

**HOUSE** \_\_\_\_\_ **AMENDMENT NO.** \_\_\_\_\_

**Offered By**

1 AMEND House Committee Substitute for Senate Bill No. 739, Page 1, Section A, Line 2, by  
2 inserting after all of said section and line the following:

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

7 2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair  
8 Labor Standards Act shall be eligible for payment of overtime in accordance with subsection 4 of  
9 this section. A nonexempt state employee who works on a designated state holiday shall be  
10 granted equal compensatory time off duty or shall receive, at his or her choice, the employee's  
11 straight time hourly rate in cash payment. A nonexempt state employee shall be paid in cash for  
12 overtime unless the employee requests compensatory time off at the applicable overtime rate. As  
13 used in this section, the term "state employee" means any person who is employed by the state and  
14 earns a salary or wage in a position normally requiring the actual performance by him or her of  
15 duties on 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 assembly.

17 3. Beginning on January 1, 2006, and annually thereafter each department shall pay all  
18 nonexempt state employees in full for any overtime hours accrued during the previous calendar  
19 year which have not already been paid or used in the form of compensatory leave time. All  
20 nonexempt state employees shall have the option of retaining up to a total of eighty compensatory  
21 time hours at any time during the year.

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

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

7           6. Each state department shall report quarterly to the house of representatives budget  
8 committee chair, the senate appropriations committee chair, and the commissioner of  
9 administration the cumulative number of accrued overtime hours for department employees, the  
10 dollar equivalent of such overtime hours, the number of authorized full-time equivalent positions  
11 and vacant positions, the amount of funds for any vacant positions which will be used to pay  
12 overtime compensation for employees with full-time equivalent positions, and the current balance  
13 in the department's personal service fund.

14           7. This section is applicable to overtime earned under the Fair Labor Standards Act. This  
15 section is applicable to employees who are employed in nonexempt positions providing direct  
16 client care or custody in facilities operating on a twenty-four-hour seven-day-a-week basis in the  
17 department of corrections, the department of mental health, the division of youth services of the  
18 department of social services, and the veterans commission of the department of public safety.”;  
19 and

20  
21 Further amend said bill by amending the title, enacting clause, and intersectional references  
22 accordingly.