

SENATE BILL REPORT

SB 6165

As Reported By Senate Committee On:
Labor & Workforce Development, January 25, 2000

Title: An act relating to overtime pay for high technology workers.

Brief Description: Requiring overtime pay for high technology workers.

Sponsors: Senators Fairley, Kline and Kohl-Welles.

Brief History:

Committee Activity: Labor & Workforce Development: 1/13/2000, 1/25/2000.

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Staff: Jill Reinmuth (786-7452)

Background: Both federal law and state law require that most employees be paid a minimum wage and be compensated at one and one-half times the regular hourly wage for hours worked in excess of 40 hours per work week. Some employees, however, are exempt from these requirements. These exempt employees include certain professional computer employees.

Federal Exemption: In 1991, the federal Department of Labor adopted rules exempting highly-skilled computer workers that met duties and salary tests from minimum wage and overtime compensation requirements. The rules also exempted highly-skilled computer workers paid on an hourly basis so long as their rates of pay exceeded six and one-half times the minimum wage. In 1996, Congress codified these rules with the following modification. Highly-skilled workers paid on an hourly basis must earn more than \$27.63 per hour.

State Exemption: In 1998, the state Department of Labor and Industries adopted rules defining bona fide executive, administrative or professional employees, and exempting certain professional computer employees from minimum wage and overtime compensation requirements. The rules make state law conform with federal law. The rules exempt highly-skilled workers earning more than \$27.63 per hour as computer system analysts, computer programmers, software engineers, software developers, and others possessing a "high degree of theoretical knowledge."

Summary of Bill: Executive, administrative, or professional employees may not be defined as including computer system analysts, computer programmers, software engineers, software developers, and other similarly skilled workers who are compensated for services on an hourly basis.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The high technology industry is forcing its workers to worker harder and faster than ever. Excessive overtime is common.

Hourly workers give the industry flexibility, but get nothing in return. Salaried workers get stock options, paid leave, and other benefits.

Despite the opposition of more than 750 high technology workers, the Department of Labor and Industries made professional computer employees exempt from overtime compensation laws. In California and Massachusetts, such employees are not exempt.

Overtime compensation requirements should not be eliminated simply because employers have difficulty complying with them.

Testimony Against: High technology workers make up a highly competitive workforce with unparalleled employment options and bargaining power. According to a recent study, there are 14,000 more jobs than there are qualified candidates in the software industry. High technology workers generally earn high wages. Although salaried workers may receive more benefits than hourly workers, salaried workers also earn lower wages than hourly workers.

Employers cannot afford to pay one and one-half times the regular rate, so they would be forced to limit overtime. Such limitations would disrupt production schedules, and, due to very short product life cycles, weaken products. Such limitations would also prevent professional computer employees from being able to choose to work as many hours as they want.

Testified: PRO: Marcus Courtney, Barbara Judd, Bill Sheehan, Washington Alliance of Technology Workers; CON: Kathy Wilcox, Washington Software Alliance; Carroll Livingston, Best Consulting; Trevor Tregellas, Best Consulting; Diane Istuan, B Square.