



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5929

Introduced 2/10/2010, by Rep. Emily McAsey

SYNOPSIS AS INTRODUCED:

New Act

Creates the State Facility Overtime Act. Provides that the Director of the State agency responsible for the operation of specified State facilities (or the Director's designee or agent) may not require an employee to accept work in excess of an agreed upon, predetermined, and regularly scheduled daily work shift, not to exceed 40 hours per week. Provides for: exceptions to the prohibition; posting a summary of the Act and applicable rules; investigation of complaints by the Illinois Department of Labor and disposition of complaints; adoption of administrative rules; construction; and other matters. Effective immediately.

LRB096 17629 WGH 32987 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the State
5 Facility Overtime Act.

6 Section 5. Definitions.

7 "State facility" includes all Department of Human Services
8 operated residential facilities including State mental health
9 hospitals, State developmental centers, treatment and
10 detention facilities for sexually violent persons, and State
11 residential schools for the deaf and visually impaired; all
12 Department of Veterans Affairs operated homes; all Department
13 of Corrections operated correctional centers, work camps, boot
14 camps, and adult transition centers; all Department of Juvenile
15 Justice operated youth centers and boot camps; and any other
16 State facility under the jurisdiction of these State agencies
17 that operates on a 24-hour basis.

18 "Mandatory overtime" means work in excess of an agreed
19 upon, predetermined, and regularly scheduled daily work shift,
20 not to exceed 40 hours per week, assigned to an employee
21 without the employee's consent.

22 "Employee" means an individual employed by a State facility
23 who is covered by a collective bargaining agreement.

1 "Director" means the Director, or designee of the Director,
2 of the State agency responsible for the operation of the State
3 facility or his or her agent.

4 "Department" means the Department of Labor and its agents.

5 Section 10. Legislative intent. The General Assembly finds
6 that years of staff cuts at State facilities such as prisons,
7 developmental and mental health centers, youth centers, and
8 veterans homes have created deplorable working conditions
9 including excessive overtime. Many State facilities routinely
10 use mandatory overtime to cover staff vacancies. This is
11 frequently on top of work schedules that are already in excess
12 of 40 hours per week. Excessive overtime is driving many
13 dedicated employees out of State service, exacerbating the
14 short staffing crisis. This impacts employee health, welfare,
15 and safety, as well as the ability of staff to deliver
16 necessary services.

17 Section 15. Ban on mandatory overtime. A Director shall not
18 require an employee to accept work in excess of an agreed-upon,
19 predetermined, and regularly scheduled daily work shift, not to
20 exceed 40 hours per week.

21 Section 20. Exceptions.

22 (a) The acceptance by any employee of work in excess of an
23 agreed-upon, predetermined, and regularly scheduled daily work

1 shift, not to exceed 40 hours per week, shall be strictly
2 voluntary and the refusal of any employee to accept such
3 overtime work shall not be grounds for discrimination,
4 dismissal, discharge, or any other penalty or employment
5 decision adverse to the employee.

6 (b) This Act shall not apply in the event of any declared
7 national or State emergency or a disaster or other catastrophic
8 event that substantially affects or increases the need for
9 State services, including an act of terrorism, a natural
10 disaster, or a widespread disease outbreak, nor shall it apply
11 in the event of unexpected absences discovered at the
12 commencement of a shift which could not be prudently planned
13 for by the employer and which would significantly affect safety
14 or care.

15 Section 25. Posting of Act and rules. Every Director
16 subject to any provision of this Act or any rules issued under
17 this Act shall keep a summary of this Act approved by the
18 Department, and copies of any applicable rules issued under
19 this Act, or a summary of those rules, posted in a conspicuous
20 and accessible place in or about the premises wherever any
21 person subject to this Act is employed.

22 Section 30. Investigation and enforcement. An employee or
23 the employee's collective bargaining representative may bring
24 a complaint to the Illinois Department of Labor if the employee

1 believes that the employee's Director is in violation of this
2 Act. The Department shall conduct an investigation of the
3 complaint. When an investigation results in a finding that the
4 employee suffered discrimination, dismissal, discharge, or any
5 other penalty or employment decision adverse to the employee as
6 a result of refusing overtime, the Department has the authority
7 to make that employee whole. The Department shall adopt
8 administrative rules it deems appropriate to carry out the
9 purposes of this Act.

10 Section 35. Construction and applicability. Nothing in
11 this Act shall be construed to impair or negate the ability of
12 collective bargaining representatives of employees subject to
13 this Act from negotiating procedures and remedies that provide
14 to those covered employees rights that are additional to those
15 in this Act. Nothing in this Act shall be construed to limit
16 the enforcement of a collective bargaining arbitrator's
17 finding of a violation of this Act.

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.