

Update – Red States Sue to Stop Enactment of Obama Administration’s Changes to Federal Overtime Laws

As we previously reported, in March of 2014, President Obama unilaterally directed the Department of Labor (DOL) to review and update the requirements necessary for an employee to be considered “exempt” from overtime. The DOL dutifully complied, announcing its Final Rule on May 18, 2016, effective December 1, 2016. The Final Rule increases the minimum salary needed to qualify for as “exempt” under the salary basis test from \$455 per week to \$913 per week (or \$47,476 annually). According to DOL, this change will automatically extend overtime pay provisions to more than 4 million workers in the first year of implementation.

When the Final Rule was released, there was outcry from Republican leaders such as House Speaker Paul Ryan declaring that the DOL’s revisions were unauthorized: *“This is for all intents and purposes a law. It changes our overtime laws and rules; however, it never went through Congress. Not a single member of Congress had a vote on this. This is a law written by unelected bureaucrats who weren’t elected to anything. It’s a law that changes how virtually all businesses operate.”*

Yesterday, a group of 21 states (and numerous other groups) filed a lawsuit in the Eastern District of Texas challenging the Final Rule, arguing the President’s directive and DOL’s revisions are unconstitutional because the changes were not approved by Congress. *“Once again, President Obama is trying to unilaterally rewrite the law,”* said one state attorney general. *“And this time, it may lead to disastrous consequences for our economy.”* Said another state attorney general *“The United States Department of Labor’s new overtime rule is yet another example of the President’s unconstitutional overreach.... our nation’s laws, the separation of powers between the executive and legislative branches must be followed.”*

The states joining the lawsuit are: Alabama, Arizona, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Nebraska, New Mexico, Nevada, Ohio, Oklahoma, South Carolina, Texas, Utah and Wisconsin. The DOL did not immediately have comment on the filing. However, in response to recent reports that a lawsuit challenging the rule was imminent, DOL official David Weil said *“we are confident in the legality of all aspects of our rule.”*

Time will tell....

In the meantime, employers should proceed with putting in place the mechanisms to ensure they are in compliance with the Overtime changes by December 1st..

Date Created

September 21, 2016