
FEDERAL RELATIONS

The Fair Labor Standards Act and Higher Education

Wayne State University had been actively working with the Association of Public and Land-Grant Universities (APLU), the University of Michigan, Michigan State University and other organizations in opposition to changes to the regulations governing exemptions to the Fair Labor Standard Act's (FLSA) overtime pay requirements for executive, administrative, and professional employees (known as the EAP or "white collar" exemptions). WSU, U-M and MSU DC government affairs representatives will meet on April 21, 2015 with officials at the Department of Labor.

From where does this emanate? On July 6, 2015, the Department of Labor (DOL) issued proposed rules changing certain aspects of the white collar exemptions. The comment period on the proposed rule closed on September 4. While DOL has not released any time table for the final rule yet (they will likely do so as part of the biannual unified regulatory agenda generally released in November or December), we believe the regulations will be released as early as the 2nd quarter of 2016 with compliance required in the 3rd or 4th quarters of 2016.

Under current regulations, an individual must satisfy three criteria to qualify as a "white collar" employee exempt from federal overtime pay requirements: first, they must be paid on a salaried basis (the salary basis test); second, that salary must be at least \$455/week, or \$23,660 annually (the minimum salary requirement or salary threshold); and third, their "primary duties" must be consistent with executive, professional or administrative positions as defined by DOL (the primary duties test) (note, the first two criteria do not apply to teachers or many student workers).

Under the proposed rules, the salary threshold would be increased by more than 100% to \$970/week, or \$50,440/year, in 2016 (which will represent the 40th percentile of all salaried workers). This means any currently exempt employees making less than this threshold would no longer be eligible for "exempt" status. They would be eligible for overtime pay and would have to be paid on an hourly basis regardless of their job title or duties. In addition, the proposal would mandate annual updates to the salary threshold based on either the Consumer Price Index for All Urban Consumers or by pegging the salary threshold to the 40th percentile for weekly earnings of all full-time salaried employees.

Eighteen (18) different associations, including the APLU, representing university presidents and HR, finance and other professionals on campus, filed extensive comments on DOL's proposed rule. The key problem is that an increase to the current minimum salary threshold of \$23,660, which was set in 2004, is, in fact, due, and increasing the threshold will help ensure that the "white collar" exemption is not abused. That said, the proposed minimum salary threshold (\$50,440) is simply too high and, if

implemented, will force colleges and universities to reclassify employees in white collar jobs that offer and require significant professional autonomy, have always been exempt and are well suited to exempt status. Such a drastic change is inconsistent with the intent and history of the FLSA and will negatively impact many employees, institutions and students. While hourly pay and nonexempt status is appropriate for certain jobs, it is not appropriate for all jobs; otherwise Congress would not have created any exemptions to the overtime pay requirements.

The proposed minimum salary level is so high that many employees working in traditionally exempt jobs would need to be reclassified as hourly workers, causing significant financial challenges for many colleges and universities which would not be able to absorb the increased costs associated with higher salaries for exempt status. This change, if implemented and implemented immediately, could cost Wayne State University an estimated \$3 million to \$9 million annually.

In our proposed meeting with the Department of Labor (DOL), and in working with Members of the Michigan delegation, we will be recommending, among other things, that DOL should consider lowering the proposed salary level for all employers. DOL's proposal is far higher than the levels it has considered in the past and fails to account for regional and industry differences in pay. Alternatively, DOL should provide lower thresholds for nonprofit and public employers and/or consider expanding the exemption for teachers from the minimum salary level to others integral to the education process. DOL should phase in the new salary level over time to allow employers and employees enough time to make adjustments to help mitigate the negative consequences the proposal will impose on colleges and universities, their employees, and students. We will likely discover or develop other options as we work on this issue.

The Budget

Hill staff on the House Appropriations Committee have been looking forward to forging ahead with drafting the 12 spending bills even as House Republican leaders continue to gauge if there is sufficient rank-and-file support for adopting a fiscal 2017 budget resolution. Congress will also deal with financially ailing Puerto Rico.

