



Stephen Estelle

*Bill Analysis*  
Legislative Service Commission

## **H.B. 185**

127th General Assembly  
(As Introduced)

**Reps. Beatty and Dodd, Letson, Healy, Luckie, Bolon, Garrison, Miller, Yuko, Otterman, Budish**

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### **BILL SUMMARY**

#### **Nurse overtime**

- Prohibits hospitals from requiring registered nurses and licensed practical nurses to work overtime as a condition of continued employment.
- Permits a nurse to work overtime voluntarily.
- Establishes a \$10,000 per violation civil penalty for violating the overtime prohibition, to be imposed by the Ohio Department of Health.

#### **Income tax deduction and credit**

- Authorizes a state income tax deduction for certified nurse aides equal to 50% of the compensation received for nurse aide services provided in long-term care facilities.
- Beginning in 2007 and ending in 2020, authorizes a refundable income tax credit for registered nurses who teach nursing at post-secondary educational institutions.
- Provides that the credit must be taken in six consecutive years, in the amount of \$3,500 in each of the first four years, and \$1,750 in each of the last two years.

#### **Nursing Education Reimbursement Program**

- Establishes the Nursing Education Reimbursement Program, to be administered by the Ohio Board of Nursing.

- Requires that the Program reimburse an eligible registered nurse the lesser of (1) the average annual actual costs of the nurse's pre-licensure nursing education program, and (2) the statewide average of nursing education instructional costs for the year in which the nurse completed the pre-licensure nursing education program.
- To receive reimbursement under the program, a registered nurse must have completed, after July 1, 2007, an approved pre-licensure nursing education program in Ohio, hold a valid license to practice as a registered nurse in this state, and have completed at least two years of full-time employment in an Ohio hospital.
- Provides that an eligible registered nurse with more than two years of full-time employment in an Ohio hospital may be reimbursed for up to four additional years.

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## CONTENT AND OPERATION

### Nurse overtime

#### Prohibition against requiring nurses to involuntarily work overtime

(R.C. 3727.18, 3727.181, 3727.182, and 3727.183)

The bill prohibits hospitals from directly or indirectly requiring registered nurses or licensed practical nurses to work overtime as a condition of continued employment. "Overtime" is defined as an amount of time that is worked in excess of an agreed upon, predetermined, regularly scheduled full-time or part-time work week. Prohibited conduct by hospitals includes (1) terminating or proposing to terminate employment solely because a nurse chooses not to work overtime, and (2) taking or proposing disciplinary or retaliatory action solely because a nurse chooses not to work overtime.

The bill provides that it does not prohibit any of the following:

- A nurse from voluntarily working overtime;
- A hospital from offering overtime to a nurse or permitting a nurse to work overtime when the nurse chooses;
- A hospital from requesting or scheduling a nurse to work overtime if the hospital is experiencing a staffing shortage resulting from an emergency

or disaster publicly declared by the Governor or President of the United States.

The bill provides that it does not affect labor agreements between employee organizations and employers that contain conflicting provisions regarding nurse overtime in hospitals.

**Administrative procedures and enforcement**

(R.C. 3727.184, 3727.185, and 3727.186)

If the Ohio Department of Health determines that a hospital may have violated the bill's overtime provision, the Department must notify the hospital and provide an opportunity for a hearing under the Administrative Procedure Act. If the hospital fails to request a hearing, or the Department determines after conducting the hearing that a violation has occurred, the Department is required to impose a civil penalty of not more than \$10,000 per violation.

Amounts collected must be deposited into the Department of Health's existing General Operations Fund and used to enforce the bill's overtime prohibition. If a fine remains unpaid, the Attorney General, on request of the Department, must bring and prosecute to judgment a civil action to collect the fine.

The bill allows the Director, through the Attorney General or an appropriate prosecuting attorney, to apply to the court of common pleas of the county where the hospital is located for a temporary or permanent injunction to restrain a hospital's violation of the overtime prohibition. On a showing that the hospital has violated the prohibition, the court must grant an order enjoining the violation.

The bill specifies that its enforcement provisions are in addition to all other penalties and remedies available under the Revised Code.

**Rulemaking**

(R.C. 3727.187)

The bill requires the Department of Health to adopt rules under the Administrative Procedure Act as necessary for the implementation of the bill's nurse overtime provisions.

### **Certified nurse aide income tax deduction**

(R.C. 5747.01(A)(25))

The bill authorizes an income tax deduction equal to 50% of the compensation an individual receives for personal services the individual renders during the taxable year as a nurse aide<sup>1</sup> in a long-term care facility, to the extent the compensation is not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for that year. Only an individual who meets continuing law's training and competency requirements for nurse aides (R.C. 3721.28(B) and (C)) is eligible for the deduction.

#### **Effective date**

(Section 3)

The income tax deduction applies to taxable years beginning on or after January 1, 2007.

