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PPWO to Congress: DOL Should Withdraw Overtime Rulemaking

On October 24, 2023 PPWO and 87 organizations representing private, public, nonprofit, and educational entities sent letters to House (http://protectingopportunity.org/wp-content/uploads/2023/10/PPWO_Overtime-House-Letter_OCT-24-2023.pdf) and Senate (http://protectingopportunity.org/wp-content/uploads/2023/10/PPWO_Overtime-Senate-Letter_OCT-24-2023.pdf) lawmakers requesting that they urge the Department of Labor's Wage and Hour Division to withdraw its proposed overtime pay regulations. The Department has proposed to increase the minimum salary level that an employee must receive to be exempt from federal overtime pay by an overwhelming 70 percent and has additionally proposed to automatically increase the salary level every three years. This proposal comes despite the Department updating the minimum salary level just four years ago in 2019, and the new proposed salary level is effectively 154 percent higher than the threshold that was in place prior to that 2019 update.

As the letters note, "the Department has not provided adequate justification for the proposed increase and automatic updates, both of which are unlawful, inconsistent with historic norms, and will harm businesses, nonprofits, colleges and universities, states, cities, towns and public schools as well as the workers they employ and the consumers, students and people they serve." Moreover:

- The Department provided a mere 60 days for the public to submit comments on the proposal, despite receiving extension requests from PPWO (https://protectingopportunity.org/wp-content/uploads/2023/09/OT-Extension-Request_Sept-2023.pdf) and hundreds of additional associations. As those requests noted, 60 days is insufficient for stakeholders to collect necessary and comprehensive data on the proposal's implications — including which employees will be impacted; what those impacts will mean for workers, entities, and consumers; and what alternatives the Department could consider.
- The Department's increase is unnecessary and unprecedented. The Department has updated the salary level eight times since 1938 (on average, every 9.87 years) and increases have ranged from 5 to 50 percent. Increases have never come close to approaching 154 percent.
- The proposal's costs will largely be borne by entry level workers in rural and economically stressed regions as well as those graduating with degrees that do not conventionally command high salaries given that organizations will face exorbitant transition and operational costs that will require headcount and service reductions.
- Automatic updates to the salary level will impose significant inflationary pressure on the economy at a time when rising costs have already proven detrimental.

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