

# Obama White-Collar Overtime Pay Mandate Blocked by Judge

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(Bloomberg) An Obama administration policy that would have given more white-collar workers overtime starting Dec. 1 was blocked nationwide by a federal judge in Texas.

The decision Tuesday is a victory for 21 states and dozens of business groups that sued, complaining the new rule would increase government costs in their states by \$115 million next year alone and would put private employers on the hook for millions of dollars more, possibly leading to layoffs.

It's the fourth time in 21 months that a federal judge in Texas has issued a nationwide injunction blocking one of President Barack Obama's executive orders. The other Obama initiatives stymied in Texas courtrooms involved shielding undocumented immigrants from deportation, mandating bathroom access for transgender students, and requiring labor-violation disclosures by federal contractors.



The rule would have doubled the maximum salary cap to \$47,892 a year for full-time executive, administrative and professional workers to be exempt from overtime pay requirements. The higher cutoff, along with a provision to periodically increase it, would have extended overtime protections to millions of full-time salaried workers, just 7 percent of whom are currently protected by the Fair Labor Standards Act compared with 62 percent in 1975, according to the government.

U.S. District Judge Amos L. Mazzant III in Sherman, Texas, rejected a request by the federal government to limit any order to the states that filed the lawsuit and issued a preliminary injunction blocking the new salary cutoff nationwide.

## **Congress's Intent**

By requiring employers to pay overtime wages based on salary rather than an employee's duties, the Labor Department exceeded its authority under the Fair Labor Standards Act and ignored Congress's intent, Mazzant said in his ruling. "If Congress intended the salary requirement to supplant the duties test, then Congress and not the department, should make that change," he said.

A hearing to consider making the injunction permanent could follow, but Obama's executive order could simply be reversed by the incoming Trump administration.

In May, Obama called the rule "the single biggest step I can take through executive action to raise wages for the American people." The Labor Department said in an e-mailed statement that it was considering all of its legal options.

"We strongly disagree with the decision by the court, which has the effect of delaying a fair day's pay for a long day's work for millions of hardworking Americans," according to the statement. "The department's overtime rule is the result of a comprehensive, inclusive rule-making process, and we remain confident in the legality of all aspects of the rule."

## **Economic Reality**

Opponents argued the Labor Department failed to consider regional salary and economic differences in setting the nationwide base pay rate. They also complained the Obama administration disregarded whether smaller private and public employers were able to pay the higher wages that would result from automatically ratcheting up the cutoff every three years.

The Obama administration "assumes that through force of will alone, it could order a new economic reality into existence," Texas Attorney General Ken Paxton said in an e-mailed statement. "The finalized overtime rule hurts the American worker. It limits workplace flexibility without a corresponding increase in pay and forces employers to cut their workers' hours."

Dozens of business groups that sued with the states said the overtime rule would have hurt retailers and other small businesses by adding to labor costs and forced employers to convert full-time jobs to part-time. The U.S. Chamber of Commerce said the requirement would have added \$1 billion in costs and “caused many disruptions in how work gets done.”

“The rule would have reduced workplace flexibility, remote electronic access to work, and opportunities for career advancement,” the chamber said in a statement. “This is a great result.”

### **Republican Governors**

The states—all of them except Louisiana headed by Republican governors—claimed the Obama administration usurped Congress’s exclusive authority to set minimum wages and ignored the requirement to allow public comment before the statutory salary level automatically indexes every three years. Labor Department officials said they followed all federal rule-making procedures, evaluating more than 270,000 public comments before finalizing the change.

Justice Department lawyers had asked Mazzant to at least let the new rule take effect in the 29 states that didn’t sue, to update salary triggers that haven’t changed since 2004. Rising wages and broad workplace definitions of what constitutes white-collar jobs have “left employees who should not be exempt without overtime protection,” the government said in court filings.

The case is Nevada v U.S. Department of Labor, 16-00731, U.S. District Court, Eastern District of Texas (Sherman).

—*With assistance from Justin Sink*