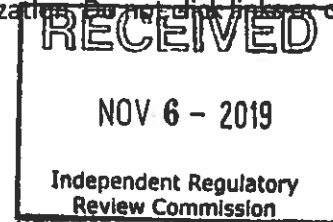


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Cheryl Yohn

From: Shawn Bernheisel <sbernheisel@cohickassoc.com>
Sent: Tuesday, November 5, 2019 10:11 AM
To: IRRC
Subject: Proposed Massive Overtime Rule Expansion

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Dear Independent Regulatory Review Commission,

To whom it may concern,

Thanks for the opportunity to comment on the Final Form Regulation submitted by the Pennsylvania Department of Labor and Industry (L&I).

I am deeply concerned when a government because more entangled in the affairs of private citizens and businesses. Not that intervention is bad per se, but it must have a clear and defined role and benefit analysis. The continuation of debate surrounding wage hikes, pay generally, and overtime pay continue to ignore the relationship between employee and employer. An employee performs work or services under certain conditions in return for remuneration offered by the employer. If at any juncture during this relationship the employee feels it is not being paid according to work or services, it is his or her job to rectify or leave. The employee can, at any point, leave according to their judgment. When the government steps in, you take a small amount of that power and forces the hand of the employer. This is disruptive and seems counterproductive in certain cases where an employer will once again adapt to the updated reform. The person likely negatively impacted will only be the employee who already holds 50% of the bargaining power! Trust the employee. He or she will always make the decision that is in their best interest!

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's first version of this regulation submitted in June 2018 proposed more than doubling the wage threshold to potentially qualify for exempt status. Despite hundreds of comments reflecting widespread concern among employers from a range of industry sectors, L&I made only minimal changes. The new proposal would still increase the salary threshold by over 92 percent and require regular increases using a formula that would impose larger and larger increases.

The same concerns described in 2018 remain. Employers may not have the ability to simply absorb higher labor costs and many nonprofits rely on static government funding. A significant salary threshold increase of this nature will force many of these employers to convert salaried employees to hourly status in order to track and cap hours. This transition typically entails a more rigid work schedule with less flexibility, burdensome record-keeping, fewer training opportunities and benefits. Hourly workers required to clock in and clock also risk less take-home pay if hours worked in a week dip below 40.

I am also concerned that, despite some improvements, the proposal still falls short of L&I's stated goal of aligning federal and state overtime laws. Overtime laws are among the most difficult for employers to administer and even if L&I's proposal is approved this area of employment law will still be unnecessary complicated and inconsistent.

We urge the Independent Regulatory Review Commission to disapprove of this regulation. A similar proposal was struck down by a federal court, IRRC itself expressed concerns back in 2018 that L&I does not appear to have addressed and the U.S. Department of Labor is already planning to increase the salary threshold, albeit at a more reasonable level, in 2020.

Thank you for considering my views on this important matter.

Sincerely,

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