

# SENATE BILL REPORT

## ESSB 6029

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As Passed Senate, March 15, 1995

**Title:** An act relating to exemptions from overtime compensation requirements.

**Brief Description:** Revising exemptions from overtime compensation requirements.

**Sponsors:** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senator Pelz).

**Brief History:**

**Committee Activity:** Labor, Commerce & Trade: 2/28/95, 3/1/95 [DPS].  
Passed Senate, 3/15/95, 48-0.

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### SENATE COMMITTEE ON LABOR, COMMERCE & TRADE

**Majority Report:** That Substitute Senate Bill No. 6029 be substituted therefor, and the substitute bill do pass.

Signed by Senators Pelz, Chair; Heavey, Vice Chair; Deccio, Franklin, Fraser, Hale, Palmer and Wojahn.

**Staff:** Jonathan Seib (786-7427)

**Background:** Under the state minimum wage act, an employer must generally pay its employees no less than one and one-half times their regular rate of pay for any work in excess of 40 hours in one week. Those employed in "a bona fide executive, administrative, or professional capacity" are explicitly exempt from this provision. The Department of Labor and Industry rules defining these terms require that to qualify for the exemption the employee, among other things, must be paid on a salary basis.

It has been the practice of some employers, pursuant to a collective bargaining agreement and otherwise, to pay certain employees an hourly amount, in addition to their salary, for each hour worked over 40 in a week. These employees were considered exempt from the minimum wage act, and the practice of paying them this additional amount was thought not to effect this exemption.

However, a January, 1995 Washington State Court of Appeals decision held that the payment of additional wages on an hourly basis for hours worked in excess of 40 per week, regardless of whether the employee was otherwise paid a "salary," made that employee an hourly employee subject to the overtime provisions of the minimum wage act. The employer was thus liable for back pay.

**Summary of Bill:** The payment of compensation or provision of compensatory time off in addition to a salary is not to be a factor in determining whether a person is exempt from the state overtime pay requirements.

The act is intended to clarify the original intent of the overtime pay exemptions, and applies to all administrative and judicial actions commenced on or after February 1, 1995, and pending on the effective date of the act, and to all such actions commenced on or after the effective date of the act.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** The bill is necessary to allow the continuation of a practice that is beneficial to both employers and employees. Without this bill, the voluntary payment of additional overtime wages to salaried employees will be discontinued. These employees are not otherwise entitled to overtime pay. The bill will have no effect on those employees otherwise required to be paid overtime.

**Testimony Against:** None.

**Testified:** Doug Kight, Boeing.