

September 8, 2004

Dear Representative:

As organizations that advocate for civil rights, we are writing to urge your support for the Obey overtime amendment. The Obey amendment would force DOL to rescind changes to the overtime eligibility rules that take away overtime rights from 6 million workers, but would leave in place an inflation adjustment in the final overtime regulation that might benefit at most 384,000 low-income workers.

The Bush administration's final overtime regulation could wipe out overtime pay protections and increase work hours for at least 6 million workers, according to the Economic Policy Institute (EPI). Losing overtime pay protections would also result in huge pay cuts for many workers. Among workers who earn overtime pay, overtime wages account for roughly 25 percent of total earnings. Many people of color clustered in traditionally lower-wage jobs would be affected, especially in retail, services and sales positions, as well as in office administrative jobs. As a result, millions of working men and women would see their pay reduced and their workdays lengthened. The increase in mandatory overtime—often with little advance notice—would take time away from families and disrupt the schedules of working parents as well as impose additional child care and other expenses.

The final overtime regulation published on April 23, 2004 would make it easier for employers to reclassify their workers as “executive,” “administrative,” or “professional” employees, who are not entitled to the overtime protections of the FLSA. A recent report by three of the highest-ranking career DOL officials in the Reagan, Bush, and Clinton administrations found that, with one exception, all the substantive changes in DOL's final regulation would take away workers' overtime rights. The one exception is an inflation adjustment to the salary levels that help determine overtime eligibility. Although DOL claims that this inflation adjustment will benefit 1.3 million low-income workers, EPI has used DOL's own data to show that DOL has erroneously included many workers who could not possibly benefit. In fact, at most 384,000 low-income workers would benefit from the final regulation.

The Obey amendment would leave in place this inflation adjustment that could benefit 384,000 low-income workers. Nevertheless, it should be noted that this salary adjustment falls well short of the amount necessary to account for price inflation, let alone a more generous measure tied to salary levels that DOL has used in the past. Moreover, DOL has adjusted the minimum salary threshold many times in the past, and has never used one of these periodic adjustments as an excuse to weaken the “job duties” tests governing overtime eligibility for workers above the threshold.

DOL's final regulation has alarming implications not just for these 6 million workers, but also for all working men and women. If DOL were allowed to weaken the overtime eligibility criteria every time it makes one of these periodic inflation adjustments, it would eventually repeal the 40-hour workweek for all but the lowest-paid workers. Contrary to DOL's assertions, this has never been Congress's intent. Congress intended to apply the overtime protections of the FLSA to the overwhelming majority of all workers, with only narrowly limited exceptions for management and independent professionals. By broadening the categories of workers who lack overtime protections under the FLSA, DOL is attempting to roll back the 40-hour workweek and rewrite history.

With more working parents working longer hours than ever before, we need the 40-hour workweek now more than ever. We know that the FLSA's 40-hour workweek works: workers unprotected by the FLSA are twice as likely to work overtime. More workers should be protected by the 40-hour workweek, not fewer. The last thing working families need right now is an attack on the 40-hour workweek, longer hours, and less pay.

A vote against the Obey amendment would be a vote to take away the overtime rights of millions of workers. We strongly urge you to protect the 40-hour workweek, protect workers' right to overtime pay and support the Obey overtime amendment.

Sincerely,

Asian Pacific American Labor Alliance
A. Phillip Randolph Institute
Labor Council for Latin American Advancement
Leadership Conference on Civil Rights
National Federation of Filipino American Associations
Pride at Work