



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #461

### **Turnover and Overtime at DHS Care Facilities (DHS -- Departmentwide)**

[LFB 2009-11 Budget Summary: Page 331, #1 (part)]

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#### **CURRENT LAW**

*Standard Budget Adjustments.* Several standard budget adjustments affect the amount of funding the Department of Health Services (DHS) and other agencies that operate institutions, including the Department of Veterans Affairs and the Department of Corrections, are budgeted to support staff salary and fringe benefit costs at these facilities. First, a funding adjustment is usually made to reflect savings that agencies realize as staff vacancies occur. This adjustment, referred to as "turnover," is made to reduce funding for appropriations that support 50 employees or more. Under the Department of Administration's 2009-11 biennial budget instructions, all state agencies were requested to include, as part of their budget requests, reductions in these appropriations equal to 3% of the base level permanent position salary totals.

A second standard budget adjustment is made to reflect that agencies' funds for overtime and premium pay on holidays are removed as part of a calculation to provide full funding of salaries of current staff. Consequently, agencies must be budgeted funding under the "overtime" standard budget adjustment to support anticipated overtime costs they will incur in the biennium. Typically, agencies justify requests for overtime funding by documenting overtime hours worked by staff in the past. However, as with other standard budget adjustments, these overtime estimates are reviewed and subject to modifications by the Department of Administration's budget staff prior to their inclusion in the Governor's budget.

*Overtime and Collective Bargaining Agreements.* Although agencies decide whether to authorize overtime hours, collective bargaining agreements largely dictate who works the overtime hours, and the amounts that are paid to employees who work overtime.

## GOVERNOR

*Turnover.* The bill would not reduce funding for DHS care facilities to reflect turnover savings.

*Overtime.* Provide \$8,601,400 (\$3,288,700 GPR and \$5,312,700 PR) in 2009-10 and \$7,865,600 (\$3,290,100 GPR and \$4,575,500 PR) in 2010-11 to fund overtime at DHS care facilities in the 2009-11 biennium.

## DISCUSSION POINTS

1. The methodology used to calculate standard budget adjustments creates issues that are unique to agencies that operate institutions. First, because these agencies attempt to maintain a constant level of quality of care for clients they serve, and maintain safety for both clients and staff, shifts at institutions are usually fully staffed. If a vacancy occurs, or an employee is absent for a shift, other staff usually work the shift, often by working overtime. Consequently, in practice, there is little savings generated by staff turnover or absences by permanent staff in state institutions.

2. Chronic understaffing may increase costs of operating institutions. The state is required to follow the federal Fair Labor Standards Act, which requires employers to pay certain employees overtime compensation at a rate of 1.5 times their regular hourly wage for each hour that exceeds 40 hours per week, and permits government employers the option of providing compensatory time at a rate of 1.5 hours for each hour of overtime hour worked, rather than paying the employee for overtime worked.

3. Resident care technicians, psychiatric care technicians, and nurse clinicians account for most of the premium overtime (overtime paid at time and a half) at DHS care facilities. These employees are covered by the state's collective bargaining agreements. Under these agreements, overtime hours are based on all hours an employee works in "pay status," rather than the actual hours an employee works. For example, if an employee works four eight-hour shifts in a week (32 hours) and, in the same week, uses eight hours of vacation, or is absent due to illness for an eight-hour shift, the employee's premium overtime hours in that week would begin with any hours the employee works beyond the 32 hours, rather than the hours the employee worked that exceed 40 hours.

4. Another factor in the bargaining agreements that increases the cost of overtime is that senior employees (who usually have the highest wages) are provided the first opportunity to accept voluntary overtime. Under the bargaining agreements, non-voluntary overtime is assigned to employees with the least seniority. This may result in relatively new employees choosing to leave these jobs because of the effect these unscheduled work commitments have on their personal lives, and, consequently, the need for additional overtime hours to be worked until these positions are filled.

5. In June, 2008, the Legislative Audit Bureau (LAB) submitted a letter report to the Audit Committee that discussed the use of overtime in state agencies. With respect to DHS care

facilities, LAB noted that:

- DHS' use of premium overtime for direct patient care staff has increased from \$6.1 million to \$8.2 million (34.4%) from calendar year 2005 to 2007;
- One of the major factors contributing to the Department's increased use and costs of overtime is that the number of positions for patient care has not kept pace with the federal regulatory requirements for patient safety;
- Increases in the amount of leave time granted to employees in recent years, including leave permitted under the federal Family and Medical Leave Act, is another key factor contributing to increases in overtime costs; and
- High turnover rates among certain types of positions, perhaps resulting from an over-reliance on non-voluntary overtime, contribute to the need to fund additional overtime hours. For example, LAB cited a Department estimate that 61% of overtime shifts are non-voluntary, and that non-retirement related turnover for resident care technician (RCT) 1 positions (staff that provide personal hygiene care to residents and assist them in their daily activities) was 58% in fiscal year 2004-05, the last year for which information was available at the time LAB prepared its report.

