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Congress Realizes New Overtime Rules Stink

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Last summer the Department of Labor released a new proposal for a change in overtime laws. Significantly, regardless of job duties, employees will have to earn \$50,440 per year before they can be considered exempt-and ineligible for overtime. The change hasn't been implemented yet (the proposed implementation date is September 2016), but business owners are already in a panic.

Why? The previous threshold was only \$23,660, so this throws a lot of jobs-an estimated 5 million in fact-into the pot. This is a huge deal and will cause lots of problems for business owners and employees alike. Guess who just figured it out?

Congress. And boy, are they not happy. Walter Olson, at Overlawyered, pointed me towards statement by some congressmen that they are panicked about the new rule.

For example, Rep. Alcee Hastings (D-Fla) says, "We don't have a set-hour kind of situation here; some kids work 12, 14, 16 hours a day, weekends, and I feel terrible that I cannot afford to give raises to the staff."

Rep. Hastings, I'm sitting here crying buckets of tears for you. Buckets, I tell you. He continued, "I don't see how we could pay overtime" for the "17 or 18 people that each of us is allowed to have--that's problematic for me."

Let me tell you; it's not only a problem for Congress, but it's also a problem for business owners and employees. And Congress can exempt themselves (as they do with lots of employment rules).

Why do people want to work 12, 14, 16 hours a day for less than \$50k? Well, because that's how you climb the ladder-especially if you want to be in politics. It's expected. It's how you prove yourself and how you get anything accomplished.

The same is true in the private sector. Employees want to be exempt. As Employment Attorney Jon Hyman writes,

Employees like being exempt. They like the flexibility of not having to track their hours. They like the flexibility that comes with a salary that compensates an employee for all hours worked in week, whether it's 30 hours this week, or 65 hours next week, or 47 hours the week after. The new regulations will strip five million employees of this flexibility, and convert them to time trackers. Does this change benefit employees? I bet if you polled the five million, you'd find that most would prefer to keep their flexibility instead of trading it in for whatever minimal additional compensation (if any) they expect to recover from a switch to non-exempt.

If Congress is subject to this proposed rule, our poor legislative friends will have to cut staff or cut their hours to stop overtime, and their employee will lose the opportunity to build careers. The higher paid people will have to work even harder, which they don't want to, while the lower paid people sit on their hands, wishing they could jump in there.

At least some current and former members of Congress recognize that this is a bit of a problem. Former Representative Jim Moran told Bloomberg that, "Most members are of the sentiment that it's impractical to be paying overtime," but that it would be "a little awkward when you exempt yourself from the very laws that you're expecting others in the public and private sector to comply with."

This won't just affect the number of hours employees can work. George Mason University's Mercatus Center found that companies will likely cut telecommuting jobs as it's easier to track the hours of people working in the office.

So, let's see: Companies don't have gobs of cash sitting around to pay for this, employees who want to work more hours to gain professional advantages won't be able to, and the beloved perk of telecommuting will be reduced.

Gee, Congress, if only someone could introduce some legislation to stop this horrible new rule. Until that happens, I'm laughing at Congress. And, in fact, I'd like to see a new rule introduced-one that says for any additional employment regulation before it can be applied to the private sector, it has to be applied to Congressional Staffs for at least a year. I think we'd see more business friendly policies in that case.