### **Nursing professor income tax credit**

(R.C. 5747.08, 5747.72, and 5747.98; Section 3)

The bill authorizes a refundable state income tax credit for a taxpayer who is both a registered nurse and a nursing professor teaching at a post-secondary educational institution in a program that leads to a diploma or degree in nursing.<sup>2</sup>

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<sup>1</sup> As defined in current law (R.C. 3721.21(K)), a nurse aide is an individual who provides nursing and nursing-related services to residents in a long-term care facility, either as a staff member of the facility for monetary compensation, or as a volunteer without monetary compensation. A nurse aide is neither (a) a licensed health care professional practicing within the scope of the professional's license, nor (b) an individual providing nursing and nursing-related services in a religious nonmedical health care institution, if the individual has been trained in the principles of nonmedical care and is recognized by the institution as being competent in the administration of care within the religious tenets practiced by the residents of the institution. A long-term care facility is, in general, a nursing home, or a facility or part of a facility that is certified as a skilled nursing facility for purposes of Medicare, or a nursing facility for purposes of Medicaid (R.C. 3721.21(A)).

<sup>2</sup> A post-secondary educational institution is any of the following: (1) a state university, community college, state community college, university branch, or technical college, (2) any nonprofit institution that holds a certificate of authorization issued by the Ohio Board of Regents, (3) a private institution holding a certificate of registration issued by the State Board of Career Colleges and Schools, or (4) a school holding authorization under Ohio's

The income tax credit must be taken in six consecutive taxable years: \$3,500 each taxable year for the first four taxable years, and then \$1,750 each taxable year for the following two taxable years. If a taxpayer is entitled to other credits, the credit must be claimed only after certain other credits provided for by continuing law are deducted from the tax otherwise due. However, if the amount of the credit exceeds the amount of income taxes due after the taxpayer deducts the credit and any other tax credits, the taxpayer is entitled to a refund. The credit may not be claimed in "taxable year 2020" or thereafter (apparently, taxable years beginning in or after 2020 is intended).

### **Nursing Education Reimbursement Program**

(R.C. 4723.11 and 4723.111)

The bill establishes the Nursing Education Reimbursement Program, to be administered by the Ohio Board of Nursing. Under the Program, a registered nurse who meets certain conditions is reimbursed for the costs of the nurse's post-secondary nursing education.

#### **Eligibility requirements**

A registered nurse must meet three conditions to be eligible for reimbursement under the Program. First, the registered nurse must have completed, after July 1, 2007, an Ohio Board of Nursing approved pre-licensure nursing education program from a private or public institution in Ohio.<sup>3</sup> Second, the registered nurse must hold a valid license to practice as a registered nurse in this state. Third, the registered nurse must have completed at least two years of full-time employment in an Ohio hospital.<sup>4</sup>

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Occupations and Professions Law (R.C. Title 47) to offer courses leading to a nursing license.

<sup>3</sup> A pre-licensure nursing education program is a post-secondary education program that leads to a degree or diploma an individual must hold to be eligible to take the examination for licensure as a registered nurse.

<sup>4</sup> All of the following are considered a hospital for the purpose of the Nursing Education Reimbursement Program: (1) an institution classified as a hospital in accordance with Public Health Council rules in which diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care is provided to inpatients for a continuous period longer than 24 hours, (2) a health maintenance organization-operated hospital, and (3) a Department of Mental Health-operated hospital.

### **Reimbursement under the Program**

The amount that an eligible registered nurse is to be reimbursed under the program is the lesser of (1) the average annual actual costs of the nurse's pre-licensure nursing education program or (2) the statewide average annual nursing education instructional costs for state universities that offer such programs, as calculated for the year in which the nurse completed the pre-licensure nursing education program.<sup>5</sup> In calculating the average annual actual costs of the registered nurse's pre-licensure nursing education program, the annual cost of instructional and general fees for enrollment are used, and those costs must be documented in accordance with the Board's rules. Both the average annual actual costs of the pre-licensure nursing education program and the statewide average of state universities' nursing education instructional costs are to include an estimated amount for the purchase of necessary textbooks.

A registered nurse with more than two years of full-time employment in an Ohio hospital is eligible for cost reimbursement for additional years. But no registered nurse may be reimbursed under the bill for more than the lesser of (1) the number of years the nurse was enrolled as a full-time student in a pre-licensure nursing education program, or (2) five years.

### **Rules**

The Board of Nursing is required to adopt rules in accordance with the Administrative Procedure Act for the reimbursement of eligible registered nurses under the Program. The rules must provide for all of the following:

- (1) The annual calculation of the statewide average nursing education instructional costs for that year;
- (2) Requirements for eligible registered nurses to document completion of a pre-licensure nursing education program at a private or public institution in Ohio, the number of years of enrollment in the program, and the average cost of instructional and general fees and textbooks for the years of enrollment;
- (3) Requirements for eligible registered nurses to document full-time employment by Ohio hospitals;

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<sup>5</sup> The universities used in calculating the statewide average are the University of Akron, Bowling Green State University, Central State University, University of Cincinnati, Cleveland State University, Kent State University, Miami University, Ohio University, Ohio State University, Shawnee State University, University of Toledo, Wright State University, and Youngstown State University.

(4) Application procedures and deadlines for filing for reimbursement under the Program.

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## **HISTORY**

ACTION	DATE
Introduced	04-25-07

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