Technically, Congress is supposed to pass a budget resolution that, while not legally binding, sets the parameters for the budget. There have been lots of spending – read appropriation – bills passed without a budget resolution. Doing so this year will definitely upset hard line conservatives. This faction wants to back away from the previous agreement between the President and Congress that increased spending, and instead, wants to cut that \$30 billion increase from the \$1.070 trillion in discretionary spending Congress agreed to last year. That top-line number is included in the fiscal 2017 budget blueprint approved by the House Budget Committee.

Meantime, the Senate will begin marking up its own appropriations bills after April 15, when that chamber's budget rules will allow the chamber to deem, or essentially accept, the spending levels for each of the 12 appropriations bills. The Senate has different rules, and Majority Leader Mitch McConnell has said Senate appropriators will observe the discretionary spending levels for defense and other domestic programs embodied in last year's budget deal.

Due to a particularly acrimonious election cycle, there is very little expected from Congress legislatively. All we can hope for at this point is that the 12 Appropriation bills are done without a government shutdown.

STATE RELATIONS

House and Senate Higher Education Budget Action

On March 24th, the House and Senate Higher Education Appropriations Subcommittees reported out their respective versions of the Higher Education budgets. Below are highlights of the two budgets.

House

The House version of the budget provides \$46.3 million in new funding for Higher Education, which is about \$13 million less than the Governor's recommendation.

It was reported that the House Appropriations Chairman said he is designing the budgets in the House to deal with auto insurance tax credits costing \$60 million this year and \$80 million next. The chairman said the governor's budget did not account for the \$60 million in the current year and \$80 million in the next for the auto insurance tax credit because he would like to see it repealed. The chairman went on to say that because of this, he is cutting \$60 million from the budget because he does not believe the Legislature will retroactively repeal the tax credits. He said if the legislature does not repeal the credits \$80 million more in cuts will be required.

The budget would mean an increase of \$5.3 million, or 2.8 %, for Wayne State University (WSU). The Governor's budget provided \$6.6 million, or a 3.5% increase.

Some good news is that the House's version of the budget adds a metric for those institutions that received Carnegie's Community Engagement designation. The addition of this metric, which is one of the many improvements we pushed for, provides WSU with an additional \$181,600 for the next fiscal year.

The House's version of the budget also makes a slight change to the tuition restraint language that the Governor proposed. The Governor proposed a level of 4.8%, while the House proposes a 4.8% OR \$500, whichever is higher.

Senate

The Senate's recommendation is similar to the Governor's recommendation with one change. The Senate version provides a 3.8 percent increase, or \$7.3 million for WSU. The additional \$667,100 the Senate version provides WSU comes in the form of what they call an "Equity Payment" for the five universities that have not been restored back to their 2011 level.

To get that \$2.6 million for those universities, the Senate removed the across-the-board increase from EMU and Oakland for going over the tuition cap last year and redistributed the funds to the universities that remain below the cap.

The tuition restraint of 4.8 percent remains the same as the Governor's recommendation. However, a university that exceeds the cap in FY 2017 will be ineligible for a capital outlay project in either 2018 or 2019.

The full Appropriations Committees are expected to take up the budget in mid-April when they return from a two-week break. As in the past few years, legislative leaders hope to complete the budget process in early June.

Joint Capital Outlay Committee Hearing

In March, the Joint Capital Outlay Subcommittee held two hearings to discuss the Governor's recommended Capital Outlay budget and to hear from some institutions regarding their project requests.

Since the subcommittee had not met this year, the State Budget Office (SBO) briefed the committee on the Capital Outlay process and the administration's newer scoring system. The SBO then went through the projects that the Governor recommended and discussed why they were recommended. The committee then asked questions of the SBO. All of the questions were regarding process and did not have anything to do with the specific university and community college projects which were recommended.

In the second hearing, the subcommittee heard from some of the institutions that did not have a project recommended by the Governor. The subcommittee also wanted to hear the merits of those projects as well before making a final decision on a Capital Outlay budget.

We spoke with an influential member of the subcommittee recently who would really like to see a Capital Outlay budget passed this year. That member also said he would like to see a bill with many more projects than the Governor recommended. If this is the case, this may not sit well with the SBO and Governor and there will probably be a need for a negotiation between the administration and the legislature on which projects would be in a bill.

