

## OVERTIME RULE FREQUENTLY ASKED QUESTIONS

### GENERAL

#### **Q: WHY ARE YOU RAISING THE OVERTIME THRESHOLD?**

*There are have two main reasons for raising the overtime threshold.*

*First: LEO exists to expand economic opportunity and prosperity for all. Even in a resurgent Michigan economy, income growth has not been widely shared. The Trump administration's rule would leave 200,000 working families behind. Many of these families struggle to make ends meet every month. Unpaid overtime crowds out time that could otherwise be spent on paid work or family responsibilities.*

*Second: Time worked is time paid. That was the original intent of our overtime protections. Instead, Washington has allowed inflation to erode those protections. 63% of Michiganders were covered in 1975, but that has dwindled to 5% today. The current protections is treating highly-paid executives with lots of bargaining power the same as their middle managers who work for a modest salary and have little power to push back.*

#### **Q: WHAT IS THE NUMBER / RANGE THAT YOU ARE REQUESTING FOR OVERTIME PAY?**

*That's what the rulemaking process is for — listening to stakeholders and determining what the right number is for Michigan workers.*

*Here's what we do know – even as the economy has experienced strong growth since the Great Recession, that prosperity has not been widely shared. According to the Association of Michigan United Ways, ~43% of our residents struggle to make ends meet today.*

*The Trump Administration's rule will not cut it for Michigan.*

*For context, the United Way's ALICE report states that a family of four needs about \$61,000 in annual income just to afford the basics like food, housing and health care. The federal rule will leave about 200,000 of these families behind, and we won't stand for that.*

*This rulemaking process can help us reach the right number for Michigan's working families and help lift more people into the middle class.*

#### **Q: WHY ARE YOU RAISING THE OVERTIME RULE JUST A FEW WEEKS AFTER THE TRUMP ADMINISTRATION FINALIZED ITS OWN OVERTIME RULE?**

*The Trump Administration's rule did not go far enough. Not when 200,000 working Michigan families stand to be left behind.*

*Michigan's new overtime rule is simply about ensuring that people who work overtime are paid for their work -- and that hasn't been the case for far too long. In 1975, approximately 63 percent of salaried workers were entitled to overtime pay when they worked more than 40 hours compared to just five percent of working people today.*

*The Governor's action will ensure that as a state we can begin closing the gap on pay equity and ensure that Michigan is a home for opportunity for working families.*

**Q: WHICH EMPLOYEES WILL BE AFFECTED BY THE NEW OVERTIME RULE?**

*The rule covers middle managers, administrative staff and skilled professionals like graphic artists or programmers, who stand to earn more than the Trump administration's income threshold (about \$35,000) and less than the Michigan threshold.*

*To put it in perspective: There are 4.4M workers in the State of Michigan.*

*Of these 4.4M workers, 2.9M (about two-thirds) are hourly workers and are already entitled to overtime pay. 1.5M workers are salaried.*

*About 200,000 of the 1.5M (about 20 percent) will receive new protections under the overtime rule. This does not mean that all of these employees work overtime – just that they are entitled to overtime pay if they do.*

*All told, about 5 percent of the state's workforce will receive new protections. For these 200,000 strong, overtime protections are essential, and their unpaid hours come at the expense of paid work or family responsibilities.*

**Q: WHICH EMPLOYEES WILL NOT BE AFFECTED BY THE NEW OVERTIME RULE?**

*All existing exempt employees are statutorily exempt, such as firefighters, hospital personnel, law enforcement, teachers, administrators and workers under collective bargaining agreements.*

**Q: WHAT KIND OF JOBS WOULD BE IMPACTED BY THESE CHANGES?**

*The rule covers middle managers, administrative staff and skilled professionals like graphic artists or programmers.*

*For example, the restaurant industry. The rule would create new protections for the manager of McDonald's restaurants, which today the rule treats the same as McDonald's highly paid executives. The working people who will receive new overtime protections from the rule span*

*Michigan's most important industries – think of a manufacturing line manager, a team leader of nurse practitioners, or the supervisor at your local supermarket.*

**Q: ARE THERE EXEMPTIONS TO THE OVERTIME RULE THAT YOU ARE PROPOSING?**

*The rulemaking process will allow stakeholders from all backgrounds to provide input as LEO moves forward to expand the right to overtime for Michiganders.*

