



Washington Nonprofits Position on Raising the Overtime Threshold in Washington State

Washington Nonprofits supports efforts to raise compensation for employees of nonprofit organizations in Washington state. We recognize that in many industries, the important work being done by nonprofits is undervalued. In order to work over the long term to improve wages and salaries in the nonprofit sector, Washington Nonprofits works to educate public and private funders about the true costs of providing community services and works to identify new revenue sources to increase nonprofit sustainability.

Washington Nonprofits works to help our partners better understand how nonprofits operate and the constraints they face. Some public and private leaders are unfamiliar with how nonprofits work and the limitations placed on them by their funding sources. We work to help public and private partners understand the challenges associated with running nonprofits and the types of investment that strengthen our sector.

- **Nonprofits are people-driven organizations.** Typically, staffing is the largest expense in nonprofit budgets. Therefore, increases in labor costs hit nonprofits particularly hard.
- **Nonprofits have been doing more with less for many years.** Most nonprofits have worked hard to fundraise to maintain services even as costs increase and many revenue sources are flat.
- **We can't expect private philanthropy to fill the gap.** Charitable giving, particularly to human services, may decline because of the 2017 federal tax reform. In addition, philanthropy sources generally refuse to fully fund administrative costs.
- **Most nonprofits operate on a thin margin and have very little financial reserves.** Our nonprofits have been under-resourced—starved—for many years. An economic recession or other environmental factors could be devastating for our sector. In order to ensure that nonprofits can continue to serve our communities, we need to improve their financial stability.

Washington Nonprofits works to provide timely information to nonprofits so that they can adapt to a changing operating environment. This includes demographic and economic trends, policy changes, trends in charitable giving, etc. In addition, we provide compliance education so that nonprofits can operate legally.

Ways to Improve the Overtime Threshold Policy Proposal

With regard to the current rulemaking process by the Washington State Department of Labor and Industries, we believe the following points are worthy of consideration. We look forward to participating in discussions with our partners to address some of these concerns to improve the rule.

- 1. Work with other state agencies to secure a commitment to raising contract rates to account for the increased cost of doing business, and to escalate on a similar schedule to wages in Washington State.** If this state wants to show leadership in this area, it is important that state government commits to raise its contract reimbursement rates to cover the increasing costs of service delivery. This will not help all nonprofits, but it will help many that serve vulnerable populations, preventing service cuts. In addition, it sends a message that the state values its partnership with nonprofits and recognizes that it should not exploit its contractors. Policymakers should adjust the implementation schedule to reflect the timeline on which this will be accomplished (e.g. sync with the new biennial budget).
- 2. Set the threshold at a reasonable level, recognizing that even the lower threshold proposed is a big stretch for most nonprofits, particularly those based outside King County.** Because nonprofits are so diverse, there is no consensus about a threshold level that is acceptable or recommended.
- 3. Phase in the new threshold over time to give nonprofits time to adjust.**
- 4. Include a provision for prorating the salary threshold for part-time exempt staff.**
- 5. Develop provisions that address the seasonal nature of some nonprofit work.** The only policy solution that has been suggested to us would be an overtime threshold for the year rather than the week, e.g. over 2080 hours work in a one-year period would be eligible for overtime. We are unclear whether this is a viable option to consider.
- 6. Credit organizations for the value of benefits offered to employees to ensure that organizations don't shift benefits costs to employees or eliminate benefits in order to have the funds to pay increased salaries and/or overtime.**
- 7. Once the rule is finished, partner with the nonprofit community to deliver compliance trainings statewide.** Nonprofits run with very lean administrative staff, and often human resources compliance falls on the Executive Director or another staff person without specialized training in HR. Nonprofits need guidance and education regarding employment rules in general, so education about the new rule can be wrapped in with education about other key issues such as the distinctions between independent contractors and staff, exempt vs. non-exempt staff, the rules surrounding "comp time" and how/when it can be utilized, and implementation of the new parental leave program.

This position paper is informed by the Overtime Pay Rule Making survey conducted by Washington Nonprofits in December 2018. The full survey report is available at <https://washingtonnonprofits.org/overtimereport/>.



Survey Shows Overtime Proposal Challenging for Nonprofits Across Washington State

Introduction

This report contains the results of Washington Nonprofits' overtime pay rule making survey. While many nonprofits are supportive of raising the overtime threshold, most of our survey respondents have serious concerns about feasibility and desirability for their organizations, particularly at the levels currently proposed. These concerns are documented here. We hope they will inform solution-oriented conversations with representatives of the Washington State Department of Labor & Industries, Governor's office, and Washington State Legislature to improve the policy proposal.

Purpose and Methodology

Washington Nonprofits surveyed its members to learn the possible impact of the Department of Labor & Industries' latest pre-draft overtime pay rules. Washington Nonprofits distributed an online survey to its email subscribers and received 406 responses between November 26 and December 3, 2018. The survey asked demographic questions about the organizations responding; their possible compliance strategies for the proposed salary thresholds; and what the estimated impact would be on their costs to deliver services. Respondents were provided both multiple choice and open-ended questions. The text of the survey is included in the appendix to this report. Survey results were summarized by David Streeter, Director of Public Policy & Advocacy, and Laura Pierce, Executive Director.

