



Concerning Colorado Overtime Fairness for Employees Act

HB 15-1331

Testimony to the House Committee on State, Veterans, and Military Affairs

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Good afternoon Madame Chair and members of the committee. My name is Casey O'Donnell and I'm a policy analyst at the Colorado Center on Law and Policy. CCLP is a nonprofit, non-partisan research and advocacy organization that engages in legislative, administrative and legal advocacy on behalf of lower income Coloradans. I'm here today to testify in support of House Bill 1331, which provides a much needed update to overtime regulations.

Purpose of Overtime Protection

Overtime rules, first established under the Fair Labor Standards Act of 1938, reward people with additional pay for working more than 40 hours a week or 12 hours in a day and provide an incentive for employers to increase hiring to avoid paying the overtime premium. Overtime regulations are part of a host of policies, current and proposed, that acknowledge that economy-boosting jobs are those that allow people to keep up basic spending and that strengthen families and communities. By placing a premium on overtime hours, such regulations ensure that hard work is rewarded appropriately. When employers acknowledge the value of their employee's time and reward compulsory overtime work appropriately, job satisfaction improves, significantly reducing turn-over and improving firm performanceⁱ.

By placing an upper limit on the number of hours considered to be a reasonable work schedule, overtime regulations encourage employer practices that support optimal worker productivity and morale through improved work-life balanceⁱⁱ.

When overtime regulations work well, some employees get a bump to their low earnings, others experience a more stable work-life balance and some employers increase hiring. However, when aspects of overtime regulations are neglected, problems arise, and those problems, as I will discuss, are what this bill effectively addresses.

The Problem with Current Overtime Regulations

Currently, most hourly workers in blue-collar and service jobs have a right to overtime pay. Eligibility of salaried workers, however, is determined by their pay and the nature of their responsibilities. Salaried workers earning less than \$455/week—or under \$24,000 a year—are automatically eligible for overtime pay regardless of their duties. Workers earning above the \$455/week salary threshold can be exempt from overtime pay if their duties allow them to be classified as professionals, administrators or executives.

The chief problem with current overtime regulations relates to the salary test for salaried workers. Current overtime protections cover only about 9 percent of full-time salaried workersⁱⁱⁱ, compared to a historical coverage rate of 65 percent^{iv}. This is largely because the salary threshold has lost about half of its inflation-adjusted value since 1975.

The salary threshold combined with the duty-test are meant to ensure that overtime protections are afforded to those salaried workers who have limited bargaining power viz. their employer. When properly aligned, the duty and salary test together separate the person who stays longer to complete their project because they know they ought to from those who are compelled to stay at work longer, for fear of losing their job.

The problem is that the salary threshold—last updated in 2006—is far too low and no longer a reasonable benchmark for assessing which workers have sufficient bargaining power so as to preclude the need for overtime protections. Put into context, \$455 per week is below the poverty threshold for a family of four and barely above the poverty line for a family of three. When considering better metrics of cost-of-living, \$455 is even worse. For example, even for a family of four with two full-time working adults, the salary threshold ranges from only about 30 percent of a self-sufficiency wage in Douglas County to 50 percent of self-sufficiency in Mesa County. (see table 1).

Benefits of Updating the Salary Threshold

Updating the salary threshold would give a much needed boost to low and middle income workers and the economy as a whole. The additional 302,000 low-paid white collar workers who stand to benefit from this legislation need to be rewarded for their contributions to the economy. While Colorado's economic output per worker (productivity) has risen 8 percent since before the recession, median compensation has decreased by 2.3 percent. Taking a step back, the wage stagnation problem is further crystalized: from 1979 to 2013, productivity ticked up 70 percent, while median compensation has grown a mere 13 percent. (see figure 1). Simply put, improving overtime coverage will put more money in consumer's wallets while improving their ability to balance work and family.

There are also a number of indirect benefits to improving overtime coverage. Research has shown that rewarding mandatory overtime work improves worker productivity, morale, and their health and well-being, all of which contribute to firm performance^v. For those employees with a low degree of autonomy, paying extra for compulsory overtime is in the employer's best interest, decreasing the risk of burnout and turnover while keeping high quality workers on the payroll.^{vi} Likewise, the economy will receive a healthy boost of consumer spending due to increased earnings for some workers.

Though salaried, the additional beneficiaries work in occupations with limited bargaining power and relatively low pay. Examples of strongly affected occupations (those most likely to gain coverage) include restaurant and retail managers, social workers, and insurance sales agents^{vii}. None of which are known as occupations offering a high degree of autonomy.

If passed, HB 1331 would preserve the right to overtime pay for lower- and middle-income families whose wages have not recovered from the recession and have been close to stagnant for the last 40 years. Updating the outdated overtime rules is an economic imperative that would increase wages for hundreds of thousands of working Coloradoans, providing a much needed boost to consumer demand. At the same

time, updating overtime regulations can improve the work-life balance, productivity, and the physical and mental health of Colorado's workers, all of which can benefit employers and the community at large. For these reasons, I implore the members of the committee to vote in support of this bill.

Table 1.