In April, 2008, DHS estimated the percentage of total overtime hours that were involuntary, by facility and type of position. These estimates varied considerably. For example, it was estimated that only 3 to 5% of overtime hours worked by staff at Sand Ridge Secure Treatment Center was involuntary. In contrast, DHS estimated that approximately 73% of the overtime hours worked by RCTs at Southern Wisconsin Center were involuntary overtime hours.

6. The LAB recommended that the Department of Corrections and the Department of Health Services analyze overtime use at their facilities and submit options for reducing overtime costs to the Joint Legislative Audit Committee by January 5, 2009. These agencies have submitted information to the Office of State Employment Relations (OSER). However, OSER has not, to date, submitted a report to the Joint Legislative Audit Committee with options or recommendations.

7. On April 17, 2009, the LAB issued another letter report to the Chairs of the Audit Committee that provided updated information on the use of overtime in state facilities. LAB found that DHS' payments for premium overtime for direct care staff continued to increase, from approximately \$8.2 million in calendar year 2007, to \$8.7 million (6.1%) in calendar year 2008.

8. In addition, the LAB found that some employees had very significant premium overtime earnings. For example the report cited a nurse clinician at Central Wisconsin Center that had earned \$85,800 in premium overtime pay in calendar year 2008, and resident care technician at Mendota Mental Health Institute who had earned \$76,800 in premium overtime pay in that year. Concerns could be raised regarding the quality of care individuals receive at these facilities when some direct care staff are working well over 40 hours per week.

9. The materials submitted by DHS to OSER provide some data on the use of

overtime at DHS facilities. Table 1 shows increases in overtime hours at DHS facilities, by institution.

**TABLE 1**

**Overtime Hours by DHS Facility  
Fiscal Years 2002 through 2007-08**

<u>Facility</u>	<u>2001-02</u>	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>	<u>2005-06</u>	<u>2006-07</u>	<u>2007-08</u>
Mendota Mental Health Institute	54,862	57,385	55,797	66,163	85,449	99,090	126,329
Winnebago Mental Health Institute	39,442	42,819	40,044	44,415	65,093	75,923	79,641
Sand Ridge Secure Treatment Center	15,902	13,671	17,221	22,224	26,792	21,242	19,131
Wisconsin Resource Center	19,988	12,701	13,297	9,407	9,116	16,926	20,293
Central Wisconsin Center	85,845	83,160	76,490	61,735	76,162	73,645	65,157
Northern Wisconsin Center	30,078	31,086	55,644	30,909	14,206	7,259	10,129
Southern Wisconsin Center	<u>54,413</u>	<u>51,492</u>	<u>46,072</u>	<u>70,378</u>	<u>79,511</u>	<u>79,319</u>	<u>94,480</u>
Total	300,530	292,314	304,565	305,231	356,329	373,404	415,160

Table 1 shows that, from 2001-02 to 2007-08, the total number of overtime hours worked by staff at DHS facilities increased by 114,630, from 300,530 to 415,160 (approximately 38.1%). During that same period, the costs of paying for overtime hours increased by \$2,951,600, from \$8,438,400 to \$11,390,100 (35.0%)

10. DHS staff estimated the percentage of overtime hours worked by direct care staff in 2007-08 that were attributable to specific causes. For the mental health institutes, the primary cause was attributable to the behavioral needs of residents (particularly residents that required 1:1 supervision (56%), followed by inadequate position authority (21%) and position vacancies (13%). At the secure treatment facilities (Sand Ridge and the Wisconsin Resource Center), the primary reasons for overtime by direct care staff were sick leave and family leave (49%), staff training (16%); 1:1 supervision for trips (15%), and position vacancies (12%). At the State Centers for the Developmentally Disabled, the primary reasons for overtime by direct care staff was inadequate position authority (42%), position vacancies (24%) and sick leave and family leave (18%).

11. DHS management is pursuing options to reduce overtime in its care facilities. These strategies include revising attendance policies, revising employee time sheets, improved monitoring of employee time sheets, the implementation of an automated timekeeping to improve tracking of overtime, and changes in collective bargaining agreements to address employee abuse of sick leave policies.

