

## **BOLI SEEKING COMMENTS ON NEW FLSA REGULATIONS**

New federal regulations pertaining to exemptions from the federal Fair Labor Standards Act (FLSA) are scheduled to take effect on August 23, 2004. These regulations update exemptions from the FLSA's minimum wage and overtime requirements for executive, administrative, professional, outside sales and computer employees (commonly known as "White Collar" exemptions).

Most Oregon employees are subject to both state and federal laws pertaining to minimum wage and overtime. Oregon's minimum wage/overtime laws were generally modeled after the federal law, although there are some notable differences. The federal rules do not preclude Oregon from enforcing stricter standards: When there is a conflict between federal and state law, employers who are subject to both must apply the standard most beneficial to the employee. For example, the 2005 federal minimum wage is \$5.15/hour. Oregon's 2005 state minimum wage is \$7.25/hour. Unless an employee is exempt from minimum wage, the employee must be paid the higher state minimum wage of \$7.25.

The primary differences that have been identified by BOLI between current state regulations and the new provisions in the federal law include:

- A new federal "highly compensated employee" exemption
- A revised definition of "primary duty" that may affect which "white collar" employees are exempt under federal law
- Removal of the requirement that "Executive" employees "exercise discretion and independent judgment" in order to be exempt under federal law
- Revisions to the exemption for "outside sales" persons
- Changes to the deductions that may be made from the wages of salaried employees without destroying the employee's exempt status

The Bureau of Labor and Industries (BOLI) is seeking comments from the public and interested parties regarding other significant differences and the potential impact of differences between state and federal laws.

Additional information pertaining to this issue is available at the following website links:

1. Question and Answer Background Document:  
[www.oregon.gov/boli/overtimeinformation.pdf](http://www.oregon.gov/boli/overtimeinformation.pdf)
2. Comparison Chart of Current State and Federal and New Federal Regulations:  
[www.oregon.gov/boli/whitecollarexemption.pdf](http://www.oregon.gov/boli/whitecollarexemption.pdf)
3. U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division:  
[www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm](http://www.dol.gov/esa/regs/compliance/whd/fairpay/main.htm)

If you have comments or observations regarding substantive differences between the state and federal regulations or would like to make recommendations relating to the bureau's current regulations in light of the federal changes, please contact:

Christine N. Hammond, Administrator  
Wage and Hour Division  
Bureau of Labor and Industries  
800 NE Oregon St, Suite 1045  
Portland, OR 97232-2180  
FAX: (971) 673-0769  
Email: [christie.n.hammond@state.or.us](mailto:christie.n.hammond@state.or.us)