
**Labor & Workplace Standards
Committee**

HB 2817

Brief Description: Limiting overtime for correctional officers.

Sponsors: Representatives Frame, Irwin, Sells, Appleton, Pollet and Stanford.

Brief Summary of Bill

- Prohibits mandatory overtime for city and county correctional officers.
- Provides exceptions for unforeseeable emergent circumstances and when the city or county has used reasonable efforts to obtain staffing.

Hearing Date: 1/25/18

Staff: Joan Elgee (786-7106).

Background:

Cities and counties are authorized to build and operate jails. They may also enter into inter-local agreements for the provision of jail services.

Under the Minimum Wage Act, overtime must be paid at a rate at least one and one-half times the worker's regular hourly rate for hours worked in excess of 40 in a workweek.

State law does not prohibit mandatory overtime except for certain registered nurses and licensed practical nurses who are involved in direct patient care activities or clinical services and receive an hourly wage. For these nurses, attempts to compel or force overtime are prohibited. Overtime work is strictly voluntary, and an employer may not discipline or discriminate against a nurse for refusal to accept overtime work. Exceptions apply because of any unforeseeable emergent circumstance, prescheduled on-call time, when the employer documents that it has used reasonable efforts to obtain staffing, or when a nurse works overtime to complete a patient care process under certain circumstances. Using overtime work to fill vacancies resulting from

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chronic staff shortages does not constitute reasonable efforts. Violations are civil infractions enforced by the Department of Labor and Industries (Department).

Summary of Bill:

A city or county may not require a correctional officer to work overtime. Attempts to compel overtime are contrary to public policy and any such requirement contained in an agreement is void. Overtime is voluntary and an employer may not discriminate against or discipline an officer for a refusal to accept overtime.

Exceptions apply to overtime work that occurs:

- Because of any unforeseeable emergent circumstance, which is: (1) a riot or other organized body acting together by force or similar emergency in which a need arises to detain a significant number of persons; (2) an unforeseen emergency requiring additional staffing occurs in the jail; or (3) any other unforeseen disaster or other catastrophic event that affects staffing in the jail.
- When the employer documents that it has used reasonable efforts to obtain staffing. Reasonable efforts means that the city or county, to the extent reasonably possible, seeks individuals to volunteer to work overtime from all available staff who are working and contacts qualified staff who have made themselves available to work overtime. Using overtime work to fill vacancies resulting from chronic staff shortages is not reasonable efforts.

"Overtime" means hours in excess of the agreed upon, predetermined, regularly scheduled shift within a 24 hour period.

The Department must investigate complaints of violations. A violation is a class 1 civil infraction, with a maximum penalty of \$1,000 for each infraction up to three, a \$2,500 penalty for a fourth violation, and a \$5,000 penalty for each subsequent violation.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

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