12. Another contributing factor to an agency's use of overtime is the agency's ability to fill positions once positions become vacant, and to retain positions once they are filled. State agencies must compete with other employers for workers. Labor markets determine how successful an agency is in hiring and maintaining staff. In recent years, it has been especially

difficult for agencies to hire and retain nursing staff at health care facilities.

13. In its 2009-11 budget submission, DHS included a 2% turnover reduction for its appropriations that support its care facilities, and requested additional funding to support projected overtime costs in the 2009-11 biennium, based on historical experience. As part of AB 75, the Governor modified the Department's request by (a) eliminating the 2% turnover reduction; (b) reducing the Department's requested overtime funding by an amount equal to the additional cost of not taking a turnover reduction; and (c) adjusting the overtime amount to reflect the Governor's proposal to accelerate community-based placements for individuals who currently reside at Southern Wisconsin Center for the Developmentally Disabled (SWC).

14. The administration's proposal, which provides approximately the same amount of salary funding to support staff at the institutions as DHS requested (adjusted to reflect the SWC proposal), is intended to take into consideration the lack of savings DHS realizes from turnover and staff absences. It also reflects the Governor's overall goal of not increasing state positions, if possible. If the Committee wishes to support a salary funding level that reflects a reasonable estimate of the amount of overtime staff will work in the 2009-11 biennium, based on overtime hours that were worked in the past, and shares the Governor's concern over authorizing new positions, it could adopt the Governor's recommendations.

15. However, the Governor's bill would not, by itself, address what appears to be an over-reliance on the use of overtime in DHS care facilities. It may be possible to reduce overtime costs and total funding in the bill by authorizing additional staff at DHS facilities.

16. Three types of positions account for most of the Department's premium overtime hours -- RCTs, nurse clinicians (NCs), and psychiatric care technicians (PCTs). PCTs monitor and supervise patient behavior, assist with escorting, transporting, and securing patients, and perform other duties at the mental health institutes, the Wisconsin Resource Center, and the Sand Ridge Secure Treatment Center.

17. An analysis that compares of the costs of paying current RCTs, PCTs and NCs premium overtime hours (at a rate of time and a half) and funding new RCT, PCT and NC positions indicates that there would likely be modest costs of authorizing additional positions for these facilities. In some respects, hiring additional staff is less expensive than paying overtime to current staff, since: (a) premium overtime (payment of overtime at time and a half) would decrease; and (b) wages for new staff would, on average, be less than wages DHS currently pays to staff that work overtime. Further, new staff would have less seniority than current staff, so the cost of paying new staff at time and a half would be less costly than paying premium overtime to current staff.

On the other hand, the fringe benefit rate applicable to overtime hours is budgeted at a rate of 18.85% of salary costs, which compares to a 45.40% rate applicable to new DHS positions. Further, new staff requires training, which reduces the amount of productive time they can provide during the first year of their employment.

18. Although the cost to the state of providing services may not change significantly,

providing additional RCT, PCT and NC positions to DHS facilities would reduce premium overtime costs and involuntary overtime, which may reduce staff turnover and thus, help stabilize the workforce at DHS care facilities. It may also result in improved patient care.

19. If the Committee wished to authorize additional permanent staff at DHS institutions to reduce, by approximately 20%, the amount of premium overtime hours that would be budgeted at DHS facilities for RCT, PCT and NC staff in 2009-10, it is estimated that an additional \$310,200 (\$165,000 GPR and \$145,200 PR) in 2009-10 and \$77,200 (-\$171,200 GPR and \$248,400 PR) in 2010-11, and 36.50 positions (24.0 GPR positions and 12.50 PR positions), beginning in 2009-10, would be needed.

Under this option, it is estimated that, in 2009-10, approximately 32,100 premium overtime hours could instead be replaced with approximately 33,700 hours of new staff time (after training costs are considered and, assuming that the positions would be budgeted for nine months). However, in 2010-11, the new positions would provide approximately 60,000 productive hours, which would roughly offset the same number of premium overtime hours.

20. This analysis assumes that, on an annualized basis, each new position would provide approximately 1,632 hours of time that would offset premium overtime hours that would otherwise be worked by current staff. The 1,632 hour estimate is derived by subtracting estimates of non-work hours, such as vacation, sick leave, holidays and training from the total number of hours available for a position (40 hours x 52 weeks per year = 2,080 hours per year).

