

ALASKA STATE LEGISLATURE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES STANDING COMMITTEE
Anchorage, Alaska
September 23, 2005
8:19 a.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Paul Seaton, Vice Chair
Representative Tom Anderson
Representative Vic Kohring
Representative Berta Gardner

MEMBERS ABSENT

Representative Lesil McGuire
Representative Sharon Cissna

COMMITTEE CALENDAR

HOUSE BILL NO. 271

"An Act relating to limitations on overtime for registered nurses in health care facilities; and providing for an effective date."

- HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 271

SHORT TITLE: LIMIT OVERTIME FOR REGISTERED NURSES

SPONSOR(S): REPRESENTATIVE(S) WILSON

04/15/05	(H)	READ THE FIRST TIME - REFERRALS
04/15/05	(H)	L&C, HES, FIN
04/30/05	(H)	L&C AT 1:00 PM CAPITOL 17
04/30/05	(H)	Moved Out of Committee
04/30/05	(H)	MINUTE(L&C)
05/02/05	(H)	L&C RPT 4DP 3NR
05/02/05	(H)	DP: CRAWFORD, LYNN, GUTTENBERG, ANDERSON;
05/02/05	(H)	NR: LEDOUX, ROKEBERG, KOTT
05/03/05	(H)	HES AT 3:00 PM CAPITOL 106
05/03/05	(H)	Heard & Held
05/03/05	(H)	MINUTE(HES)
08/29/05	(H)	HES AT 1:30 PM Anch LIO Conf Rm

08/29/05 (H) Status of Personal Care Attendant regs
09/23/05 (H) HES AT 8:00 AM Anch LIO Conf Rm

WITNESS REGISTER

JANET CLARKE, Assistant Commissioner
Central Office
Finance And Management Services
Department of Health and Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: Testified during the hearing on HB 271.

MIKE TIBBLES, Deputy Commissioner
Office of the Commissioner
Department of Administration
Juneau, Alaska
POSITION STATEMENT: Testified during the hearing on HB 271.

REPRESENTATIVE CARL GATTO
Alaska State Legislature
POSITION STATEMENT: Suggested topics to consider for HB 271.

ACTION NARRATIVE

CHAIR PEGGY WILSON called the House Health, Education and Social Services Standing Committee meeting to order at [8:19:51 AM](#). Representatives Seaton, Anderson, Gardner, and Wilson were present at the call to order. Representative Kohring arrived as the meeting was in progress.

[8:21:33 AM](#)

HB 271-LIMIT OVERTIME FOR REGISTERED NURSES

[8:21:47 AM](#)

CHAIR WILSON announced that the first order of business was HOUSE BILL NO. 271, "An Act relating to limitations on overtime for registered nurses in health care facilities; and providing for an effective date."

CHAIR WILSON said the committee would discuss a committee substitute for HB 271, [Version 24-LS0838\Y, Bullock, 9/21/05], but would not "act on it." [Therefore, some of the following discussion relating to changes to the bill are in reference to Version Y.]

[8:22:03 AM](#)

JANET CLARKE, Assistant Commissioner, Central Office, Finance And Management Services, Department of Health and Social Services (DHSS), revealed that a contract [for a long-term care study] has been awarded to the Public Consulting Group (PCG). She said she is not "up-to-speed" regarding the personal care attendant regulation process. Notwithstanding that, she noted that "the team and group is reviewing the public comments that were extensive." She said all the information from the public hearings had to be transcribed and many written comments are being reviewed.

[8:23:18 AM](#)

CHAIR WILSON surmised that the information would be ready for the committee by the time session begins again in January [2006].

[8:24:08 AM](#)

CHAIR WILSON reminded the committee that it had discussed all the pros and cons of the different aspects of the bill, and recalled that Representative Seaton had a concern about triple overtime, which is addressed in the aforementioned CS [not adopted as a work draft].

[8:24:37 AM](#)

REPRESENTATIVE SEATON noted that during [the last] hearing, concerns were expressed by those in the health care industry that "having the triple overtime paid to nurses could have the unintended consequence of reducing voluntary overtime." He indicated that it's human nature that someone would opt to get paid twice as much through working mandatory overtime, rather than making less through volunteering for overtime. He said [Version Y] would keep the overtime amount paid to nurses exactly the same, but a like amount would serve as a fine. The fine, he explained, would be based on hours as well as a set amount. He said the aforementioned would get back to purpose of bill: giving consequence to those requiring mandatory overtime.

[8:26:31 AM](#)

CHAIR WILSON said she thinks that's a good change.

[8:26:39 AM](#)

REPRESENTATIVE SEATON said the language to which he is referring is in Version Y, on page 3, beginning on line 14, and read as follows:

(c) Upon a finding by the commissioner that a health care facility has violated a provision of this chapter, the following civil penalties shall apply:

(1) for a first violation of this chapter, the health care facility shall receive a reprimand and be assessed a penalty equal to the amount of overtime compensation paid to a nurse for each hour worked in violation of this chapter;

(2) for a second violation of this chapter within 12 months, the health care facility shall receive a reprimand and be assessed a penalty equal to the amount of overtime compensation paid to a nurse for each hour worked in violation of this chapter plus \$500;

(3) for a third or subsequent violation of this chapter within 12 months, the health care facility shall be assessed a penalty equal to the amount of overtime compensation paid to a nurse for each hour worked in violation of this chapter plus an additional amount of not less than \$2,500 but not more than \$5,000 for each violation.

