

HOUSE BILL 1409

By Weaver

AN ACT to amend Tennessee Code Annotated, Title 8 and
Title 50, relative to state employee compensation.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 8, Chapter 23, Part 2, is amended by
adding the following new section:

(a) As used in this section:

(1) "Appointing authority" means a commissioner, department, officer, or
agency having power to make appointments to, and separations from, positions
in state service;

(2) "Commissioner" means the commissioner of human resources;

(3) "Department" means the department of children's services;

(4) "Full-time state employee" means a state employee who normally
works at least thirty-seven and one-half (37.5) hours each week;

(5) "Hazardous duty position" means a position in the service of this state
that requires the performance of hazardous duty;

(6) "Institution of higher education" means a public college, community
college, or university;

(7) "Part-time state employee" means any state employee other than a
full-time state employee;

(8) "State agency" means an authority, board, branch, commission,
committee, department, division, or other instrumentality of this state;

(9) "State employee" means an individual who is:

(A) A commissioned member of the department of safety, commissioned member of the department of environment and conservation, or any agent of the Tennessee bureau of investigation;

(B) A commissioned employee of the Tennessee wildlife resources agency engaged in law enforcement activities on a day-to-day basis;

(C) A commissioned officer of an institution of higher education;

(D) A law enforcement officer, as that term is defined in § 39-11-106 and qualified under § 38-8-106;

(E) A full-time correctional officer employed by the department of correction;

(F) A probation and parole officer employed by the department of correction; or

(G) An employee of the department of transportation who performs work on a highway, road, street, bridge, or other transportation facility, or falls under the job classification of highway response operator 1 and 2 or highway response supervisor 1 and 2; and

(10) "Workday" means any day other than Saturday, Sunday, or a state or national holiday. "Workday" includes a state or national holiday that the general appropriations act prohibits state agencies from observing.

(b) Notwithstanding any law to the contrary, any state employee is eligible for the pay supplements provided in this section upon application by the appointing authority substantiating the employee's qualifications for the supplement and with the approval of the commissioner.

(c) When an exceptional condition exists that creates a temporary or a permanent hazardous duty position for one (1) or more state employees, a special hazardous salary adjustment may be granted for the time the employee is subjected to

the hazardous condition. All special hazardous conditions must be identified for each position. The rate of incidence of special hazardous conditions must be determined from information submitted to the commissioner on an appropriate form provided by the commissioner and categorized into standard conditions as follows:

- (1) Mildly hazardous condition not common to the class;
- (2) Moderately hazardous condition not common to the class; and
- (3) Severely hazardous condition not common to the class.

(d)

(1) A hazardous salary adjustment of five percent (5%) of the employee's base salary may be applied in the case of mildly hazardous conditions not common to the class for those hours worked, or a fraction of those hours worked, while the employee was subject to the mildly hazardous condition.

(2) A hazardous salary adjustment of seven and one-half percent (7.5%) of the employee's base salary may be applied in the case of moderately hazardous conditions not common to the class for those hours worked, or a fraction of those hours worked, while the employee was subject to the moderately hazardous condition.

(3) A hazardous salary adjustment of ten percent (10%) of the employee's base salary may be applied in the case of severely hazardous conditions not common to the class for those hours worked, or a fraction of those hours worked, when the employee was subject to severely hazardous conditions.

(4) Each claim for temporary hazard pay must be submitted as a separate claim and is subject to an administrative audit by the commissioner as to the extent and duration of the employee's exposure to the hazardous condition.

(e) The state agency that employs an individual at the beginning of the first workday of a month must pay any hazardous duty pay that is included in the compensation paid to the individual for services rendered during that month. If the individual transfers to a second state agency during that month, the first agency remains responsible for paying the full amount of hazardous duty pay for that month.

(f) When a full-time state employee who also is eligible for overtime under the Fair Labor Standards Act, 29 U.S.C. § 201 et seq., as amended, is ordered by the appointing authority to report back to work after termination of the employee's regular work schedule and the employee reports, the employee must be paid for such time. The employee is entitled to four (4) hours at the employee's total rate of pay or overtime compensation for the actual hours worked, whichever is greater; provided, that this subsection (f) does not apply to work that is a continuation of or immediately preceding an employee's regular work schedule.

