

CLEARCOALITION

COALITION FOR LABOR ENGAGEMENT AND ACCOUNTABLE REVENUES

August 22, 2018

The members of the CLEAR Coalition are writing to express our strong support for the regulation proposed by the Pennsylvania Department of Labor and Industry regarding the Executive, Administrative, and Professional (EAP) salaried worker exemptions.

The prior regulation has been in place since 1977 and has not kept pace with the cost of living and housing in Pennsylvania, or with the realities of our workplaces. The additional income generated by the regulation would put more money in the pockets of working Pennsylvanians and their families. This additional income would be spent in local communities, providing a boost for local businesses and higher tax revenues for Pennsylvania.

Specifically, the change would affect an estimated 465,000 working Pennsylvanians who currently fall into the EAP exemption but would not be exempt under the proposed regulation.

For these workers, the current exemption means their employer can require them to work 60 hours per week, including some administrative duties on a fixed salary so that their employer can avoid paying them overtime.

Impacted workers are employed in a wide range of industries and include shift supervisors at

McDonald's who mostly serve customers, assistant department managers at big box stores like Target or Walmart, accountants and paralegals overseen by high-paid executives and partners, office managers in small service firms, and team leaders in factories who spend most of their time doing production work. These workers are not truly managerial employees and should be properly compensated for their time.

Under the current regulations in Pennsylvania, the minimum salary threshold for the EAP exemption is either \$8,060 or \$13,000, depending on job duties. In 1977, this amount may have made sense, but more than four decades later the exemption is at or below the federal poverty level of \$12,140. Common sense tells you that the minimum salary threshold should be close to the average statewide wage, instead of the poverty level.

A retail store manager should not be able to work 10-hour days, 6 days per week, while earning poverty level wages that are potentially less than the minimum wage.

By clarifying the definitions of EAP employees and raising the minimum salary to reflect current wage levels, the proposed regulation would make it much more difficult for employers to misclassify workers to get around the overtime requirements.

This would mean that workers would not be called managers when they're not actually managers and ensure that workers on the lower end of the wage spectrum are compensated adequately and correctly for all the hours they work.

This regulation would likely have two practical outcomes:

- (1) People who work over 40 hours per week will be paid more for their work by being compensated for overtime hours or by having their salaries raised if they are truly managerial workers; or
- (2) Employers who do not want to pay overtime will simply choose to hire more people to work the extra hours that are currently worked for free, giving hard-working salaried employees more time to



spend with their families and creating new opportunities for unemployed and under-employed Pennsylvanians.

The proposed changes to the EAP exemption are long past due. The Department of Labor and Industry should be commended for their efforts to strengthen protections for Pennsylvania's workers.

Sincerely,



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Stephen Cantanese, President, SEIU Local 668



David Fillman, Executive Director, AFSCME



Art Martynuska, President, PPFPA



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