[8:29:18 AM](#)

MIKE TIBBLES, Deputy Commissioner, Office of the Commissioner, Department of Administration, directed attention to a spreadsheet he provided to the committee. He said that during the last hearing on HB 271, there had been a comment regarding a pay reduction. He pointed out some letter coding on the spreadsheet. He noted that the third column read "GGU" [general government unit], which includes nursing staff. He indicated that the spreadsheet shows historical benefits from 1984 to the present. He offered further details.

[8:32:00 AM](#)

REPRESENTATIVE WILSON indicated that she was expecting further comparisons across the state of hospitals, pioneers' homes, and the Alaska Psychiatric Institute (API).

[8:32:11 AM](#)

MR. TIBBLES said the focus of his testimony today would be regarding the issues of recruitment and salaries.

[8:32:51 AM](#)

CHAIR WILSON mentioned having heard that there was an issue of a raise that was taken away.

[8:33:36 AM](#)

REPRESENTATIVE ANDERSON asked Chair Wilson to review the major points of the bill.

[8:34:22 AM](#)

CHAIR WILSON said nurses from API, the pioneers' homes, and the Department of Corrections were represented by the state nurses organization to bring to attention the issue of the shortage of nurses and the fact that nurses have been working more than one shift to cover that shortfall. The state was mandating that the nurses work overtime. Research has proven that when nurses work overtime for a sustained period of time, it's not healthy for the nurses and it's a safety issue for patients. Many states have laws that don't allow mandatory overtime.

CHAIR WILSON said nurses belong to a union that also includes other health care workers; therefore, changes made for the nurses would affect the others. She said, for example, lab technicians and radiology technicians may be part of the same union.

[8:38:18 AM](#)

MR. TIBBLES, in response to a question from Representative Gardner, explained that the GGU refers to the collective bargaining [unit], while Alaska State Employees Association (ASEA) is the union. He confirmed that the unit is very diverse.

[8:38:48 AM](#)

REPRESENTATIVE GARDNER, [referring to the aforementioned spread sheet], observed that the increase of the Consumer Price Index (CPI) in '85 of 2 percent with the GGU wage increase of 5 percent "would have been a good year," and then there were not pay raises until 1990, when "it went up 3.3 [percent] for that classification." She concluded, "So, during those years where

the CPI change was really small but there still was an increase, they basically ... lost ground?"

8:39:20 AM

MR. TIBBLES answered that's correct. He noted that a contract submitted to the legislature in 1987 was disapproved. He noted that sometimes it takes multiple years for negotiations. He offered further details.

REPRESENTATIVE GARDNER stated, "[The] bottom line is that over time, compared to 20 years ago, the members of this bargaining unit have lost ground as the CPI increased. It looks pretty dramatic."

MR. TIBBLES, regarding recruitment, said the Department of Administration and the Department of Health & Social Services have collectively held a number of meetings to forward initiatives to address the issue of recruitment. The staff within the Division of Personnel in the Department of Administration has been reorganized in order to set up a professional recruitment position. That position will concentrate on those difficult-to-recruit areas, such as nurses. In response to a question from Chair Wilson, he said he doesn't know whether any RNs have been hired, but could find out. He explained that the position of professional recruiter is not expected to be filled until approximately November 1, [2005]. He gave an example whereby "looking at recruitment a little bit differently really did pay off for the Department of Corrections."

MS. CLARKE said since the House Health, Education and Social Services Standing Committee's hearing a couple of weeks ago, the department has held a couple sessions with its head nursing management staff and a comprehensive meeting with the University of Alaska's nursing school, talking about what's being done for other private providers and what the state and, particularly, [the Department of Health and Social Services] can do to try to increase recruitment efforts related to the nursing students attending the University of Alaska. She said there are a number of management tools to propose, including making attempts to increase the number of nurses that go through clinical rotations and state facilities. Other ideas to consider include whether to develop a stipend program for nurses, tuition reimbursement, and a loan repayment program.

8:45:45 AM

CHAIR WILSON said, "That sounds absolutely wonderful." She said those types of programs have been used to attract physicians and physicians' assistants to work in the Bush.

8:46:47 AM

MR. TIBBLES said the Division of Personnel is "creating a single point of contact ... regarding employment opportunities for nurses." For example, a person may "inquire into Department of Corrections about a nursing position." He said, "Right now, we're not talking to them about other nursing opportunities within the state." He added, "We're going to try to take a step back and look at a bigger view of it and see ...: maybe if someone's not appropriate or even interested, or even hired for one area of nursing within the state, maybe we could use them in another area."

