

SECOND REGULAR SESSION

SENATE BILL NO. 779

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time January 27, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

5479S.011

AN ACT

To repeal section 105.935, RSMo, and to enact in lieu thereof one new section relating to state employees.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 105.935, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 105.935, to read as follows:

105.935. 1. Any state employee who has accrued any overtime hours may
2 choose to use those hours as compensatory leave time provided that the leave
3 time is available and agreed upon by both the state employee and his or her
4 supervisor.

5 2. A state employee who is a nonexempt employee pursuant to the
6 provisions of the Fair Labor Standards Act shall be eligible for payment of
7 overtime in accordance with subsection 4 of this section. A nonexempt state
8 employee who works on a designated state holiday shall be granted equal
9 compensatory time off duty or shall receive, at his or her choice, the employee's
10 straight time hourly rate in cash payment. A nonexempt state employee shall be
11 paid in cash for overtime unless the employee requests compensatory time off at
12 the applicable overtime rate. As used in this section, the term "state employee"
13 means any person who is employed by the state and earns a salary or wage in a
14 position normally requiring the actual performance by him or her of duties on
15 behalf of the state, but shall not include any employee who is exempt under the
16 provisions of the Fair Labor Standards Act or any employee of the general
17 assembly.

18 3. Beginning on January 1, 2006, and annually thereafter each
19 department shall pay all nonexempt state employees in full for any overtime

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 hours accrued during the previous calendar year which have not already been
21 paid or used in the form of compensatory leave time. [All nonexempt state
22 employees shall have the option of retaining up to a total of eighty compensatory
23 time hours.] **Any nonexempt Missouri department of corrections**
24 **employee who has accrued any overtime hours may choose to use those**
25 **hours as compensatory leave time, provided that the leave time is**
26 **available and agreed upon by such employee and his or her**
27 **supervisor. Compensatory leave time shall be considered accrued upon**
28 **completion of time worked in excess of such employee's normal**
29 **assigned shift and it shall be the employee's decision whether to take**
30 **the time off or request payment for such hours. Each nonexempt state**
31 **employee shall have the right to retain up to eighty hours of**
32 **compensatory leave time at any time during the year.**

33 4. The provisions of subsection 2 of this section shall only apply to
34 nonexempt state employees who are otherwise eligible for compensatory time
35 under the Fair Labor Standards Act, excluding employees of the general
36 assembly. Any nonexempt state employee requesting cash payment for overtime
37 worked shall notify such employee's department in writing of such decision and
38 state the number of hours, no less than twenty, for which payment is
39 desired. The department shall pay the employee within the calendar month
40 following the month in which a valid request is made. Nothing in this section
41 shall be construed as creating a new compensatory benefit for state employees.

42 5. Each department shall, by November first of each year, notify the
43 commissioner of administration, the house budget committee chair, and the
44 senate appropriations committee chair of the amount of overtime paid in the
45 previous fiscal year and an estimate of overtime to be paid in the current fiscal
46 year. The fiscal year estimate for overtime pay to be paid by each department
47 shall be designated as a separate line item in the appropriations bill for that
48 department. The provisions of this subsection shall become effective July 1, 2005.

49 6. Each state department shall report quarterly to the house of
50 representatives budget committee chair, the senate appropriations committee
51 chair, and the commissioner of administration the cumulative number of accrued
52 overtime hours for department employees, the dollar equivalent of such overtime
53 hours, the number of authorized full-time equivalent positions and vacant
54 positions, the amount of funds for any vacant positions which will be used to pay
55 overtime compensation for employees with full-time equivalent positions, and the

56 current balance in the department's personal service fund.

57 7. This section is applicable to overtime earned under the Fair Labor
58 Standards Act. This section is applicable to employees who are employed in
59 nonexempt positions providing direct client care or custody in facilities operating
60 on a twenty-four-hour seven-day-a-week basis in the department of corrections,
61 the department of mental health, the division of youth services of the department
62 of social services, and the veterans commission of the department of public safety.

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Bill

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