

TO: The Honorable Members of the Pennsylvania Senate
DATE: May 27, 2020
RE: Overtime rule -- Support Disapproval Resolution

FROM:

Associated Builders and Contractors of Pennsylvania
Association of Independent Colleges and Universities of Pennsylvania
CrossState Credit Union Association
Hospital and Healthsystem Association of Pennsylvania
Insurance Agents & Brokers
LeadingAge PA
National Federation of Independent Business
Pennsylvania Apartment Association
Pennsylvania Association of Community Banks
Pennsylvania Association of Community Health Centers
Pennsylvania Builders Association
Pennsylvania Chamber of Business and Industry
Pennsylvania Council of Children, Youth & Family Services
Pennsylvania Council of General Contractors
Pennsylvania Food Merchants Association
Pennsylvania Health Care Association
Pennsylvania Homecare Association
Pennsylvania Manufactured Housing Association
Pennsylvania Manufacturers' Association
Pennsylvania Restaurant & Lodging Association
Pennsylvania Retailers Association
Pennsylvania Ski Areas Association
Pennsylvania Society for Human Resource Management State Council
Rehabilitation & Community Providers Association

We write on behalf of a broad range of Pennsylvanians and employers regarding proposed regulations for overtime pay eligibility. The Senate Labor & Industry Committee passed House Concurrent Regulatory Review Resolution 1 yesterday and we understand the Senate consider soon.

Federal and state law require employers to pay employees time-and-a half for hours worked over 40 in a week; but both also limit application of this requirement, including exempting individuals classified as Executive, Administrative or Professional, based on their salary and duties.

On Oct. 17, 2019, the PA Department of Labor & Industry submitted a Final Form Regulation with a number of significant changes to overtime eligibility standards, including increasing the salary threshold by over 92 percent within around two years, and providing for regular increases thereafter. While these changes were no doubt proposed with good intentions, we are compelled to express our concerns and urge the General Assembly to adopt Concurrent Resolutions of disapproval.

Many impacted employers do not have the ability to sustain current operations by simply increasing salaries to maintain employees' exempt status or adding overtime to their labor costs. Take a publicly-supported nonprofit whose funding cannot keep pace with the new costs or a small business already operating on thin profit margins. Employers will be forced to shift salaried employees into hourly positions in which hours can be tracked and capped at 40 per week, reduce labor costs in other ways and/or cut back on services.

We are further concerned with the proposal to automatically increase the salary threshold since the method proposed would inherently create a cascading effect of larger and larger increases. This change alone could prove unsustainable for many nonprofits and other employers.

Employers in Pennsylvania struggle to simultaneously administer inconsistent federal and state overtime laws and we appreciate the Department's desire for better alignment. While the proposal includes some improvements, significant inconsistencies would remain, some of which prohibit Pennsylvania employers from utilizing federal guidelines and additional exemptions.

Finally, we note that the federal salary threshold increased around 50 percent effective Jan. 1, 2020. While this change will also require employers to adjust, the negative impacts will be less severe; and since it applies nationally, Pennsylvania's competitiveness will not be harmed.

Thank you for considering our views on this important matter.