



# OFFICE OF ADVOCACY FACTSHEET

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## ***Department of Labor's Overtime Rule*** **Advocacy's Letter to the Labor HHS Appropriations Conference Committee**

On October 8, 2003, the Office of Advocacy (Advocacy) sent a letter to the conference committee on the FY 2004 Departments of Labor (DOL), Health and Human Services (HHS), and Education Appropriations bill. Advocacy's letter highlighted the benefits of DOL's proposed rule to simplify and update the overtime rules under the Fair Labor Standards Act and urged the conferees to reject legislative language that would limit DOL's ability to proceed with its rulemaking on "*Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales and Computer Employees*" (68 Fed. Reg. 15559). A complete copy of Advocacy's letter to the conference committee may be accessed at <http://www.sba.gov/advo/laws/comments/legislative.html>.

### **DOL's proposed rule will help small businesses.**

- The DOL proposal simplifies and updates the overtime regulations, making regulatory compliance easier for small employers. Small employers now face complex regulations and confusing case law that they cannot reasonably be expected to apply to determine an employee's status. The proposed rule is a positive step in simplifying the determination of who is and is not entitled to overtime pay.
- DOL has provided an overview of the proposed changes in the overtime pay exemption rule at [http://www.dol.gov/\\_sec/media/speeches/541Handout.htm](http://www.dol.gov/_sec/media/speeches/541Handout.htm) and a comparison of the proposed rule to the current rule at [http://www.dol.gov/\\_sec/media/speeches/541\\_Side\\_By\\_Side.htm](http://www.dol.gov/_sec/media/speeches/541_Side_By_Side.htm).
- Advocacy's letter to the conference committee references Advocacy's previous comments to DOL on the proposed rule. In its comment letter, Advocacy commended DOL for its outreach to small businesses affected by the rule and encouraged consideration of additional small business flexibilities. Advocacy's comment letter to DOL is available at [http://www.sba.gov/advo/laws/comments/dol03\\_0624.html](http://www.sba.gov/advo/laws/comments/dol03_0624.html).
- Advocacy cited DOL's estimate that under the proposed rule 1.3 million employees would receive overtime pay for the first time under the proposed rule. While expanding the pool of employees eligible for overtime will increase costs to employers, small businesses have advised Advocacy that they support the rule because it simplifies the regulations.
- Advocacy urged the conferees to allow DOL to review the public's input on the proposed rule and issue a final rule. Congressional action now could jeopardize DOL's consideration of small business comments. In addition, if DOL's final rule does not address the public's comments, Congress still has the opportunity to review the final rule under the Congressional Review Act.

For more information, visit Advocacy's Web page at <http://www.sba.gov/advo> or contact Michael See at (202) 619-0312.