

Stop! Texas Federal Court Enjoins New FLSA Overtime Rules

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We have written often in the past several months about the new FLSA overtime rules that were scheduled to go into effect in little more than a week, dramatically increasing the salary thresholds for “white collar” exemptions and also providing for automatic increases for those thresholds.

In our most recent piece about the important decisions employers had to make by the effective date of December 1, 2016, careful readers noticed a couple of peculiar words — “[barring ... a last-minute injunction](#).”

On November 22, 2016, a federal judge in the Eastern District of Texas entered just such an injunction, [enjoining the Department of Labor from implementing the new rules on a nationwide basis](#).

“The court determines that the state plaintiffs have satisfied all prerequisites for a preliminary injunction,” wrote United States District Court Judge Amos Mazzant III. “The state plaintiffs have established a prima facie case that the Department’s salary level under the final rule and the automatic updating mechanism are without statutory authority.”

The state plaintiffs had argued that the Department of Labor usurped Congress’ authority in establishing new salary thresholds. Finding that the Department had overstepped its bounds, Judge Mazzant wrote, “If Congress intended the salary requirement to supplant the duties test, then Congress and not the department, should make that change.”

The injunction could leave employers in a state of limbo for weeks, months and perhaps longer as injunctions often do not resolve cases and, instead, lead to lengthy appeals. Here, though, the injunction could spell the quick death to the new rules should the Department choose not to appeal the decision in light of the impending Donald Trump presidency. We will continue to monitor this matter as it develops.

To the extent that employers have not already increased exempt employees’ salaries or converted them to non-exempt positions, the injunction will at the very least allow employers to postpone those changes. And, depending on the final resolution of this issue, it is possible they may never need to implement them.

The last-minute injunction puts some employers in a difficult position, though — those that already implemented changes in anticipation of the new rules or that informed employees that they will

receive salary increases or will be converted to non-exempt status effective December 1, 2016.

Whether employers can reverse salary increases they have already implemented is an issue that should be addressed carefully with legal guidance.

As for those employers that informed employees of changes that would go into effect on December 1, 2016, they, too, should seek legal guidance as to how to communicate with employees that those announced changes will not go into effect at that time.

While the FLSA rules are now enjoined, employers must now be mindful not only of morale issues that might result from not providing employees with raises that were implemented or announced, but also of potential breach of contract claims.

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