**BUSINESS**

**Q: WON'T THIS OVERTIME RULE BE TOO EXPENSIVE FOR MICHIGAN BUSINESSES, AND ADVERSELY IMPACT GROWTH AND ATTRACTION IN OUR STATE?**

*There are lots of reasons to believe this could be a positive for the Michigan economy. Increased income means more consumer spending, and third party analysts including Goldman Sachs have found that the employment impact will be net positive.*

*It's fair to speculate that the rule could increase costs for a few Michigan businesses. But it's important to put that cost in context – third party analysis indicates that affected workers will pocket an extra \$50M per year as a result of the rule. That's impactful for individuals. But it also amounts to less than 0.01% of the payroll.*

*More fundamentally, it is more a question of equity rather than marginal profit. Time worked is time paid.*

*LEO looks forward to engaging with the business community and other stakeholders during rulemaking. That's what the rulemaking process is for — listening to stakeholders and determining what the right number is for Michigan workers.*

**Q: WON'T EMPLOYERS SCALE BACK HOURS, HIRE NEW EMPLOYEES, OR CONVERT SALARIED WORKERS TO HOURLY WAGES AND REDUCE THEIR TAKE-HOME PAY?**

*History tells us that this will not be the case. When the Obama Administration proposed their overtime rule, Goldman Sachs studied the 2004 rule change and found that expanding the right to overtime pay will lead to more, not fewer jobs.*

*In addition, Korn Ferry surveyed business leaders and found that 57 percent — including Walmart, Lowe's, Comerica, RiteAid, Target, Talmer Bancorp — indicated that they would voluntarily expand overtime pay protections to their employees.*

**Q: WON'T THE NEW OVERTIME RULE BE ESPECIALLY ONEROUS FOR SMALL BUSINESSES?**

*This directive begins the process, which will allow for businesses to participate and provide input. We're looking forward to that participation as we move towards a final rule.*

*There is a precedent, from the state of Washington, for different treatment of small businesses. We will use the rulemaking process to come to the right policy for Michigan workers.*

**Q: ARE YOU CONCERNED ABOUT BACKLASH FROM BUSINESSES AND BUSINESS GROUPS?**

*LEO exists to expand economic opportunity and prosperity for all. We explored the data on where the Michigan economy stands, and elected to make improving fortunes for the ALICE population – the very population that this rule serves – our North Star. These are the Michiganders that Governor Whitmer was elected to serve.*

*When Michiganders are paid fairly, it allows them to further invest in Michigan's economy, which will create a long-lasting positive impact on businesses.*

*We are submitting a request for rulemaking, which begins a process that will include input from stakeholders at all levels to determine a level that works for our state.*

**Q: ARE YOU CONCERNED THAT COSTS WILL INCREASE FOR BUSINESSES BECAUSE THEY WILL HAVE TO KEEP TRACK OF SALARIED EMPLOYEES HOURS?**

*The cost to Michigan workers by doing nothing is too great. A family of four needs to make \$61,000 in Michigan to afford the basics and support a family, but Michigan laws only provide overtime protections for people earning up to \$23,000.*

*LEO looks forward to engaging with the business community and other stakeholders during rulemaking. That's what the rulemaking process is for — listening to stakeholders and determining what the right number is for Michigan workers.*

**PROCESS**

**Q: WHAT ARE THE NEXT STEPS?**

*LEO submitted a formal request for rulemaking on October 24, 2019.*

*From this point, LEO will solicit stakeholder input, issue a provisional rule, seek formal public comment, and finalize an overtime threshold.*

*LEO hopes to have a draft proposal by early next year. It typically takes 8-12 months to move from a provisional rule to implementation.*

**Q: HOW MANY HEARINGS WILL YOU HOLD?**

*Determining that is part of the rulemaking process, but we want to make sure that there is input from stakeholders at all levels to determine what the right number is for Michigan workers.*

**Q: WHERE WILL THE HEARINGS BE HELD?**

*That is part of the process, but LEO wants to make sure that there is input from stakeholders from across the state to determine what the right number is for Michigan workers.*

**ECONOMIC / FISCAL IMPACT**

**Q: HOW DO YOU ANTICIPATE THIS WILL IMPACT THE STATE'S ECONOMIC OUTLOOK?**

*LEO anticipates a positive impact on the state and its workers. It is good for working people and good for our economy. The level that is set will determine the impact on the state, and LEO looks forward to sitting down with working people, businesses, and organizations during the process to find the right number that works for our state.*