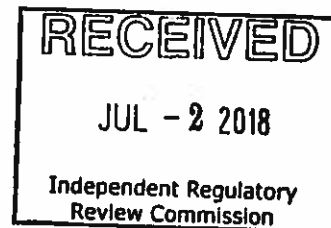


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**Kathy Cooper**

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**From:** Pamela Brogan-Spacht <Pamela.Brogan-Spacht.1428015@muster.com>  
**Sent:** Monday, July 02, 2018 12:33 PM  
**To:** IRRC  
**Subject:** Regulation #12-106 Overtime eligibility rules



Dear Independent Regulatory Review Commission,

Thank you for the opportunity to comment on proposed regulations submitted by the Pennsylvania Department of Labor and Industry (L&I). These regulations are intended to update the rules that determine if an employee is required to be paid overtime.

Though this proposed regulation may be well-intended I am deeply concerned with the negative impacts on employers and many of the very employees whom the proposal is supposed to help.

L&I proposes to more than double the wage requirement to qualify for exempt status. This dramatic increase will force many employers to convert salaried employees to hourly status, which usually entails a far more rigid work schedule with less flexibility, burdensome record-keeping, fewer training opportunities and benefits. Hourly workers required to clock in and clock out also risk less take-home pay if hours worked in a week dip below 40.

Not only will this proposal result in more expensive and burdensome record-keeping and less flexibility with scheduling, it will cause negative morale for workers who were once exempt. One of the common threads we see as Human Resources professionals is that our workers want more flexibility to balance their work and personal lives. This proposal will hurt an employer's ability to provide that flexibility in a labor market that is becoming increasingly tight.

If employers increase worker wages to meet the exempt salary threshold, in many instances, these employees most likely will be penalized with lower pay increases in future years. Consumers will end up paying more for goods and services because employers will transfer the cost to the consumer. Whatever good you thought you were trying to provide will have been negated by higher costs for goods and services for everyone. In addition, when companies are forced to think about down sizing, which would be comparable to the situation this policy would create with workers who would be forced to reduce working hours to eliminate overtime pay, the current exempt staff will take on the burden of completing the work. The employers will not hire additional workers to complete the work.

L&I also proposes changes to the so-called "duties test" which is used in conjunction with the salary threshold to determine exempt status. In the proposed regulation, L&I expressed a desire to align Pennsylvania's "duties test" with federal regulations. This would be a welcome change; unfortunately, the proposed rule falls short of the expressed goal.

The U.S. Department of Labor proposed a very similar regulation in 2015 and employers applauded the ruling to strike down the proposal by U.S. District Judge Amos Mazzant, who was nominated by President Obama to serve the Eastern District of Texas.

The current U.S. Department of Labor is expected to propose a new rule and Pennsylvania should hold off pursuing its own overtime update at least until the new federal rule is proposed.

Thank you for considering my views on this important matter.

Sincerely,

Sincerely,

Pamela Brogan-Spacht  
5351 Jaycee Avenue, Suite B  
Harrisburg, PA 17112  
7179208946