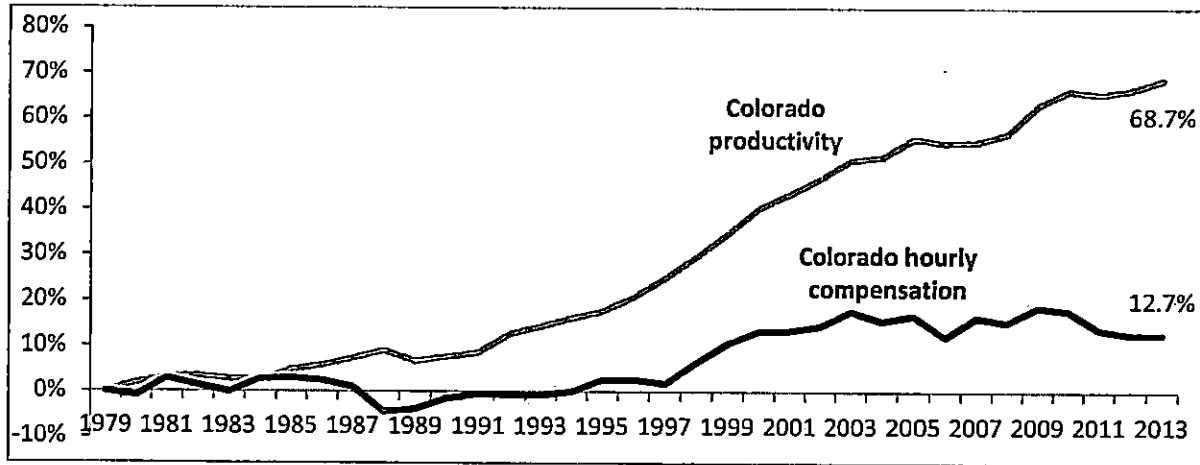
Self-Sufficiency Wage by Family Size for Selected Counties, 2011 (adjusted to 2014 dollars^{viii}).

| | Weekly Self-Sufficiency Wage (rounded) | | \$455 Threshold as Percentage of Weekly SS Wage. | |
|------------|---|--|---|--|
| | Adult + Preschooler | 2 Adults +Preschooler & School-age | Adult + Preschooler | 2 Adults +Preschooler & School-age |
| Adams | \$938 | \$635 | 48.5% | 38.0% |
| Arapahoe | \$925 | \$627 | 49.2% | 37.3% |
| Boulder | \$1,029 | \$693 | 44.2% | 33.1% |
| Broomfield | \$1,034 | \$676 | 44.0% | 34.1% |
| Denver | \$861 | \$566 | 52.8% | 39.5% |
| Douglas | \$1,089 | \$722 | 41.8% | 32.1% |
| Jefferson | \$954 | \$642 | 47.7% | 36.6% |
| Mesa | \$701 | \$508 | 64.9% | 48.6% |
| Weld | \$790 | \$553 | 57.6% | 44.7% |

Source: The Self-Sufficiency Standard for Colorado, 2011, available at <http://www.selfsufficiencystandard.org/docs/Colorado2011.pdf>

Figure 1.

Growth of real hourly median compensation for production/nonsupervisory workers and productivity, 1979-2013^{ix}.



ⁱ Debby Beckers, Dimitri van der Linden, Peter Smulders, Michiel Kompier, Toon Taris, and Sabine Geurts. "Voluntary or involuntary? Control over overtime and rewards for overtime in relation to fatigue and work satisfaction." January 2008. *Work and Stress*. 22(1). pp. 30-50.

ⁱⁱ For a critical review of the literature see Lonnie Golden, "The Effects of Working Time on Productivity and Firm Performance: a research synthesis paper". 2012. *International Labor Organization*. Available at: http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/publication/wcms_187307.pdf

ⁱⁱⁱ Economic Policy Institute analysis of U.S. Census Bureau, Current Population Survey Outgoing Rotation Group (ORG) microdata. Estimates and methodology available at: <http://www.epi.org/publication/how-many-workers-would-gain-overtime-protections-under-an-updated-threshold/>

^{iv} Estimate from Heidi Shierholz. "It's time to update overtime pay rules". July 2014. *Economic Policy Institute*. Available at: <http://www.epi.org/publication/ib381-update-overtime-pay-rules/>

^v Lonnie Golden, "The Effects of Working Time on Productivity and Firm Performance: a research synthesis paper". 2012. *International Labor Organization*.

^{vi} Beckers, et al., "Voluntary or involuntary? Control over overtime and rewards for overtime in relation to fatigue and work satisfaction." January 2008. *Work and Stress*. 22(1). pp. 30-50

^{vii} Heidi Shierholz. "Workers in Lower-Paid White-Collar Occupations Need Overtime Protections". September 2014. *Economic Policy Institute*. Available at: <http://www.epi.org/publication/workers-paid-white-collar-occupations-overtime/>

^{viii} U.S. Bureau of Labor Statistics, All Items Consumer Price Index– All Urban Consumers (Denver-Boulder-Greeley)

^{ix} EPI analysis of unpublished total economy data from Bureau of Labor Statistics, Labor Productivity and costs program; employment data from Bureau of Labor Statistics, Local Area Unemployment Statistics; wage data from the Current Population Survey and compensation data from the Bureau of Economic Analysis, State/National Income and Product Accounts public data series