

THE DOL PROPOSES RULE EXPANDING EMPLOYEES COVERED BY FLSA'S OVERTIME PROTECTIONS

On March 7, 2019, the U.S. Department of Labor (DOL) announced a proposed rule that would substantially reduce the number of executive, administrative and professional employees (white collar employees), currently exempt from the Fair Labor Standards Act's overtime protections by increasing the threshold salary level above which workers can be exempt from minimum wage and overtime requirements. For employers, this could mean a substantial increase in payroll costs and new time keeping requirements for employees who were previously exempt.

Under the current rule, any salaried employee earning more than \$455 per week (the equivalent of \$23,660 per year) meets the threshold salary level for executive, administrative and professional exemptions ("white collar exemptions") to minimum wage and overtime requirements of the Fair Labor Standards Act. If it becomes final, the proposed rule would increase the threshold salary level to \$684 per week (the equivalent of \$35,568 per year), beginning January 1, 2020. The DOL estimates nearly one million exempt workers will become subject to minimum wage and overtime requirements in the proposed rule's first year.

The proposed rule will be open for 60 days for public comment and could take months to become final. It will be important for employers to follow the progress of this proposed rule so they can take appropriate action to comply with the Fair Labor Standards Act should the proposed rule become final.

WHAT SHOULD YOU DO NOW?

While there could be multiple challenges to the proposed rule in the future, including action by Congress and possible lawsuits, employers should begin making preparations for budgeting, payroll and scheduling to be prepared for the new requirements to take effect January 1, 2020.

Employers need to analyze whether their current, exempt white collar employees will meet the new salary requirements and determine how they will respond to the proposed rule. Employers have various options, such as increasing salaries of those properly classified as white collar employees to meet new salary level, paying more overtime, limiting overtime hours or reducing base pay to compensate for overtime hours while still paying the hourly minimum wage.

If you have any questions about the proposed rule, or how it may affect your business, Bell Nunnally's Labor & Employment Practice Group is ready to assist.

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