

## The Regulatory River is Flowing...

*... and water flows downhill! What looks attractive and clear to regulators up near the cliff's edge can become frothy, cold and crushing at the bottom. This Executive Scan highlights what you need to know as your management team grapples with new rules.*



Looking Glass Falls in Pisgah Forest, North Carolina



### DRAMATIC CHANGES IN OVERTIME AND SALARY RULES

On June 30, the US Department of Labor issued a "Notice of Proposed Rulemaking" that will **double** the salary level required to support an "exempt-from-overtime white collar" job. The current minimum salary threshold is \$23,660/year. It will rise to \$50,440/year in 2016. Most exempt salaried roles (typically managers, professionals and administrators) are paid more than today's number, but there will be a large group of overtime eligible people paid less than the new threshold. The Notice is 295 pages long, already well-vetted and expected to become the final rule (after a brief comment period). See [www.dol.gov/whd/overtime/NPRM2015](http://www.dol.gov/whd/overtime/NPRM2015).

Yes, today's salary test is too low considering inflation. But the sudden doubling of the exempt threshold will create a

wide variety of employer reactions. There are employee relations implications ("What do you mean you are converting me to hourly paid?"), financial implications (the cost of overtime in the new non-exempt zone) and recruiting/retention challenges (a possible reduction in salary to accommodate the new cost of overtime). Others may choose to manage hours to 40 each week (can you already sense the lawsuits for off the clock work?).

Call our Advice and Resolution Team to talk over your options. Some answers are clear while others will require creativity. Based on the roles and pay levels in your company, this could be a major challenge requiring serious budget and workforce planning on your part.



### AMBUSHES ARE FOR ROBBERIES, NOT WORKPLACES

Imagine daily life with a labor union as a filter between you and your employees with no issue too small to fight over. On April 14, the National Labor Relations Board issued final rules re-making how union elections are run so that union victories are easier. Known as the "Ambush Election Rules" by some, **they apply to almost every private sector employer regardless of employee count and industry.**

Four key phrases summarize the impact of these rules and related decisions: 1) micro-elections, 2) half the time to campaign, 3) unions using your email system and 4) punishing the unprepared employer. What used to be a relatively balanced election process with enough time to communicate well (about 42 days) has become a pro-union ambush ignoring due process and invading employee privacy. Here's a short preview: union answers a call from a micro-group of employees at a large site (angry folks with a weak manager),

union conducts a quiet campaign with them, union files a "petition" at the NLRB, hearing held in eight days, employer must provide home contact data it stores, employees use your email to recruit others and the election is set in 13 days. From the Friday this employer received an electronic petition to the election is only 15 business days. For the unprepared, half of that time is eaten by finding a lawyer, getting ready for a hearing, deciding who the supervisors are and building a communications plan. Sounds like an ambush!

We already see Ambush Elections happening in traditional sectors. I am waiting for the first petition in a small department of angry technical or white-collar employees in North Carolina. Call our Advice and Resolution Team to discuss sound preparations giving you a better chance to prevent or win such a campaign.

Contact me directly if I can help you or your team.

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*Executive Scan* provides a quick update on internal and external issues affecting your workplace with timely advice on ways to respond. It is provided to members and friends of CAI.

*Executive Scan* is written by CAI's CEO, Bruce Clarke, JD.

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