

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1422

## 98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE WALKER.

4564H.01P

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

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

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*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Section A. Section 105.935, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 105.935, to read as follows: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 5 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

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.

16 year which have not already been paid or used in the form of compensatory leave time. All  
17 nonexempt state employees shall have the option of retaining up to a total of eighty  
18 compensatory time hours.

19 4. Missouri department of corrections employees classified as a corrections officer I or  
20 a corrections officer II who have accrued any overtime hours may choose to use those hours as  
21 compensatory leave time, provided that the leave time is available and agreed on by such  
22 employee and his or her supervisor. Compensatory time shall be considered accrued on  
23 completion of time worked in excess of such employee's normal assigned shift and it will be the  
24 employee's decision whether to take the time off or request payment for such hours. All  
25 employees classified as a corrections officer I or a corrections officer II shall have the right to  
26 retain up to eighty hours of compensatory time at any time during the year.

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

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

41 7. Each state department shall report quarterly to the house of representatives budget  
42 committee chair, the senate appropriations committee chair, and the commissioner of  
43 administration the cumulative number of accrued overtime hours for department employees, the  
44 dollar equivalent of such overtime hours, the number of authorized full-time equivalent positions  
45 and vacant 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 current  
47 balance in the department's personal service fund.

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

52 of the department of social services, and the veterans commission of the department of public  
53 safety.

54 **9. Notwithstanding any provision of law to the contrary, any state employee who**  
55 **works ten-hour days and forty hours per week shall not be required to take two hours of**  
56 **vacation leave for paid holidays.**

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