

# Employment Law Update

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Labor and employment law trends of interest to our clients and other friends.

May 21, 2004

## HOUSE OF REPRESENTATIVES BLOCK VOTE TO DERAIL NEW OVERTIME REGULATIONS: EMPLOYERS SHOULD BE READY TO COMPLY BY AUGUST 23, 2004

The House of Representatives voted 222 to 205 on Wednesday, May 12, to table a procedural motion by Rep. George Miller (D-CA), which could have resulted in a vote, preventing the implementation of the new overtime regulations. Onlookers have been unsure what to expect out of the House after the unanimous vote in the Senate supporting the Gregg Amendment and the passing vote of the Harkin Amendment earlier in the month. [See our 5/4/04 bulletin: *New Overtime Regulations Under Attack*]

Miller's motion sought a vote to override the regulations by ensuring that any worker currently eligible for overtime pay would not become ineligible under the new rules. In addition, the Miller motion would have kept in place the higher salary threshold established under the new regulations to determine eligibility for overtime pay. By tabling the motion, the House prevented debate and a vote on the issue itself.

Miller's vote may have been the only opportunity the House of Representatives had to derail the new overtime regulations before they go into effect on August 23, 2004. House of Representative GOP leaders have vowed to delay any other vote, including votes on House versions of the Harkin and Gregg Amendments, until after the new regulations go into effect. Ideally, the Bush Administration would like to see all votes on the new regulations tabled until after the Presidential election in November.

Even if House Democrats decide to push ahead with amendments, it is unlikely that any Congressional maneuvering will change the now-looming August 23, 2004 effective date. Should the Harkin or Gregg Amendments to the export tax bill make it out of the House intact, the bill ultimately would be sent to President Bush for his signature or veto. The Bush Administration has plainly stated that it will veto any tax bill that would jeopardize the newly amended Fair Labor Standards Act overtime regulations. Some sort of compromise involving the Gregg Amendment may be reached given the fickle politics of an election year. Notwithstanding, it is unlikely such a compromise would be reached before the August 23, 2004, effective date for the new regulations.

Ultimately, employers should be ready to be in compliance with the new overtime regulations by August 23, 2004. [See our 5/6/04 bulletin: *Muddy Waters: The New FLSA Regulations*] Vedder, Price, Kaufman & Kammholz will continue to keep you advised of any developments regarding this issue. If you have any questions about these matters, please call Barry A. Hartstein (312/609-7745), Edward G. Renner (312/609-7831), Ethan G. Zelizer (312/609/7515) or any other Vedder Price attorney with whom you have worked.

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