

BenAlert

BENEFIT TRENDS AND LEGISLATIVE UPDATES

OCTOBER 2008



HOWITT
Benefit Services

Howitt Benefit Services is pleased to provide you with periodic updates on benefit trends and legislative updates. As part of our valuable services, we want to ensure that you are in compliance and well-informed of the ongoing changes in our industry.

In this BenAlert:

- **San Francisco Health Care Security Ordinance**
- **New California Law Exempts Computer Professionals from Overtime**

San Francisco Health Care Security Ordinance

The Ninth Circuit, US Court of Appeals ruled last week in favor of the San Francisco Health Care Security Ordinance. We do expect this to be challenged in the Supreme Court, however in the meantime, the ruling remains in effect.

We will keep you apprised of any developments on this issue. Go to <http://www.howittins.com/2008-leg-updates.asp> to view our original communication on this subject.

New California Law Exempts Computer Professionals with a Salary of \$75,000 or More from Overtime Regardless of the Number of Hours Worked

On September 30, 2008, Governor Arnold Schwarzenegger signed into law legislation amending the existing overtime exemption for computer professionals.

Under the prior version of Labor Code Section 515.5, computer professionals were exempt from overtime if their duties met certain criteria as defined in the statute and they earned at least \$36 per hour in each workweek of the year, or an annualized full-time salary equivalent to that rate.

Computer professionals brought lawsuits against employers arguing that, based on the language of the prior version of the law, the annualized full-time salary equivalent increased if an employee worked

more than 40 hours per week. They also argued that the overtime exemption did not apply for the year if a computer professional worked above the annualized minimum threshold even for just one week.

Employers urged that the law be revised to include a set salary threshold in addition to the hourly rate of pay threshold.

The current version of the law extends the exemption to computer professionals who are paid on a salary basis and earn more than \$75,000 per year for full-time employment, and who are paid at least once per month in an amount more than \$6,250. The minimum monthly amount is intended to prevent employers from deferring a significant amount of an exempt computer professional's salary until late in the year.

This means that with limited exceptions, employers must generally pay exempt employees their full salary for any week in which they perform any work (regardless of the number of hours or days actually worked). This statute provides needed relief and certainty to companies that employ computer professionals who work more than 40 hours per week.

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