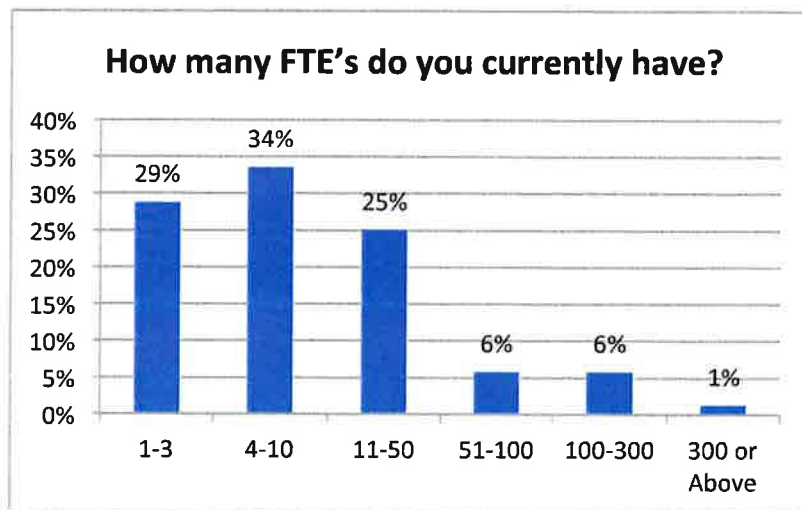
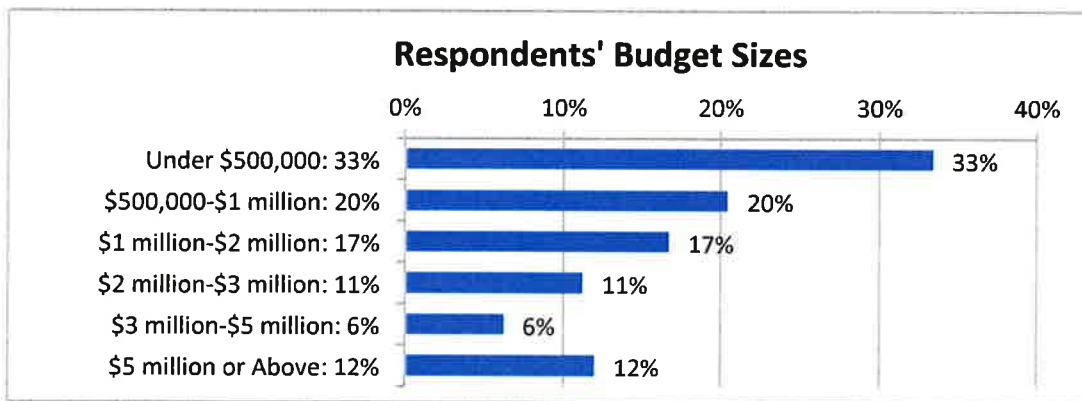
Profile of Survey Respondents

Respondents were nonprofit organizations based in Washington State that represent a variety of nonprofit fields. The respondents are geographically dispersed across 30 counties: 33% indicated a King County municipality as their city, while the remaining 77% replied with municipalities outside of King County. The largest concentrations of respondents outside of King County were 8% Spokane County, 8% Pierce County, 6% Snohomish County, 5% Whatcom County, 5% Yakima County, 4% Chelan County, and 4% Thurston County.

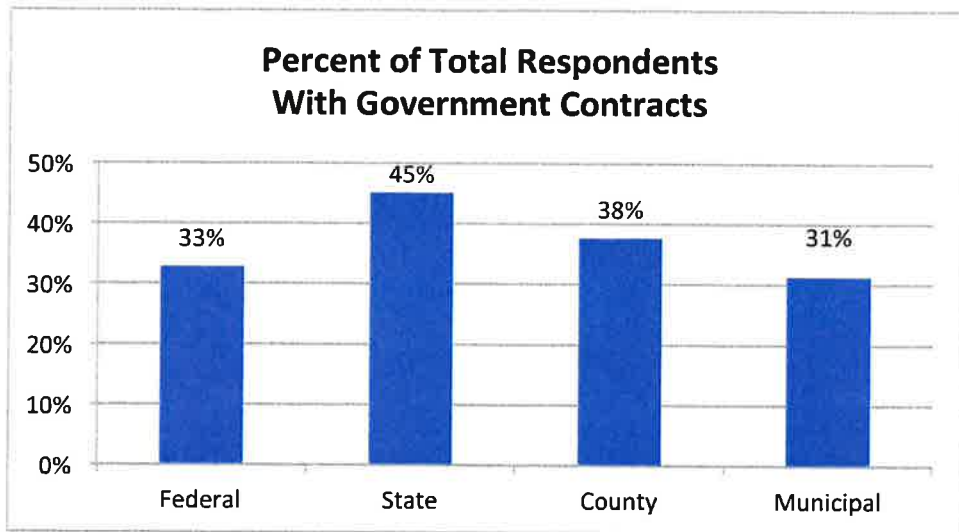
Respondents' fields of service broke down as follows:

Respondents' Fields of Service			
Field of Service	Percent of Respondents	Field of Service	Percent of Respondents
Human Services	35%	Workforce Development	4%
Arts, Culture, & Heritage	16%	Childcare	5%
Education	19%	Senior Care	2%
Community and Economic Development	12%	Parks & Recreation	3%
Environment	8%	Other (including Advocacy & Civic Benefit, Animal Welfare, Additional Human Services, Religious Organizations, Youth Development, and Summer Camps, Among Others)	26%
Philanthropic	5%		

Organizational budget sizes broke down as follows:



The response data shows that 87.5% of all respondents employed 50 people or less, and the majority of respondents reported budgets that are \$1 million or less.

