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1) FLSA Update: Final Rules Issued on Overtime Pay and Exempt/Non-exempt Employees

The U.S. Department of Labor issued the long promised rules regarding payment of overtime and exempt/non-exempt employees on May 18, 2016. Please review the [DOL Bulletin announcing the rules](#) and [the fact sheet](#).

Final Rule Provisions: The final rule updates the salary and compensation levels needed for the Executive, Administrative, and Professional workers (“EAP” exemption) to be exempt. The specific changes are:

- Sets the standard salary level at \$913/week or \$47,476 annually for a full-year worker. This is equivalent to the 40th percentile of earnings of full-time salaried workers in the lowest wage Census Region.
- Sets the total annual compensation requirement for highly compensated employees (HCE) subject to a minimal duties test at \$134,000 or the equivalent of

the 90th percentile of full-time salaried workers nationally.

- Establishes a mechanism for automatically updating the salary and compensation levels every three years to maintain the levels at the above percentiles and to ensure that they continue to provide use and effective test for exemption.

In addition, the Final Rule does amend the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments, including commissions, to satisfy up to 10% of the new standard salary base. The Final Rule does not impact the “duties test” now used in the determination of the EAP exemptions. For more information on the EAP exemptions and the appropriate duties test see the [DOL Fact Sheet #17A](#).

Effective Date: The Final Rule becomes effective December 1, 2016. Adjustments to the standard salary level and HCE total compensation will be effective on that date. The automatic adjustments to the salary thresholds will occur every three years, beginning on January, 2020.

City’s Obligation: Each city should now evaluate its exempt employee/employees pool. The evaluation should address (1) Whether the employee truly qualifies under one of the EAP exemption classes, (2) If so, under the new rules, will the employee remain exempt, or (3) if not, will the employee be converted to an hourly paid employee and receive overtime pay (comp time) for all time worked in excess of 40 hours per week. In lieu of converting a non-exempt salaried employee to an hourly rate, the employee could remain salaried but be compensated for overtime work at the appropriate hourly rate. Although the new rules do not take effect until December, there is the possibility that they will impact your budgetary process that is now in process for 2017.

What Your Game Plan Should Be: The League is not in a position to give any hard and fast rules. However, based upon input from other commentators and our understanding of the new rules and how the FLSA generally impacts cities, we can make a few suggestions.

- Analyze current positions that are now being treated as exempt. Are they “fringe” positions, i.e. is there any question as to whether the position is truly exempt or, if exempt, is the current salary being paid close to the new threshold and a small increase in salary will allow the employee to remain exempt.
- There may be a need to review and update job descriptions to reflect the actual work being done and review the duties which make the position exempt.
- Give consideration to the hours worked by the current exempt employee. The number of potential overtime hours to be compensated may not nearly add up to the cost to the city to upgrade the pay base to meet the new salary schedule.
- Identify and quantify the amount of off duty work by salaried employees and if the position is to be reclassified as nonexempt, consideration should be given to how those duties would be covered or avoided.
- Evaluate your current “work period” for firefighters and law enforcement personnel. Adjusting the work period may have a positive impact upon overtime

payments.

- Consider moving to a comp time system, rather than overtime pay, if you do not already have such a policy.

More information will come as we have time to digest the new rules.

2) FY 2017 Special Street/Highway Fund Estimates Posted

The League has posted the FY 2017 Special Street/Highway Fund estimated distribution reports to the Budget Tips page. There are separate reports for cities and counties, [the reports can be viewed here](#). Please keep in mind these are estimates and the amounts distributed can be effected by many variables.

3) CHAMPS Initiative – Afterschool & Summer Meal Programs – Webinar this Monday

As mentioned in League News in April, the League is partnering with the National League of Cities (NLC) and Kansas Applesseed in promoting the CHAMPS program. Cities Combating Hunger through the Afterschool and Summer Meal Programs (CHAMPS) is a national initiative launched by NLC to reduce childhood hunger. Currently, Kansas ranks 50th in the nation for reaching children with summer nutrition programs.

This Monday, May 23, from 2 to 3 p.m., NLC will be hosting an informational webinar. They will discuss the overall program, including the technical assistance and grant opportunities. To sign up for the webinar, please [click here](#). To receive a link to the CHAMPS Request For Proposals, which describes the grant opportunity in more detail, please [register here](#). By signing up to support the CHAMPS initiative, your city will be eligible to receive hands-on technical assistance and grant funding for up to \$40,000 to help expand the Afterschool and Summer Meal Programs. Cities will receive resources on program implementation, marketing strategies and best practices from prior CHAMPS cities.

For more information about the CHAMPS project, please contact [Jamie Nash](#), Senior Associate with the Institute for Youth, Education and Families at NLC (202) 626-3160 or via email.

4) Available Funds for State Rail Service Improvement

Beginning July 1, 2016, the Kansas Department of transportation (KDOT) will have up to \$5,000,000 available through the State Rail Service Improvement Fund (SRSIF) for railroad rehabilitation, capacity improvement and construction projects. Cities and counties do qualify as entities who can submit an application requesting a portion of these funds, but must also include a Memorandum of Understanding with the serving railroad to provide service and car supply. Qualified scopes of project include major line rehabilitation, capacity enhancement, and economic development. For more information on these project categories, you can check out their [program guidelines](#).

The SRSIF is a loan/grant/applicant match program. Of the total cost, 40% is in the form of a loan, 30% is a reimbursable grant, and the applicant is responsible for a 30% match. Applications and supporting documents are due to JohnM@ksdot.org no later than June 15, 2016. You can access the [SRSIF application here](#). For questions, please contact [Eddie Dawson](#) at KDOT via email or phone at 785-296-3219.

5) Kansas Mayors Association Board of Directors

The Kansas Mayor Association ([KMA](#)) elected their new board of directors, while attending the 2016 Leadership Summit and Mayors Conference, held in Junction City.

- President - Jim Toews, City of Inman
- 1st Vice President - Burt Ussery, City of Clearwater
- 2nd Vice President - David McDaniel, City of Ellis
- Commission Mayor - Jack Bower, City of Atchison
- Past President - John McTaggart, City of Edwardsville
- Northcentral Representative - Kelli Hansen, City of Plainville
- Northeast Representative - Chris Morrow, City of Gardner
- Southwest Representative - Joe Denoyer, City of Liberal
- Southcentral Representative - Jim Toews, City of Inman
- Southeast Representative - Randy Jones, City of Mulberry

The KMA consists of 361 mayor members throughout Kansas, and exists to advance the proficiency of Kansas mayors and improve the quality of life in Kansas communities. There is still an opening for a mayor in the northwest region to serve as a representative. If you reside in that region and are interested in participating, please contact [Mayor Jim Toews](#). It's not too late for mayors to join KMA – contact [Cindy Green](#) at the League for details.

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300 SW 8th Avenue, Topeka, KS 66603-3951
P. (785) 354-9565 • F. (785) 354-4186 • www.lkm.org