

## **U.S. DOL Issues New Overtime Regulations**

The U.S. Department of Labor (DOL) has issued long-anticipated regulations revising the overtime pay exemption under the federal Fair Labor Standards Act (FLSA).

Effective Jan. 1, 2020, the regulations increase the minimum salary required for an employee to be exempt from overtime pay requirements from \$455/week to \$684/week (or \$35,568/year). Employers will be allowed to use certain nondiscretionary bonuses and incentive payments to satisfy up to 10% of the minimum salary. The regulations make no changes to the “duties test” for determining whether salaried workers who earn more than the minimum salary are exempt from overtime pay requirements.

The regulations also formally rescind regulations issued in May 2016, which sought to raise the salary threshold to \$913/week. That threshold was invalidated by a federal court and never enforced.

To prepare for the new minimum salary, we recommend that employers review all positions currently assumed to be exempt. For employees who earn less than \$684/week, the employer may (1) raise the employee’s salary to the new minimum and continue to treat the employee as exempt (assuming the “duties test” is also met), or (2) treat the employee as nonexempt and pay time-and-a-half the employee’s hourly rate for all work hours exceeding 40 in a workweek, or (3) treat the employee as nonexempt and limit the employee’s work hours to no more than 40 in a workweek.

Remember that municipal employers in Maine are governed by federal, not state, overtime regulations.

For more on the new overtime regulations, see this U.S. DOL webpage <https://www.dol.gov/whd/overtime2019/index.htm> and MMA’s “Information Packet” on the FLSA, available free to members at [www.memun.org](http://www.memun.org). (By S.F.P.)