



Ohio Legislative Service Commission

Bill Analysis

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H.B. 74

128th General Assembly
(As Introduced)

Reps. Weddington, Harris, Luckie, Winburn, S. Williams, Okey, Letson, Phillips, Chandler

BILL SUMMARY

Nurse overtime

- Prohibits hospitals from requiring registered nurses and licensed practical nurses to work overtime as a condition of continued employment, except where provisions of labor agreements conflict with the prohibition.
- Specifies that the bill does not prohibit a nurse from working overtime voluntarily, from being offered overtime, or from being required to work overtime during a publicly declared emergency or publicly declared disaster.
- Requires the Department of Health to impose on a hospital, after an opportunity for an adjudication, a \$10,000 maximum civil penalty for a violation of the overtime prohibition.
- Permits the Director of Health to apply for an injunction enjoining a hospital from violating the overtime prohibition.

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 in Ohio.
- Authorizes a refundable income tax credit of \$17,500 for a registered nurse who teaches nursing at a post-secondary educational institution.
- Requires that the nursing professor credit be claimed 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.

- Provides that the nursing professor credit may not be claimed in taxable year 2022 or thereafter.

Nursing Education Reimbursement Program

- Establishes the Nursing Education Reimbursement Program, to be administered by the Ohio Board of Nursing.
- Requires that under the Program an eligible registered nurse be reimbursed the lesser of (1) the average annual actual costs of instruction during the nurse's prelicensure nursing education, plus an estimate of the annual cost of necessary textbooks, or (2) the average costs for prelicensure nursing education (including an estimate of the annual cost of necessary textbooks) for the year in which the nurse completed the prelicensure nursing education, based on statewide costs from certain Ohio universities.
- Requires, as a condition of reimbursement under the Program, that a registered nurse have completed, after July 1, 2009, Board-approved prelicensure nursing education in Ohio, hold a valid Ohio license to practice as a registered nurse, and have been a full-time employee of an Ohio hospital for at least two years.
- 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.

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. The bill defines "overtime" as an amount of time worked in excess of an agreed upon, predetermined, regularly scheduled full-time or part-time work week. The bill specifies that actions constituting violations of this prohibition include (1) terminating or proposing to terminate employment solely because a nurse chooses not to work overtime and (2) taking or proposing to take disciplinary or retaliatory action solely because a nurse chooses not to work overtime.

The bill specifies that it does not prohibit a registered nurse or licensed practical nurse from voluntarily working overtime, and that it does not prohibit a hospital from doing any of the following:

- (1) Offering overtime to a registered nurse or licensed practical nurse;
- (2) Permitting a registered nurse or licensed practical nurse to work overtime when the nurse chooses;
- (3) Requesting or scheduling a nurse to work overtime if the hospital is experiencing a staffing shortage directly resulting from an instance that has been publicly declared an emergency or disaster by the President of the United States or the Governor.

The bill specifies that it does not affect conflicting provisions of labor agreements between employee organizations and employers regarding overtime that a registered nurse or licensed practical nurse is required to work.

Administrative procedures and enforcement

(R.C. 3727.184, 3727.185, 3727.186, and 3727.187)

The bill provides that if the Ohio Department of Health determines that a hospital may have violated the bill's overtime provision, the Department is to notify the hospital and provide an opportunity for an adjudication under the Administrative Procedure Act (R.C. Chapter 119.). The Department is required to impose a civil penalty of not more than \$10,000 per violation if the hospital fails to request an adjudication or if the Department determines after conducting an adjudication that a violation has occurred. If more than one violation is involved, the Department must impose a separate civil penalty for each violation.

The bill requires that amounts collected from civil penalties be deposited into the Department's existing General Operations Fund and used to enforce the bill's overtime prohibition. If a penalty is not paid, the Attorney General, on request of the Department, is to bring and prosecute to judgment a civil action to collect the penalty.

