

**Department of Legislative Services**  
 Maryland General Assembly  
 2008 Session

**FISCAL AND POLICY NOTE**

House Bill 1614

(Chair, Appropriations Committee) (By Request –  
 Departmental – Public Safety and Correctional Services)

Appropriations

**State Personnel - Security Personnel of Correctional Facilities - Exception for  
 Overtime Compensation**

This departmental bill excludes security personnel in correctional facilities who work an alternate work schedule (as allowed by the federal Fair Labor Standards Act as applicable to overtime work for law enforcement employees or fire fighters) from time and a half overtime pay requirements if working more than a normal eight-hour workday.

**Fiscal Summary**

**State Effect:** General fund expenditures for overtime costs could decrease by \$8.6 million annually for the Department of Public Safety and Correctional Services. The proposed FY 2009 budget reduces general fund expenditures by \$8.6 million contingent upon enactment of this bill and the outcome of specified negotiations. Revenues would not be affected.

(in dollars)	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	(8,637,700)	(8,637,700)	(8,637,700)	(8,637,700)	(8,600)
Net Effect	\$8,637,700	\$8,637,700	\$8,637,700	\$8,637,700	\$8,600

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** The Department of Public Safety and Correctional Services has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

## Analysis

**Current Law:** A law enforcement employee of any unit of State government or a State Police cadet who works more than eight hours in a normal eight-hour workday is entitled to be paid at the rate of one and one-half times the employee's or cadet's regular hourly rate of pay for time worked in excess of eight hours.

An exception is provided for law enforcement and civilian employees of the Department of State Police who participate in the modified workday program established under certain provisions of the Public Safety Article. For an employee subject to this exception, payment for overtime work is made at the greater of: (1) one and one-half times the employee's regular hourly rate of pay for time worked in excess of 40 hours in the established work period; or (2) one and one-half times the employee's regular hourly rate of pay for time worked during that work period that is in excess of the established workday.

**Background:** In order to address continuing high overtime expenditures, the Department of Public Safety and Correctional Services plans to implement a pilot program in which specified employees in a designated correctional facility would work a 12-hour shift, rather than an 8-hour shift, while being compensated at the standard hourly rate and while still working a 40-hour workweek. Current law prohibits such an arrangement.

The department also advises that this change could not be implemented until the completion of successful negotiations with AFSCME-IBT, the exclusive bargaining unit representing correctional officers.

The federal Fair Labor Standards Act (FLSA) establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in federal, state, and local governments. Certain occupations and establishments are exempt from the minimum wage and overtime provisions, but covered workers are entitled to a minimum wage of not less than \$5.85 per hour effective July 24, 2007; \$6.55 per hour effective July 24, 2008; and \$7.25 per hour effective July 24, 2009. Overtime must be paid at a rate of not less than 1.5 times the regular rate of pay for any work that is required in excess of 40 hours of work in a workweek.

**State Expenditures:** This bill would allow for additional shift and compressed workweek options for DPSCS. Annual savings are estimated at \$127,744 for the Patuxent Institution, \$670,000 for the Division of Pretrial Detention and Services, and \$7,840,000 for the Division of Correction. The proposed fiscal 2009 budget reduces the general fund appropriation for DPSCS overtime by \$8.6 million, contingent upon enactment of legislation to change the overtime calculation to be consistent with FLSA

and provided that negotiations with AFSCME-IBT approve the length of shifts from 8 to 12 hours.

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### **Additional Information**

**Prior Introductions:** HB 508 of 2004 was withdrawn.

**Cross File:** None.

**Information Source(s):** Department of Budget and Management, Department of Public Safety and Correctional Services, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2008  
ncs/jr

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