



HOUSE OF REPRESENTATIVES

Rep Pam Marsh Testimony for HB 3374

Thank you, Chair Barker and members of the committee. For the record, I'm Pam Marsh, House Representative from District 5, southern Jackson County.

We submitted House Bill 3374 at the beginning of this session but realized that it probably wouldn't be ready for prime time this year. I'm grateful for the chance to present to you today, in hopes that you may have guidance or feedback as we consider this legislation for next year.

The Federal Labor Standards Act of 1938 is the United States labor law that establishes minimum wage, overtime pay, recordkeeping, and child labor law. The Act requires that employees must receive at least the minimum wage and may not be employed for more than 40 hours in a week without receiving at least one and a half times the regular rates of pay for overtime hours. However, employees who receive a salary instead of hourly pay can be exempted from the overtime requirement. To be exempted, those employees must:

1. Meet a job duties test that clearly indicates that the position is executive, administrative or professional. This gets complicated quickly, but in general, criteria used in the job duties test can include supervision of at least two other employees, the exercise of independent discretion and judgement; a position that requires advanced knowledge.

The second criteria is much more objective: An employee who passes a job duties test must be paid a minimum salary. In 1938 the Fair Labor Standards Act established that minimum salary at \$30/week, which, at the time, was equal to three times the minimum wage. Between 1938 and 1975, every single time the overtime threshold was updated, it was between 3 and 4.7 times the minimum wage. But the federal salary threshold hasn't been updated in a very long time – so long, in fact, that the full-time earnings of a minimum wage worker in the Portland Metro region exceeds the stipulated federal wage, which is \$23,660, or about \$11.37/hour.

The upshot of all this is an Oregonian whose position meets the job duties test, and who works full time with a salary that is at or close to our state's minimum wage – for example, the manager of a retail store – can be required to work overtime hours for no additional pay.

In 2016 the Obama administration moved to increase the minimum salary threshold to \$47,476/year, but that rule was thrown out by a U.S. District Court, and the new presidential administration chose not to appeal. Just recently, the US Department of Labor announced plans to review a rule change that would raise the salary threshold to \$35,308 per year.

But instead of sitting around and waiting for federal action, House Bill 3374 would update Oregon's own overtime rules by instituting a new monthly salary threshold that is at least two times the applicable state minimum wage. That's the same standard adopted in California and Alaska. Washington has been considering a standard of 2.5 times the minimum wage.

In Oregon, twice the regional minimum wage translates to an annual salary of \$44,720 at the standard minimum wage, \$45,760 in our nonurban counties, and \$49,920 in the Portland metro area. Workers meeting those salary standards would also need to meet the job duties test to be exempted from the overtime requirement.

Without reasonable protections, lower wage employees can be moved from hourly wages where they are eligible for overtime pay, to a salaried position, for the equivalent pay, where they are required to work extra hours without compensation. This can have a substantial financial impact. A 2014 Gallup poll indicated that salaried employees work five hours more per week than full time hourly workers (49 vs. 44). At minimum wage, those nine unpaid hours would produce roughly about a hundred bucks per week – but it's money not collected by the salaried employee.

HB 3374 would ensure that our lowest paid workers are protected from mandatory, unpaid overtime by increasing the salary threshold that protects these employees. Employers paying less than the threshold will have a choice: they can pay time and half for overtime, or they can eliminate required overtime and give workers back their leisure hours. Either option will provide needed relief to our lowest paid workers.

Thanks so much for the opportunity to present.

Regards,



Pam

Representative House District 05

Southern Jackson County