

Overtime Rule Changes on the Horizon

In March of this year, the U.S. Department of Labor (DOL) released a proposed rule change regarding the white-collar exemptions, often referred to as the “Overtime Rule.” Federal overtime provisions are contained in the Fair Labor Standards Act (“FLSA”). Unless exempt, employees must receive overtime pay for hours worked over 40 in a workweek. To be exempt from overtime an employee’s specific job duties and salary must meet certain minimum requirements. The “salary test” presently requires workers to make at least \$23,660 on an annual basis to be exempt from overtime.

In March 2014, President Obama directed the Secretary of Labor to update the overtime regulations, including the salary threshold, which has not been adjusted since 2004. In May 2016 the DOL issued a final rule that would have raised the minimum annual salary threshold from **\$23,660 to \$47,476**. The proposed new rule received significant opposition from employers and business organizations, including the Greater Springfield Chamber of Commerce, mainly because an increase of 100% was far from representative of the rate of inflation or salary increases since 2004. The rule was declared invalid by the United States District Court for the Eastern District of Texas in November 2016, and the Fifth Circuit dismissed the DOL’s appeal – at the Department’s request – in September 2017.

This spring the DOL proposed a new rule that would:

- Raise the salary threshold from \$455 per week (\$23,660 per year) to \$679 per week (**\$35,308 per year**);
- Allow employers to include “certain nondiscretionary bonuses and incentive payments” up to 10% of the new \$679 per week salary threshold; and
- Raise the total annual compensation requirement for highly compensated employees – which are subject to a minimal duties test – from \$100,000 to \$147,414.

The proposed rule makes no changes to the duties test for executive, administrative, and professional employees. The Department intends to propose updates to the salary levels every four years. If the proposed rule goes into effect, the new threshold will likely take effect in early 2020. The Chamber supports the proposed rule and will provide updates as appropriate.