

FIRST REGULAR SESSION

# SENATE BILL NO. 662

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR BARNITZ.

Read 1st time March 1, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2282S.01I

## AN ACT

To repeal section 105.935, RSMo, and to enact in lieu thereof one new section relating to overtime for 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Section A. Section 105.935, RSMo, is repealed and one new section  
2 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  
2 choose to use those hours as compensatory leave time provided that the leave  
3 time is available and agreed upon by both the state employee and his or her  
4 supervisor.

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

18 3. Beginning on January 1, 2006, and annually thereafter each  
19 department shall pay all nonexempt state employees in full for any overtime

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20 hours accrued during the previous calendar year which have not already been  
21 paid or used in the form of compensatory leave time. All nonexempt state  
22 employees shall have the option of retaining up to a total of eighty compensatory  
23 time hours.

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

33 5. Each department shall, by November first of each year, notify the  
34 commissioner of administration, the house budget committee chair, and the  
35 senate appropriations committee chair of the amount of overtime paid in the  
36 previous fiscal year and an estimate of overtime to be paid in the current fiscal  
37 year. The fiscal year estimate for overtime pay to be paid by each department  
38 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  
41 representatives budget committee chair, the senate appropriations committee  
42 chair, and the commissioner of administration the cumulative number of accrued  
43 overtime hours for department employees, the dollar equivalent of such overtime  
44 hours, the number of authorized full-time equivalent positions and vacant  
45 positions, the amount of funds for any vacant positions which will be used to pay  
46 overtime compensation for employees with full-time equivalent positions, and the  
47 current balance in the department's personal service fund.

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