

SPECIAL SESSION COMMISSIONERS' COURT

Tuesday, January 17, 2012 9:00 a.m.

Members of the Court present:

Charles Watson	County Judge
Gene Graham	Commissioner Pct. #1
Jimmy McDaniel	Commissioner Pct. #2
Doyle Dickerson	Commissioner Pct. #3
Fayne Warner	Commissioner Pct. #4
Janice McDaniel	County Clerk

Judge Watson called the meeting to order.

AGENDA ITEM #1-Gerald Schroeder from the Texas Association of Counties to discuss the legal requirements of Timekeeping and Payroll under the "Fair Labor Standards Act" (FLSA)

Mr. Schroeder presented an outline of his presentation. See attached copy.

Mr. Schroeder gave his presentation.

Commissioner McDaniel moved to adjourn. Commissioner Warner seconded. All voted for. Meeting adjourned.

Charles E. Watson CHARLES WATSON

Gene Graham GENE GRAHAM

Jimmy McDaniel JIMMY MCDANIEL

Doyle Dickerson DOYLE DICKERSON

Fayne Warner FAYNE WARNER

ATTEST: COUNTY CLERK

Janice McDaniel JANICE MCDANIEL

Fair Labor Standards Act (FLSA)

It is basically a matter of pay
me correctly now or pay me
more later!

VOL 3-C PG 485

TEXAS ASSOCIATION *of* COUNTIES

Fair Labor Standards Act (FLSA)

The FLSA does six things:

- Sets minimum wage *7.25*
- Establishes overtime pay requirements
1 1/2 hrs. for ea 1 hr.
- Sets recordkeeping requirements
- Sets equal pay for equal work
- Restricts child labor
- Requires breaks for nursing mothers

VOL 3-C PG 486

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Fair Labor Standards Act (FLSA)

The FLSA does not require:

- Vacation, holiday, sick or severance pay -
- Meal or rest periods - *Salary no law that says have to give this even after 7 hrs.*
- Premium pay for weekends or holidays
- Pay raises or fringe benefits
- Discharge notices or immediate discharge pay
- Limit to number of hours worked
(exception for those under the age of 16)

VOL 3-C PG 487

Exclusions and Exemptions

- White collar exemptions – Must meet a minimum salary basis of \$23,660 annually *to be exempt*

455.00 wk.

- Executive – *Auditor is only one this applies to*

- Administrative – *Chief ^{Tony} deputy (+ jail adm. sec is not)*

- Learned Professional

- Certain Computer Professionals (\$27.63) *(must make this amount to be exempt)*

VOL 3-C PG 488

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Employment Relationship

Must be an employer-employee relationship

Can come in early but can not do any Co. work & can not open office early.

- Employ means "suffer or permit" to work
- Knowledge that work has been done may create employment relationship

VOL 3-C PG 489

Independent Contractors are not covered

Our ^{normal} Ct. Reporters are not ind. contractors they should be pd. through payroll

- Must meet specific requirements

Ct. reporters pd. from a Co. are ind. contractors

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Hours Worked

Employees must be paid at least minimum wage (\$7.25 per hour) for all hours worked

- Includes all time spent in the service of employer
- Time not worked but under control of employer is considered time worked
- On call time may or may not be time worked

VOL 3-C PG 490

Defined Workweek

- Required for each employee
- 7 day (168 hour) recurring period
 - May begin on any day of week and any hour of the day
- All time actually worked in workweek must be counted to determine if overtime has been worked
- Each 7 day work week stands alone
- Exception for law enforcement under 207(k) which allows for a work period

*Office policy
Start day + end day*

*Need to make sure
policy is clear that
compt. time from 35
hrs. to 40 hrs. is
straight 1 hr. for
1 hour worked.
After 40 hrs.
it is 1 1/2 hr.
for 1 hr.
worked.*

Overtime

Overtime includes all hours worked over 40 in the workweek

- Daily overtime is not required
- Dual employment counts time from both jobs
- Work weeks cannot be averaged
- Paid leave is not counted as hours worked

Law enforcement has a partial overtime exemption {207(k)} – Deputies & Jailers

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VOL 3-C PG 492

Overtime Compensation

Overtime for non-exempt employees:

- Paid at 1 ½ times regular (hourly) rate *includes bonus long. pay*

OR

- Compensatory time at 1 ½ hours comp time for each overtime hour worked

Employees cannot give up their right to overtime pay

VOL 3-C PG 493

Comp Time

VOL 3-C PG 494

- Applies only to state and local government
- Must have agreement or understanding
 - Once in place, county can pay overtime as comp time, cash or a combination
- Can require employee to use before vacation
- Employee can use at any time unless absence unduly disrupts department
- You must keep accurate records

Texas Association of Counties

Comp Time

- Can require employee to use at the county's convenience (Christensen v. Harris County)
- Employee cannot lose comp time
 - Used
 - Paid at termination
 - Cashed out by county at any time

VOL 3-C PG 495

Comp Time

VOL 3C PG 496

- Comp time does have maximum allowed accruals:
 - 240 hours for all employees except law enforcement
 - 480 hours for law enforcement employees under the 207(k) exemption

Recordkeeping

- **Information that is normally part of personnel files**
 - Name, address, date of birth (if under 19), rate of pay, payroll records, etc.
- **Supervisor's primary responsibility**
 - Keep accurate record of all hours worked

VOL 3-C PG 497

Enforcement

VOL 3-C PG 498

- Enforced by Department of Labor (DOL), Wage and Hour Division
- DOL investigates & gathers data – (wages, hours, employment practices)
- DOL can enter premises, inspect records, interview employees
- DOL determines if violation has occurred.

Best Advice

To keep out of trouble:

- Keep a complete and accurate record of all hours worked per records retention schedule
- Pay all non-overtime hours at straight time
- Pay all overtime hours at:
 - 1 ½ times employees regular rate;
 - or
 - 1 ½ comp time rate

Vol 3-C PG 499

AND FINALLY...

When in Doubt

Call TAC

(800) 456-5974

VOL 3-C PG 500

TEXAS ASSOCIATION of COUNTIES

EMPLOYMENT ISSUES:

Avoiding the Legal Landmines

The State of Texas
County of Sabine
I HEREBY CERTIFY THAT THESE DOCUMENTS WERE FILED AND
DULY RECORDED IN THE COMMISSIONER COURT MINUTES OF SABINE
COUNTY, TEXAS
VOL. 3-C PAGE 484
JANICE MCNULTY, COUNTY CLERK
BY *Pam Cavender* Deputy



VOL 3-C PG 501

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