
Economic Policy Institute

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DOL Overtime Rule Won't Guarantee Overtime Pay for 1.3 million Low-Income Workers

The chief argument in favor of the Department of Labor's new overtime rule is its alleged impact on low-income workers. The Department claims that 1.3 million salaried workers work more than 40 hours a week and earn less than \$22,100 a year. According to the DOL, all of them will be granted overtime protection they don't have today if the coverage threshold is raised from \$155 to \$425 per week.

This claim is untrue. DOL has misled the public and the Congress.

1. The Department of Labor's estimate of 1.3 million includes approximately 600,000 workers who could not possibly benefit from an increase in the coverage threshold. These 600,000 workers are not white collar workers subject to the exemptions in the current regulations. For example, DOL has counted workers employed in farming, forestry and fishing, transportation and material moving, handlers, equipment cleaners, helpers, laborers, machine operators, assemblers and inspectors, and others who are not "white collar" office or non-manual workers. Nothing in the proposed rule will change their entitlement to overtime pay.

The total number of salaried, white collar employees earning less than \$22,100 a year and working more than 40 hours per week is only 737,000. (This figure includes all executive, administrative, managerial, and professional employees, as well as technicians and related support workers, sales, administrative support and clerical employees.)

2. The Department of Labor made no effort to determine how many of the 737,000 low-income white collar employees are actually legitimately denied overtime protection under the exemptions in current law. Obviously, most of the clerical employees among these 737,000 workers are **not** bona fide executive, administrative, or professional employees, and therefore would not benefit from DOL's proposed increase in the coverage threshold. But what about the technicians and related support workers? Are any of them bona fide executives or administrators?

The only way to tell whether any of these workers is actually exempt under current law—and would therefore benefit from an increase in the coverage threshold is to examine their duties, which DOL admits it did not do. No survey was performed. In the words of Acting Solicitor of Labor Howard Radzely, DOL "concluded that information regarding duties is not relevant" because these workers would all be guaranteed overtime under the proposed rule regardless of their job duties. But knowing their job duties is indeed very relevant—indeed

indispensable—to determining how many workers would benefit from DOL’s proposal. In other words, DOL has been claiming that 1.3 million workers would benefit from its proposal even though it has no idea what portion of this group would actually be helped.

Protecting a small number of low-income workers was never a sufficient reason to eliminate overtime protection for millions of other workers. Any benefit to low-income workers is also irrelevant to the Harkin amendment, which would allow DOL to benefit low-income workers by raising the coverage threshold as high as it chooses. But it should be understood that the number of low-income workers who would benefit from DOL’s proposed adjustment is far smaller than 1.3 million—indeed it is less than 737,000—and has yet to be determined by anyone.