House Higher Ed/State Police Hearing

On March 8th, a joint House Higher Education/State Police Appropriations Subcommittee met to hear testimony from universities on the sexual assault prevention grants that were awarded in the current fiscal year. The subcommittees heard from some of the institutions who were awarded the grant, like Western Michigan. They outlined what they were doing on campus and how their grants will further their efforts.

Several members of the subcommittee mentioned that they would not only like these grants to continue but the amount of funding should grow in next year's budget. The Governor recommended \$500,000 for the grants in the coming fiscal year's budget. \$400,000 was included in this year's budget.

COMMUNITY RELATIONS

Jacqueline Wilson awarded Leadership in Action Award

On Monday, March 14, WSU First Lady Jacqueline Wilson was awarded the Leadership in Action Award for Women's History Month. WSU had a strong presence at this event, with two tables of university officials and one table of students attending on behalf of the University.

HIGH Program meeting with the Michigan Department of Education

We facilitated a meeting between Jacqueline Wilson and Pam Kies-Lowe from the Michigan Department of Education. Angelique Day from the School of Social Work was also in attendance. Ms. Kies-Lowe works with homeless students from the 907 public school districts in Michigan. This introductory meeting provided an opportunity for attendees to share information about their work and to look for potential partnership opportunities. Ms. Kies-Lowe agreed to help spread the word about the HIGH Program in Southeast Michigan and to keep our office apprised of any relevant community events or legislation.

Community Engagement Liaison Meeting

On March 8, Advocacy and Community Programs convened the third quarterly Community Engagement Liaison meeting, bringing together more than 30 community engagement officers from across the University. Our office highlighted multiple newly established resources, including our upcoming inaugural eNewsletter, ongoing one on one meetings, and an outline of best practices that community engagement offices at a number of universities employ.

A representative from the Office of the Associate Vice President for Educational Outreach gave a brief synopsis of the new community engagement registry that will provide a vehicle for integrated community engagement metric tracking. We also spent a significant amount of time discussing more than 20 significant upcoming and ongoing events, projects, and programs happening across the University.

Wayne Cares Events

Wayne Cares is a university outreach initiative that brings together the university community for the purpose of charitable giving and outreach. Its primary goal is to help university units work together and collaborate with each other for the good of the community.

For the first time, any 2016 Wellness Warrior participant will be rewarded with 100 Wellness Bucks to be added to their total score for joining a WSU team involved with Heart Walk.

March of Dimes Walk, Sunday, April 30, 2016

This is Wayne State's 5th year participating in the March of Dimes Walk on campus. March of Dimes' mission is to improve the health of babies by preventing birth defects, premature birth and infant mortality. The money raised in the March of Dimes walks supports programs to help local mothers experience healthy, full-term pregnancies. This year's walk has a new route, it beginning at DMC's Brush Mall, going through WSU's campus and then returning back to DMC's Brush Mall.

Midtown Detroit Makeover, Saturday, May 7, 2016

From 8 a.m. to Noon, Wayne State University and Midtown Detroit, Inc. will partner to make a difference in the Midtown community.

This is the annual Midtown area beautification project. Volunteers will join together to revitalize and clean up the Midtown area of Detroit, including streets on and near the WSU campus. Everyone will meet at the Welcome Center, teams will be disbursed to different parts of the Midtown area and then return back to the Welcome Center for lunch.

Basic Needs Drive, April 1- April 21, 2016

The Wayne State University Athletics Department W Week Community Service Initiative, in partnership with Wayne Cares and Covenant House Michigan, will host a drive to collect small toiletry items to make basic needs bags for those in need in our community and for Covenant House Michigan's efforts to help young people in transition.

This is the fifth year Wayne Cares has partnered with WSU Athletics, the Double Tree Hotel, The Westin Hotel and Covenant House for the annual Basic Needs Drive to collect toiletry items for area homeless youth and adults. Last year, WSU student

athletes, WSU students and volunteers distributed more than 1,300 basic needs bags to the homeless in Cass Park, Neighborhood Services Organization (NSO), Mariners Inn, and Covenant House. Our goal this year is to collect more than 50,000 items and distribute 2,000 basic needs bags. Wayne Cares is grateful to collaborate with WSU Athletics W Week Community Service Initiative again this year to collect even more items for the community

American Heart Association Heart Walk, Saturday, May 14, 2016

Wayne Cares, in partnership with the Michigan Chapter of the American Heart Association, will participate in the Detroit area's Heart Walk this May.

