

MEMORANDUM

To: Agency Directors and Human Resources Directors of All Agencies, Departments, Institutions, and Commissions

From: Kim S. Aydlette

Date: November 23, 2016

Subject: DOL Final Rule Injunction

Pursuant to a lawsuit filed in Federal Court by the State of Nevada and joined in by the State of South Carolina, a Federal District Court Judge has issued an order preliminarily enjoining the U.S. Department of Labor (DOL) from implementing and enforcing its recently enacted Final Rule which, among other things, increased the minimum salary range for employees exempted from the FLSA overtime rules. The Division of State Human Resources of the Department of Administration (DSHR) is reviewing the order and is in consultation with the offices of the Governor and Attorney General concerning the impact the order may have on agencies and the appropriate course of action for agencies to pursue. DSHR will provide guidance in the very near future upon the completion of its review and consultative efforts.

Be aware that the preliminary injunction lasts until further order of the court and does not necessarily indicate the outcome of the underlying lawsuit. DSHR recommends that agencies take this time to identify all employees occupying positions with duties that qualify for an exemption from FLSA regardless of salary. As always, it is incumbent upon the agency to correctly categorize their employees under the FLSA. Additionally, agencies should be aware that continuing to treat employees as non-exempt while the appropriate course of action is determined in this matter is not a violation of federal law or regulation, even if those employees are ultimately determined to be exempt.

