

**From:** Glaccum, David <DavidGlaccum@gov.sc.gov>  
**To:** Patel, Swati <SwatiPatel@gov.sc.gov>  
**CC:** Smith, Austin <AustinSmith@gov.sc.gov>  
Pisarik, Holly <HollyPisarik@gov.sc.gov>  
Schimsa, Rebecca <RebeccaSchimsa@gov.sc.gov>  
Baker, Josh <JoshBaker@gov.sc.gov>  
**Date:** 5/20/2016 3:31:00 PM  
**Subject:** RE: DOL Overtime Rule

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Updated Information:

Final rule issues: 18 May 2016

Effective date: 1 December 2016

Old salary level for mandatory overtime pay (1.5x): \$23,660 annually

New salary level for mandatory overtime pay (1.5x): \$47,476 annually

DOL projected number of affected SC employees (public and private sector): 67,000

- DEW has their UI people fact checking this number

Scope of Potentially Affected State Employees (as produced by OHR): 8,553

- Around 3,048 additional Higher Ed employees may be affected, but there are a few caveats, and a lot will be dictated based on how universities designate certain employees that are exempt, mainly professors and athletic staff.

- Our cabinet has begun to respond with number of employees, but we are still waiting on the fiscal impact based on how many of those employees work more than 40 hours a week.

Potential Legal Response: I found this article related to potential legal challenges to the new rule: <https://www.shrm.org/legalissues/federalresources/pages/overtime-rule-legal-challenges.aspx>. In sum, this article proposes the rule possibly could be challenged for violating provisions of the APA in regards to the automatic salary threshold updates (every three years) and for going too far in setting the initial salary threshold (doubling the current amount).

-----Original Message-----

**From:** Glaccum, David

**Sent:** Wednesday, May 18, 2016 7:02 PM

**To:** Patel, Swati

**Cc:** Smith, Austin; Pisarik, Holly; Schimsa, Rebecca; Baker, Josh

**Subject:** DOL Overtime Rule

Swati - sorry I had to run out of there this afternoon. Becca has already sent Rob a draft statement, but to follow up on our brief conversation from earlier, below are some of the important data points from the new rule.

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- DEW thinks this number is low and is working on fact checking it.
- OHR is getting us the number of state employees it could impact.
- Austin sent out a note to the Cabinet requesting the impact to each of their agencies, individually.

Other related points:

- Sen. Scott has been working on a bill that would halt these rules and allow time to study their impact.
- Other members of Congress have said they plan to introduce bills to block implementation of the rules.
- Based on minimal research, I have not seen any efforts taken to challenge this rule in court, although I am certain suit will be brought.

Potential Talking Points:

- This is another example of the Obama Administration taking actions that are out of touch with reality.
- This massive new unfunded mandate will have a dramatic economic impact across the country, and my state.
- In SC alone, DOL projects 67,000 employees will meet these new employment standards.
- While the stated objectives of this rule are to increase wages and spread employment, this very may well have the opposite impact: reducing pay, reducing hours, or a combination of the two.
- Further, this will have a severe impact on our state budget, commandeering state priorities and forcing cuts both to employees and services.
- This Administration needs to quit handing down one-size fits all fiats from D.C. and allow states to manage themselves.

David M. Glaccum

Office of Governor Nikki R. Haley

Sent from iPhone