

A Reprieve for Employers: Texas Court Vacates DOL Rule Increasing Salary Level for Exempt Employees

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Takeaways:

- The Rule was vacated nationwide in its entirety, including the July 1 salary level increase already in effect. The salary level in effect prior to July 1 (\$35,568 per year, \$684 per week) is restored. The slated Jan. 1, 2025, increase to \$58,656 annually also is vacated. The annual salary level for the highly compensated employee exemption returns to its pre-July 1 threshold of \$107,432.
- If the DOL appeals, the incoming administration is not likely to continue defending the 2024 Rule. The DOL under the second Trump Administration instead may undertake new rulemaking with a more modest increase or no increase.
- Several states have higher minimum salary levels for application of the exemptions and are controlling in those jurisdictions.

Related links:

- [*State of Texas v. U.S. Department of Labor*](#)
- [DOL Releases Final White-Collar Exemption Rule, Sets Minimum Salary to Increase in Phases Beginning July 1, 2024](#)
- [Labor Department Rule Raising Salary Level for Exempt Employees Takes Effect \(for Now\)](#)
- [Fifth Circuit Holds DOL Can Set Salary Floor for White-Collar Exemptions](#)

In a highly anticipated decision, a federal district court in Texas has vacated the Department of Labor's (DOL's) 2024 Final Rule increasing the salary threshold for application of the executive, administrative, and professional (EAP) exemptions from the minimum wage and overtime requirements of the Fair Labor Standards Act (FLSA). [*State of Texas v. U.S. Department of Labor*](#), No. 4:24-cv-499 (E.D. Tex. Nov. 15, 2024).

Finding the 2024 Rule unlawful, the court granted summary judgment in favor of the plaintiffs and denied the DOL's cross-motion for summary judgment. Noting that the Rule "impacts millions of employees in every facet of the economy ... and will impose billions in costs to employers," the district court set aside and vacated the Rule in its entirety, having the effect of blocking it nationwide.

Minimum Salary Rule

The DOL [issued its Final Rule](#) on April 26, 2024. The Rule imposed a 65 percent increase to the minimum salary requirements for the EAP exemptions to take effect in two phases. The minimum salary threshold first rose from \$684 per week (\$35,568 per year) to \$844

per week (\$43,888 annually) on July 1, 2024. It was then slated to increase to \$1,128 per week (\$58,656 annually) on Jan. 1, 2025.

The Rule also increased the total annual compensation level for application of the “highly compensated employee” exemption from \$107,432 to \$132,964 per year on July 1. That threshold was slated to increase to \$151,164 per year on Jan. 1, 2025.

In addition, the Rule would implement updates to the salary floor every three years to reflect current earnings data, beginning July 1, 2027.

How We Got Here

The State of Texas challenged the Rule in the U.S. District Court for the Eastern District of Texas. A coalition of business groups sued in the same district court, and the cases were consolidated. In a [June decision](#), District Judge Sean Jordan found the plaintiffs were likely to succeed on the merits of their claim that the DOL exceeded its authority when it issued the Rule. He granted the Texas plaintiff’s motion for injunctive relief and barred enforcement of the Rule but limited the injunction to state government employees. Judge Jordan’s sharply worded order signaled he was likely to find the Rule unlawful on the merits as to other employers as well. He indicated he would issue his final decision on the parties’ competing summary judgment motions before the scheduled Jan. 1, 2025, phase-two increase.

The U.S. Court of Appeals for the Fifth Circuit, in which the Texas district court resides, [recently upheld](#) the DOL’s authority to impose some minimum salary requirement as a proxy in “defining and delimiting” the EAP exemptions. The appeals court, however, did not address how high the salary could be set except to note that the DOL would not be able to set the salary floor so high that it would effectively negate the duties test. The salary would need to serve as a proxy for identifying employees who are performing exempt duties. That is because the FLSA provides that the employees’ duties (not their salary) determine whether they are exempt. “If the proxy characteristic frequently yields different results than the characteristic Congress initially chose, then use of the proxy is not so much defining and delimiting the original statutory terms as replacing them,” the Fifth Circuit held.

“That’s precisely the problem with the 2024 Rule,” the district court held in its latest decision, following the circuit court guidance.

Duties, Not Dollars, Define

The district court found that the DOL’s 2024 “staggering” increase to the minimum salary floor effectively displaced the “duties” test. The 2024 Rule set the salary level so low that it imposed a predominantly salary-level test, not a duties test, despite no mention of salary in the statutory definitions of what it means to be employed in a “bona fide administrative, executive, or professional capacity.”

The court was especially concerned about the number of employees who would lose their exempt status under the 2024 minimum salary increases even though they worked in an exempt capacity and satisfied the duties test. According to the court, the DOL departed from its past approach of applying a minimum salary test as a mechanism to “screen[] out the obviously nonexempt employees.” Previously, the agency’s working assumption was that a salary-level test should not exclude more than 10 percent of employees who meet the duties test. But the July 2024 salary increase more than tripled that percentage.

“When a third of otherwise exempt employees who the Department acknowledges meet the duties test are nonetheless rendered nonexempt because of an atextual proxy characteristic—the increased salary level—something has gone seriously awry,” the court said, rebuking the DOL. “Congress created the EAP Exemption for ‘any employee employed in a bona fide executive, administrative, or professional capacity,’” the court stressed, not “some” or “most” employees who earn “a sufficiently lofty salary.”

“[B]ecause the EAP Exemption requires that an employee’s status turn on duties—not salary—and because the 2024 Rule’s changes make salary predominate over duties for millions of employees, the changes exceed the Department’s authority to define and delimit the relevant terms,” the court held.

Automatic Updates Unlawful

The DOL also exceeded its authority by adding the indexing mechanism setting automatic three-year increases. “Nothing in the EAP Exemption authorizes the Department to set its rulemaking on autopilot and evade the procedural requirements of the [Administrative Procedure Act],” the court wrote — including its notice and comment requirements, which “must be followed even when an agency finds them inconvenient.”

What Happens Next?

The court’s order vacates the 2024 Rule nationwide. Therefore, the salary level in effect prior to July 1 (\$35,568 per year, \$684 per week) is restored. The pre-July 1 salary level for the highly compensated employee exemption, \$107,432 per year, is also reinstated.

It is possible the DOL may file an appeal prior to the change of administration. The Trump Administration may withdraw the appeal or choose not to defend the 2024 Rule on appeal. It is also possible that the incoming administration may maintain the appeal for the purpose of defending its rulemaking authority, but later withdraw the 2024 Rule and undertake new rulemaking. This was the approach taken by the first Trump Administration after an Obama-era rule was likewise invalidated.

Employers who were preparing to increase salary levels to comply with the 2024 Rule may now reconsider those increases. Of course, employers also could reduce employee’s salaries if the salaries had been increased due to the first July 1, 2024, bump and still maintain the exemption. Most employers will find that very unpopular with their employees. Employer cannot recover any increases that were already paid.

Employers should also be aware states may impose higher salary requirements than federal law and employers must comply with the higher requirements to satisfy the exemptions in those states. Several states already impose higher requirements: Alaska, California, Colorado, Maine, New York, and Washington.

Please contact your Jackson Lewis attorney if you have questions about the court’s decision and how it affects your business.

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