

SECOND REGULAR SESSION

HOUSE BILL NO. 1090

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES MCCAHERTY (Sponsor), DIEHL, ENGLISH,
WHITE AND HUBBARD (Co-sponsors).

4206H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 105.935, RSMo, and to enact in lieu thereof one new section relating to state employees.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 105.935, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.935, to read as follows:

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

2. A state employee who is a nonexempt employee pursuant to the provisions of the Fair Labor Standards Act shall be eligible for payment of overtime in accordance with subsection 4 of this section. A nonexempt state employee who works on a designated state holiday shall be granted equal compensatory time off duty or shall receive, at his or her choice, the employee's straight time hourly rate in cash payment. A nonexempt state employee shall be paid in cash for overtime unless the employee requests compensatory time off at the applicable overtime rate. As used in this section, the term "state employee" means any person who is employed by the state and earns a salary or wage in a position normally requiring the actual performance by him or her of duties on behalf of the state, but shall not include any employee who is exempt under the provisions of the Fair Labor Standards Act or any employee of the general assembly.

3. Beginning on January 1, 2006, and annually thereafter each department shall pay all nonexempt state employees in full for any overtime hours accrued during the previous calendar year which have not already been paid or used in the form of compensatory leave time. [All

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 nonexempt state employees shall have the option of retaining up to a total of eighty
18 compensatory time hours.] **Any nonexempt Missouri department of corrections employee**
19 **who has accrued any overtime hours may choose to use those hours as compensatory leave**
20 **time, provided that the leave time is available and agreed upon by such employee and his**
21 **or her supervisor. Compensatory time shall be considered accrued upon completion of**
22 **time worked in excess of such employee's normal assigned shift and will be the employee's**
23 **decision whether to take the time off or request payment for such hours. Each nonexempt**
24 **state employee shall have the right to retain up to eighty hours of compensatory time at any**
25 **time during the year.**

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

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

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

47 7. This section is applicable to overtime earned under the Fair Labor Standards Act.
48 This section is applicable to employees who are employed in nonexempt positions providing
49 direct client care or custody in facilities operating on a twenty-four-hour seven-day-a-week basis
50 in the department of corrections, the department of mental health, the division of youth services
51 of the department of social services, and the veterans commission of the department of public
52 safety.