



PARTNERSHIP TO PROTECT
WORKPLACE OPPORTUNITY

June 23, 2016

Chairman Steve Chabot
Small Business Committee
U.S. House of Representatives
Washington, DC 20515

Ranking Member Nydia Velázquez
Small Business Committee
U.S. House of Representatives
Washington, DC 20515

Dear Chairman Chabot and Ranking Member Velázquez:

On behalf of the Partnership to Protect Workplace Opportunity (the Partnership), we thank you for holding today's hearing on the Department of Labor's recently finalized regulation amending the exemptions for executive, administrative, professional, outside sales, and computer employees (the "EAP exemptions" or "white collar exemptions"). The Partnership consists of a diverse group of associations and companies, representing employers with millions of employees across the country in almost every industry (see <http://protectingopportunity.org/about-ppwo/>). The Partnership's members believe that employees and employers alike are best served with a system that promotes maximum flexibility in structuring employee hours, career advancement opportunities for employees, and clarity for employers when classifying employees.

On June 30, 2015, DOL proposed increasing the overtime threshold to \$50,440 per year, a 113% increase that would occur all at once in 2016, and in all areas of the country regardless of significant regional economic differences. The Department also proposed automatically increasing the salary threshold on an annual basis. While DOL did not offer a specific proposal to modify the standard duties tests, the Department suggested it was considering adding an unworkable requirement to quantify how much time employees spend performing their primary duties.

While an increase to the salary threshold is due, DOL's proposed rule was met with widespread opposition from tens of thousands small and large businesses, nonprofits, local governments, academic institutions, and the Small Business Administration Office of Advocacy – all of which have asked the Labor Department to examine more closely the impact of the drastic and immediate increase and consider less harmful alternatives. Comments and letters were sent from organizations around the country asking the Department, the Administration and Members of Congress to rethink this rule (samples are included in the attached document).

The Secretary of Labor responded to questions posed by Members of Congress about these concerns by stating that the Department met with these stakeholders and heard their input prior to issuing the proposed rule; however, the proposed and final regulation clearly do not reflect that input with respect to the salary threshold or automatic updates.

The salary threshold in the final regulation was lowered from \$50,440 to \$47,476, and the automatic escalator mechanism was changed from annually to every three years. This is still a more than 100% increase in the salary threshold and represents a token reduction that will not alleviate the harm this rule will do to nonprofits, colleges, and small businesses and their employees. Moreover, the fact that this reported reduction was leaked after OMB held more than 40 listening sessions with concerned stakeholders requesting that the rule be comprehensively reevaluated makes clear that the Secretary and the administration did not take seriously the public's concerns with its proposal and only Congressional action can stop the damage this regulation will cause. While changing the automatic increase from every year to every three years is an improvement, this provision is still unauthorized by the statutes and will still mean that future increases will go into effect without the benefits of a rulemaking, and without taking exigent economic conditions into account.

Accordingly, we urge all the members of the Small Business Committee to cosponsor H.R. 4773, the *Protecting Workplace Advancement and Opportunity Act*, which would require the Labor Department to conduct a detailed economic analysis before making dramatic changes to federal overtime pay requirements, and would prohibit any automatic increases. In essence, the bill requires the Department to move forward in a responsible rather than reckless manner. The legislation is supported by **340** national, regional, state, and local organizations representing nonprofits, institutions of higher education, schools, cities, counties and small and large businesses across the country, as outlined in the attached April 18th letter. In addition, the following 8 organizations listed below have subsequently supported H.R. 4773.

Thank you for convening today's hearing and for the opportunity to submit this letter for the record.

Sincerely,

The Partnership to Protect Workplace Opportunity and the following organizations:

American Land Title Association
American Trucking Associations
American Truck Dealers
Manufactured Housing Institute
National Association for the Self-Employed
National Association of Broadcasters
National Automobile Dealers Association
National Cattlemen's Beef Association