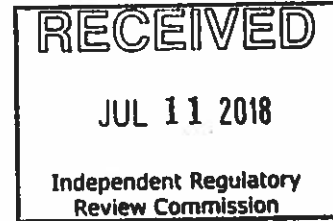


3202



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VIA EMAIL: irrc@irrc.state.pa.us



July 11, 2018

Independent Regulatory Review Commission  
333 Market Street, 14<sup>th</sup> Floor  
Harrisburg., PA 17101

RE: IRRC Number 3202  
Agency Number 12; Identification No. 106  
34 Pa Code, Chapter 231  
Amendments to 34 Pa. Code Chapter 231 regarding Overtime Pay

Dear Commission Members:

Please accept this letter as a response to the Pennsylvania Department of Labor and Industry's (DLI) proposed new rulemaking to amend the Pennsylvania Minimum Wage Act (PMWA) which would (1) increase the minimum salary requirement for executive, administrative and professional salaried employees; (2) change the duties tests for these white collar exemptions which will make their interpretation more confusing and onerous when complying under both PMWA and FLSA; and (3) failing to recognize the computer professional exemption, the highly compensated employment exemption, and the outside sales exemption.

While we agree that the current threshold for overtime pay should be raised, the proposed rates are extreme and literally double the current minimum salary requirement for white collar exemptions in three years.

- Year One: \$23,660/yr. to \$31,720/yr. represents a 34.1% increase.
- Year Two: \$31,720/yr. to \$39,832/yr. represents a 25.6% increase.
- Year Three: \$39,832/yr. to \$47,892/yr. represents a 20.2% increase.

Of course, the increase doesn't end in the third year but continues on January 1 every three years thereafter. This may, in effect, cause the newly hired, less experienced professionals' salary to meet and exceed long-term, experienced professionals within the company. The company will not be able to afford the domino effect and will be forced to make up the added expense by eliminating some benefits and causing the co-pay of other benefits to increase substantially.

Also, the dramatic increases and changes in the proposed rulemaking will result in many current professional, administrative and executive employees being reclassified to non-exempt hourly employees, resulting in less workplace flexibility and forcing employees to closely track their hours. Hourly workers required to clock in and clock out also risk less take-home pay if hours worked in a week dip below 40. Companies cannot afford the loss of morale that will ensue when management

employees are demoted to a non-exempt status. It will also negatively affect newly graduated young professionals who after spending thousands of dollars for a college education and incurring thousands of dollars in debt to be treated as hourly wage earners because their new employer cannot afford to pay them under this proposal. These newly graduated professionals may in fact find employment outside of Pennsylvania causing the talent and energy they possess to migrate and benefit others. Pennsylvania cannot afford the "brain drain" that will ensue from this rule.

I don't want to sound cynical but is this proposed rulemaking truly altruistic in nature to "help and build the middle class" or simply a way to increase the public coffers in Harrisburg by increased income tax revenues at the expense of the private sector?

This is bad public policy and should be dropped.

Sincerely,

A handwritten signature in black ink that reads "Dianne F. Lowden". The signature is written in a cursive, flowing style.

Dianne F. Lowden

Vice President

Human Resources & Legal Administration

cc: D. W. Moser  
G. Ciarrocchi