

Spring Selectboard Institute

VLCT Human Resources Assistance Program

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Municipal Assistance Center**



March 2016

Human Resources Assistance Program

- **Mission: “To serve and strengthen Vermont local governments by delivering quality HR services in an innovative and cost-conscious manner.”**



HR Subcommittee of Three Boards

- **VERB: Todd Odit, Jericho Town Administrator;
Joe Colangelo, Shelburne Town Manager**
- **PACIF: Mel Adams, Randolph Town Manager;
Pete Johnson, North Hero Town Clerk**
- **VLCT: Sue Janssen, Benson Selectboard;
Sandy Pinsonault, Dorset Town Clerk**



Initial Priorities

- Existing resource updates – handbooks, models
 - EL-HR handbook
 - Model personnel policy
- *New* – job description templates, HR web page
- Member visits
- Self-assessment tools
- Hot topics – training, articles, white papers
- Other services



Municipal HR Basics

- **Key differences in the municipal world**
 - **Elected positions, FLSA, “property interest” and pre-termination hearing (Laudermill)**
- **Recordkeeping Basics**
 - **Personnel files secure and confidential**
 - **Separate: I-9s, workers comp, FMLA leave**



Municipal HR Basics (cont'd)

- **Municipality's Personnel Policy**
 - **Consistently follow**
 - **Up-to-date with legal review**
 - **Employees sign upon hire/changes**

- **Job Descriptions**
 - **Foundation for: recruiting, performance standards, legal compliance, communication, safety, return-to-work, training**
 - **Keep up-to-date**
 - **Employees sign upon hire/changes**



Municipal HR Basics (cont'd)

- Performance feedback and documentation
 - Timely
 - Nip bad behavior in the bud
 - Provide positive feedback too!
 - Employees sign
- Lawful recruitment through lawful termination
 - Nondiscrimination laws
 - Retaliation awareness
 - Call MAC or your town attorney
 - ***DO NOT*** terminate without legal counsel



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Human Resources Assistance Program

New HR web page on VLCT.org

Under Municipal Assistance Center

<http://www.vlct.org/municipal-assistance-center/human-resources-assistance-program/>

New email address for HR-specific questions:

MAC-HR@vlct.org



March 2016

After Lunch Slot

+

FLSA



March 2016

Selectboard Institute Past....



Big Changes



March 2016

Agenda - FLSA

- **Basics of current law**
 - **Covered workers**
 - **“White collar” exemptions**
- **Anticipated changes - “white collar” exempt rules**
- **Legal compliance**
- **Examples**
- **Takeaways**



Fair Labor Standards Act

- **Overtime and federal minimum wage**
- **Prohibits sex-based wage discrimination between men and women (via Equal Pay Act)**
- **Recordkeeping requirements**
- **Workplace poster**
- **Reasonable break time for nursing mothers (with privacy and not in a bathroom)**
- **Child labor requirements**



Overtime under FLSA

Basic Rules:

- **For covered employees (Nonexempt)**
 - **Must pay overtime at the rate of 1½ times employee's regular rate of pay for every hour worked above 40 in one workweek**
- **Local government may provide compensatory time at same rate**



Overtime under FLSA

Common Misnomer

- Salaried does not *necessarily* mean exempt
- Hourly workers usually nonexempt, not always

Instead, employees are:

- “exempt” – meet exemption requirements and thus not covered by FLSA
- “non-exempt” – covered by FLSA



Who is Exempt?

"White Collar" Exemptions:

- Executive
- Administrative
- Professional
- Certain computer employees, highly compensated employees and outside sales employees

Separate duties test and minimum salary threshold to qualify under each.



Current Exempt Job Duties

Executive

- Primary duty must be managing the enterprise or one of its departments; ***and***
- Must customarily and regularly direct the work of two or more employees; ***and***
- Must have authority to hire or fire other employees or suggestions and recommendations regarding hiring and firing must be given particular weight.
- Possible examples: Town Manager, Police Chief, Fire Chief, *some* Road Commissioner/Foreman



Current Exempt Job Duties

Administrative

- Primary duty must be performing office or non-manual work directly related to the management or general business operations of the employer; **and**
- Primary duty includes exercising discretion and independent judgment with significant matters.
- Possible examples: Town Administrator, Town Manager, Police Chief, Fire Chief, *sometimes* Road Commissioner/Foreman



Current Exempt Job Duties

Professional

- Primary duty must be work requiring advanced knowledge of an advanced type in a field of science and learning, customarily acquired by a prolonged course of specialized intellectual instruction; ***and***
- Work must require the consistent exercise of discretion and judgment.
- Possible examples: Town Engineer, Town Planner, Town Attorney



To Maintain Exempt Status

- In general, Exempt staff must receive the same weekly salary regardless of quantity or quality of work (with some exceptions)
- Not necessary to pay for week when no work is performed



Big Changes



March 2016

Two Major Changes Anticipated

- 1. Exempt minimum salary proposal**
 - **Threshold dollar amount increase**
 - **Automatic increases**
- 2. Exempt job duties tests – have requested comments**



Proposed Changes to Minimum Salary

Current Minimum Salary:

- Exec, Admin, Prof - \$455/ week (\$23,660)
- Highly compensated employees (HCE) - \$100,000 / year

Proposed *(not final)* Minimum Salary:

- *Exec, Admin, Prof - \$970/ week (\$50,440)*
- *HCE -- \$122,148*



Proposed Automatic Updates based on CPI

Exempt Job Duties Tests

- No specific changes proposed by DOL for job duties
- ***HOWEVER:*** DOL is considering possible modifications regarding the amount or timing of non-exempt work permissible for exempt employee



What is Your Situation?

- 1. Inventory positions classified as Exempt that earn below \$970 per week (annual \$50,440)**
- 2. Track overtime hours, i.e. more than 40 per week**
- 3. Calculate overtime wages (1.5 X regular rate)**
- 4. For pay close to proposed threshold, compare OT cost with theoretical salary increase to \$970**
- 5. Any union positions affected?**
- 6. Any positions where one employee is below and one is above the threshold?**



Examples

Exempt EE	Weekly Salary	Hours worked > 40 / week	Approx Annual OT hours	Annual OT cost @ 1.5	Annual cost if raise to proposed \$970
Carlisle	\$ 500	3	150	\$ 2,813	\$ 24,440
Gibson	\$ 950	3	150	\$ 5,344	\$ 1,040
Williams	\$1,000	10	500	N/A	N/A

Takeaways

- **Rule changes are proposed, not final. *So stay tuned...***
- **Check exempt employee status based on:**
 - final salary threshold
 - if automatic increases to threshold
 - current job duties and if changes



Takeaways

- **Be aware of your current situation:**
 - **Do exempt staff work OT now?**
 - **How much OT?**
 - **At what salary?**
- **Always comply with personnel policies, union contracts, state and federal laws**



Takeaways

- **Consider personnel policies:**
 - **Overtime policy – include discipline for working overtime that is not preauthorized.**
 - **Comp time policy – can have lower limits than the law allows**
 - **Must still pay or provide comp for all hours worked, but discipline should be available according to your policy.**

- **Call or email for assistance**



Resources

- **US DOL - <http://www.dol.gov/whd/flsa/>**
- **Vermont DOL - <http://labor.vermont.gov/>**
- **VLCT:**
 - **VLCT Municipal Assistance Center HR page**
 - **Phone 800.649.7915**
 - **Email MAC-HR@vlct.org**



Questions?

Thank you!



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