

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBs0437/1dn  
GMM:wlj&kjf:jf

March 8, 2004

Senator Cowles:

This substitute amendment does all of the following:

1. Removes the exemption of providers of companionship services from the minimum wage law. As such, the substitute amendment will exempt those providers only from the overtime pay law.
2. Removes the retroactive effective date of the bill. As such, an employer will be liable for overtime pay for work performed before the date of publication of the bill.
3. Incorporates the language recommended by DWD to state more clearly and precisely that companionship services providers are exempt from the overtime pay law.

At the meeting earlier this week, a concern was raised that the bill might impair collective bargaining agreements that provide for overtime pay, and so we discussed removing from the bill the initial applicability provision, which states that the bill first applies to a collective bargaining agreement that contains provisions that are inconsistent with the bill when the agreement expires or is extended, modified, or renewed. On further review, however, it is precisely this language that protects existing collective bargaining agreements from impairment by the bill. Accordingly, this substitute amendment does not remove the initial applicability provision from the bill.

As for future collective bargaining agreements, the bill does not prevent an employer from voluntarily agreeing to provide overtime pay; rather, the bill merely removes the mandate that an employer provide that pay. A good analogy is the minimum wage law, which sets the floor below which an employee may not be paid, but which does not prevent an employer from agreeing to pay an employee more than the minimum wage.

If you have any questions about the substitute amendment or this drafter's note, please do not hesitate to contact me directly at the phone number or e-mail address listed below.

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