

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4700-01
Bill No.: HB 1548
Subject: Administration, Office of; State Departments; State Employees
Type: Original
Date: March 31, 2004

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
General Revenue*	\$0	(Unknown)	(Unknown)
Total Estimated Net Effect on General Revenue Fund	\$0	(Unknown)	(Unknown)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Various*	\$0	(Unknown)	(Unknown)
Total Estimated Net Effect on Other State Funds	\$0	(Unknown)	(Unknown)

* Could Exceed \$100,000 in any given fiscal year.

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Various*	\$0	(Unknown)	(Unknown)
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	(Unknown)	(Unknown)

* Could Exceed \$100,000 in any given fiscal year.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2005	FY 2006	FY 2007
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

In response to a similar proposal in 2003, Department of Corrections (DOC) assumed their department is a state merit agency who hires mostly wage earners (Overtime Pay Category 1 and 2 who accrue overtime) and salary personnel (Overtime Pay Category code 0 who do not accrue overtime in normal situations.) Certain classes of positions are filled by part-time individuals who are hired to work at an hourly wage in both temporary and permanent capacities. DOC assumed this proposal pertains to them. These hourly-paid staff already get paid for the hours they work. It is possible for them to earn comp-time in some situations, but that is kept to a minimum. DOC stated their department would have a minimal fiscal impact that could be absorbed within the agency due to passage of this proposal if indeed this interpretation of this proposal is correct.

DOC noted if their assumptions on who this proposal applies to as stated above is incorrect and it applies to all state workers, appropriations would be required due to passage of this bill. DOC could need a one-time appropriation in the first year of \$1.1 million to pay existing balances under 40 hours and an approximate on-going appropriation of \$3.3 million every year thereafter to keep up with the payment demand.

ASSUMPTION (continued)

In a similar proposal in 2003 officials from the **Department of Natural Resources (DNR)** assume beginning on January 1, 2004, and annually thereafter, the department would be required to pay any compensatory hours accrued by hourly paid employees from the previous year. During the year, the employee would be given the option of retaining up to a total of eighty hours and requesting payment of accrued hours over twenty. Currently, the department pays hourly employees at the end of each pay period for all hours worked in the previous pay period. These employees are not allowed to accrue compensatory time. Therefore, DNR assumed this proposal will not have a fiscal impact on their department.

Officials from the **Department of Conservation** estimate this proposal, provided the Commission decides than non-exempt and/or exempt compensatory balances should be paid off, would result in an initial payment of approximately \$1,157,000, then approximately \$972,000 annually thereafter. There will also be additional administrative cost with the exact fiscal impact unknown.

In a similar proposal in 2003 officials from the **Department of Economic Development – excluding the Public Service Commission (DED)** assume the impact of this proposal would be unknown and would depend on whether management allowed overtime to be worked. DED assumes the cost to be zero to unknown and defers to the cost calculated by the Office of Administration – Division of Personnel.

In a similar proposal in 2003 officials from the **Department of Economic Development – Public Service Commission** assume state employees will continue to earn compensatory time at the current rates as defined in CSR 20-5.010. Based on overtime accrued from January 2002 through November 15, 2002, PSC estimates impact for FY 2005 and 2006 is \$30,017 and \$61,535, respectively.

In a similar proposal in 2003 officials from the **Department of Health and Senior Services (DOH)** estimate the proposal would cost their agency \$315,620 in FY 2004; \$390,105 in FY 2005; and \$401,809 in FY 2006. General Revenue, federal funds, and “other funds” would be impacted. DOH notes the long range implications of the proposal could result in supervisors and manager prohibiting the use of overtime which would result in some work not being done in a timely manner. Alternatively some work which is required would result in overtime and the unit would have to use existing resources to pay for this, resulting in some positions not being filled.

ASSUMPTION (continued)

In a similar proposal in 2003 officials from the **Department of Higher Education (DHE)** assume the fiscal impact of this proposal is unknown because the total impact depends on whether eligible employees choose to receive overtime payment in lieu of compensatory time. DHE notes the total number of hours greater than 40 worked by qualifying employees is unknown. DHE states if qualifying employees choose to receive payment in lieu of compensatory time there could be considerable cost to the department.

