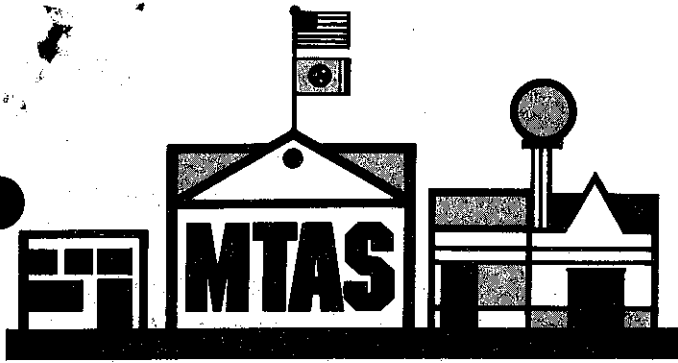




TECHNICAL BULLETIN



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FLSA: ADMINISTRATIVE EXEMPTIONS REVISITED

by Rich Ellis

One of the most difficult problems faced by local governments in complying with the Fair Labor Standards Act (FLSA) is in the area of administrative exemptions. Under section 213(a)(1) of the Act, administrative personnel may be exempted from the minimum wage and overtime provisions of the law. The problems exist with what constitutes an administrative exemption. Many want their criminal investigators, data processing specialists, and other technical positions to be considered exempt due to the nature of their jobs. However, the Department of Labor has consistently ruled against these positions being exempt.

What, then, constitutes an administrative exemption? A review of the regulations indicates that an employee must be involved in activities related to the administrative management of the policies of the organization, not to production work. An employee must clearly be involved in staff functions, not **line** functions. This means the employer must clearly establish that the employee performs work of **substantial** importance to the management or implementation of the organization's policies. Regulations specifically state that those engaged in "personnel administration, labor relations, research, planning, or assisting a management official in carrying out the executive and administrative functions of that official" may be exempt.

Many personnel managers voice concern that such a narrow definition of administrative exemptions bars many positions in local governments from qualifying. Much opposition centers around the fact that the FLSA was drafted for the private sector. The public sector was not a part of the FLSA when it was drafted in 1938. Thus, the public sector's concerns were not taken into consideration when FLSA legislation was drafted. If there is any consolation in all this, the Department of Labor is currently considering amendments (scheduled to be published some time this year) to administrative exemption regulations.

Those responsible for administering their municipality's personnel system should review the job descriptions of those employees currently exempt from FLSA under the administrative exemption regulations. If there is any question whether the position is exempt or not, review the position. If you need assistance, contact your MTAS consultant or the nearest Department of Labor office. Failure to insure that your exempt employees are truly exempt can be expensive.

For Further Information

For further information on FLSA administrative exemptions, contact your local Department of Labor (addresses and phone numbers listed below) or your MTAS Municipal Consultant in Knoxville at 615/974-0411; Nashville at 615/256-8141; or Jackson at 901/423-3710.

Department of Labor
501 Union Street
Suite 503
Nashville, TN 37243-0657
615/741-2858

Department of Labor
617 Cumberland
Knoxville, TN 37902
615/594-6185

Department of Labor
540 McCallie Avenue
Suite 504
Chattanooga, TN 37402
615/634-6421

Department of Labor
170 North Main
Suite 704
Memphis, TN 38106
901/543-7259

Department of Labor
103 State Office Building
Box 16
Jackson, TN 38301
901/423-5641

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