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**Commerce & Labor Committee**

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**HB 2824**

**Brief Description:** Regarding hours of labor for nurses.

**Sponsors:** Representatives Green, Appleton, Sells, Hunt, Nelson, Conway, Morrell, Darneille, McIntire, Sullivan, Wood, Simpson, Hasegawa and O'Brien.

**Brief Summary of Bill**

- Adds various public facilities, including state hospitals, veterans' homes, residential habitation 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.
- Requires health care facilities to schedule meal and rest periods for certain registered and licensed practical nurses.

**Hearing Date:** 2/1/08

**Staff:** Alison Hellberg (786-7152).

**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

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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. One exception includes overtime work that occurs because the work is required to complete a patient care procedure already in progress.

Under the Washington Industrial Welfare Act (IWA), it is unlawful for an employer to employ workers under conditions of labor that are detrimental to their health. The Department of Labor and Industries is authorized to conduct investigations into employment conditions and to adopt rules establishing employment standards. Employers may apply for a variance from these rules for good cause.

The rules governing rest and meal periods require a paid rest period of at least 10 minutes for each four hours of working time. Employees are also allowed a meal period of at least 30 minutes which begins between two and five hours from the beginning of a shift. If an employee works at least three hours longer than a normal work day, the employee is allowed at least one 30 minute meal period during the overtime period. An employee may not work longer the five consecutive hours without a meal period.

Where the nature of the work allows, employees may take intermittent rest periods equivalent to 10 minutes for each four hours worked. Scheduled rest periods are not required.

### **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.

#### 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 to fill chronic staff shortages. 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.

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.

#### Meal and Rest Periods

Health care facilities must allow certain registered and licensed practical nurses to take scheduled meal and rest periods as specified in rules adopted by the Department of Labor and Industries. These registered and licensed practical nurses are not engaged in the type of work that allows for intermittent rest periods in place of scheduled rest periods.

**Rules Authority:** Certain registered and licensed practical nurses of health care facilities are allowed scheduled rest periods meal and rest periods as adopted in rules by the Department of Labor and Industries.

**Appropriation:** None.

**Fiscal Note:** Requested on January 29, 2008.

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