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## Technical Bulletins: FLSA Update No. 1

Richard M. Ellis

*Municipal Technical Advisory Service*

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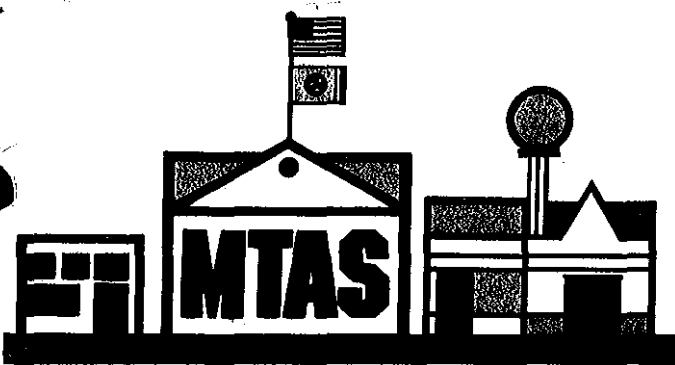
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# TECHNICAL BULLETIN



MUNICIPAL TECHNICAL ADVISORY SERVICE  
THE UNIVERSITY OF TENNESSEE  
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE

February 25, 1987

## FLSA UPDATE NO. 1

by Richard M. Ellis  
Municipal Management Consultant

This is the first in a series of updates that will be published regarding significant changes made to the Fair Labor Standards Act (FLSA). For those of you who received the ring binder with your copy of the "Guide to Compliance with the Fair Labor Standards Act for Tennessee Municipalities", you will need to place this update in the front of your book.

### DOL Issues New FLSA Notice

The Wage and Hour Division of the U.S. Department of Labor (DOL) has issued a new employee's notice written specifically for state and local governments. This notice must be prominently displayed in the various workplaces of your city as required by DOL regulations at 29 CFR 516.4.

This new notice (WH Publication 1385) outlines the major requirements of the FLSA such as:

- \* an employee must receive at least a minimum wage of \$3.35 per hour;
- \* after 40 hours, except in those special exceptions for employees working as police officers, firefighters, or certain hospital personnel, an employee is compensated at the rate of one and one-half times, either in overtime pay or compensatory time off;
- \* that certain employees not covered by the FLSA, such as executive, administrative, or professional employees, as well as elected officials, are not covered by the minimum wage and overtime provisions of the FLSA.

It should be noted that although you are required to post this notice, DOL is not automatically sending a copy of the notice to you. A copy of the notice is included in this bulletin. You may receive additional copies by contacting the nearest office of the Wage and Hour Division, or you can make copies of the attached notice. The offices of the Wage and Hour Division located in Tennessee are:

Department of Labor  
1720 West End Building, Room 610  
Nashville, TN 37203  
(615) 251-5452

Department of Labor  
P. O. Box 631  
Knoxville, TN 37901  
(615) 558-1338

### DOL Issues Final Regulations

The DOL issued final regulations on January 16 implementing the amendments to the FLSA passed in November 1985. The new regulations were effective on February 17, 1987, and are codified as Part 553 of Title 29 of the Code of Federal Regulations. These final regulations are little changed from the draft regulations issued last April and which were included in the MTAS publication Guide to Compliance with the FLSA sent to you during the past year.

One of the most notable changes relates to the compensability of training time. In situations where training is required by state law, such as the 40-hour in-service training required for police and fire personnel in order to maintain certification, the hours spent outside of normal duty hours are no longer considered compensable. The same goes for officers required to attend the police academy. Any hours outside of normal classroom and scheduled activities at the Academy is not considered compensable. This provision is specifically covered in 29 CFR 553.226 of the new regulations.

Although the new regulations did not change the basic criteria for establishing exemptions from the provisions of the FLSA, especially in regards to the low thresholds for the "salary test" for executive, administrative, and professional employees, the DOL announced plans to review the standards during 1987. We will keep you posted on the results of this review.

If you have any questions regarding compliance with the FLSA, please call your MTAS consultant. MTAS will continue to send updates of the FLSA as changes occur.

# Notice: To Employees of State and Local Governments

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The Fair Labor Standards Act requires that employees of State and local governments receive at least:  
a **Minimum Wage** of **\$3.35** an hour and

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**Overtime Pay**

or

**Compensatory Time Off**

After 40 hours of work in a workweek at a rate not less than one and one-half times the employee's regular rate of pay.

At a rate not less than one and one-half hours for each hour worked after 40 in a workweek, where provided pursuant to an agreement or understanding which meets the requirements of the Act.

Special overtime rules may apply to fire protection and law enforcement personnel, employees of hospitals, and other employees as permitted under the Act.

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**Exemptions**

Certain types of workers are exempt from the minimum wage and overtime pay requirements, including bona fide executive, administrative or professional employees who meet the requirements of the Department of Labor regulations defining these terms.

The Act does not apply to persons who are not subject to the civil service laws of State or local governments and who: hold a public elective office; are selected by officeholders to be a member of their personal staff; are appointed by officeholders to serve on a policymaking level; or who are immediate advisors on the constitutional or legal powers of the office. Also excluded from coverage under the Act are persons who are not subject to civil service laws and who are employees of the legislative branch or body of a State or local government with the exception of employees of legislative libraries.

The Act prohibits discharging or discriminating against an employee who files a complaint or participates in a proceeding under the Act.

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**Child Labor**

16 years is the minimum age for most occupations. An 18 year minimum applies to hazardous occupations. Minors 14 and 15 years of age may work outside school hours under certain conditions.

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**Additional Information:**

May be obtained from local offices of the Wage and Hour Division which are listed in your telephone directory under U.S. Government, Department of Labor, Employment Standards Administration.

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U.S. Department of Labor  
Employment Standards Administration  
Wage and Hour Division  
Washington, D.C. 20210

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