PBS NEWSHOUR

Will the new overtime regulations help or hurt the economy?

BY KRISTEN DOERER *May 24, 2016 at 2:18 PM EDT*

The Obama administration unveiled new overtime regulations that would double the salary threshold that automatically entitles workers to overtime pay to $47,476. Photo by Stefan Wermuth/Reuters

When a district regional manager at Ocean State Job Lot offered Kelly Watts a job as an assistant manager at the discount retailer, she didn't expect to be logging 50-hour work weeks.

"The last thing he said to me [after I had accepted the job] was, 'Oh by the way, you're working 50 hours, not 40 hours'," said Watts. "I felt like I was deceived, but I needed the job — I wanted the job."

It was early 2010, the recession had just ended, and the unemployment rate was close to 10 percent. She took the job, with a starting salary in the low $40K range, and didn't question her employer's last-minute admission.

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But for the 4.5 years she worked there, Watts received zero overtime pay. That's because she made more than $23,660 a year and had some managerial duties. Both factors meant she was exempt from overtime pay. Only workers who made under $23,660 automatically qualified for time and a half when working over 40 hours a week. Those who made over that threshold were exempt from overtime if their job duties primarily involved executive, administrative, or professional duties. As an assistant manager, Watts was classified as an executive.

She has since joined 80 former assistant managers in collective action suits against Ocean State Job Lot. Lichten & Liss-Riordan and the Hayber Law Firm, the law firms handling the cases, argue the company misclassified these workers as "exempt" and should have paid them overtime wages.

Last week, the Obama administration unveiled new overtime regulations that would double the salary threshold that automatically entitles workers to overtime pay to $47,476 by Dec. 1, 2016. Employees like Watts will now be entitled to overtime pay regardless of their managerial duties.

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Today, just 7 percent of workers are paid overtime — down from 63 percent in 1975. The average workweek for a full-time worker is 47 hours, according to a 2014 Gallup study. The new regulations will adjust the salary threshold every three years.

The Department of Labor estimates that the revised rules will extend overtime protections to 4.2 million new workers and cover 35 percent of the workforce. The left-leaning Economic Policy Institute goes further to estimate that some 12.5 million workers will benefit.

To comply with the overtime regulation, employers have three principle options: pay their employees time and a half for each hour that they work beyond 40 hours, scale their hours back to 40 or raise their pay to the threshold of $47,476.

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“Those are fantastic outcomes,” said billionaire venture capitalist and labor advocate Nick Hanauer, who argued for raising the overtime pay threshold in a popular NewsHour column back in 2014.

Hanauer expects millions of Americans will see a raise, a prediction echoed by Economic Policy Institute’s Ross Eisenbrey. Plus, he says, employers who opt to cap employees to 40 hours a week will likely be forced to hire more workers, an outcome that could lower the unemployment rate.

The Department of Labor estimates the new overtime rules will collectively raise workers’ pay by $1.2 billion a year. Giving more people overtime pay will not only benefit workers, but the economy as well, said Hanauer, as workers with more money will spend more.

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And a report by the Institute for Women’s Policy Research and MomsRising found that raising the overtime threshold to about $50,000 (as was proposed in 2015) would most help single mothers, black women and Hispanic women in particular, as they tend to work more overtime hours than other women.

"They are low-wage earners, and they are more likely to spend any money that they get," explains Jeffrey Hayes, a co-author of the report. "They are less likely to save it. They need to buy necessities for their families."

But as with any regulation, if it seems to be too good to be true, it probably is, said Veronique de Rugy, a senior research fellow at the market-oriented Mercatus Center at George Mason University.

"I think when you hear of regulations that sound good, it is important to ask, what is going to be the actual effect? Are there unintended consequences?"

The National Retail Federation estimated the new rule will cost the restaurant and retail industries about $745 million (though that calculation was done before the new rules were finalized and was based on on a predicted $50,440 salary threshold.) The Department of Labor estimates compliance will cost employers $255 million.

"The regulation demonstrates this administration's determination to control employers instead of creating conditions for economic growth," said Randy Johnson of the U.S. Chamber of Commerce.

"Labor is a good or a service like everything else. When its price goes up, the demand goes down," said de Rugy.

Likewise, de Rugy's review of the literature suggests such regulations will have an overall negative effect on employment that will be felt over time.

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While de Rugy conceded that in some situations, employers might decide to hire more workers, in other situations, she believes workers will lose out. Companies could decide to set the hourly rate lower for new hires in order to save costs. That, she said, would hurt low-wage workers the most. And there could be other unintended consequences: companies could give workers making more than the threshold more responsibility and hours. Or employers could simply reduce benefits, such as health insurance and pensions, or lower base salaries.

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And in order to keep track of hours, employers may have to reclassify workers from salaried to hourly, and that represents a demotion, argued David French of the National Retail Federation, in a press release. “These rules are a career killer,” and will deprive workers “of the workplace flexibility and other benefits they so highly value,” he said.

In passing these regulations, the Department of Labor has assumed employers can afford to pay their employees more, but simply aren’t, said de Rugy. Corporate profits and CEO pay have surged, but such profits are concentrated in the very small number of firms at the top..

Small businesses, which make up 99.7 percent of U.S. firms and about half of private-sector employment, don’t operate with a large margin and might not have the capital to cover the expenses to comply with the rule upfront.

Proponents of the overtime regulations dismiss such arguments. “In the face of any increasing labor standard, businesses always say it will be bad for the economy, and it’s just not true,” said Hanauer.

At the suggestion that employers will lower base salaries, Labor Secretary Thomas Perez said that the behavioral economics suggests “it is especially imprudent to respond to the folks who are effectively running the place by lowering their salary.”

Businesses will have until Dec.1 to determine how to comply with the regulations.

For Kelly Watts, whose job included physically demanding work and 10-hour days that sometimes began at 5:30 am, the regulations are welcome. People should get the pay they deserve, she said.

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“I pretty much felt like it was get up, go to work, come home, go to bed. Get up, go to work,” said Watts. “I missed out on a lot of family gatherings because of the hours that I worked.”

Watts has since moved on to a new job, where she’s rarely required to work overtime. If she were, she would be covered by the new regulations. Her case against Ocean State Job Lot is still pending.