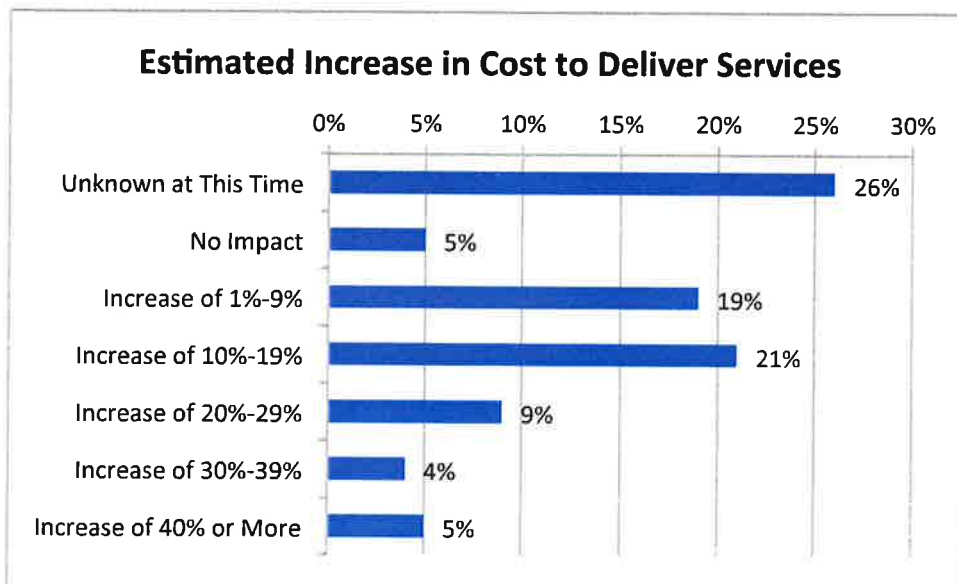


According to the responses, 260 out of all 406 respondents (64%) indicated that they have contracts issued by federal, state, or local government agencies. Importantly, 45% of all survey respondents have Washington State government contracts.

Impacts of Proposed Overtime Rules

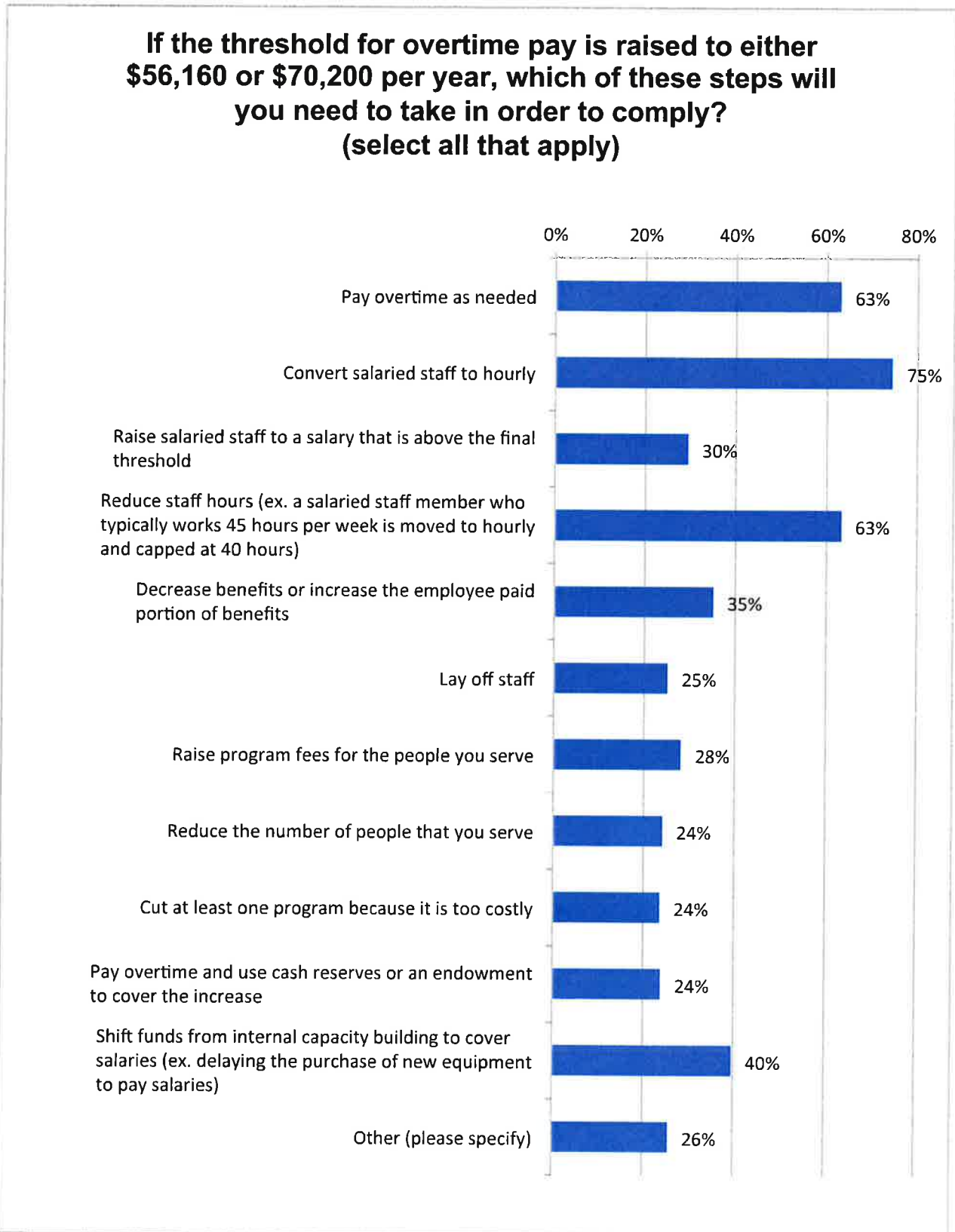
Increased Costs of Service Delivery

We asked what the estimated increase to the respondents' costs to provide services would be. Of those who estimated (respondents who selected "Other" are omitted from the table below), 19% estimated that their costs would increase between 1-9%, while 21% estimated their service costs would increase by 10-19%. These may be the lower two of the increase ranges, however for nonprofits that operate on tight budgets and limited revenue sources, even a modest increase in costs can be problematic.