The American Heart Association is the largest voluntary health organization working to prevent, treat and defeat heart disease, stroke and other cardiovascular diseases. With heart disease and stroke being the #1 and #4 killers of all Americans, the American Heart Association's *mission is to build healthier lives free of cardiovascular diseases and stroke*. The Heart Walk is the American Heart Association's premiere event for raising funds to save lives from this country's No. 1 and No. 4 killers - heart disease and stroke. Designed to promote physical activity and heart-healthy living, the Heart Walk creates an environment that's fun and rewarding for the entire family.

Wayne Cares Susan G. Komen Race for the Cure, Saturday, May 21, 2016

Wayne State University is once again participating in the Susan G. Komen Race for the Cure under the Wayne Cares banner. WSU's chair of this year's walk is Patrick Gossman of C&IT and Provost Margaret E. Winters will serve as honorary chair for Wayne State University. The Race starts at Chene Park and will proceed down the scenic Detroit River Walk. Our goal is 1,000 participants and \$25,000 in donations.

HEALTH AFFAIRS

Psychiatry Residency Training Grant

Unlike most graduate medical education programs that are funded by Medicare, the WSU-DMC Psychiatry Residency Program is funded by a special arrangement between the DMC, WSU, the Detroit Wayne Mental Health Authority, and the Michigan Department of Health and Human Services. Because of leadership changes at the DMC, this arrangement was at significant risk of dropping off, potentially shutting down the residency program. The consequence of such action would have devastated the mental health safety net in Wayne County and the entire state, especially since this is the largest psychiatry residency program in the Midwest.

After months of negotiation, a new contract was approved by all parties, funding the program for both 2015 (retroactively) and 2016; \$4,464,900 has been received by WSU for 2015 and \$4,464,900 is in process for 2016.

Graduate Medical Education (GME) Reform – MiDoc’s

In response to the multitude of concerns of state legislators on the state Medicaid GME Program, we worked with the legislature in 2013 to create the MiDocs program. MiDocs is a consortium of Central Michigan University, Michigan State University, the University of Michigan, Wayne State University, and Western Michigan University, and their medical schools, to create a pilot program that will help create new physicians practicing in primary care and other targeted specialties to train and serve post-residency in the most medically underserved communities in the state. Furthermore, the program will be needs based, focused on quality metrics, be financially accountable and transparent, and will produce an annual audited statement that shows the efficacy of the program, based on those guiding principles.

After months of discussion, the MiDocs consortium is now prepared to report our findings to the legislature, including a plan for a pilot program. The pilot program will include a leadership role for the Michigan Area Health Education Center (AHEC) and will create a new legal entity named MiDocs, which will distribute program funding on behalf of the legislature. To date, the legislature has appropriated \$500,000 for the effort. We are requesting new boilerplate language for the 2017 budget. We have positive news to report. Both the House and Senate subcommittees for the Dept. of Community Health budget have indicated their support to include the new boilerplate language in the budget. We have also been told that AHEC will likely receive \$500,000 in funding to help develop the overall MiDoc’s plan. The advocacy on MiDoc’s has been a joint effort with our government affairs colleagues at the University of Michigan, Michigan State University, Western Michigan University, and Central Michigan University.

Association of American Medical Colleges (AAMC) – Government Relations Representative (GRR)

Doug Skrzyniarz, associate vice president for Government Health Affairs, has been elected to be the Chair of the AAMC’s GRR, which is a collection of government affairs executives from the various AAMC’s member institutions. Doug will serve as the chair-elect in 2016 and will start his one-year term as chair in December.

TBI Research

Wayne State University has been approached by state leaders in Lansing to participate in a pediatric traumatic brain injury (TBI) research initiative. It would be a \$500,000 grant through the Michigan Health Endowment Fund.