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Technical Bulletins: Fair Labor Standards Act Impact on Cities

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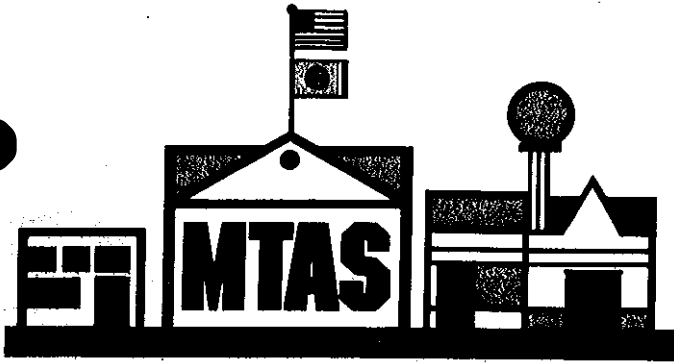
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TECHNICAL BULLETIN

MUNICIPAL TECHNICAL ADVISORY SERVICE
THE UNIVERSITY OF TENNESSEE
IN COOPERATION WITH THE TENNESSEE MUNICIPAL LEAGUE
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April 3, 1985.

FAIR LABOR STANDARDS ACT IMPACT ON CITIES

Following the U. S. Supreme Court Ruling in Garcia v. San Antonio Transit Authority Feb. 19, 1985, which reversed the 1976 National League of Cities v. Usery decision, there have been numerous articles and questions concerning the applicability of the Fair Labor Standards Act to cities. The only thing certain at this point is that the act will apply. How it will apply, and to what extent, is still uncertain. The extent of applicability to cities will depend on the following:

1. Will the regulations adopted in 1974 by the Department of Labor be implemented?
2. Will the Department of Labor issue new regulations, especially as the act applies to overtime pay of public safety employees?
3. If new regulations are issued, will they be retroactive to Feb. 19, 1985, the date of the Supreme Court decision?

These are only a few of the many questions to be answered. As answers to these and other questions are found, new questions certainly will arise.

This issue should not be taken lightly, but neither should cities rush into changing local policies on minimum wage, and especially overtime pay, until more definitive answers are available. Changing or developing new shift schedules is not a simple or easy effort, and once a local policy to pay overtime is established, it is difficult to return to previous policies.

In preparing to comply with the law, cities should:

1. Review their records to be sure overtime is identifiable; this should include comp time.
2. Identify those areas, if any, in which the minimum wage of \$3.35 per hour is not being paid.
3. Review alternatives to overtime, including the public safety sector.
4. Prepare the 1985-86 budget with the anticipation of complying with minimum wage and paying overtime as may be required.

MTAS is maintaining contact with the National League of Cities and will keep you informed as more information becomes available. In the meantime, if any city officials decide to pursue immediate compliance with the 1974 regulations, please contact your MTAS Management Consultant.

The Tennessee Municipal League will conduct a briefing in Nashville April 10. MTAS and the Center for Government Training will sponsor a series of workshops on the issue throughout the state in the near future; watch for announcements.

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