Compliance Strategies

We asked respondents to select possible compliance strategies they would use from a provided list. Respondents selected all actions that applied, which broke down as follows:



Changes will Cause Service Cuts

The responses provided by survey participants indicate that this proposal would create a disruption in service delivery. In particular, 28% of respondents indicated that they could raise program fees paid by their clients. This could be problematic for organizations serving low to middle income clients since it may be hard for them to absorb the increased fees. Further, 24% of respondents indicated that they could reduce the number of people served or cut at least one program because it is too costly (24%). These are problematic findings because they foreshadow possible service gaps in communities. More research is needed to assess what services are specifically at risk of cuts or elimination.

Importantly, only 35% of respondents to this question indicated that front-line service staff (ex. social workers and counselors) would be impacted. Without additional information on what the impact would be, we are unable to speculate on specifics. However, the converse of this finding may be cause for optimism: almost two-thirds of respondents could keep their front-line staffing plans as is, which gives clients better odds of avoiding disruption in the services they receive.

Some of the responses to the "Other" category that demonstrated an impact on services included:

"It would reduce, dollar for dollar, the services we provide to local families in need. It would cost between \$10,000 to \$15,000 per year, i.e., reduce rental assistance for 20 to 30 families per year."

"In addition to general program reductions we will need to eliminate specific high impact youth development activities. Examples of programs that we would not be able to provide to the kids we serve include overnight youth leadership and stem programs. The overtime costs for staff would prohibit our ability to afford to cover the cost of these programs. More than 75% of our participants are eligible for Free or Reduced price lunches at school. They do not have the ability to pay for the true cost of these programs. The increased staff overtime/salary expenses cannot be born by our organization. As a result the programs will be discontinued."

"We do not have the luxury of reducing the number of people we serve and must rely on a large volunteer base which must be administered by limited staffing on a budget inadequately funded requiring fund raising efforts to cover more than 50% of total operating costs."

"Delay implementation of a planned program for 2019."

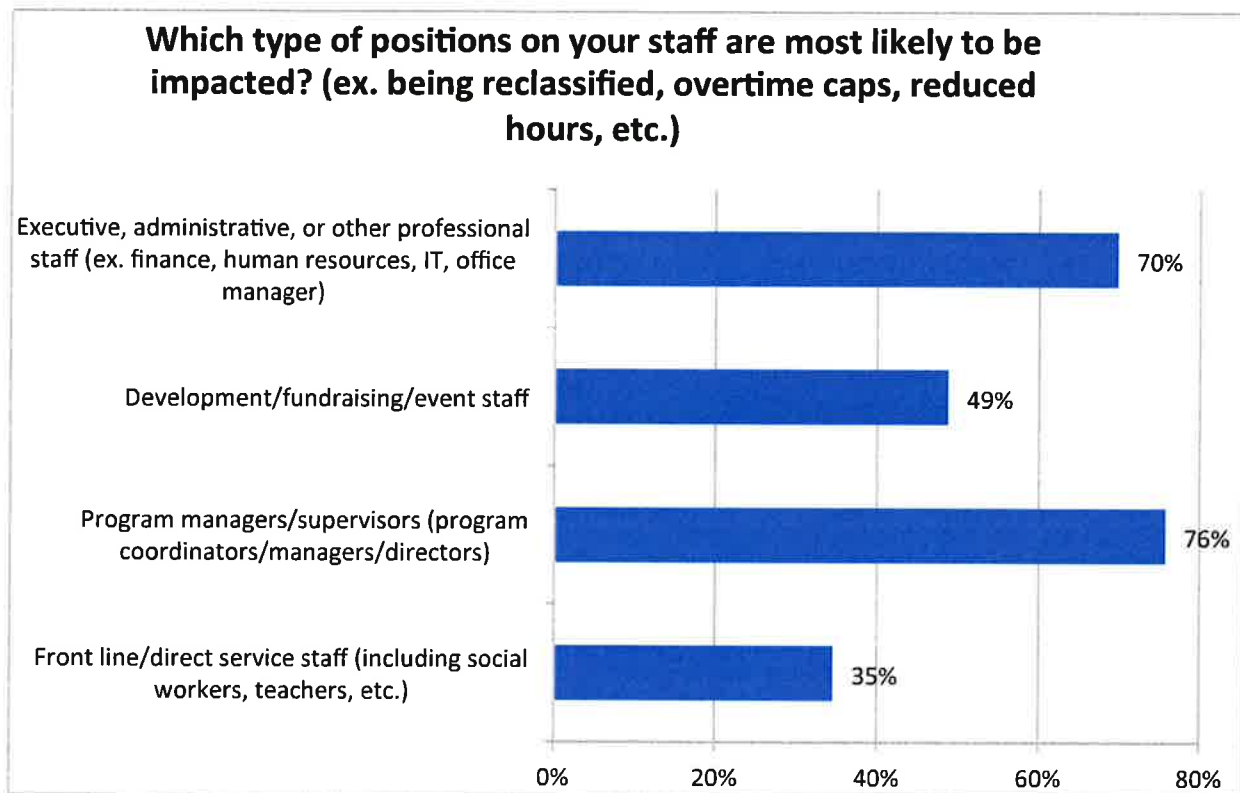
"Because staffing costs represent the majority of our budget, this will be the first area to be cut. Trimming from a \$36k annual supply budget for 1,700 kids will not make up the difference. Because many of our Clubhouses are already constrained by size and efficiency, trimming a single staff person at each would impact program quality more greatly than perhaps eliminating services from an entire community. That is what we are looking at right now, as we focus on providing quality services for those who need us most."

