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**Commerce & Labor Committee**

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**HB 2725**

**Brief Description:** Compensating on-call workers for active duty hours under the state minimum wage act.

**Sponsors:** Representatives Conway, Kenney, Cody, Ormsby, Miloscia, Green, McCoy, Simpson, Moeller, Morrell and Campbell.

**Brief Summary of Bill**

- Extends coverage under the state Minimum Wage Act to individuals who spend a substantial portion of time subject to call, including those who reside or sleep at their workplace, but only for time spent performing active duties.

**Hearing Date:** 1/23/06

**Staff:** Jill Reinmuth (786-7134).

**Background:**

The state Minimum Wage Act (MWA) requires employers to pay their employees no less than the state minimum wage rate. The MWA also requires employers to pay overtime compensation of at least one and one-half an employee's regular rate of pay for hours worked in excess of 40 in a week.

The MWA defines "employee" as any individual employed by an employer but not:

" . . . any individual whose duties require that he or she reside or sleep at the place of his or her employment or who otherwise spends a substantial portion of his or her work time subject to call, and not engaged in the performance of active duties."

The Washington Supreme Court recently held, in Berroc v. Fernandez, that the plain language of the MWA categorically excludes from the definition of "employee," and thereby exempts from the minimum wage and overtime compensation requirements, individuals who are required to "reside or sleep" at their workplace.

The Court rejected the argument that employees who "reside or sleep" at their workplace and employees who spend a substantial portion of work time subject to call are excluded from the definition of "employee" only during the time when they are "not engaged in the performance of active duties."

**Summary of Bill:**

Coverage under the state Minimum Wage Act is extended to individuals who spend a substantial portion of time subject to call, including those who reside or sleep at their workplace, but only for time spent performing active duties.

**Rules Authority:**

The bill does not contain provisions addressing the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Requested on January 17, 2006.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.