

Nonprofit Human Resources Fair Labor Standards Act (FLSA)

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AGENDA

- Introductions
- History
- Wage & Hour basics
- New OT rules
- Considerations and options
- Next steps
- Wrap Up

THE FORAKER GROUP

Core Purpose: Strengthen nonprofits

4 lines of business to serve Alaska
nonprofits and tribes:

1. Educational Opportunities (online and in-person)
2. Organizational Development (consulting, facilitation)
3. Shared Services (back-room services)
4. State Association (advocacy, research, statewide initiatives)

INTRODUCTIONS AND EXPECTATIONS

- Tell us your name
- *What do you want to learn today?*

TRAINING OBJECTIVES

Upon completion of this session you should:

- Understand the new overtime rulings
- Understand what steps need to be taken for employers to be in compliance with regulations
- Understand options
- Have additional references for support

WHY DO I CARE? WHY DOES IT MATTER?

It's the law

&

There are penalties for
noncompliance

WHAT IS THE FAIR LABOR STANDARDS ACT (FLSA)?

It is the broadest piece of labor legislation in the U.S.

- Minimum wage
- Exempt vs. non-exempt guidelines
- Overtime rate of pay
- Employee vs. contractor guidelines (IRS test)
- Established a workweek
- Child labor provisions
- Record retention

WE DO THINGS A BIT DIFFERENTLY

FEDERAL

- Min Wage: 7/24/09 = 7.25/hr
- Overtime: 1 ½ times the regular rate of pay for all hours over 40 hours in a work week
- Covers employers with one or more employees
- Current minimum threshold for exempt classification = \$455/wk (\$23,660/yr)

Different

Different

Different

Different

ALASKA

- Min Wage: 1/1/16 = 9.75/hr
- Overtime: 1 ½ times the regular rate of pay for hours worked over 8 per day or 40 straight-time hours per week
- Employers with 4 or more employees are covered and required to pay overtime wages
- Salary threshold for exempt classification is twice minimum wage = \$780/wk (\$40,560/yr)

Effective 12/1/2016, the minimum threshold will increase to \$913/wk (\$47,476/year) which will be greater than Alaska's current threshold. As a result, the new state minimum will increase to match the federal threshold.

A LITTLE HISTORY

- In 2004, FLSA had its first significant updates in nearly half a century:
 - Increased minimum exempt threshold (\$250/wk to \$455/wk)
 - “White collar” rules and executive exemption
 - Listed permissible deductions
 - Created a ‘safe harbor’ for improper deductions
- June 2015: the DOL proposed changes increasing the minimum threshold to be paid to exempt employees
- May 2016: Final rulings were announce with the effective date of 12/1/16

CHANGES TO FLSA: NOW VS. THEN

TODAY

- Minimum threshold for exempt status is \$23,660 per year (\$455 per week)
- High compensated employee (HCE) threshold is \$100,000 per year

No impact to duties test

EFFECTIVE DECEMBER 1, 2016

- New minimum threshold is \$47,476 per year (\$913 per week)
 - 10% nondiscretionary bonus
- New HCE threshold is \$134,004 per year
- Automatic increases to minimum threshold (40th percentile of weekly earnings) every 3 years
- Distinguishes between enterprise and individual coverage:
 - Enterprise: annual business or sales of \$500k
 - Individual: engages in interstate commerce

EXEMPT VS. NON-EXEMPT EMPLOYEES WHAT'S THE DIFFERENCE?

EXEMPT

- 3 factor test to determine exempt status:
 - minimum pay threshold
 - paid on a salary basis
 - duties test
- Not entitled to overtime