Nonprofits Will Need to Restructure

The most commonly cited compliance strategy (75%) was converting salaried staff to hourly in order to comply with the proposal. Importantly, 63% of respondents indicated that they would pay overtime as needed. However, 63% of respondents selected "Reduce staff hours (ex. a salaried staff member who typically works 45 hours per week is moved to hourly and capped at 40 hours)," meaning that overtime hours would likely be capped. Therefore, we can infer that a large number of currently exempt

employees would be converted to non-exempt, but will likely see their hours capped at 40 hours per week.

Notably, 24% of respondents indicated that funds would be shifted from cash reserves to cover overtime pay. Presumably, their cash reserves are finite, which means that this is an unsustainable strategy that will only work in the short-term without other sources of revenue. Further, 40% of respondents indicated that they will shift funds from internal capacity building to pay overtime, which will be problematic for organizations that choose to delay internal improvements intended to make them more efficient at delivering services. Additionally, 35% indicated that they could either decrease benefits offered to employees or increase the employee-paid portion of benefit packages. This is a problematic strategy as well: if staff members receive more cash pay, but have to spend more on benefits, it is entirely possible that the proposal's goal of raising wages will be offset by more individual spending on health insurance or other benefits.



With respect to who would be impacted, the data indicates that the staff most likely to be negatively impacted are mid-level managers (76%) and executive-level staff (70%). One conclusion to be drawn from this finding is that managerial hierarchies within organizations may be shifted or altered in order to ensure compliance.

Comments about Impact

We asked respondents to comment on “what this policy proposal would mean for your organization and its ability to serve.” The impact varies depending on the type, size, structure, and location of the organization. We represent a very diverse universe of nonprofits, so responses to our survey were varied.

Some nonprofits support the change

Some respondents commented that they would welcome the change (23) or believe they can implement it with minimal disruption (5). Here are a few of the comments aligned with this point of view:

“The current federal and state salary thresholds are incredibly outdated, so I think it is appropriate for the state to make some updates.”

“This could be a really positive thing. We bemoan our chronic low wages in the nonprofit sector and maybe this is exactly what we need to give us a kick in the rear to pay our people what they are worth.”
“Celebrate this reform as it’s been decades coming. Nonprofit employees living in poverty or salaried in poverty is for the birds. We’re trying to change the world—we can’t have employees worrying about how to feed their children. As a woman of color who is often the least paid and least resourced with the most expectations, I am eager to hear the Washington nonprofit community stand up for this change.”
“It is aligned with placing a higher value on staff compensation, which is far too low. I think we’d use it to raise awareness of that issue in our sector with funders and policymakers and engender sweeping changes in how they contract with us for services.”

“We have been paying more overtime since 2015 when we implemented this rule. It means we are serving fewer clients. That said, we hold justice as one of our values and overworking our exempt employees and going back to the previous very low financial threshold for exempt status does not meet our value of justice.”

Most have serious implementation concerns

The remainder of commenters for this question (331) raised concerns. They indicated that the measure would require significant changes in their operations and expressed concerns about their ability to implement the change in the face of revenue constraints. Their comments also highlighted some unintended consequences of a change in the overtime threshold and raised issues that need to be considered to make the policy change successful.

Most survey participants indicated that this change will cost their organization more, either to increase salaries or to pay overtime to staff being paid below the threshold. Most respondents currently have exempt staff that are paid annual salaries less than either of these thresholds (6 commented that the lower threshold would not be a major issue for them, while most others indicated that either level is a stretch for them). Although we did not ask directly about this, 17 specifically mentioned that their Executive Director’s salary falls below one or both thresholds.

Here are a few general comments by respondents that illustrate the conundrum nonprofits find themselves in generally when considering the implications of this policy proposal.

“We would have to try to fundraise more to cover this expense. This salary level is very high for Spokane nonprofits and not affordable for most nonprofits to pay this amount for an employee to be ‘salaried.’ Therefore, this will increase our overall costs. We serve the Medicaid population so we cannot increase

our fees. It may also reduce services in that we will need to convert to hourly and not allow work over 40 hours.”

“As a whole, nonprofits are poorly compensated for the work they do. Some of that merits our attention as a society and where we place value. To some extent, the policy addresses that. However, the policy does not take into account the funding challenges nonprofits face. Nonprofits run into significant barriers when raising funds for administrative costs (the world of most exempt staff).”

“We want to see nonprofit salaries increase, but strongly prefer a more moderated approach and a gradual implementation plan in order to accommodate nonprofits needing to make more drastic changes.”

“In a rural community three hours from Seattle, these wage increases are grossly out of whack with the cost of living and will severely impact our organization’s ability to meet our mission.”

What will the impacts be?

Nonprofits will be forced to cut services. 106 respondents underscored in their comments that the change would diminish the quantity and/or quality of services they could provide.

Some organizations and programs will be in jeopardy. 16 reiterated they would have to close down a significant program or their entire organization.

“This change in payroll—which is amazing and we’d love to see our organization offer better wages—will most likely be the end of our business.”

“By raising wages so much you would force many nonprofits to close which would be unprofitable because nonprofits can do the job inexpensively and more efficiently.”

