift for nonemergent situations. There has been an increase in patient acuity and the number of patients seen, which has led to mandatory overtime. Decisions become impaired and medical errors and mistakes are made when technologists are forced to work overtime.

(Opposed) The language in the bill may have the unintended consequence of being dangerous to patients. A triage system is used for scheduling procedures where the sickest patients are scheduled early in the day and the nonemergent are scheduled at the end of the day. As other patients are scheduled for the operating room, those nonemergent patients may be bumped. Patient care delays may lead to deterioration, and the nonemergent patients may become emergent after being bumped. Not using on-call teams may threaten the goal of immediate health care in the community.

It is difficult to recruit enough nurses and technologists with specific skills to be there 24 hours a day, seven days a week. Scheduling on-call time in advance works well. Health care workers apply for jobs knowing the on-call expectations, and they expect extra money for the responsibility.

**Persons Testifying:** (In support) Representative Reykdal, prime sponsor; Donna Dupras, United Food and Commercial Workers Local 21; John Tweedy and Anne Tan Piazza, Washington State Nurses Association; and Chris Barton, Service Employees International Union Healthcare 1199 NW.

(Opposed) Gladys Campbell, Northwest Organization of Nurse Executives; Patty Cochrell, Harrison Medical Center; Dr. Steven Cabrales, PeaceHealth St. John Medical Center; and Katie Kolan, Washington State Medical Association.

**Persons Signed In To Testify But Not Testifying:** None.