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Subject: draft email to agencies (directors and HR)

All,

This is a draft to all agencies. I tried to keep it general enough to apply in most situations. My draft communication for you to send to cabinet agencies will follow. Please let me know any feedback you have. We are sending first notice of the July 20 HR advisory to agency heads and HR this afternoon.

Subject: Additional guidance for implementation of the new overtime rule

As you know the Department of Labor recently released a final rule on overtime which increases the “white-collar” threshold, and requires an adjustment of the threshold every two years. My office is available for face to face consultations with agency directors and HR staff to assist you in planning for implementation on December 1. We understand that some agencies may have specific issues related to their mission and encourage you to contact us to follow up. Below you will find some general guidance to assist you in gathering information to make appropriate evaluations of staffing and fiscal impacts in your agencies:

1. We recommend that you run the Bex RH039F report to identify staff currently classified as exempt who are below the new salary threshold of \$47,476.00. (Bear in mind that some employees may be above the threshold once the Legislature’s General Increase goes into effect.)
2. With the assistance of appropriate managers, verify the current work schedules of affected employees, and obtain the most recent version of their position description.
3. Determine if the employees currently work more than 40 hours per week. If they don’t, planning will focus on communication and time management but there will not be a fiscal impact. As part of your evaluation please consider if any of these employees currently participate in alternate work schedules, telecommuting, or working outside of scheduled hours using network access or smartphones.
4. If they do work more than 40 hours per week, determine if their position description could be updated to adjust their workload to stay within 40 hours per week. (Remember that most employees are only scheduled for 37.5 hours so some cushion is

built in.)

5. If the employees must regularly work more than 40 hours per work to perform their job duties, determine if it is more reasonable to increase the salary above the new threshold, or to budget for and manage overtime. **Remember that employees above the threshold may still be non-exempt if their job duties do not meet the requirements of FLSA job duties tests.**
6. Review your agency's overtime policy to determine if updates are required prior to December 1. Remember that these policies require DSHR approval so plan ahead. If you are an agency that allows exempt employees to accrue comp time, determine if that will continue to be your policy.
7. If you are an agency that allows exempt employees to accrue comp time, and some of these employees will become non-exempt as a result of the salary threshold, you should strongly encourage those employees to use their exempt comp time before December 1. In the event some employees will carry forward exempt comp time after December 1, a system will need to be utilized to manage those hours separately from non-exempt comp time which is eligible for payout. If you anticipate this situation, please contact your consultant for additional guidance.
8. Evaluate any employees who will become non-exempt and who currently are in dual employment with a second agency. There may be overtime impact for both the primary and secondary agencies. If you plan to allow dual employment for non-exempt employees, you may contact your consultant for additional guidance.
9. This transition period is an excellent time to review all your position descriptions. Because sometimes job duties evolve over time, there may be employees whose position description should be updated to reflect actual work performed, and an evaluation of their FLSA classification may be needed. Having up-to-date position descriptions is essential in applying job duties tests if appropriate.
10. Thoughtfully plan communication to affected managers and employees. Remember that some managers may not have experience managing non-exempt employees' work hours, and some employees will not know how to record hours so some training may be necessary.
11. Be prepared to report the fiscal impact of the new rule on your agency. Remember, not every non-exempt employee will work overtime and impact your budget.

The July HR Advisory is being rescheduled from July 27 to July 20 and will focus on implementation of the new overtime rule. Please don't hesitate to contact me or my staff with any questions or concerns.

Kim

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Note: Act 121 of 2014 (SC Restructuring Act of 2014) abolished the Budget and Control Board. Effective July 1, 2015, the Division of State Human Resources has been transferred to the Department of Administration. Please update your contact information.