MR. TIBBLES said [the Department of Administration] is holding conversations with hiring managers regarding how to best market state positions because some of the benefits of working for the State of Alaska are not widely known. There is more to consider than just the salary, for example, a generous leave with cash value. He offered other examples. Mr. Tibbles said the department is also working with DHSS on developing recruitment materials.

8:48:52 AM

MR. TIBBLES, in response to a question from Chair Wilson, said there will be many opportunities to distribute the information, for example, to people attending job fairs.

8:49:01 AM

MR. TIBBLES, regarding compensation, said there is a draft policy that is currently under review and should be implemented by mid-October. The policy will allow hiring managers to be preapproved to offer advance step placement.

8:52:12 AM

MR. TIBBLES reminded the committee that the department is working on a system that will allow it to introduce market data. He said there are two processes to assigning ranges: collective bargaining, in which a dollar amount is negotiated per range,

and assigning a range to a particular range. He offered an example.

[8:53:21 AM](#)

MR. TIBBLES, regarding current employees, said that DHSS management is reviewing the workflow process to ensure that staff resources are being used most efficiently. He offered examples. He said DHSS is also collecting information regarding current working conditions and what nonmonetary changes might create more desirable working conditions. He mentioned the National Association of State Personnel and Executives (NASPE), an association that has talked about what other states have done that have been attractive. Flexible staffing was one item; more training was another. He mentioned working with hiring managers and staff to improve conditions for nurses.

[8:55:12 AM](#)

CHAIR WILSON asked if job sharing has been considered as an option to offer nurses.

[8:57:44 AM](#)

CHAIR WILSON welcomed Representative Kohring via teleconference and reviewed the change that would be made to the bill in Version Y. She stated that she is open to any changes that can be made so that people are comfortable with the bill, while still trying to address not forcing nurses to work overtime.

[9:01:04 AM](#)

REPRESENTATIVE SEATON offered three points for consideration: First, he stated, "I'm wondering whether the nurses actually have the ability to influence and to set these regulations through their bargaining units, and whether that's where this should be." Second, he noted that there is no differentiation in the bill regarding the number of nurses in a facility. Third, he said he wants to know the reach of the bill. For example, page 4, line 7, refers to a "primary care outpatient facility", which he said sounds like a doctor's office. Page 4, line 2, refers to an "intermediate care facility", which he said he wants defined. He noted the language refers to "federal", "state", and "private" facilities, and inquired as to whether that includes Native health service within the State of Alaska.

[9:04:15 AM](#)

CHAIR WILSON said she doesn't know if nurses have much say regarding collective bargaining. She indicated that there will be time to research these questions for answers by next session. Regarding large and small facilities, she said she knows a distinction was made regarding critical access hospitals, because most of them are in areas where there is not access to any other hospital, but she said the issue has not been brought forward when there is more than one hospital in an area.

[9:05:49 AM](#)

REPRESENTATIVE SEATON directed attention to page 4, which refers to a "primary care outpatient facility" and "long-term care facility". He requested that the committee obtain a definition of the scope of the bill from "the department" and if the current definition covers doctors' offices.

[9:08:03 AM](#)

CHAIR WILSON reiterated wanting feedback between now and the start of session in January 2006. She said that in the Lower 48, some states require that there be so many nurses per patient; they've gone much further than this bill. Chair Wilson stated that she doesn't want to go any further than necessary.

[9:08:45 AM](#)

REPRESENTATIVE CARL GATTO, Alaska State Legislature, indicated that he would like to know what the situation is regarding school nurses.

[9:09:16 AM](#)

CHAIR WILSON revealed that she is a nationally certified school nurse and knows that some schools require a nurse for so many students.

[9:10:04 AM](#)

REPRESENTATIVE GATTO, in response to a comment from Representative Anderson, said his wife is currently at work as a school nurse. He noted, "In the first week of school she is being paid for one day, but in order to get the work done has to show up for all five." He questioned whether that would be considered uncompensated overtime.

[9:10:41 AM](#)

CHAIR WILSON said when she was a nurse in North Carolina she was the only nurse at the school. The law was changed just as she was leaving to require more than one nurse at the school.

[9:11:28 AM](#)

REPRESENTATIVE ANDERSON suggested that various hospitals around the state could send in suggestions to the committee.

[9:11:53 AM](#)

REPRESENTATIVE GATTO indicated that a new hospital would be opening in the [Matanuska/Susitna] Valley, which will increase the need for new nurses. He suggested he may contact the director to give him a "head's up" regarding the bill.

[9:12:47 AM](#)

CHAIR WILSON encouraged written testimony for those who don't want to testify in person.

[9:13:02 AM](#)

REPRESENTATIVE GATTO stated that although he is not on the committee, he would "appreciate being kept in the line up."

CHAIR WILSON commented that she had expected to hear from more nurses at today's meeting.

[HB 271 was held over.]

[9:13:13 AM](#)

ADJOURNMENT

There being no further business before the committee, the House Health, Education and Social Services Standing Committee meeting was adjourned at [9:13:41 AM](#).