Under this analysis, it is more costly to fund the positions in the first year than to pay current positions premium overtime because the new staff costs include nine weeks of training. While new staff is trained, premium overtime costs are not offset by hours the new staff is in training. However, once new staff is trained, the costs of new staff appear to roughly offset savings in premium overtime costs. The estimated costs and savings of this proposal are shown in the attachment to this paper.

21. As in past years, the administration's funding recommendation to support overtime costs in DHS facilities is based on the number of overtime hours that have been worked by staff in a previous time period, with certain adjustments. While the method of estimating overtime hours in future years appears reasonable, it provides little incentive for the agency to minimize overtime costs if the facilities can fund overtime costs within the agency's current year budget, since the actual number of overtime hours that are worked by staff provides the basis for requesting additional funds in future biennia.

Rather than providing additional staff for the institutions to reduce the use of overtime, the Committee could reduce the amount of funding budgeted in AB 75 to support overtime costs. This option assumes that, with less funding available, managers will make greater efforts to reduce overtime at DHS facilities, and implement changes outlined in discussion point 11. For example, the Committee could reduce funding for overtime costs at DHS facilities in AB 75 recommended by the Governor by 5% or 10% in each year of the biennium, which would generate savings of approximately \$823,400 (all funds) or \$1,646,700 (all funds), respectively, in the biennium (Alternatives 3 and 4).

## ALTERNATIVES

1. Adopt the Governor's recommendations with respect to turnover and overtime at DHS care facilities.

2. Modify the Governor's recommendation by increasing funding in the bill by \$310,200 (\$165,000 GPR and \$145,200 PR) in 2009-10 and by \$77,200 (-\$171,200 GPR and \$248,400 PR) in 2010-11 and authorizing 36.50 positions (24.00 GPR positions and 12.50 PR positions), beginning in 2009-10, to reduce premium overtime hours for RCs, PCTs and NCs by an estimated 20% in 2009-10 and by approximately 37% in 2001-12.

ALT 2	Change to Bill	
	Funding	Positions
GPR	- \$6,200	24.00
PR	<u>393,600</u>	<u>12.50</u>
Total	\$387,400	36.50

3. Reduce funding by \$164,400 GPR and \$265,600 PR in 2009-10 and by \$164,500 GPR and \$228,800 PR in 2010-11 to reduce funding in the bill for overtime by 5%.

ALT 3	Change to Bill	
	Funding	
GPR	- \$328,900	
PR	<u>- 494,400</u>	
Total	- \$823,300	

4. Reduce funding by \$328,900 GPR and \$531,300 PR in 2009-10 and by \$329,000 GPR and \$457,600 PR in 2010-11 to reduce funding in the bill for overtime by 10%.

ALT 4	Change to Bill	
	Funding	
GPR	- \$657,900	
PR	<u>- 988,800</u>	
Total	- \$1,646,700	

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Attachment



## ATTACHMENT

### Summary Comparison of Governor's Bill and Alternative

	2009-10		2010-11		2009-11	
	AB 75	Alternative	AB 75	Alternative	AB 75	Alternative
Premium Overtime Hours Funded for RCTs, PCTs, and NCS	163,280	131,188	163,280	103,261	326,560	234,449
Hours of Care Provided by New Staff	0	33,739	0	60,019	0	93,758
Total Hours of Care Funded	163,280	164,928	163,280	163,280	326,560	328,208
Costs of Premium Overtime Hours						
GPR	\$3,745,100	\$3,030,800	\$3,745,100	\$2,433,500	\$7,490,200	\$5,464,300
PR	1,839,100	1,325,500	1,839,100	1,233,000	3,678,200	2,558,500
All Funds	\$5,584,200	\$4,356,300	\$5,584,200	\$3,666,500	\$11,168,400	\$8,022,800
Cost of New Positions						
GPR	\$0	\$879,300	\$0	\$1,140,400	\$0	\$2,019,700
PR	0	658,800	0	854,500	0	1,513,300
All Funds	\$0	\$1,538,100	\$0	\$1,994,900	\$0	\$3,533,000
Total Costs						
GPR	\$3,745,100	\$3,910,100	\$3,745,100	\$3,573,900	\$7,490,200	\$7,484,000
PR	1,839,100	1,984,300	1,839,100	2,087,500	3,678,200	4,071,800
All Funds	\$5,584,200	\$5,894,400	\$5,584,200	\$5,661,400	\$11,168,400	\$11,555,800
No. of Additional Positions						
GPR	0.00	24.00	0.00	24.00	0.00	24.00
PR	0.00	12.50	0.00	12.50	0.00	12.50
All Funds	0.00	36.50	0.00	36.50	0.00	36.50