

Wisconsin Moves to Align Overtime Regulations with DOL as Federal Overtime Regulations are Struck Down

Lost in recent state and national news cycles were two interrelated developments in Wisconsin and federal overtime law. Wisconsin will soon move to align its overtime regulations with those under federal law, while those federal regulations themselves continue to shift.

On August 31, 2017, a court in Texas permanently halted a requirement of the Department of Labor ("DOL") which had increased the minimum salary for an exempt executive, administrative, and professional employee from \$23,660 to \$47,476. See our previous alerts regarding the court's issuing of a similar, [temporary ruling](#), and regarding the [DOL rule](#) itself.

As a result of the court's final ruling, and the DOL's decision to drop its appeal of the court's previous decision, the new \$47,476 salary requirement is gone and the former \$23,660 salary requirement is back. However, the DOL will likely revisit this issue in the coming months and establish a new salary requirement, which may land around \$32,000.

In this shifting regulatory environment, the Wisconsin Department of Workforce Development ("DWD") recently took steps to align state regulations that pertain to wages, hours and overtime pay with federal overtime regulations. Specifically, the DWD intends to make state law more like federal law in the coming months in the following three ways:

1. Change existing Wisconsin regulations to clarify that a recommended 30 minute lunch break per shift is not paid time, regardless of whether the employee is allowed to leave the premises;
2. Incorporate the DOL's standards for determining overtime exemptions for executive, administrative and professional employees. Wisconsin currently utilizes lower salary thresholds and a different "duties test" than federal regulations; and
3. Incorporate the DOL's standards for determining when and how overtime is required and calculated for nonexempt employees who are

POSTED:

Sep 19, 2017

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compensated on a salary basis. Although similar, Wisconsin has never formally adopted the federal specifications for calculating overtime for those employees.

Reinhart will continue to closely monitor this situation and publish additional alerts as we learn more about either the new DWD rules or any actions taken by the DOL relating to the salary requirements for executive, administrative, or professional exempt employees. If you have questions, contact [Rob Driscoll](#), [Katie Triska](#), or your Reinhart attorney.

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