

Pennsylvania Proposes Major Overhaul to OT Regulations

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A new Pennsylvania proposal could change the way businesses in the state pay their employees - even though a somewhat similar measure to change overtime regulations [failed at the federal level in 2016](#).

The proposed regulatory changes are intended to amend the white-collar exemptions from overtime under the Minimum Wage Act of 1968. Those exemptions have not been updated since 1977. Significantly, under the proposal, 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 incrementally increase 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.

The Pennsylvania Department of Labor and Industry [submitted the regulatory proposal](#) to the Independent Regulatory Review Commission on June 12. The group is now soliciting public comments - due July 23 - on the proposed regulations. About 60 comments [already have been posted](#).

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.

It remains to be seen what final format the regulations will take, particularly given that the updated minimum salary threshold of \$47,456 under the federal regulations [was struck down by a Texas federal court](#) as too high. Directions on how to submit a comment on the proposed regulation [can be found here](#).

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

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