Nonprofit staff members will lose needed flexibility. Flexibility was mentioned at least 52 times. Nonprofits are concerned that this measure will jeopardize their workers’ ability to flex their hours as needed to meet community needs. Respondents mentioned that workers as well as management value the ability to work more during some weeks when needed, then work fewer hours at other times so as to have the flexibility to take time away to meet personal or family demands at other times.

“Since we work with students, being available to them during non-traditional hours is important in our work. This means that there are times of year when our work days are longer, and our staff needs flexibility to stay after hours to manage programs and take advantage of unexpected opportunities. At other times of the year, they look forward to taking the time they need to rest and prepare for busier times. This policy would force staff to make difficult decisions and would add stress to an already challenging workload. Over time, we’d likely hire fewer full-time staff positions with benefits in order to hire temporary staff to help with busier times.”

“I work with churches and this would make pastor’s and church staff pay very difficult. It’s normal that pastors and church staff have times in the year that are very busy and other times that are significantly slower. Add to that events that are unplanned (funerals, hospital visits, jail visits, etc.) and it would make church budget planning nearly impossible.”

“We would see a drastic reduction in experiential learning opportunities, especially for teen populations that we serve. Leadership retreats, college tours, overnight camps, regional hikes, leadership conferences would all be at risk based on our program staff now being classified as hourly and unable to “volunteer” in a capacity similar to their professional capacity.”

“We offer a highly flexible work environment where staff independently schedule their hours and work remotely, flexing hours through the year to take time off...though they may work more hours some months than others, they can have a dependable steady income.”

There will be ripple effects in communities. When nonprofits struggle, it impacts the community. In some cases, there are significant impacts on entire families that will increase the overall cost to society.

“Our organization is a small nonprofit, and policies like this impact our ability to keep our doors open. We are already impacted by initiatives to raise the minimum wage, and we offer our staff beyond minimum to increase stability and staff retention. Initiatives like this one create an increased cost of business that far exceeds our agency’s capacity—which would have us making hard choices about organizational restructuring or layoffs when we are already a much leaner organization than is advisable. This impact would roll down throughout the entire agency, starting with the need to reduce administrative/executive staffing positions. But with less infrastructure to do good business, we would also have to reduce how many staff we can successfully support being employed here. Doing so would cause a reduction in the amount of services we can provide, restrict hours of accessibility, the intensive nature of the services we can provide, and drastically reduce the number of clients we can serve. As a result, our community would see an influx system-wide with access to other resources that are higher cost and more emergent than advocacy-level support.”

“Caring for injured wildlife can be a 24/7 job. As a small nonprofit struggling to stay afloat financially, we would have to cut hours and that would mean wild animals that are important to our ecosystem and that we could save, will die.”

“We provide services for people with intellectual/developmental disabilities. This proposed increase of threshold will force us to reduce services. This means some of our clients, who are our state’s most vulnerable population, will be forced to sit on the couch day after day. When the state causes a reduction to services for this population, families quickly decline into crisis, parents lose their jobs and stay at home to care for their adult child. Then, the whole family ends up on the public system of supports.”

“This proposal would lead to a decreased ability to offer the wide array of educational programming presently offered to those being served by our organization.”

Nonprofits will be less able to perform important functions and maintain community connections.

The conversion of many nonprofit professional staff to hourly would force them to focus on core duties during their 40-hour workweek to avoid overtime. These are the types of activities that will most like be reduced, according to survey respondents.

- Staff travel
- Community outreach and collaboration
- Professional development opportunities for staff
- Planning time for childcare providers/preschool teachers
- Time for parent/family outreach and relationship-building

- Ability for staff to help other nonprofits
- Presence at city and community meetings
- Advocacy and civic engagement
- Houses of worship would have to reduce philanthropy, community service, and service to members
- Evening and weekend hours or overall open hours of programs
- Availability for after-hours client care and responding to safety emergencies
- Facility maintenance
- Purchase needed equipment
- Quality and quantity of staff supervision

Human Resources and Management Issues

Ironically, many indicated that the measure would jeopardize efforts in place and underway to improve pay, benefits, and work/life balance for employees.

It will cost jobs. Job loss was also mentioned qualitatively by 30 respondents in addition to the 20% that selected the option in the multiple choice question. Actions mentioned include layoffs, delaying planned hiring or staff expansion, and reducing line staff to afford increased costs for managers and administrators. A few organizations mentioned seasonal layoffs as well.

It will have a negative impact on front-line workers. Several felt that the change would threaten intentional work they have done to raise the wages of their lowest paid staff, since limited funding would have to be shifted to pay overtime or higher salaries to managers.

“In our 2019 budget, we just raised the minimum wage paid at our organization to \$21/hour or \$43,680 in an attempt to better keep up with the cost of living in Seattle. Clearly this doesn’t come close to the overtime exempt wage DOL is considering, and frankly undoes the more equitable pay we were hoping to offer staff.”

“We have worked very hard over the past five years to increase wages for our non-exempt, mission-critical front-line employees to a level that is appropriate to our community’s cost of living and competitive in our industry. Asking for contributions in order to increase the salaries of top management to meet this threshold, when those salaries are already entirely appropriate to our community’s cost of living, would send a terrible message to our front-line employees whose wages we have been trying to raise (as that process would grind to a halt), as well as to donors and sponsors on whose generosity we rely.”

It will affect staff morale. A related issue mentioned by some respondents is the concern that moving staff positions from exempt to non-exempt would affect morale negatively by reducing staff autonomy, requiring closer time tracking and supervision, as well as less ability to balance work and family commitments.

“When a new threshold was presented a few years ago, our salaried staff complained that they would be forced to return to an hourly status which would reduce their earned PTO. Their time off and time with family was more important than earning overtime pay. They also felt that they did not have the freedom or flexibility to do their best work for a mission that they are passionate about.”

