

Deadline Extended for Public Comment on Pa. OT Regulation Changes

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If you are planning to comment on the sweeping changes the Pennsylvania Department of Labor and Industry has proposed for overtime regulations in the state, you have some extra time.

The state has [extended the deadline](#) for public to comment on the [overhaul of Pennsylvania's white-collar exemptions from overtime](#) under the Minimum Wage Act of 1968, which have not been updated since 1977.

Originally, the [state set July 23 for the end of public comment](#). But after a public extension request and a high volume of written comments submitted to the Pennsylvania Independent Regulatory Review Commission concerning the changes, the state extended the deadline to Aug. 22.

More than 80 businesses, organizations and individuals already have submitted written public comment so far to the commission, both for and against the changes.

Under the proposed regulations, the minimum salary threshold for exempt executive, administrative and professional employees would increase initially to \$610 per week (\$31,720 annually) effective on the date the final regulations are published in the [Pennsylvania Bulletin](#). The minimum salary threshold would increase incrementally in the two years following the final publication to \$766 per week (\$39,832 annually) one year later, and to \$921 per week (\$47,892 annually) two years after final publication. Three years after final publication and January 1 of every three years thereafter, the salary threshold will be updated to the "30th percentile of weekly earnings of full-time non-hourly workers in the Northeast Census regions in the second quarter of the prior year as published in the U.S. Department of Labor, Bureau of Labor Statistics," according to the proposal. In addition, up to 10 percent of the minimum salary amount may be paid as non-discretionary bonuses, incentives or commissions provided they are paid, at a minimum, on a quarterly basis.

A similar effort to increase the overtime threshold [failed at the federal level in 2016](#).

In addition to significant changes in the minimum salary threshold, the proposed regulations seek to align the duties tests for the executive, professional and administrative exemptions with the federal regulations. For example, the proposed regulations eliminate the requirement that no more than 20 percent of an exempt employee's duties be spent performing non-exempt work.

However, unlike federal law, the proposed regulations do not recognize the computer professional exemption or the highly compensated employee exemption. While purporting to align with federal regulations, the proposed regulations fall short of doing so and would continue to require employers to parcel the differences in the two laws for compliance purposes.

To make a public comment on the proposed changes, [click here to find the directions on submitting public comment](#) to the Pennsylvania Independent Regulatory Review Commission.

Anyone with questions on the potential state overtime regulations, please [contact me](#) or anyone in the [Barley Snyder Employment Practice Group](#).

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