In a similar proposal in 2003 officials from the **Department of Insurance (MDI)** assume the wording of this proposal could create an additional cost to the department by accumulating compensatory time at a rate of time and a half rather than straight time for certain professional categories which had previously accumulated compensatory time at only straight time. MDI assumes the additional costs are unknown; however, the department anticipates it would monitor approval of compensatory time to stay within existing appropriations.

In a similar proposal in 2003 officials from the **Department of Labor and Industrial Relations (DOL)** assume the only employees in their agency who would be affected are those employees making straight time on overtime. DOL calculates this cost to be \$69,411 for FY 2003. Using FY 2003 as a base figure, DOL estimates costs to be \$102,437 for FY 2005 and \$104,999 for FY 2006. DOL states all overtime worked by employees were from federal funds, either totally federal or the department's Administrative Fund which does include funds from General Revenue, Workers' Compensation and Crime Victims.

In a similar proposal in 2003 officials from the **Department of Mental Health (DMH)** note their employees earn a significant amount of overtime annually. DMH shows total overtime earned for a 3-year comparison:

FYE 06/30/00 = \$14,623,588
FYE 06/30/01 = \$13,897,573
FYE 06/30/02 = \$11,160,975

DMH notes, historically, its facilities have not received funding to pay off overtime. Overtime pay was accumulated through personal service variance from vacant positions waiting to be filled. If the variance would not cover the full cost of overtime, facilities would be unable to fill much needed positions to accumulate enough funding to ensure compliance with this legislation. Employees at facilities have limited opportunity to take time off, instead of being paid the compensatory time, because of having to maintain appropriate staffing levels. Requiring the payoff of overtime based on a calendar year and not on a fiscal year (the payment of overtime at January 1), will put an enormous strain on facility personal service budgets. DMH assumes the

ASSUMPTION (continued)

fiscal impact is unknown, but would be over \$100,000.

In a similar proposal in 2003 officials from the **Department of Public Safety** assume the cost of this proposal is unknown due to factors than can occur in Water Patrol or Highway Patrol which could cause overtime to be worked.

In a similar proposal in 2003 officials from the **Department of Revenue (DOR)** assume this proposal would result in a minimal impact to their agency. DOR notes they only have two employees who would be affected by this proposal and the impact would be less than \$1,000.

In response to a similar proposal in 2003 officials from the **Department of Social Services (DSS)** assume since it is not possible to determine how many employees would request payment versus use of overtime, the estimate was prepared assuming that all employees would request payment. The FY05 cost was arrived at by taking data on all current DSS employees with compensatory time balances and calculating the actual cost to pay their overtime balance. In addition to the payoff, the cost for continuing to pay the compensatory time was included for the remainder of the fiscal year. The payoff is estimated at \$2,707,244 while the funds to continue to pay are \$3,785,270 (based on ten months of overtime at an average monthly cost of \$378,527). The average monthly estimate was arrived at by identifying the actual amount and cost of compensatory time earned by DSS employee during July 2002 through June 2003. This same monthly average was used to project the cost for FY06 and FY07.

In a similar proposal in 2003 officials from the **Department of Transportation (DOT)** assume the proposal only applies to state employees that are paid an hourly rate and assumes no fiscal impact. DOT states their hourly employees (excluding permanent part-time employees) are paid for all overtime and do not accrue compensatory time. Permanent part-time employees are paid an hourly rate and could accrue compensatory time if they work over 40 hours in a week. DOT notes they have monitored this situation to ensure a permanent part-time employee does not exceed the part-time hours.