"[This proposal] gives staff who currently have a great deal of autonomy less flexibility in their work schedules, which is something they value highly."

"It would make it less possible for the staff it would affect to flex their hours based on work demands, and also make me as their supervisor have to monitor their time more closely, which they would resent."

Executive staff will have to shoulder a heavier load. With most staff limited to a 40-hour workweek and no new revenue available, more extra duties may fall on the few exempt staff remaining, making their jobs less manageable.

"It would put our exempt staff in an even worse position because someone will have to cover that extra work that won't get done [by staff converted to non-exempt] or we will have to somehow cut our programming. I think it would also create a divide between exempt and non-exempt staff that would undermine all the hard work we have done on team and culture building."

Organizations may be forced to cut benefits. A number of respondents commented that their organization would likely be forced to cut health insurance or other benefits to reallocate funds to staff pay.

It increases paperwork and administration. Managerial staff will be forced to spend additional time tracking hours and providing closer supervision to ensure that non-exempt staff stay within their allotted hours. Some organizations will need to establish, maintain, and document new time-tracking systems. It was noted by many that this type of work is a part of overhead, which is difficult to raise money for and often not adequately supported by government contracts and foundation grants.

"Depending on how this is worded, this potentially creates many more unwanted overtime hours for our admin staff in tracking and paying overtime."

*"We'd have to spend more time monitoring work hours instead of providing services to our clients."
"The thought of moving pastors to an hourly rate, with the necessity of keeping time records, is very concerning. As you can imagine, the hours and times they work are extremely varied and extremely difficult to quantify."*

This comes on the heels of other expensive new legal requirements. This change is being proposed in a larger context of rising personnel costs at a time when many nonprofits operate with fragile business models. Participants cited other recent legal changes in Washington State that they are adjusting to: the increasing minimum wage, paid sick leave, and upcoming paid parental leave. Some respondents are reporting that these additional costs have stretched them to the breaking point already.

Fundraising and Revenue Issues

There is not new revenue available to cover the additional costs. Respondents shared some of the constraints they face in raising new revenue, particularly to cover administrative costs.

Respondents made the following points:

- We would have to fundraise more.
- It is difficult to fundraise for increased salaries, particularly for management.
- We are serving the Medicaid population and/or low-income people generally and can't increase fees.
- We are constrained by limitations imposed by funding sources.
- Expenses are rising while income is stable.

"[We would have to] reduce services in order to allocate more staff time to fundraising to cover increased costs."

"I want to be able to pay our employees better than we do now, but as a nonprofit, there is public scrutiny that puts pressure on organizations to keep salaries as low as possible. We can't raise money from donors to raise salaries—that is not a compelling fundraising message. Also, many grant funders won't pay salary."

"If we couldn't raise the money, we'd have to fire our grantwriter/event planner...which would be a strain on the rest of our fundraising staff."

"We are funded 90% by grants and grants have a very limited amount that they are willing to pay toward administrative costs, and this policy would only affect our management. Expenses would have to be covered by donations."

"[Fundraising] is done by employees. So basically, it is creating overtime hours by forcing us to spend more time looking for ways to pay overtime."

"It would likely require us to allocate more time to fundraising and less to services to cover the increased costs."

"No one will donate because we have 'increased staffing costs.'"

Government funders, especially the State of Washington, need to step up to cover these increased costs. The majority of those surveyed receive government funding. Nonprofits receive funding for critical public services, and typically deliver these services at a much lower cost than government would be able to directly. Unfortunately, nonprofits have endured many years of inadequate reimbursement rates for this work which leaves them financially fragile. Many nonprofits have poor infrastructure and overly-lean administration as a result, and feel that they have reached the limits of how much they can subsidize their public contracts with private philanthropy.

"Our reimbursement rate for services is set by the legislature and we are unable to raise them. Our supervisors and middle managers are not given increases in wages by the legislature and most are paid based on 2004 budget information. This group will be hurt the worst and our service quality will decline with this change in the law without their supervision going forward."

"We rely on government contracts and get paid fees for service. We can't raise the cost for our services because we are paid in contract for these services. The legislature has to put this into the Governor's budget to do this. We are already short on funds and don't receive enough money to adequately pay staff and are grossly understaffed. We serve a lot of people. If this trend continues, we will be out of business and it will cost more to serve the population we serve. They will either need to be served by state services which are more costly or not receive services."

"Being a nonprofit, we are primarily funded with government contracts, which rarely increase even to meet COLA adjustments. We use philanthropic dollars to cover those costs. Additionally, we need to maintain a reasonable admin cost for our grants. Increasing overhead will be difficult to absorb."

"We'd have to ask our government funders to pay us more than 10% for overhead, but most will be unable or unwilling."

"We may have to drop programs unless the State intends to increase payment rates to help us meet the new pay scales. Can't have it both ways!"

"We will be unable to work within the financial restrictions of some contracts if we have to pay overtime to mid-level supervisors. This could result in the termination of those contracts."

Suggestions and Questions

Some survey respondents brought up questions or suggestions related to the policy.

Survey respondents indicated that in general, a lower threshold and one that is phased in over time is more feasible for nonprofits.

Many nonprofits have part-time professional staff, so the policy should have a provision for prorating the salary threshold.

There should be recognition that some nonprofits employ seasonal staff, and that these staff people may work extra hours during the season (e.g. summer camps). Nonprofits would like to know how they can afford to continue to operate seasonal programming.

Nonprofits would need guidance about how to implement the rule for specific professions. Survey respondents also would like to know how the proposed rule change would apply to and would work for these particular job categories, since they perceive significant implementation challenges.

