



SIOUX FALLS AREA
CHAMBER OF COMMERCE
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DRAFT ISSUE BRIEF:

Overtime Pay

August 2015

Background

Overtime regulations are an outcome of the Fair Labor Standards Act (FLSA) and were introduced in 1938 as a social reform initiative from the New Deal period. Currently, compliance is managed by the state and federal branches of the U.S. Department of Labor.

The FLSA guarantees all non-exempt workers time-and-a-half pay for all hours worked past 40 hours per week. Additionally, exempt workers earning less than \$23,600 annually (\$455 per week) have also been eligible for overtime pay, though in 2004, many of these exempt workers were re-classified as “executives” when President George Bush signed the “FairPay” initiative into law. This action classified those ineligible for overtime pay (executive, administrative, professional, computer and outside sales). In June 2015, President Barack Obama announced a rule change that would raise the threshold for exempt employees to \$50,440 (\$970 per week). Though an effective date has yet to be established, it is estimated that implementation will occur in March 2016 after a public comment period has taken place. Interested parties may submit written comments at www.regulations.gov to be considered as part of the rulemaking record.

State and local government employees are subject to the FLSA. Also, there is no small business exemption—the proposal applies to employees of enterprises with an annual gross volume of sales made or business done of \$500,000 or more. In addition, the proposed rule may affect non-profit organizations with volume of sales of \$500,000 or more. However, in determining coverage, only activities performed for a business purpose are considered and not “charitable, religious, educational, or similar activities of organizations operated on a non-profit basis where such activities are not in substantial competition with other businesses.”

The executive branch has the authority to issue the regulation without congressional approval; however, the rule change could be challenged in court, as well as Congress.

With this change, it is estimated that 5 million workers would be affected within the first year of implementation. Early estimates show companies may pay up to \$1.3 billion more annually in overtime wages.

Proponent Rationale

- The current threshold is just below the poverty line for a family of four.
- In 1975, 60 percent of salaried workers in the United States were eligible for overtime. Today, less than 8 percent are eligible. This action establishes levels near the median household income and in line with the threshold from 40 years ago after adjusted for inflation.

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- Newly-covered workers typically are those with limited bargaining power who now would benefit from FLSA protections.

Opponent Rationale

- Employer costs will significantly increase leading to a reduction in employee hours, additional hiring of part-time employees and limitation of middle-management career opportunities.
- Litigation will stymie productivity and adversely impact job creation.
- Businesses will be burdened with additional expenses to track hours and overtime.

Note: Detailing “Proponents” and “Opponents” rationale is designed to provide the reader with an understanding of the opinions and talking points from each perspective. They are not intended to reflect any position of the Sioux Falls Area Chamber of Commerce.

Sources:

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