

Federal Court Strikes Down DOL's 2024 Rule on Overtime Exemptions Nationwide

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Last Friday, a Texas federal court struck down the U.S. Department of Labor's (DOL) 2024 rule raising the minimum salary levels for certain exemptions to the overtime requirements of the Federal Labor Standards Act (FLSA). The decision by Judge Sean Jordan of the U.S. District Court for the Eastern District of Texas to vacate the 2024 rule applies nationwide to all employers and comes weeks before another increase to the salary levels was set to take effect.

Background

Under the FLSA, employees are entitled to overtime premiums for hours worked in excess of 40 in a workweek unless they fall within an exemption under the law. Employees who are exempt from the FLSA's overtime premium requirement are typically referred to as "exempt" employees, while employees entitled to overtime premiums are typically referred to as "nonexempt" employees.

One of the most common exemptions under the FLSA applies to employees employed in bona fide executive, administrative, or professional capacities (the EAP Exemption). To qualify for the EAP Exemption, the employee must: (1) be paid on a salary or fee basis; (2) meet the minimum salary threshold; and (3) perform the job duties of an executive, administrative, or professional employee, as outlined in the regulations to the FLSA.

The FLSA also exempts highly compensated employees (the HCE Exemption). To qualify for the HCE Exemption, an employee must: (1) meet the minimum salary threshold; (2) be employed in an office or nonmanual role; and (3) customarily and regularly perform at least one of the delineated duties of an executive, administrative, or professional employee.

With the 2024 rule, the DOL raised the salary minimums for the EAP and HCE Exemptions, as well as created an automatic updating mechanism whereby the salary minimums for those exemptions would adjust every three years. Specifically, the 2024 rule:

- Increased the salary threshold for the EAP Exemption from \$35,568 per year (\$684 per week) to \$43,888 per year (\$844 per week), effective July 1, 2024, and to \$55,068 per year (\$1,059 per week), effective January 1, 2025;
- Increased the salary threshold for the HCE Exemption from \$107,432 per year (including at least \$684 per week on a salary or fee basis) to \$143,988 per year (including at least \$1,059 per week on a salary or fee basis),

effective July 1, 2024, and to \$151,164 per year (including at least \$1,128 per week paid on a salary or fee basis), effective January 1, 2025; and

- Established an automatic updating mechanism whereby, every three years, the salary threshold for the EAP Exemption would adjust to the 35th percentile of weekly earnings of full-time nonhourly employees in the lowest-wage Census Region, and the salary threshold for the HCE Exemption would adjust to the 85th percentile of full-time nonhourly employees nationally.

The State of Texas and a coalition of trade associations and employers filed suit to invalidate the 2024 rule. The plaintiffs argued that, by raising the minimum threshold for the EAP Exemption and creating an automatic updating mechanism for that exemption, the DOL exceeded its rulemaking authority under the FLSA. Judge Jordan granted Texas' motion to preliminarily enjoin the rule from taking effect in June, but only for the state of Texas. The parties then cross-moved for summary judgment.

The Decision

After weighing the parties' cross-motions, Judge Jordan sided with the plaintiffs, issuing an order vacating the 2024 rule. In making that determination, Judge Jordan noted that, though the DOL has authority to "define and delimit" the exemptions to the FLSA, including the salary floors, this authority is not without limits. In enacting the 2024 rule and significantly raising the minimum salary threshold to a point that Judge Jordan found to render the EAP Exemption a salary determinative test, the DOL exceeded its authority. As Judge Jordan wrote, "[w]hen a third of otherwise exempt employees who the Department acknowledges meet the duties test and are nonetheless rendered nonexempt because of an atextual proxy characteristic – the increased salary level – something has gone seriously awry."

Judge Jordan further concluded that the automatic increase mechanism also exceeded the DOL's authority, finding that the mechanism violated the Administrative Procedure Act's "notice-and-comment rulemaking" requirement.

Takeaways

- Unlike the court's June order blocking the 2024 rule from taking effect in Texas, this ruling invalidates the 2024 rule nationwide.
- The 2024 rule's first increase to the EAP Exemption minimum threshold, which went into effect July 1, no longer applies. Accordingly, the EAP Exemption minimum threshold returns to its previous level of \$35,568 per year (\$684 per week).
- The court ruling invalidated the entirety of the 2024 rule. As a result, the minimum salary threshold for the HCE Exemption reverted to its pre-rule level of \$107,432 per year.

Most employers either already increased the salaries of employees to maintain their exempt status in accordance

with the first increase of the 2024 rule, which went into effect on July 1, or reclassified such employees as nonexempt. There are many employers who further increased the salaries of employees in anticipation of the second increase set forth in the 2024 rule going into effect on January 1. These employers now have the ability to reduce salaries back to the pre-2024 rule salary thresholds and reclassify those employees who had been classified as nonexempt because of the increase in the salary threshold under the 2024 rule. In making changes, however, employers will need to consider the effect of salary reductions and reclassifications on employee morale and recruitment efforts.

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