



WASHINGTON NONPROFITS

WE MAKE SURE NONPROFITS HAVE WHAT THEY NEED TO SUCCEED.

WA OVERTIME RULE PROPOSAL

June 25, 2019



ABOUT US



WASHINGTON NONPROFITS

WE MAKE SURE NONPROFITS HAVE WHAT THEY NEED TO SUCCEED.

*Visit us at www.washingtonnonprofits.org
to learn more and become a member.*



HOUSEKEEPING

- This call is intended to be (1) informational and (2) a space for you to respectfully raise questions and comments.
- This call is being recorded. The recording and slides will be posted on our website and shared as follow up via email.
- We'll ask for questions during the presentation and again at the end.
- Use *4 to mute and unmute if you are on the phone.
- Click the microphone icon in the webinar room to mute and unmute yourself.
- Please post questions and comments in the chat box.



OUR POSITION STATEMENT (DEC 2018)

- We support efforts to raise compensation for employees of nonprofit organizations in Washington State.
- We will work to educate public and private funders about the true costs of providing community services and work to identify new revenue sources to increase nonprofit sustainability.
- We are emphasizing to policy makers:
 - Our sector and our work matters to communities.
 - Nonprofits are people-driven organizations.
 - Nonprofits have been doing more with less for years.
 - We can't expect philanthropy to fill the gap.
 - Most nonprofits operate on a thin margin and have limited, if any, reserves.



KEY TERMS AND DEFINITIONS

- ***Exempt from overtime pay:*** not eligible to receive overtime pay.
- ***Non-exempt from overtime pay:*** must receive overtime pay.
- ***Salary threshold:*** the minimum salary that an employee must be paid to be exempt from overtime pay.
- ***Over the salary threshold or level:*** not eligible for overtime pay.
- ***Under the salary threshold or level:*** must receive overtime pay.

This topic is complex and has a lot of specific terminology:

Any questions or requests for clarification will be appreciated.



HOW OVERTIME CURRENTLY WORKS

- WA's overtime rules are significantly out of date and are less than federal standards.
 - When there are different federal and state labor standards, the standard most beneficial to the worker applies.
- In order for an employee to be exempt from overtime pay, they must:
 1. Be paid a salary;
 2. Their salary must be above the federal salary threshold of \$455 per week/\$23,660 per year; and
 3. Meet the duties test to be considered “executive, administrative, or professional.”
- Employees who do not meet this criteria require overtime pay for time worked above 40 hours per week.



L&I'S PROPOSAL - SUMMARY

- The Department of Labor and Industries (L&I) is proposing to make more workers eligible for overtime pay.
- This will be accomplished by:
 - Raising the salary threshold to be a multiplier of WA's minimum wage.
 - Raising the salary threshold above the federal governments current and proposed levels.
 - Aligning Washington State's duties test with the U.S. Department of Labor's duties test (the federal rules).
- This will be done through:
 - Regulatory action by L&I – not legislative action.
 - Phased-in implementation between 2020 and 2026.
 - Annual updates tied to the Consumer Price Index (CPI).



PROPOSED ANNUAL SALARY LEVEL AND IMPLEMENTATION SCHEDULE

Proposed Minimum Annual Salary Levels for an Overtime-Exempt Employee								
When the proposed changes would take effect	July 1, 2020	January 1, 2021	January 1, 2022	January 1, 2023	January 1, 2024	January 1, 2025	January 1, 2026	Future Years
For employers with 1-50 employees	\$35,100 (1.25x min. wage) <i>\$675 weekly</i>	\$50,180 (1.75x min. wage) <i>\$965 weekly</i>	\$58,604 (2x min. wage) <i>\$1127 weekly</i>	\$67,392 (2.25x min. wage) <i>\$1296 weekly</i>	\$68,848 (2.25x min. wage) <i>\$1324 weekly</i>	\$70,356 (2.25x min. wage) <i>\$1353 weekly</i>	\$79,872 (2.5x min. wage) <i>\$1536 weekly</i>	The salary level will remain at 2.5x minimum wage and be updated annually for inflation
For employers with 51 or more employees	\$49,140 (1.75x min. wage) <i>\$945 weekly</i>	\$57,356 (2x min. wage) <i>\$1103 weekly</i>	\$65,936 (2.25x min. wage) <i>\$1268 weekly</i>	\$67,392 (2.25x min. wage) <i>\$1296 weekly</i>	\$68,848 (2.25x min. wage) <i>\$1324 weekly</i>	\$78,156 (2.5x min. wage) <i>\$1503 weekly</i>	\$79,872 (2.5x min. wage) <i>\$1536 weekly</i>	



CURRENT EXEMPTIONS

- *For now*, there are two exemptions in current law that may apply to certain nonprofits:
 - Childcare and Residency/Sleep (text follows in appendix)
 - Anticipate that they will be removed through future rule making or legislation.
- We've learned that it is complicated to apply the exemptions to employees and that L&I retains the right to side with employees in a dispute over the exemptions.
- **Washington Nonprofits advises that the exemptions could make our sector less competitive for talent.**



ANALYZE THE PROPOSAL'S IMPACT

- Analyze what this proposal means to your organization. How will it impact your:
 - Mission
 - Services
 - Staffing
 - Employee costs (taxes, etc...)
 - Contracts and grants
 - Program fees
 - Benefit offerings
- Discuss this likely impact with your board, funders, and other nonprofits.
- Participate in surveys that cross your desk.



ADVOCATE

- **Prepare comments for L&I by September 6, 2019.**
 - Email to EAPRules@LNI.WA.GOV
 - Fax to (360) 902-5300
 - Mail to Employment Standards Program, PO Box 44510, Olympia, WA 98504-4510
- Attend and/or participate in a public hearing. (schedule on next slide)
- Tell your public and private funders about the impact, with an ask of “our costs are going up, please help us cover this change.”
- Tell your state and local legislators about the impact, with an ask of “our costs are going up, what will government do to help us adjust?”



HEARING SCHEDULE

Date	July 15	July 16	July 17	August 5	August 6	August 7
City & Venue	Tumwater L&I Building	Seattle Swedish Club	Bellingham 4 Points Sheraton	Ellensburg Hal Holmes Center	Kennewick Springhill Suites	Spokane Center Place
Time	1 PM to 4 PM	9 AM to 12PM	9 AM to 12 PM	9 AM to 12 PM	9 AM to 12 PM	9 AM to 12 PM

Let us know if you are planning to attend a hearing



DISCUSSION

- What are your initial thoughts?
- What questions do you have?
- What can Washington Nonprofits convey on behalf of the nonprofit sector?
- What information can Washington Nonprofits provide to you?
- What advocacy actions will your organization take?



THANK YOU

**Please contact us with questions and
watch out for a follow up message this week.**

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APPENDIX 1: CHILDCARE EXEMPTION

- RCW 49.46.010(3)(i) grants an exemption to “Any individual employed by any charitable institution charged with child care responsibilities engaged primarily in the development of character or citizenship or promoting health or physical fitness or providing or sponsoring recreational opportunities or facilities for young people or members of the armed forces of the United States.”



APPENDIX 2: RESIDENCY/SLEEP EXEMPTION

- RCW 49.46.010(3)(j) grants an exemption to “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.”