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

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

The bill requires the Department to adopt rules under the Administrative Procedure Act (R.C. Chapter 119.) as necessary for the implementation of the bill's overtime provisions.

Certified nurse aide income tax deduction

(R.C. 5747.01(A)(28); Section 3)

The bill authorizes an income tax deduction, applicable for taxable years beginning in 2009, equal to 50% of the compensation that an individual receives for personal services rendered as a nurse aide¹ in an Ohio long-term care facility. The deduction is to apply to the extent that the compensation is not otherwise deducted or excluded in computing federal or Ohio adjusted gross income for the year. Only individuals who meet the requirements in continuing law for the training and competency of nurse aides are eligible for the deduction.

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 of \$17,500 for a taxpayer who is 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.² The credit must be taken in six consecutive taxable years: \$3,500 per year for the first four taxable years, and then \$1,750 per year for the following two taxable years. If a

¹ As defined in current law, a nurse aide is an individual who provides nursing and nursing-related services to residents in a long-term care facility (defined generally as a nursing home, skilled nursing facility, or nursing facility), either as a staff member 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. (R.C. 3721.21.)

² The bill defines a post-secondary educational institution as any of the following: (1) a state university or college, 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) any institution holding a certificate of registration issued by the State Board of Proprietary School Registration, or (4) a school holding authorization under Ohio's law governing occupations and professions Law to offer courses leading to a nursing license.

taxpayer is entitled to other credits, the nursing professor credit must be claimed only after certain other credits provided for by continuing law are deducted from the tax otherwise due. But if the amount of the nursing professor credit exceeds the amount of income tax due after the taxpayer deducts the nursing professor credit and any other tax credits, the taxpayer is entitled to a refund. The nursing professor credit may not be claimed "in taxable year 2022" or thereafter.³

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 to be reimbursed for the instructional costs of the nurse's prelicensure nursing education.

Eligibility requirements

A registered nurse must meet three conditions to be eligible for reimbursement under the Program. First, the nurse must have completed, after July 1, 2009, a Board-approved "prelicensure nursing education program," defined as the post-secondary education that leads to the degree or diploma required for eligibility to take the examination for licensure as a registered nurse. The education may be completed at a private or public institution in Ohio. Second, the nurse must hold a valid license to practice as a registered nurse in Ohio. Third, the nurse must have completed at least two years of full-time employment at an Ohio hospital.⁴

Reimbursement under the Program

The amount that an eligible nurse is to be reimbursed under the Program is the lesser of the following:

(1) The average annual actual costs of instruction during the nurse's prelicensure nursing education, plus an estimate of the annual cost of necessary textbooks;

³ A corrective amendment may be necessary to clarify this provision, as well as the first taxable year in which the credit may be claimed.

⁴ All of the following are considered hospitals 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 hospital operated by a health maintenance organization, and (3) a similar institution operated by the Department of Mental Health.

(2) The average costs for prelicensure nursing education (including an estimate of the annual cost of necessary textbooks), for the year in which the nurse completed the prelicensure nursing education, based on statewide costs from certain Ohio universities.⁵

A nurse with more than two years of full-time employment at an Ohio hospital is eligible for reimbursement for one additional year of education costs per year of employment. But the number of years of education for which a nurse may be reimbursed may not exceed the lesser of (1) the number of years that the nurse was enrolled as a full-time student in a prelicensure nursing education program or (2) five years.

Rules

The bill requires the Board to adopt rules in accordance with the Administrative Procedure Act (R.C. Chapter 119.) for the reimbursement of eligible nurses under the Program. The rules are to provide for all of the following:

(1) The annual calculation of the statewide average prelicensure nursing education costs;

(2) Requirements for eligible nurses to document completion of a prelicensure nursing education program, 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 nurses to document full-time employment by Ohio hospitals;

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

HISTORY

ACTION	DATE
Introduced	03-17-09

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⁵ The universities to be used in calculating the 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.