



March 30, 2016

U.S. Senate  
Washington, D.C. 20510

Dear Senator,

On behalf of Associated Builders and Contractors (ABC), a national construction industry trade association with 70 chapters representing nearly 21,000 chapter members, I am writing in support of S. 2707, the *Protecting Workplace Advancement and Opportunity Act*, sponsored by Senators Tim Scott (R-S.C.) and Lamar Alexander (R-Tenn.). This legislation would prevent the Department of Labor (DOL) from implementing its proposed changes to the overtime salary threshold and ensure that any future proposed changes occur only after the economic effects have been rigorously analyzed.

Under the Fair Labor Standards Act (FLSA), workers can be exempt from federal overtime pay requirements if they earn above the salary threshold and their “primary duties” are managerial, professional or administrative as defined by DOL. These exemptions give employers flexibility in work schedules and provide workers with an environment that encourages career advancement. On June 30, 2015, DOL proposed increasing the exempt salary level to \$50,440, or \$970 per week, which represents a 113 percent increase from the current level. DOL also proposed raising the threshold annually and only giving employers 60 days of notice before they have to update their workers’ salaries and hours. In what could be considered a violation of the Administrative Procedure Act, the Department also asked for comments on a series of questions about the duties test without actually giving notice of any proposed changes.

DOL’s proposal will have a long list on unintended consequences for ABC members, including increased labor costs and an undue burden on certain regions of the country, including southern states and rural areas. By requiring a large number of exempt executives, administrators and professionals to be reclassified, the proposal would greatly restrict the flexibility to provide high-quality construction services.

Sens. Scott and Alexander’s legislation would prevent this drastic change in the salary threshold and set a responsible, streamlined method for making any changes in the future. S. 2707 prevents DOL from finalizing the proposal and would require the department to analyze the economic impact on some of the industries that would be most adversely affected by this rule, including small businesses, public employers and nonprofits. It would also require DOL to follow federally established guidelines for changing the duties test by allowing public review and comment on any proposed changes.

It is imperative that DOL and Congress take steps to protect workers in this time of uncertain economic recovery. For that reason we urge you to support S. 2707, the *Protecting Workplace Advancement and Opportunity Act*.

Sincerely,

Kristen Swearingen  
Vice President of Legislative & Political Affairs