

Island chamber joins lawsuit challenging White House on overtime pay

By LAURA ELDER The Daily News | Posted: Thursday, September 22, 2016 1:00 am

The Galveston Regional Chamber of Commerce this week joined other business organizations and trade groups in a lawsuit challenging the White House's new white-collar overtime rule, which would make millions of Americans eligible for overtime pay.

The island organization joined other business groups, including the U.S. Chamber of Commerce, the American Bankers Association and the National Association of Manufacturers in a lawsuit filed Tuesday in federal district court in Sherman, Texas, against the U.S. Department of Labor. The filing came just after Texas Attorney General Ken Paxton led 21 states in suing the labor department in a similar challenge.

"The chamber's mission is to promote and advocate for businesses and their ability to continue to do business and that's what we've done for 171 years," Galveston Regional Chamber of Commerce President Gina Spagnola said.

The island chamber's decision to join the lawsuit was a result of feedback from its nearly 900 members, including from representatives of the hotel and motel industry, Spagnola said.

"It adversely affects their ability to do business," Spagnola said.

The U.S. Chamber of Commerce in the lawsuit said the labor department went too far.

"We have heard from our members, small businesses, nonprofits, and other employers that the salary threshold is going to result in significant new labor costs and cause many disruptions in how work gets done," said Randy Johnson, senior vice president of Labor, Immigration and Employee Benefits for the U.S. Chamber of Commerce, in a statement Tuesday.

The suit charges that by setting an excessively high salary threshold for determining who qualifies as "executive, administrative and professional employees," the rule departs from the intent established by Congress in the Fair Labor Standards Act.

It also asserts the labor department ignored regional and industry differences that had previously been acknowledged, resulting in a "one size fits none" salary threshold, Johnson said. The suit also argues that the provision to automatically update the salary threshold every three years without a rule-making process or taking input from affected parties is not authorized by the Fair Labor Standards Act or any other relevant statute.

Under the new regulations, which go into effect in December and were issued by the labor department in May, most salaried workers earning up to \$47,476 a year must receive time-and-a-half overtime pay when they work more than 40 hours during a week, doubling the threshold. The previous cutoff for overtime pay was \$23,660.

Overtime pay must be at least one-and-a-half times a worker's usual pay rate.

Obama Administration officials have estimated the change could benefit more than 4 million Americans — and hundreds of thousands of Texans.

But the plaintiffs assert the new rule should be vacated and that the cost of compliance would force many small employers and nonprofits operating on fixed budgets to cut critical programming, staffing and services to the public.

“Many employers will lose the ability to effectively and flexibly manage their workforce upon losing the exemption for front line executives, administrators and professionals,” according to the lawsuit. “Millions of employees across the country will have to be reclassified from salaried to hourly workers, resulting in restrictions on their work hours that will deny them opportunities for advancement and hinder performance of their jobs — to the detriment of their employers, their customers and their own careers.”

But federal labor department officials have argued that the reforms were long overdue.

“People who will benefit from this rule have been working extra hours without seeing a dime of overtime pay,” David Weil, administrator of the department's Wage and Hour Division, said in May.

Under existing rules, employees earning more than \$23,660 are exempt from overtime if they're classified as administrators, executives or professionals. The exemption allowed for employees to be classified as managers or administrators even if their work responsibilities didn't reflect the title, employee advocates said.

At the time the ruling was issued, most observers predicted the new regulations would greatly affect the food service industry and hotels and motels — types of establishments that rely heavily on managers and are a big part of Galveston's tourism economy.

Some employers, including the University of Texas Medical Branch — the county's largest — said employees would see a pay bump under the new rules. At the medical branch, 261 employees who are exempt from overtime requirements will become eligible for overtime pay under the new rules, officials have said.

Rather than put those employees on hourly wages, the medical branch, which employs about 12,000 people at its facilities throughout the county, plans to raise salaries of exempt employees to comply with the rules. That move will cost the institution \$1.1 million a year, officials said.

Despite the onslaught of legal challenges Tuesday, labor department officials remained steadfast in defending the new regulations.

“We are confident in the legality of all aspects of our final overtime rule,” U.S. Labor Secretary Thomas E. Perez said in a statement. “It is the result of a comprehensive, inclusive rule-making process. Despite the sound legal and policy footing on which the rule is constructed, the same interests that have stood in the way of middle-class Americans getting paid when they work extra are continuing their obstructionist tactics.”

The Galveston Regional Chamber of Commerce is among more than 50 plaintiffs in the lawsuit.