Department of Labor Proposed Changes to Fair Labor Standards Act (FLSA) Regulations  
December 2, 2015

Background

The Fair Labor Standards Act (FLSA) is the federal law that determines which employees are eligible for overtime pay and which are ineligible. In March of 2014, President Obama directed the Secretary of the U.S. Labor Department (DOL) to make changes to the regulations governing exemptions to the Fair Labor Standard Act’s (FLSA’s) overtime pay requirements for executive, administrative, and professional employees (known as the “white collar” exemptions). Under FLSA overtime regulations, employees are designated as nonexempt hourly employees who are eligible to receive overtime pay or as exempt salaried employees who are not eligible to receive FLSA overtime pay. To qualify as exempt, an employee must satisfy the following three tests:

- Have a salary above the minimum salary threshold;
- Be paid on a “salary basis;” and
- Perform duties that qualify for an exemption.

If an employee is designated as nonexempt, the employee is eligible for overtime pay and must be paid at time-and-one-half for hours worked over 40 per week.

Proposed changes to overtime pay regulations

On June 30, 2015, the DOL proposed changes to FLSA regulations that will increase the minimum salary threshold. The final rule will be issued not sooner than the summer of 2016.

- Current salary threshold: $455 per week (or $23,660 annually)
- Proposed salary threshold: $970 per week (or $50,440 annually)

What we know

- Approximately 5,000 UW System employees currently designated as exempt earn less than $50,440 and are potentially impacted by this change.
- It is difficult to estimate the financial impact on UW System institutions because the institutions have not completed analyzing anticipated overtime costs for each employee that is likely to become nonexempt.
- A large scale review of the anticipated financial impacts must take place at each institution.
- Work hours must be tracked for all FLSA nonexempt employees.

What we are doing

- HR Directors and CBOs have been and continue to be fully briefed through regular status updates.
- Support materials such as FAQs, talking points, PowerPoint presentations, and other tools have been provided.
- Institutions are analyzing potential costs and ways to minimize these costs.

Next steps

- UWSA will continue to monitor the rule-making process and keep institutions apprised.
- Institutions will continue to analyze potential costs and ways to minimize these costs.
- UW System institutions will continue to work collaboratively to refine an implementation strategy.
- The institutions will work with the Wisconsin delegation and with higher education associations to convince DOL to reconsider the proposed overtime rule.