

DOL Proposes Regulations to Increase FLSA Salary Level

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Justin Furrow

W. Wayne

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Since 2004, the salary-basis test for determining an employee's exempt status under the Fair Labor Standards Act has been fixed at \$455 per week. The U.S. Department of Labor issued regulations that were set to go into effect in 2016, and which would have more than doubled the salary threshold (to \$913 per week). But these regulations were challenged and ultimately put on hold by a Texas federal court.

Yesterday (March 7, 2019), the DOL issued a new [Notice of Proposed Rulemaking](#) to again address this issue. This proposal would increase the salary threshold to \$679 per week (\$35,308 annually)—a significant increase. This means overtime pay would be available to employees falling below this threshold, even if they meet the duties test to be considered exempt.

And, in addition to raising the overtime thresholds, the proposal includes the following proposed changes:

- It would increase the total annual compensation requirement for “highly compensated employees” from the currently-enforced level of \$100,000 to \$147,414 per year.
- It would allow employers to use nondiscretionary bonuses and incentive payments (*i.e.* commissions) paid annually or frequently to satisfy 10 percent of the standard salary level.

But the DOL did not take this opportunity to propose any modifications to the duties test.

There is a 60-day comment period for these regulations.

Please contact our [Labor and Employment](#) team with questions or to see how we can assist your company with FLSA compliance issues.

Additional Resources



- [FMLA & Other Employment Leave \(VIDEO\)](#) As an employer, do you question what types of leave are best for your business and employees? Do you have questions about your obligations under the Family Medical Leave Act (FMLA)? Are you

knowledgeable with accommodations under the ADA, short-term disability, workers' compensation, or paid time off? This video is for HR professionals, managers, and business owners looking for an overview of the legalities of employee leave.

- [UNLEASHED: Rosemarie Hill, Labor and Employment Attorney \(VIDEO\)](#) The [Chambliss Law UNLEASHED video series](#) provides an inside look at our practices and the people who make it all work.