ASSUMPTION (continued)

In a similar proposal in 2003 officials from the **Office of Administration – Division of Personnel (OA)** assume the proposal would result in cost of at least \$6.7 million to \$16.8 million annually with approximately 52% of the cost being paid out of General Revenue. This cost estimate includes 18.26% for fringe benefits. OA estimates the statewide cost of this proposal based on the amount of compensatory time earned during fiscal year 2002. OA provided the following estimate:

<u>Description</u>	<u>Value of Overtime</u>	
Total Estimated OT Earned in a Year	\$33,281,000	
Less: Overtime Used or Paid	\$16,445,000	
Total Earned and Not Used or Paid	\$16,836,000	Potential Fiscal Impact if Comp Time Must be Paid
Less: Value of Balances Over 80 Hours	\$6,700,000	Must Be Paid (Would increase the cost to the state)
Remaining Balances Less Than 80 Hours	\$10,136,000	Could be paid or banked -- employee's choice (Could increase the cost to the state)

Oversight assumes this proposal applies only to those employees paid by an hourly rate.

Oversight cannot determine how many state employees would be classified as receiving an hourly rate throughout the scope of this fiscal note period. **Oversight** notes that since many of the hourly employees are temporary or part-time personnel. Both the number of employees and the average compensation of employees are variable. Therefore, **Oversight** is indicating the cost to be in excess of \$100,000 in any given fiscal year.

In a similar proposal in 2003 **Oversight** obtained a spreadsheet, prepared by Budget and Planning, which shows the percentage of FY 2003 Personal Service charged to General Revenue and Federal and Other Funds. According to this spreadsheet, 51.9% of personal service costs are charged to General Revenue and 48.1% are charged to Federal and Other funds.

FISCAL IMPACT - State Government

FY 2005

FY 2006
(6 Mo.)

FY 2007

GENERAL REVENUE

Cost – Various State Agencies

Payoff of Overtime	<u>\$0</u>	<u>(Could Exceed \$100,000)</u>	<u>(Could Exceed \$100,000)</u>
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VARIOUS OTHER STATE FUNDS

Cost – Various State Agencies

Payoff of Overtime	<u>\$0</u>	<u>(Could Exceed \$100,000)</u>	<u>(Could Exceed \$100,000)</u>
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FEDERAL FUNDS

Cost – Various State Agencies

Payoff of Overtime	<u>\$0</u>	<u>(Could Exceed \$100,000)</u>	<u>(Could Exceed \$100,000)</u>
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FISCAL IMPACT - Local Government

FY 2005

FY 2006
(6 Mo.)

FY 2007

<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This bill requires that state employees be paid at a rate of one and one half times their standard hourly rate for all time worked in excess of 40 hours per week. Overtime will be paid unless the employee chooses to use accrued overtime hours as compensatory leave time if leave time is available and the employee's supervisor agrees. Any employee who works a state holiday will have the option of receiving either equal compensatory time off or payment at the straight hourly rate. This applies only to employees who are otherwise eligible for compensatory time.

Any state employee requesting cash payment for at least 20 hours of accrued overtime is to be compensated within 30 calendar days of the request.

Beginning on January 1, 2006, and annually thereafter, each department must pay all state employees who are paid at an hourly rate in full for any overtime hours accrued during the previous calendar year not yet paid or used in the form of compensatory leave time. State employees may retain up to 80 hours of compensatory leave time.

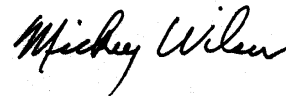
By November of each year, every department must notify the Commissioner of the Office of Administration, the House Budget Chairman, and the Senate Appropriations Chairman of the amount of overtime paid in the previous year and an estimate of the overtime to be paid in the current fiscal year. The fiscal year estimate is to be a separate line item appropriation for each department in its appropriation bill.

Each department will report quarterly to the House Budget Chairman, the Senate Appropriations Chairman, and the Commissioner of the Office of Administration the cumulative number of accrued overtime hours for department employees and the corresponding dollar amount, the appropriated number of full-time equivalent positions listing vacant positions, the amount of funds for any vacant positions used to pay overtime compensation, and the current balance in the department's personal service fund.

This proposal is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration – Division of Personnel
Department of Transportation
Department of Conservation
Department of Labor and Industrial Relations
Department of Higher Education
Department of Economic Development
Department of Economic Development – Public Service Commission
Department of Elementary and Secondary Education
Department of Mental Health
Department of Health and Senior Services
Department of Revenue
Department of Public Safety
Department of Insurance
Department of Agriculture
Department of Social Services



Mickey Wilson, CPA
Director
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