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# HOLLABAUGH BROS., INC.

## Fruit Farm & Market

545 Carlisle Road, Biglerville, PA 17307
Phone: (717) 677-9494 Fax: (717) 677-7157
www.hollabaughbros.com info@hollabaughbros.com

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RECEIVED
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Independent Regulatory
Review Commission

Bryan Smolock, Director
Bureau of Labor Law Compliance
Department of Labor and Industry
651 Boas Street, Room 1301
Harrisburg, PA 17121

**Re: Proposed Rulemaking —Minimum Wage Act of 1968— IRRC Number 3202**

Dear Director Smolock:

It may seemingly make sense to adjust the threshold for overtime for salaried employees based on inflationary changes in purchasing power of the dollar. I know that others have addressed the specifics of the changing value of the U.S. dollar. However, there are other mitigating factors, particularly in small business, that should be considered.

Our company is a small agricultural business employing about 100 people with a wide range of full time, part time, and seasonal full time and part time positions. We have only a few salaried positions. All eligible employees earning an hourly wage are paid overtime under the current rules.

However, an important factor in the business world is that there is competition for the best employees and companies react to the changing employee market – and cost of living factors – by adjusting wages and salaries upwards. Whereas the salary threshold may be perceived as low in the current regulation, the reality is that many salaried workers already have rates of pay that exceed the current baseline. Perhaps most importantly, those same workers are content with their positions and rates of pay.

Particularly in the current competitive employee market, employees can be selective about choosing a position. Most companies have positions – salaried and otherwise – with either a published salary or a salary range. The choice of taking a position after the full disclosure from the company in terms of both responsibilities and salary is the privilege of the prospective employee. Further, an employee always has the right to end his employment with an employer. So, basically, it makes good sense that the salary is commensurate with the job and that it is competitive in the job market. That is simply a "real world" rule that derives from our economy.

Simply stated, an employee doesn't have to accept a position that is offered and an employee can quit at any time. An company who can't hire anyone because they aren't competitive will either make a change or go out of business.

Further, companies generally reserve salaried positions to reflect a certain level of importance for a responsible position. Wage scales, carefully evolved and progressive over time, would be instantly corrupted by such a dramatic change in the proposed baseline salary. This change would definitely have a negative impact from the human resource management perspective.

The scenario in which an employee who moved "up the ladder" to a salaried position, who then is reverted to an hourly position, is simply a degrading event. In most cases the change would include a lower wage rate calculated to include the potential overtime hours for the position such that gross wages would be roughly equal to the salary level previously paid. Most employees would perceive that change as a demotion, even if their pay was equal to or better than when they were salaried. Yet, aside from simply reducing staff, that outcome is the one of the likely solutions for a great many companies who have salaried positions.

Another outcome would simply be that some employees would need to be laid off to help control costs. Remaining employees might be "winners" if they receive a pay boost, but the work load requirements would likely change in conjunction with that additional investment by the company. Each outcome is a negative, but realistic result of making dramatic changes to the rules.

The bottom line is that most small businesses don't have the resources to absorb the cost impact of adding overtime costs to existing salary levels. As I've suggested, companies will constantly readjust their wage/salary scales based on inflationary factors, competition for workers, and other economic factors. Those changes are progressive, are induced by normal economic factors in our society, and *don't require new regulations to implement.*

Further, with federal rules potentially in the process of change, the entire payroll system can become very confusing for companies and employees alike. Having mis-aligned rules or having rules in the process of change between state and federal government adds to the regulatory nightmare for small business owners. Should a change be necessary, it would make sense to suspend any changes at the state level until the federal government works out their issues. Rule parity between the federal and state levels makes sense.

But parity does not presently exist between current state and federal rules. Certain exemptions in the federal standards for business owners and some other positions are not provided in the state rules. Although the states do not *have* to mirror federal standards, it makes sense that there would be similarity between the two levels so that companies have less confusion on how all the payroll pieces fit together.

I would urge the PA Department of Labor and Industry to withdraw the proposed changes at this time as the results would create additional hardship for employers, negatively impact human resource management in the work environment, and would not be congruent with federal rules. The best result from the standpoint of small businesses, who drive the economy of PA, would be to drop the proposed changes and let the system work as it stands. Rules that drive up the cost of business ultimately hurt the very people that those rules are intended to help. The inevitable outcome is that consumers will pay the price in terms of higher costs of products and services.

Should a change be unavoidable, the state should await the possible changes in the federal standards after which an effort should be made to achieve parity in the rules to avoid unnecessary confusion for employers.

Thank you for your attention.

Sincerely,

Brad M Hollabaugh

Brad M. Hollabaugh
Hollabaugh Bros., Inc.