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### **PA's overtime over-reach**

**Summary:** Governor Tom Wolf is proposing to raise the amount salaried workers can earn and still qualify for overtime pay from the current federal base of \$23,660 to \$45,500. This new regulation just adds to the burden Pennsylvania businesses already face and could have a detrimental effect on the state's economy.

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In early October, Kiplinger's magazine rated Pennsylvania as one of the least-tax-friendly states in the country, ranking as seventh worst. While Kiplinger's methodology can be debated, those of us living in Penns Wood are all too familiar with a high tax climate that continues to stymie job creation.

But what rarely gets mentioned in the media is the burden businesses face due to high-cost regulations coming out of Harrisburg. Governor Wolf recently rolled out another one, seeking to change the overtime rules which businesses must follow regarding salaried employees.

In a Pennsylvania Department of Labor and Industry news release, the governor's plan will "expand eligibility for overtime to 143,000 people and strengthen overtime protections for 251,000 more. In total, 394,000 workers may benefit from the updated overtime rules."

The issue is to define the maximum salary level for which a worker qualifies for overtime pay, which is typically time-and-a-half. The current level, set by the federal government, is \$23,660 per year, meaning that any salaried worker earning up to \$23,660 per year is eligible for overtime pay. The federal government is set to increase that threshold by 50 percent on Jan. 1, 2020, to \$35,568 and, of course, the commonwealth will follow suit.

The governor is proposing to raise that threshold even further to \$45,500 by 2022—92 percent over the current level.

According to a Pittsburgh Post-Gazette (PG) report, the new state regulation will not apply to "public employees, including those at state-affiliated entities, counties, municipalities and public-school systems"—just private employers.

As mentioned above, by going beyond the new federal mandate, the state estimates that 143,000 people will now be eligible for time-and-a-half and more clearly defined rules will be in place for 251,000 more workers—apparently, as the news report clarifies, there are those who may qualify for overtime but weren't aware they could. So, the new regulation is estimated to immediately affect 394,000 workers.

Over the last decade (2009-19) the commonwealth's job growth has failed to keep pace, not only nationally, but with neighboring states as well. In September 2009, the beginning of the recession, total non-farm jobs in the state were 5.6 million and by September 2019 (the most recent non-seasonally adjusted data available) had climbed to 6.07 million—a rise of 8.4 percent. The national non-farm growth came in at nearly double Pennsylvania's increase (16.4 percent).

Bear in mind that Pennsylvania's economy was not hit as hard by the recession as some of the fast-growing states because the over building of construction and sub-prime mortgage debacle had less of an impact in the commonwealth. So its weak performance since 2008 is even more telling. Neighboring states Delaware (13.2 percent), Maryland (10.0 percent), New Jersey (8.5 percent), New York (15.4 percent) and Ohio (11.1 percent) all out-grew Pennsylvania over the last decade. However, West Virginia lagged well behind (3.3 percent).

Interestingly, in the Kiplinger's ranking of tax-friendly states both New York as third worst and New Jersey as fifth worse had higher tax burdens than Pennsylvania (7<sup>th</sup>). Meanwhile, Ohio was slightly better at eighth worse. Yet all three states had better non-farm job growth than Pennsylvania over the last 10 years.

According to the PG report if the governor's proposal is put into effect, the \$45,500 threshold would put the state “on par with the highest thresholds, including California, New York and Alaska.” Each has significantly higher average wages compared to Pennsylvania. This would put Pennsylvania at a further economic disadvantage with the majority of its neighbors and other business-friendly states in its efforts to convince new businesses to locate in the commonwealth. That could incentivize some to leave.

While the political rhetoric of helping “the working people” of Pennsylvania makes for a nice sound bite, there are unintended consequences of such a mandate.

As mentioned above, this will only apply to private firms, not public employees, including those at state-related entities, counties, municipalities and public-school systems. Does the phrase “state-related entities” cover the public colleges in the Pennsylvania State System of Higher Education and the larger state and state-related universities such as Penn State and Pitt?

This mandate would lead to a lot of screaming from some private schools, especially small, financially shaky ones. This clarification was likely done to let voters know that taxes will not go up to cover the anticipated labor cost increases had government been

covered under the mandate. For affected firms, costs—direct costs of paying overtime to the expanded employee base as well as indirect compliance costs—will increase.

How will private firms react?

Some firms will be able to pass along the higher costs to their customers through price hikes. Others who are forced to internalize those costs will resort to cuts, either to hours worked, jobs or other benefits currently enjoyed by employees. They may forego hiring new employees and instead rely more on those they have chosen to keep and pay. These are the seen consequences.

One of the unseen consequences could be a lack of advancement for an employee. Employees who jump from hourly to salaried are often on a management track which could lead them to greater salaries down the road, either with the current firm or another. This mandate could take that opportunity away from workers or push it further down the road, perhaps suppressing wage growth.

Imposing yet another costly mandate on Pennsylvania businesses will further hamper job growth. Considering how anemic growth has been over the last decade when compared to the national pace and neighboring states, Pennsylvania can ill afford to go down this path.

If nothing else, it sends a message to any firm thinking of moving to Pennsylvania that the government is happy to help run their business. And that could be enough to keep them away, further hindering the state's economy.

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