



**HR Highlights
September 2023**

Alert: USDOL Issues a Proposed Change to FLSA Exemptions to Overtime

The U.S. Department of Labor (USDOL) recently released a new proposed rule to increase the minimum salary requirements for exemptions from minimum wage and overtime pay requirements under the Fair Labor Standards Act (FLSA). Specifically, the minimum salary threshold for executive, administrative, and professional exemptions is proposed to increase from the current annual minimum salary of \$35,568 to \$55,068 annually (a 55% increase). The annual salary threshold for highly compensated employees will also increase by 34% from \$107,432 to \$143,988 annually. This proposal will also establish automatic updates to these salary thresholds every three years. There are no changes proposed to the duties test or salary basis requirement, which are the two other criteria required to establish an exemption.

The U.S. DOL has submitted the proposed overtime rule for publication in the Federal Register. Once it is published, employers and other stakeholders will have 60 days to submit comments to the U.S. DOL. The Department of Human Resources Management may submit comments on behalf of Virginia state government. A similar proposal was published in 2019 but that rule change was blocked by a permanent injunction and formally rescinded. This latest proposal will likely experience similar legal challenges. Barring any legal injunctions, the final rule could be released this fall with an effective date of January 1, 2024.

Regardless of the outcome of this proposed rule change, this is a good time for state agencies to review the exempt classifications of their workforce and prepare for potential increased costs associated with the increased salary thresholds.