- On-call crisis responders
- Seasonal staff
- Summer camp staff
- Staff who take student groups on overnight trips
- Staff who receive housing as a part of their compensation package
- Clergy
- Childcare providers (Are some or all childcare providers and preschool teachers considered teachers or not?)

Conclusion

With this report, we have summarized the feedback received from the nonprofit community in our survey. We want to thank all the busy nonprofit leaders who responded to our call for information and generated these survey results in one week. We hope you will continue to work with us to advocate for policies that strengthen nonprofits.

Washington Nonprofits will advocate for changes to the current Washington State Department of Labor & Industries proposed rule change to address the concerns raised here. We welcome comments and questions regarding these survey results and our position on the issues raised here.

In addition, this input will be used for future advocacy on related issues such as state government contracting levels, education for nonprofits to help them comply with new and existing labor regulations, etc.

For more information on the survey, please contact David Streeter at (855) 299-2922 or david@washingtonnonprofits.org

Appendix A: Survey Instrument

Washington Nonprofits' survey asked these questions:

1. Contact Information (name, organization, location, email, phone)
2. Field of Service (choose from list)
 - Human Services
 - Arts, Culture, and Heritage
 - Education
 - Community and Economic Development
 - Philanthropic
 - Workforce Development
 - Child Care
 - Senior Care
 - Parks and Recreation
 - Other (please specify)
3. Are you open to being contacted for follow up? (yes/no)
4. What is your organization's annual budget size? (choose from list)
 - Under \$500,000
 - \$500,001 - \$1 million
 - \$1 million - \$2 million
 - \$2 million - \$3 million
 - \$3 million - \$5 million
 - \$5 million or Above
5. How many FTE's do you currently have? (choose from list)
 - 1-3
 - 4-10
 - 11-50
 - 51-100
 - 100-300
 - 300 or Above
6. Do you receive government funding? (choose all that apply from list)
 - Federal
 - State
 - County
 - Municipal
7. If the threshold for overtime pay is raised to either \$56,160 or \$70,200 per year, which of these steps will you need to take in order to comply: (select all that apply)
 - Pay overtime as needed
 - Convert salaried staff to hourly

- Raise salaried staff to a salary that is above the final threshold
- Reduce staff hours (ex. a salaried staff member who typically works 45 hours per week is moved to hourly and capped at 40 hours)
- Decrease benefits or increase the employee paid portion of benefits
- Lay off staff
- Raise program fees for the people you serve
- Reduce the number of people that you serve
- Cut at least one program because it is too costly
- Pay overtime and use cash reserves or an endowment to cover the increase
- Shift funds from internal capacity building to cover salaries (ex. delaying the purchase of new equipment to pay salaries)
- Other (please specify)

8. Which type of positions on your staff are most likely to be impacted? (ex. being reclassified, overtime caps, reduced hours, etc.)

- Front line/direct service staff (including social workers, teachers, etc.)
- Program managers/supervisors (program coordinators/managers/directors)
- Development/fundraising/event staff
- Executive, administrative, or other professional staff (ex. finance, human resources, IT, office manager)

9. Can you estimate by what % this change is likely to increase your costs to provide services? (open ended)

10. Please tell us a little bit more about what this policy proposal would mean for your organization and its ability to serve: (open ended)

11. What information or resources can Washington Nonprofits provide to you at this time? (open ended)

Appendix B: Further Resources on Nonprofits and Overtime Pay

National Council of Nonprofits. *Re: Request for Information: Defining and Delimiting the Exemptions for Executive, Administrative, and Professional, Outside Sales, and Computer Employees. WHD-2017-0002; RIN 1235-AA20.* September 15, 2017.

<https://www.councilofnonprofits.org/sites/default/files/documents/national-council-of-nonprofits-comments-to--dol-overtime-rfi.pdf>

National Council of Nonprofits. *The Nonprofit Overtime Implementation Conundrum.* July 5, 2016.

<https://www.councilofnonprofits.org/nonprofit-overtime-implementation-conundrum>

Office of Management and Budget. *Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees.* Fall 2018.

<https://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201810&RIN=1235-AA20>

Washington Nonprofits. *Executive, Administrative, and Professional Draft Rule Concepts Feedback.* September 4, 2018.

<https://washingtonnonprofits.org/wp-content/uploads/2018/09/Washington-Nonprofits-EAP-Comments-090418.pdf>

Washington Nonprofits. *Re: Request for Information: Defining and Delimiting the Exemptions for Executive, Administrative, and Professional, Outside Sales, and Computer Employees. WHD-2017-0002; RIN 1235-AA20.* September 19, 2017.

<https://www.regulations.gov/document?D=WHD-2017-0002-138389>

Washington Nonprofits. *Response to Additional Request for Feedback on Updating Washington's EAP Exemptions.* May 31, 2018.

<https://washingtonnonprofits.org/wp-content/uploads/2018/06/Round-2-EAP-Comments.pdf>

Washington Nonprofits. *Response to Initial Request for Feedback on Updating Washington's EAP Exemptions.* May 1, 2018.

<https://washingtonnonprofits.org/wp-content/uploads/2018/06/Washington-Nonprofits-EAP-Comments.pdf>

Washington Nonprofits. *Response to Pre-Draft Overtime Pay Rules.* October 26, 2018.

<https://washingtonnonprofits.org/wp-content/uploads/2018/11/Washington-Nonprofits-Comments-102618.pdf>

Washington Nonprofits. *Response to Request for Feedback on EAP Exemption Scoping Questions.* July 5, 2018.

<https://washingtonnonprofits.org/wp-content/uploads/2018/07/Washington-Nonprofits-Round-3-EAP-Comments.pdf>