



FLSA Changes Charge Forward

ERA shared with our members that on March 14, 2016 the Department of Labor forwarded the final Fair Labor Standards Act changes to the Office of Management and Budget in their efforts to “modernize and streamline” who should be eligible for overtime based upon direction of President Obama in March of 2014. If you are not familiar with the rule making process, this is the final step in the regulatory process before it is announced to the general population through the Federal Register. Typically this review process lasts four to six weeks, which could mean that the final rule could be published as early as May and a bit ahead of the early anticipated date of July. After a major rule is published such as this, Congress has a 60-day period in which to evaluate it under the Congressional Review Act before the measure takes effect. Given the current political m el ee happening in D.C. timing is paramount if this rule is to be enacted.

At the present time it is unknown if the final rule is at all similar to what was originally proposed in July 2015. The biggest change would be increasing the salary test from the current \$23,660 to \$50,440 per year, which will likely impact over 5 million employees and how they are paid.

Shortly after the DOL sent the final rule to the OMB, both the House and Senate introduced respective legislation to halt the rule on March 17, 2016. The *Protecting Workplace Advancement and Opportunity Act* (S. 2707 and H.R. 4773) would:

- Quash the proposed rule.
- Require the DOL to first conduct a comprehensive economic analysis on the impact of mandatory overtime expansion to small businesses, nonprofit organizations and public employers, which would probably be the most impacted from a considerable increase to the salary requirement.
- Prohibit automatic increases in the salary threshold.
- Require that any future changes to the duties test must be subject to notice and comment.



[Monique](#)

[Kahkonen](#)

Director of

Compensation and

Benefits Services

888.237.9554



1200 Edison Dr.
Cincinnati, OH 45216-2276
Phone: 513.679.4120
Fax: 513.679.4139
Toll free: 888.237.9554
www.hrxperts.org

These issues were probably some of the biggest concerns expressed by employers when the initial rule was announced in July, 2015. Given that this is primarily a Republican effort, there is not full bipartisan support so who knows what the end result maybe.

In the meantime, the overtime rule process continues to charge forward. Employers need to have a plan in place for implementation of the final rule once it is announced. This period is anticipated to be as short as 30 days to a maximum of 60 days. With this very short implementation timeline, if you haven't started reviewing your positions to ensure that they are properly classified, the time is now. If you need assistance in determining whether your positions are exempt, ERA can provide the needed support. Please contact Monique Kahkonen, Director of Compensation and Benefits Services at mkahkonen@hrxperts.org.