

Proposed Department of Labor Overtime Regulations Position

The mission of the Greater Lehigh Valley Chamber of Commerce is to improve the economy and quality of life in the Lehigh Valley. We believe the proposed Department of Labor regulations relating to overtime eligibility will have a negative impact on businesses and employees in the Lehigh Valley.

The US Department of Labor recently proposed the reclassification of all full-time salaried employees earning less than \$50,440 (\$970 per week) annually and not eligible for overtime compensation to become non-exempt employees eligible for overtime pay. Currently the exemption exists for full-time employees earning up to a maximum salary of \$23,660 a year, or \$455 per week. This is a 113% increase in salary level. The change in regulation will affect all businesses and both profit and not-for-profit organizations with gross revenues greater than \$500,000 that are otherwise covered by the Fair Labor Standards Act. Should the proposed rule become final, organizations will only have 60 days to comply which is unduly burdensome and unreasonable.

Under the Fair Labor Standards Act (FLSA), an employee must now meet several criteria to qualify as an executive, administrative, or professional employee to be *exempt* (the “white collar” exemptions) from federal overtime pay requirements. These include: 1. being paid on a salary basis (the salary basis test); 2. that salary must be more than \$455/week (\$23,660 annually); and, 3. their “primary duties” must be consistent with executive, professional or administrative definitions as outlined by the U.S. Department of Labor (DOL) (the primary duties test).

The proposed regulations raise concerns about increased payroll costs to employers, increased costs caused by the need to track out- of-office work hours, restrictions on flexibility, and other business-related consequences (in anticipation of the regulation, one Chamber member company has already eliminated administrative assistant access to email and other software systems from home). One small not-for-profit Chamber member estimated that the cost to their organization would be \$80,000 per year. Another larger organization estimated the cost to be \$175,000 due to the impact of not only paying increased overtime, but also adjusting salaries of those higher on the pay scale to maintain internal pay equity.

The Chamber agrees that all employees should be fairly compensated for the work they perform. The regulations as proposed will have a severe financial impact on businesses and not-for-profit organizations, particularly small businesses and smaller not-for-profit organizations. Implementation of the overtime regulations as proposed will cost jobs, and will certainly reduce flexibility in working hours. Non-profits in particular often do not have the ability to simply raise prices to offset these new costs to their businesses and as a result will likely decrease services and reduce their workforce.

The Chamber supports regulations that:

- Consider the economic impact on businesses and not-for-profit organizations, as well as on other sectors of the economy
- Provide adequate time for input
- Are issued with full transparency as to impact
- Are scored appropriately by the Office of Management and Budget to determine the fiscal impact on every employer group
- Assure fair compensation
- Recognize skill and experience through position and title
- Give employers a reasonable amount of time to comply
- Recognize geographic differences in salary for similar positions

The Chamber opposes regulations that:

- Place undue financial burdens on businesses
- Reduce scheduling flexibility for employees
- Increase administrative costs of tracking hours
- Cost jobs
- Increase prices of products and services due to increased business costs
- Disproportionately affect small businesses, state and local governments, and not-for-profit organizations --especially those serving our most vulnerable populations

Businesses already carry a heavy regulatory burden. We believe that a rush to change regulations, along with executive orders and agency-level regulatory guidance, can interfere with the ability of businesses and not-for-profit organizations to remain open. Because closures would have a detrimental effect on the community, we need future regulations that are less burdensome, reflect what would be best for both employers and employees, and are implemented with sufficient time for organizations to comply.

History of Action

Draft 1—3/24/16

Subcommittee review/changes

Draft 2—4/1/16

Draft 3—4/7/16 subcommittee changes made, resent

4/8/16--Subcommittee passed unanimously

4/11/16—updated Exec Committee

4/12/16---sent to PP for review and 4/20 vote

4/20/16—Public Policy Committee passed (20 yay, 1 nay, 1 abstention)

4/21/16—sent to Exec for review and 4/25 10am vote

4/22/16—sent to BOG for review

4/26/16—Exec Committee votes tallied (passed 19 yay, 1 abstention)

4/27/16—PP Chair D.Kozak presents to BOG for vote (passed unanimously)