

# The BPSC Blast

HR, Compliance, & Employment Law for the California Employer  
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Business & People  
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## Obama's Proposed Overtime Pay Increase Is Moving Forward

Put your seatbelts on...this ride is going to get bumpy! 2015 has already seen the implementation of the Paid Sick Leave Law, Affordable Care Act reality, and LA's minimum wage hike that kicks off next year. Now, the federal side of the house has moved to change a rule that will do something very rare...it will preempt CA law.

In March 2014, President Obama instructed the U.S. Department of Labor to revise the rules governing overtime. On June 30, 2015 the U.S. Department of Labor issued a proposed rule to raise the overtime threshold to a "standard salary level equal to the 40<sup>th</sup> percentile of earnings for full-time salaried workers." The current federal threshold is \$23,700 with California being \$37,440 (moving to \$41,600 in 2016). The president's proposal takes it to \$50,400. This is intended to become effective in 2016.

**What does this mean for employers?** If you have exempt employees (often referred to as salaried and that aren't entitled to receive overtime pay), the minimum salary will jump to \$50,400 per year. These are often the managers, professionals, and staff level employees in organizations.

Bottom line, when the date is set, employers with exempt employees under the \$50,400 rate

## Obama continued...

will have to make a decision whether they will:

- Increase the employee's compensation to the minimum standard;
- Retain the employee's compensation, but transition them to non-exempt (hourly);
- Transition to non-exempt and reduce the compensation to account for overtime;
- Transition to non-exempt and disallow overtime.

Obviously, both options result in significant financial impact and additional considerations. For instance, if transitioning from exempt to non-exempt, the employee must now track hours, be paid overtime or double-time (CA), and will be subject to break and meal period laws.

The reality is that the cost of business is going to continue to skyrocket for California employers in the next 5 years and careful human capital, compensation, and pricing strategies planning will be critical for survival.

In closing, being a rule...one recommended by President Obama...and one already released by the DOL, it is a good idea for employers to prepare for this adjustment.

We will keep you informed as the information is released.

## Leaves of Absence (By the Numbers)

California employers are subject to both state and federal protected leaves of absence. Whether or not a company must extend the leaves to its employees is based upon its employee headcount (and sometimes including Independent Contractors). Thus, each time you reach certain milestones, new leaves are added. Here is a quick rundown of the protected leaves that California employers are subject to:

### All Employers

- Jury and Witness Duty
- Voting and Election Officials
- Victims of Crime
- School Appearance
- Military Service

### 5+ Employees

- Pregnancy Disability (PDL)/Disability

### 10+ Employees

- Civil Air Patrol

### 15+ Employees

- Organ Donation
- Bone Marrow Donation

### 25+ Employees

- Military Spouse
- School Activities
- Domestic Violence, Sexual Assault, Stalking

### 50+ Employees

- Family Medical (FMLA)
- California Family Rights (CFRA)
- Volunteer Firefighter, Reserve Peace Officer, Emergency Personnel

## Monthly Employment Law Quiz June 2015 Answers

1. Unpaid 30 Minutes Meal Period = 1  
Paid 10 Minutes Rest Periods = 2
2. Unpaid 30 Minutes Meal Period = 1  
Paid 10 Minutes Rest Periods = 2
3. Unpaid 30 Minutes Meal Period = 1\*  
Paid 10 Minutes Rest Periods = 1
4. Unpaid 30 Minutes Meal Period = 0  
Paid 10 Minutes Rest Periods = 1

\*This meal period can be mutually waived as long as the workday doesn't exceed 6 hours.

## Monthly Employment Law Quiz

### Calculating CA Overtime

An employee earns \$10/hour plus commission and is paid biweekly. Calculate the gross check amount based upon the following:

**Work Week 1:** Works six 8 hour days with a 30 minutes meal period each day and earns \$450 in commission.

**Work Week 2:** Works seven 5 hour days (no meal periods) and earns \$125 in commission.

**Look for the answer in next month's  
BPSC Blast**

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