

Fiscal Estimate Narratives

DOC 5/12/2009

LRB Number	09-2220/1	Introduction Number	AB-0152	Estimate Type	Original
Description Mandatory overtime hours and on-call time worked by health care workers and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

This bill would prohibit a health care facility (which includes jails, a county house of corrections and state prisons) from requiring a health care worker to work overtime, except in limited circumstances, including cases of unforeseeable emergencies where all other options have been exhausted and in cases in which the health care worker's continued presence through the completion of an ongoing medical or surgical procedure in which the health care worker is actively engaged is essential to the health and safety of a patient.

The Department currently operates only one unit, the Infirmary at the Dodge Correctional Institution (DCI) that functions as a 24-hour inpatient health care facility that is staffed by health care and security staff. The Department also has specially trained health care staff that provide in-house dialysis services at DCI as well. The Department has four Health Services Units (HSUs), which function on an outpatient basis, that are staffed and operational 24 hours per day, seven days per week. The Department's remaining HSUs have varying daily hours of operations. On weekends, many facilities are staffed with one nurse on a weekend shift.

The Department currently has a policy of looking at other options before requiring overtime (e.g. offering overtime first through a seniority roster or utilizing temporary agency staff) but in some cases still does have to require overtime. The Department expended approximately \$1,210,100 on overtime for health care workers at DOC's adult and juvenile facilities in FY08. It is unknown how much of this overtime resulted from "mandatory" overtime.

The Department actively seeks solutions to prevent mandatory overtime, especially when overtime needs can be predicted (e.g. during extended leaves or during vacancies). Fewer alternatives, however, are available when short notice, day-of, sick calls occur. In these situations health service units frequently only have one to two hours notice. While this bill allows employers to require overtime in cases of "unforeseeable emergencies," sick calls do not appear to qualify as "unforeseeable emergencies" under the definition stated in this bill.

If no permanent or LTE employees volunteer to take overtime in these situations, healthcare supervisors would then turn to contract staff for coverage of the shift. Because this bill also extends to health care staff provided by temporary help agencies and professional employer organizations, contract staff already utilized by the facility may refuse to work hours not scheduled (overtime), and supervisory staff may not be able to obtain an additional contractor from the vendor for coverage on such short notice.

As a result, HSUs who are confronted with a mandatory overtime situation may need to close during shifts when they would normally be staffed. Reduced HSU hours could result in increased emergency room utilization. In FY08 DOC expended almost \$2,817,400 on emergency room services. If reduced hours of operation due to lack of coverage resulted in a 10% increase in emergency room services the cost increase would be \$281,700.

In those cases where units must remain operational (Infirmary or Dialysis), services would have to be reduced or staff would have to be increased in anticipation of call-ins. One additional nurse per shift, 24-hours per day, seven days per week, would require 5.25 additional Nurse Clinician 2 FTEs at a cost of approximately \$530,000 annually.

Use of paid on-call staff for the purpose of coverage in the event of sick-calls or short term staffing shortages would also be problematic. Because current authorized staff time is required and scheduled for on-site service delivery, and because this bill prohibits mandatory scheduling of on-call staff in lieu of mandatory overtime, use of additional paid on-call staff for coverage of these situations would be dependent upon employees volunteering to be paid on-call in addition to their normally scheduled on-site hours. It is not known if a sufficient number of staff would reliably volunteer for paid on-call coverage to mitigate the effect

of sick-calls or short term staffing shortages.

The provisions of this bill may result in hours not currently considered "overtime" to be required to be considered as "overtime." If enacted, the bill would require collective bargaining agreements to be consistent with the act when the current agreement expires, or is extended, modified, or renewed. According to the bill, "overtime" is defined as "time worked in excess of a regularly scheduled daily work shift that has been determined and agreed to before the performance of the work." In the event an employee voluntarily agrees to working additional hours during the performance of work, for example, adding hours to a current shift during an already scheduled workday, these hours may be required to be recognized as overtime. In the case of part-time employees, overtime might then be earned without working greater than 40 hours in a work-week.

Some county jails provide health services with county employees; however, many of them provide these services through contracted health care. Because contracted providers would no longer be able to require overtime when it is needed and instead would have to increase staffing levels to create a cushion so that mandatory overtime is never needed, contracted service costs could potentially increase. The Department does not have information on what counties expend on overtime for health care employees or the number of hours of mandatory overtime. Just like DOC's facilities, however, if mandatory overtime was prohibited, counties would be forced to reduce services or increase staffing levels to provide a cushion that would prevent all overtime.

Because the amount of mandatory overtime that currently occurs is not available, it is not possible to calculate a fiscal impact; however, it is anticipated that this legislation could result in reduced on-sight health care services or increased costs to both the Department of Corrections and local county jails.

Long-Range Fiscal Implications