

Overtime Rule

Background:

The Department of Labor released a proposed rule last summer that would require businesses to pay overtime wages to employees making \$50,440 or less per year, which would be a 113 percent increase over the current threshold. In addition, the minimum salary would automatically increase each year to match the 40th percentile of the average salary earned by full-time employees in the United States.

More than 250,000 organizations, including ASAE, submitted comments on the proposed rule to DOL last year. ASAE believes the new rule would adversely affect many nonprofit organizations and other employers with limited revenues and could harm many affected employees as well. To contain payroll costs from increased overtime obligations, employers would have to either lay off employees or exclude reclassified employees from telework and career growth opportunities outside of core business hours, ASAE said in its comments. ASAE also noted that the \$50,440 salary threshold amounts to a “one-size-fits-all” measuring stick and that the minimum salary level for exempt employees should instead be keyed to government data on regional cost-of-living differences.

DOL has yet to suggest what changes, if any, might be made to the final rule, but has indicated it may issue a final rule as soon as July 2016. American Associations Day gives fly-in participants the opportunity to weigh in on this issue with members of Congress who could potentially draft legislation blocking DOL from implementing a final rule.

Talking Points:

- The overtime rule will affect every employer in every state, including associations and nonprofit organizations with more limited resources.
- The rule will hit associations in lower-wage and lower-cost-of-living areas especially hard. Overtime pay should be keyed to government data on regional cost-of-living differences.
- Because the rule would dramatically expand the number of employees now eligible for overtime pay, associations and other employers could be forced to lay off staff or limit employees’ work outside of core business hours – stunting employees’ career growth and harming the organization’s productivity.
- The Department of Labor is also hinting at changes to the “duties test,” meaning exempt employees could be required to spend a specified amount of time performing their primary duty. Many associations are small-staff operations that require employees to perform a multitude of roles required to fulfill the organization’s day-to-day operations and overall mission. Changes to the duties test would not mesh with associations’ operational structures.

Our Ask:

The Department of Labor has hinted that it could release a final overtime rule by July. If the rule goes forward without changes that address the association community’s concerns with the salary threshold and changes to the duties test, we ask that Congress take action to block the rule from taking effect.