(g) The department may include hazardous duty pay in the compensation paid to an individual for services rendered during a month if the individual:

- (1) Has routine and direct contact with youth;
- (2) Was placed in a residential facility of the department; or
- (3) Was released under the department's supervision.

(h) For purposes of subdivision (g)(1), an individual who has routine direct contact with youth on any portion of the first workday of a month is considered to have routine direct contact with youth for the entire month.

(i) The department may not pay hazardous duty pay to an employee who works at the department's central office.

(j) In addition to other benefits of employment provided by law, a state agency may, to the extent authorized by an appropriation for the purpose, spend appropriated

funds to pay for drug, medical, hospital, laboratory, and funeral expenses of an employee under the jurisdiction and control of the agency:

(1) Who is injured or killed while engaged in the performance of the employee's duties; or

(2) Whose duties require the employee to be exposed to unavoidable dangers peculiar to the employee's job responsibilities.

SECTION 2. Tennessee Code Annotated, Title 8, Chapter 23, Part 2, is further amended by adding the following new section:

(a) As used in this section, unless context otherwise requires, "workweek" is a fixed and regularly recurring period of seven (7) consecutive twenty-four-hour periods.

(b) This section applies to all personnel in state service as defined in § 8-30-102, who are required to work hours in excess of thirty-seven and one-half (37.5) hours in a workweek and who are entitled to compensation for the excess hours either by:

(1) The employing agency allowing or requiring the employee to take compensatory time off at the rate of one and one half (1 ½) hours for each hour of overtime; or

(2) At the discretion of the employing agency, in cases in which granting compensatory time off is impractical, the employee receives payment for the overtime at a rate equal to one and one-half (1 1/2) times the employee's regular rate of pay.

(c) The department of correction shall compensate a person employed by the department for any overtime accrued by the employee for which the employee is entitled under subsection (b) in the same month the department compensates employees at the regular rate of pay for the period in which the employee accrued the overtime.

SECTION 3. Tennessee Code Annotated, Title 8, Chapter 23, Part 2, is further amended by adding the following new section:

(a) As used in this section, "state agency" means an agency of any branch of state government that employs individuals who are classified under title 8, chapter 30.

(b) To enhance the recruitment of competent personnel for certain classified employee positions, a state agency may provide to a state employee, at the time of the employee's hiring to a classified position, additional compensation in the form of a one-time recruitment payment not to exceed five thousand dollars (\$5,000). If the employee discontinues employment with the state agency for any reason less than three (3) months after the date of receiving the recruitment payment, the employee shall refund to the state agency the full amount of the recruitment payment. If the employee discontinues employment with the state agency for any reason not less than three (3) months after receiving the recruitment payment but less than twelve (12) months after receiving the recruitment payment, the employee shall refund to the state agency an amount computed by:

(1) Subtracting from twelve (12) months the number of complete calendar months the employee worked after the date of receiving the recruitment payment;

(2) Dividing the number of months computed under subdivision (b)(1) by twelve (12) months; and

(3) Multiplying the fraction computed under subdivision (b)(2) by the amount of the recruitment payment.

(c) To enhance the retention of employees who are employed in certain classified positions that are identified by the executive head of a state agency as essential for the state agency's operations, a state agency may enter into a deferred

compensation contract with a classified employee to provide to the employee a one-time additional compensation payment not to exceed five thousand dollars (\$5,000) to be added to the employee's salary payment the month after the conclusion of the twelve-month period of service under the deferred compensation contract.

(d) To be eligible to enter into a contract for deferred compensation under subsection (c), a state employee must have already completed at least twelve (12) months of service in a classified position.

(e) The commissioner of a state agency shall determine whether additional compensation is necessary under this section on a case-by-case basis, considering:

(1) Whether the employee's position is critical to the operations of the state agency;

(2) Evidence of high turnover rates, in excess of fourteen percent (14%), among employees filling the position, or an extended period during which the position is or has in the past been vacant;

(3) Evidence of a shortage of employees qualified to fill the position or a shortage of qualified applicants; and

(4) Other relevant factors.

(f) Before an agency provides or enters into a contract to provide additional compensation to an employee under this section, the executive head of the state agency must certify to the commissioner of finance and administration in writing the reasons why the additional compensation is necessary.

(g) Additional compensation paid to an employee under this section is specifically exempt from any limitation on salary or salary increases under this title.

SECTION 4. This act shall take effect July 1, 2017, the public welfare requiring it.