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**HOUSE BILL 2404**

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**State of Washington**

**66th Legislature**

**2020 Regular Session**

**By** Representatives Dufault, Hoff, Van Werven, and Corry

Prefiled 01/10/20. Read first time 01/13/20. Referred to Committee on Labor & Workplace Standards.

1 AN ACT Relating to accounting for differences across counties in  
2 setting new wage standards; amending RCW 49.46.010; and creating a  
3 new section.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds that wages and the  
6 cost of living across the state vary significantly by county,  
7 particularly between King county and adjacent counties and rural  
8 counties. In 2018, the median hourly wage statewide was twenty-six  
9 dollars and three cents, while King county had the highest median  
10 hourly wage of thirty-three dollars and twenty-six cents and Okanogan  
11 county had the lowest median hourly wage of sixteen dollars and fifty  
12 cents. Similarly, the cost of living is significantly lower in  
13 Okanogan county than it is in King county, as demonstrated by median  
14 home prices of two hundred thousand dollars and six hundred eighty-  
15 three thousand two hundred dollars, respectively, in 2019. The  
16 legislature therefore intends to require that any new or revised laws  
17 or rules tied to wages be based on the median hourly wage in each  
18 individual county.

19 **Sec. 2.** RCW 49.46.010 and 2015 c 299 s 3 are each amended to  
20 read as follows:

1 As used in this chapter:

2 (1) "Director" means the director of labor and industries;

3 (2) "Employ" includes to permit to work;

4 (3) "Employee" includes any individual employed by an employer  
5 but shall not include:

6 (a) Any individual (i) employed as a hand harvest laborer and  
7 paid on a piece rate basis in an operation which has been, and is  
8 generally and customarily recognized as having been, paid on a piece  
9 rate basis in the region of employment; (ii) who commutes daily from  
10 his or her permanent residence to the farm on which he or she is  
11 employed; and (iii) who has been employed in agriculture less than  
12 thirteen weeks during the preceding calendar year;

13 (b) Any individual employed in casual labor in or about a private  
14 home, unless performed in the course of the employer's trade,  
15 business, or profession;

16 (c) (i) Any individual employed in a bona fide executive,  
17 administrative, or professional capacity or in the capacity of  
18 outside salesperson as those terms are defined and delimited by rules  
19 of the director. However, those terms shall be defined and delimited  
20 by the human resources director pursuant to chapter 41.06 RCW for  
21 employees employed under the director of personnel's jurisdiction;

22 (ii) In defining and delimiting the terms in (c)(i) of this  
23 subsection (3), the director or human resources director must adjust  
24 salary or wage thresholds for each county in accordance with actual  
25 median hourly wage differences between counties, as follows:

26 (A) The thresholds must be adjusted downward from the county with  
27 the highest median hourly wage, in direct proportion to the  
28 percentage differences between each county's median hourly wage,  
29 except that no threshold may go below the current federal overtime  
30 salary threshold under the federal fair labor standards act in effect  
31 at the time of adjustment;

32 (B) Any salary or wage threshold under (c)(i) of this subsection  
33 (3) in existence on July 1, 2020, must be revised in accordance with  
34 (c)(ii) of this subsection (3) by January 1, 2021, and must use the  
35 2018 county median hourly wage data from unemployment insurance tax  
36 returns submitted to the employment security department; and

37 (C) Any salary or wage threshold promulgated under (c)(i) of this  
38 subsection (3) after January 1, 2021, must use the most recent county  
39 median hourly wage data from unemployment insurance tax returns  
40 submitted to the employment security department;

1 (d) Any individual engaged in the activities of an educational,  
2 charitable, religious, state or local governmental body or agency, or  
3 nonprofit organization where the employer-employee relationship does  
4 not in fact exist or where the services are rendered to such  
5 organizations gratuitously. If the individual receives reimbursement  
6 in lieu of compensation for normally incurred out-of-pocket expenses  
7 or receives a nominal amount of compensation per unit of voluntary  
8 service rendered, an employer-employee relationship is deemed not to  
9 exist for the purpose of this section or for purposes of membership  
10 or qualification in any state, local government, or publicly  
11 supported retirement system other than that provided under chapter  
12 41.24 RCW;

13 (e) Any individual employed full time by any state or local  
14 governmental body or agency who provides voluntary services but only  
15 with regard to the provision of the voluntary services. The voluntary  
16 services and any compensation therefor shall not affect or add to  
17 qualification, entitlement, or benefit rights under any state, local  
18 government, or publicly supported retirement system other than that  
19 provided under chapter 41.24 RCW;

20 (f) Any newspaper vendor, carrier, or delivery person selling or  
21 distributing newspapers on the street, to offices, to businesses, or  
22 from house to house and any freelance news correspondent or  
23 "stringer" who, using his or her own equipment, chooses to submit  
24 material for publication for free or a fee when such material is  
25 published;

26 (g) Any carrier subject to regulation by Part 1 of the Interstate  
27 Commerce Act;

28 (h) Any individual engaged in forest protection and fire  
29 prevention activities;

30 (i) Any individual employed by any charitable institution charged  
31 with child care responsibilities engaged primarily in the development  
32 of character or citizenship or promoting health or physical fitness  
33 or providing or sponsoring recreational opportunities or facilities  
34 for young people or members of the armed forces of the United States;

35 (j) Any individual whose duties require that he or she reside or  
36 sleep at the place of his or her employment or who otherwise spends a  
37 substantial portion of his or her work time subject to call, and not  
38 engaged in the performance of active duties;

1 (k) Any resident, inmate, or patient of a state, county, or  
2 municipal correctional, detention, treatment or rehabilitative  
3 institution;

4 (l) Any individual who holds a public elective or appointive  
5 office of the state, any county, city, town, municipal corporation or  
6 quasi municipal corporation, political subdivision, or any  
7 instrumentality thereof, or any employee of the state legislature;

8 (m) All vessel operating crews of the Washington state ferries  
9 operated by the department of transportation;

10 (n) Any individual employed as a seaman on a vessel other than an  
11 American vessel;

12 (o) An individual who is at least sixteen years old but under  
13 twenty-one years old, in his or her capacity as a player for a junior  
14 ice hockey team that is a member of a regional, national, or  
15 international league and that contracts with an arena owned,  
16 operated, or managed by a public facilities district created under  
17 chapter 36.100 RCW;

18 (4) "Employer" includes any individual, partnership, association,  
19 corporation, business trust, or any person or group of persons acting  
20 directly or indirectly in the interest of an employer in relation to  
21 an employee;

22 (5) "Occupation" means any occupation, service, trade, business,  
23 industry, or branch or group of industries or employment or class of  
24 employment in which employees are gainfully employed;

25 (6) "Retail or service establishment" means an establishment  
26 seventy-five percent of whose annual dollar volume of sales of goods  
27 or services, or both, is not for resale and is recognized as retail  
28 sales or services in the particular industry;

29 (7) "Wage" means compensation due to an employee by reason of  
30 employment, payable in legal tender of the United States or checks on  
31 banks convertible into cash on demand at full face value, subject to  
32 such deductions, charges, or allowances as may be permitted by rules  
33 of the director.

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