NON-EXEMPT

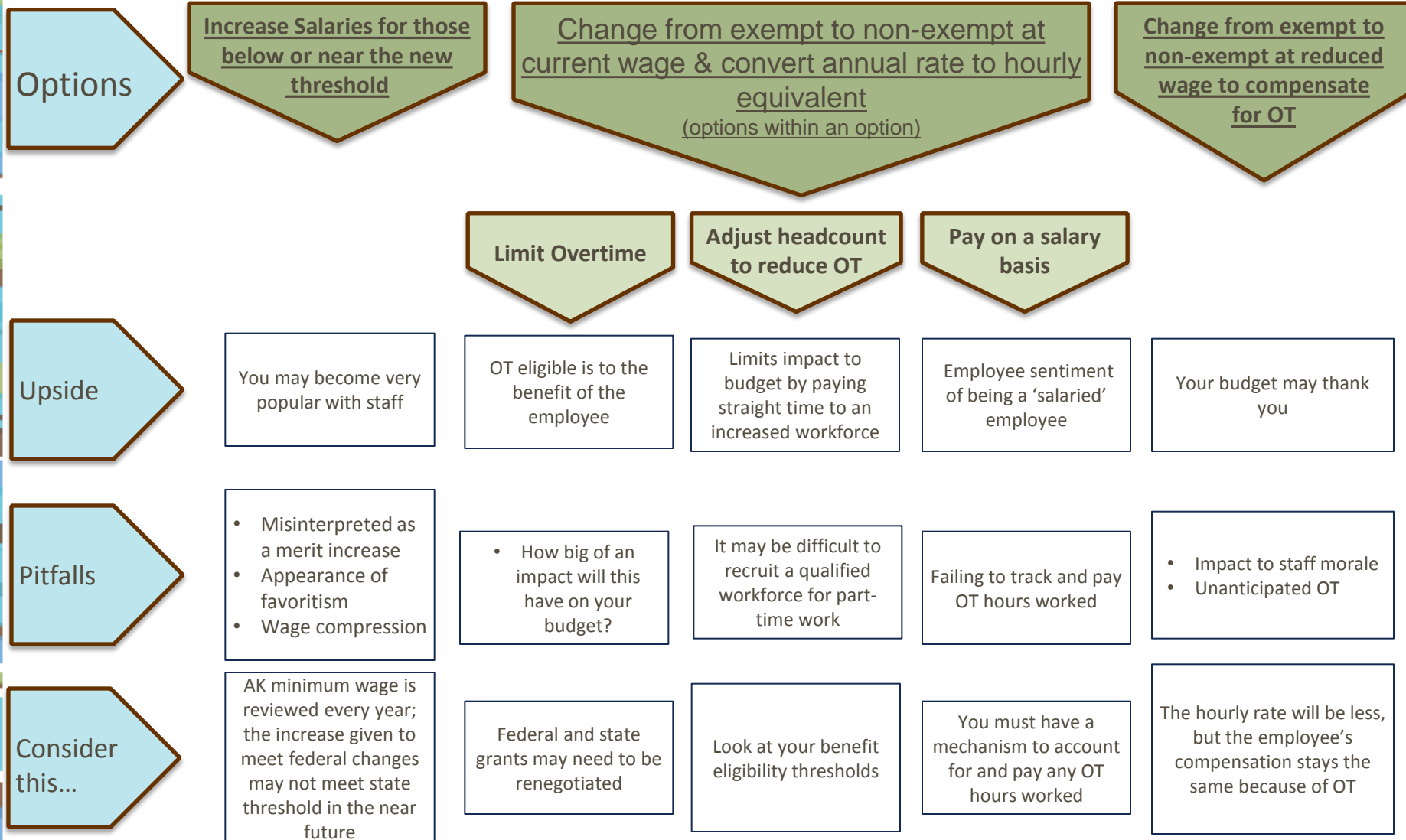
- Do not meet any one of the Fair Labor Standards Act exemption tests
- Paid on an hourly basis
- Entitled to earn overtime

NOW WHAT?

FLSA AGENCY REVIEW

- Plan now!
- Bring job descriptions current
- Assess which exempt employees are on the bubble of the new minimum threshold
- Designate each position as exempt or non-exempt
- Renegotiate contracts
- Consider your options
- Communicate any changes to employees

OPTIONS, PROS, CONS & CONSIDERATIONS





WHAT ARE YOUR NEXT STEPS?

WAGE & HOUR RESOURCES

- Alaska Wage and Hour website: labor.alaska.gov/lss/whhome.htm
- Alaska Wage and Hour FAQs for employees: www.labor.alaska.gov/lss/forms/employee_faq.pdf
- Employment Practices & Working Conditions, Wage & Hour Administration Pamphlet 100, Statutes, Regulations & Adopted CFRs 4/07 can be found at: www.labor.state.ak.us/lss/forms/pam100.pdf.
- For more information on the differences between the federal and state rules, visit www.wagehourdefence.org for state summaries.
- Workbook created by [501 Commons](http://www.501commons.org)---contains questionnaires, a budget impact worksheet and a link to an overtime calculator at: <https://www.501commons.org/resources/tools-and-best-practices/human-resources/overtime-rules>.
- [Overtime Rules and the Impact on Nonprofits](http://www.councilofnonprofits.org/trends-policy-issues/overtime-regulations-and-the-impact-nonprofits) from the National Council of Nonprofits at: www.councilofnonprofits.org/trends-policy-issues/overtime-regulations-and-the-impact-nonprofits
- [U.S. Department of Labor](http://www.dol.gov) website on overtime pay, as well as a [video](#) explaining the rules at: www.youtube.com/watch?v=UFJaDm720FU

QUESTIONS–WRAP-UP

Thank YOU

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