

Department of Legislative Services
Maryland General Assembly
2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 542

(Senator Eckardt)

Finance

Health and Government Operations

State Health Care Facilities - Employees - Alternative Workweeks

This emergency bill authorizes, beginning May 1, 2021, the Secretary of Health to authorize an employee of a State health care facility – that is owned or operated by the Maryland Department of Health (MDH) and open 24 hours a day and seven days a week – to work according to an alternative workweek if the alternative workweek is consistent with any applicable collective bargaining memorandum of understanding (MOU) or, if the employee is not covered by an applicable collective bargaining MOU, any other written agreement. An “alternative workweek” means a work schedule for an employee of such a State facility under which the employee may work less than 40 hours in a week. An employee who works an alternative workweek as authorized under the bill is considered a full-time employee of the State. **The bill is contingent on the termination of Chapters 13 and 14 of 2020. If Chapters 13 and 14 do not terminate before July 1, 2023, the bill is null and void.**

Fiscal Summary

State Effect: General fund expenditures may decrease due to reduced overtime costs for MDH beginning in FY 2021, as discussed below. Revenues are not affected.

Local Effect: None.

Small Business Effect: None.

Analysis

Bill Summary: Certain provisions relating to overtime compensation for specified employees of a hospital or domiciliary care facility for the ill, aged, or disabled do not apply to an employee who works an alternative workweek under the bill. Specifically, an employee who works an alternative workweek under the bill is not eligible to receive overtime pay of one and one-half times the employee's regular hourly rate of pay for time worked in excess of 8 hours in a workday, but such an employee does receive overtime pay of one and one-half times the regular hourly rate of pay for time worked in excess of 40 hours in a workweek.

Current Law: Chapters 13 and 14 of 2020 (the COVID-19 Public Health Emergency Protection Act of 2020) authorized the Governor, for the duration of the emergency, to order MDH to authorize an alternative workweek for an employee (1) of a health care facility that is owned or operated by MDH and open 24 hours a day and seven days a week and (2) who is subject to an MOU with the American Federation of Teachers (which applies to registered nurses at some State facilities).

The alternative workweek may allow the employee to work hours or shifts that are not typical for State employees and work less than 40 hours in a week. An employee who is authorized to work an alternative workweek must be (1) considered a full-time State employee and (2) entitled to compensation for overtime work. For purposes of overtime pay, time worked by an employee who is authorized to work an alternative workweek includes only the hours actually worked and does not include paid leave hours taken by the employee during the workweek.

Chapters 13 and 14 are scheduled to terminate April 30, 2021.

Overtime Compensation, Generally

Generally, a State employee whom the Secretary of Budget and Management has authority to pay earns one and one-half times the employee's regular hourly pay rate for time worked in excess of 40 hours in a workweek. All employees subject to overtime pay are entitled to the greater of State overtime benefits or the benefits required by the federal Fair Labor Standards Act (FLSA).

An employee of a hospital or domiciliary care facility for the ill, aged, or disabled earns one and one-half times the employee's regular hourly rate of pay for time worked in excess of 80 hours in a two-week work period *or* time worked in excess of 8 hours in any workday.

By regulations consistent with the federal FLSA, the Secretary of Budget and Management may provide for employees who otherwise would be entitled to overtime payment to elect

to receive compensatory time instead. The Secretary may designate those bona fide administrative, executive, and professional employees who may not receive payment for overtime work but who may be granted compensatory time for overtime work. An employee who is included in the Executive Pay Plan at a pay grade of (ES) 6 or above is not entitled to accrue any compensatory time other than as provided under statute for overtime work.

State Expenditures: In December 2019, an [MOU](#) was signed between the State and the union for State health care employees to allow an alternative work schedule of three 12-hour shifts for a 36-hour workweek. To the extent that employees of State health care facilities who participate in an alternative workweek under the bill would otherwise earn overtime pay for time worked in excess of 8 hours in a workday, general fund expenditures for MDH decrease due to reduced overtime costs. The timing for such a decrease depends on when or if the bill takes effect, which may be as early as the final quarter of fiscal 2021 (if Chapters 13 and 14 are not extended beyond April 30, 2021) or could be delayed (if Chapters 13 and 14 are extended). If, however, Chapters 13 and 14 are extended beyond fiscal 2023, this bill does not take effect.

Additional Information

Prior Introductions: HB 1646 of 2020, a similar bill, was referred to the House Rules and Executive Nominations Committee, but no further action was taken. Its cross file, SB 1063, received a hearing in the Senate Finance Committee, but no further action was taken.

Designated Cross File: HB 673 (Delegate Valentino-Smith) - Health and Government Operations.

Information Source(s): Department of Budget and Management; Maryland Department of Health; Department of Legislative Services

Fiscal Note History: First Reader - February 12, 2021
rh/mcr Third Reader - March 20, 2021
Revised - Amendment(s) - March 20, 2021

Analysis by: Elizabeth J. Allison

Direct Inquiries to:
(410) 946-5510
(301) 970-5510