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Make Less Than \$55,000 a Year? You Could Get Overtime Pay Under Biden Plan

The proposal would make 3.6 million additional salaried workers eligible for extra wages by default, Labor Department says

By Austen Hufford
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Restaurant managers, store supervisors and millions of other salaried workers would be eligible for time-and-a-half pay if they log more than 40 hours a week, under a rule proposed by the Biden administration.

Workers who make around \$55,000 a year or less would be eligible for overtime by default under the plan—extending eligibility to 3.6 million more workers, the Labor Department said Wednesday. The proposed rule would raise the annual salary threshold from the current \$35,568 a year, set at the start of 2020.

The median full-time worker in the U.S. makes around \$57,000 a year, according to separate Labor Department data.

The department also said it wants to start automatically raising the overtime salary threshold every three years to reflect current earnings data. That effectively allows the level to be adjusted for inflation, which has been historically elevated in recent years.

A cornerstone of workers' rights in this country is the right to a 40-hour workweek [and] the promise that you get to go home after 40 hours or you get higher pay," said acting Secretary Julie Su. "I've heard from workers again and again about working long hours, for no extra pay."

Many businesses pay overtime to hourly workers but often exempt managers and other salaried employees from additional pay when they work more than 40 hours a week. The Labor Department sets a salary threshold, below which, in most cases, a worker must be paid time-and-a-half regardless of their role in the firm.

In the first year, the rule will cost employers \$1.2 billion to implement, the Labor Department estimates. In addition, the rule will boost wages by \$1.2 billion.

“It’s going to raise the cost of doing business,” said Michael Layman, senior vice president for government relations for the International Franchise Association, which represents fast-food restaurants and other companies that use the business model. “Automatic increases do not preclude future administrations from making additional changes.”

The department proposed to automatically adjust the overtime threshold every three years to match the 35th percentile of weekly earnings of full-time, non-hourly workers in the lowest-wage census region, which is currently the South.

Workers earning more than the threshold can be exempt from overtime. Rapid wage growth in recent years could make it easier for some companies to comply. Companies are already raising pay and increasing benefits to compete for workers, especially in lower-wage jobs. Average wages have risen faster than inflation in recent months.

“It may be less important than anyone thinks because one of the things we have seen is the tightening of the labor market,” said Daniel Bachman, an economist at Deloitte.

The \$55,000 threshold would be a boost from the current number but less than what some liberals were seeking. Sen. Sherrod Brown (D., Ohio) introduced a law earlier this year that would raise the threshold to \$75,000 a year by 2026. Rep. Virginia Foxx of North Carolina, the top Republican on the House workforce committee, called the Biden proposal misguided and partisan.

The proposal kicks off a monthslong regulatory process to change the rule, including a 60-day public comment period. The rule could also be challenged in court.

In November 2016, a federal judge blocked the Obama administration from raising the overtime threshold to \$47,476 a year, after states and businesses challenged it. That plan would have made even more workers eligible at the time than the Biden proposal because median wages were lower then. The Trump administration then raised the level to its current rate, the first increase since 2004.

Expanding the number of workers eligible for overtime, and requiring them to punch a clock or otherwise track hours, is inconsistent with the modern work environment, where many employees want flexible schedules and remote work, some businesses say.

“We should analyze how the whole telework, postpandemic environment affects the current wage and hours scenario,” said Edwin Egee, a vice president for government relations for the National Retail Federation.