

Pa. Repeals OT Rule and White Collar Exemptions

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There has been considerable upheaval in Pennsylvania's overtime regulations as a result of Gov. Tom Wolf's 2021-2022 budget compromise.

To get the 2021-2022 budget passed, Wolf agreed to repeal the new overtime regulations published in October 2020 that would have increased the minimum salary requirements for the executive, administrative and professional (EAP) exemptions. The salary threshold was set to increase to \$40,560 per year (\$780 per week) on October 3.

We thought the upshot of this compromise would be that Pennsylvania's new overtime salary threshold would not go into effect, and Pennsylvania's prior overtime salary thresholds would be restored.

However, in implementing this compromise, the Pennsylvania legislature actually went much farther than just rolling back Pennsylvania's new overtime salary threshold. The resulting Pa. Act 70 actually *repealed the entire regulatory framework* for defining the EAP exemptions under the Pennsylvania Minimum Wage Act (PMWA). The state passed the act on July 9, and unless the Pennsylvania Department of Labor and Industry (L&I) proposes and passes future regulations, it will take effect Sept. 7. At that time, Pennsylvania will be without any regulatory definition of what it means to be an exempt EAP employee.

Until then, the current overtime salary threshold in Pennsylvania is \$35,568 annually under the current Pennsylvania EAP regulations, consistent with the federal salary threshold.

On September 7, unless L&I proposes and passes new regulations, Pennsylvania's EAP regulations, including Pennsylvania's salary thresholds, will be repealed. The EAP exemptions won't disappear entirely, because they are authorized in the PMWA. However, the regulations defining what it means to be exempt will no longer exist, leaving employers - and perhaps the courts at some point - to determine whether to follow the federal Fair Labor Standards Act regulations regarding the EAP exemptions in Pennsylvania. The L&I website [describes the change to Pennsylvania's overtime regulations](#), and we will continue to monitor the status. Should you have a question about the changes to Pennsylvania's overtime rules and how they may affect your company's positions, feel free to [contact me](#) or any member of [Barley Snyder's Employment Practice Group](#).

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