

Department of Labor Overtime Regulation Proposal

Millions of Americans in salaried positions will shift from exempt to non-exempt status if the recent overtime pay exemption proposed by the Department of Labor is implemented. Consequently, many businesses will be forced to limit hours, eliminate management positions and cut benefits. Small businesses will suffer the most, especially businesses in low cost-of-living areas. Also, employees, for whom the rule is designed to help, will see smaller paychecks and fewer opportunities for advancement.

BACKGROUND

The Fair Labor Standards Act (FLSA) of 1938 guarantees overtime pay at a rate of not less than one and one-half times the employee's regular rate for more than 40 hours worked in a week. Some workers are exempt from this guarantee based on their job duties and salary. In particular, the "EAP" or "white collar" or salaried exemption applies to pay for executive, administrative, professional, outside sales, and computer employees. Currently, the salary required for exemption is \$455 a week or \$23,600 for a full-year worker, and \$100,000 for a highly compensated employee (HCE).

This year, the Department of Labor (DOL) proposed to change the "EAP" exemption level to \$970 a week or \$50,440 for a full-year worker (\$122,148 for a HCE) in order to ensure that employees truly meet the requirements for exemption – to be white collar employees who earn salaries well above the minimum wage and enjoy other privileges which set them apart from their counterparts. The DOL also proposes to annually and automatically update the salary and compensation thresholds using either a fixed percentile of wages or the CPI-U to ensure permanent effectiveness of the "salary test."

These changes in their current form will more than double the pay level at which salaried workers must receive overtime. If the intent is to sharply reduce the proportion of exempt workers and "give employees a raise," the proposed overtime regulation fails. Several TRSA member-employers have already weighed in reporting that they will be forced to cut hours, eliminate full time positions, reduce benefits, and more under this new proposal.

TRSA POSITION

TRSA opposes the administration's initiative to rewrite regulations changing which employees are eligible to earn overtime compensation. Forcing employers to reclassify employees from salaried employees to hourly employees will result in a loss of hours, status, benefits, and full time jobs.

ACTION

Provide Congressional Comments to the Administration's proposal and work with businesses to resolve this burden that threatens to cause further damage to the U.S. economy and jobs.