
Federal Judge Overturns Proposed Rule for Salaried Employees

The U.S. Department of Labor (DOL) under the Obama Administration proposed a new federal overtime rule that would have raised the salary threshold for overtime eligibility from \$23,660 to \$47,476 annually. The raised threshold never went into effect as more than 21 states and 55 business groups challenged the ruling and a federal district court judge in Texas delayed its implementation. The same judge, Amos Mazzant, issued a final ruling on the matter in August, and as a result, the salary test will not take effect.

Wages and Fair Labor Standards Act

The Wages and the Fair Labor Standards Act (FLSA) requires that most employees be paid at least the federal minimum wage for all hours worked as well as an overtime rate of one and one-half of their regular pay rate for all hours worked over 40 hours in a workweek. The exception to this overtime rule is for employees who meet the criteria for one of the class of exemptions (e.g., executive, administrative, professional, computer employee, outside sales, highly compensated).

To qualify for exemption, employees generally must meet certain tests regarding their job duties and be paid on a salary basis at not less than \$455 per week. Job titles do not determine exempt status. In order for an exemption to apply, an employee's specific job duties and salary must meet all the requirements of the DOL's regulations. These exemptions do not cover blue collar workers, police, fire fighters, paramedics, and other first responders. For a list of these exemptions including the criteria used to determine if an employee qualifies, visit https://www.dol.gov/whd/overtime/fs17a_overview.pdf.

Understanding the Ruling

Mazzant stated that the salary level was set so high that some employees in management positions for whom the exemption is meant to apply would be reclassified. According to Mazzant, "Congress unambiguously intended the exemption to apply to employees who perform 'bona fide executive, administrative, or professional capacity' duties." In addition, Mazzant felt that the DOL was overstepping their authority by setting a salary threshold that effectively eliminated the duties tests. He did, however, add that the DOL was supposed to set the minimum salary level as a floor. According to Alexander Passantino, an attorney with Seyfarth Shaw in Washington, D.C., "this decision clears the path for the DOL to continue with the rulemaking process it has started with its request for information and, presumably, ultimately increase the existing level to something more reasonable than the Obama DOL did."

What This Means for County Employees

The salary test for exempt employees will stay at \$23,660 and not be raised to \$47,476. It is unlikely that the Department of Labor will challenge Mazzant's ruling. Counties do not have to reclassify exempt employees based on salary. For more information or to answer any questions you may have about this matter, contact Senior Human Resources Specialist Dana Mumey at 303 861 0507. 