

# HOUSE BILL ANALYSIS

## HB 2073

**Brief Description:** Prohibiting employers from requiring that tips be given to the employer.

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**Sponsors:** Representatives McMorris, Lisk, and Clements

Hearing: March 3, 1997

### **BACKGROUND:**

Federal and state laws establish a minimum wage affecting full-time and part-time workers in the private and public sectors. In Washington, the minimum wage law is administered by the Department of Labor and Industries.

#### **Federal law**

The federal minimum wage is \$4.75 per hour, and will increase to \$5.15 per hour on September 1, 1997. Federal law allows an employee's tips to be counted as wages in meeting an employer's minimum wage obligation. Employers of tipped employees— must pay at least \$2.13 per hour if they claim a tip credit against their minimum wage obligation. If an employee's tips combined with the employer's cash wage of at least \$2.13 per hour do not equal the minimum hourly wage, the employer must make up the difference. Certain other conditions must also be met.

#### **State law**

The state minimum wage is \$4.90 per hour. The department has administratively determined that the Minimum Wage Act prohibits tip credit. Therefore, an employer must pay tipped employees— a cash wage of \$4.90 per hour. All tips given to an employee are the property of the employee.

The minimum wage provisions more beneficial to employees govern, whether federal or state.

### **SUMMARY OF BILL:**

Employers of tipped employees— may count tips as wages in meeting any state minimum wage rate above \$4.90 per hour. The amount of tips considered as wages may not be greater

than the value of tips actually received by the employee. The tips are the property of the employee. Tip pooling is not prohibited.

Tipped employee— means an employee engaged in an occupation in which he or she customarily and regularly receives more than thirty dollars per month in tips.

**RULES AUTHORITY:** The does not contain provisions addressing the rule-making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.