

104TH CONGRESS  
2D SESSION

# H. R. 4266

To amend the Fair Labor Standards Act of 1938 to prescribe a salary base for an exemption of an employee from the wage requirements of such Act, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 27, 1996

Mr. PETRI introduced the following bill; which was referred to the Committee on Economic and Educational Opportunities

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## A BILL

To amend the Fair Labor Standards Act of 1938 to prescribe a salary base for an exemption of an employee from the wage requirements of such Act, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE AND REFERENCE.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “White Collar Reform Act”.

6       (b) REFERENCE.—Whenever in this Act an amend-  
7       ment or repeal is expressed in terms of an amendment  
8       to, or repeal of, a section or other provision, the reference

1 shall be considered to be made to a section or other provi-  
2 sion of the Fair Labor Standards Act of 1938.

3 **SEC. 2. SALARY EXEMPTION.**

4 (a) EXEMPTION AMENDMENT.—Section 13(a)(1) (29  
5 U.S.C. 213(a)(1)) is amended by adding after “(1)” the  
6 following: “any employee whose rate of annual compensa-  
7 tion is not less than \$40,000 or”.

8 (b) DEFINITION.—Section 13 (29 U.S.C. 213) is  
9 amended by adding at the end the following:

10 “(k) For purposes of subsection (a)(1)—

11 “(1) the term ‘annual compensation’ includes  
12 all amounts reportable to the Internal Revenue Serv-  
13 ice for Federal income tax purposes by an employ-  
14 ee’s employer;

15 “(2) an employee’s rate of annual compensation  
16 shall be determined without regard to the number of  
17 hours worked by the employee and shall be prorated  
18 for any employee who does not work for an employer  
19 during an entire calendar year to reflect annual  
20 compensation which would have been earned if the  
21 employee had been compensated at the same rate for  
22 the entire calendar year; and

23 “(3) reasonably anticipated bonuses, commis-  
24 sions, or other elements of annual compensation not  
25 paid on an evenly distributed bases throughout the

1 year may be prorated over an entire calendar year  
2 or over the portion of the calendar year worked by  
3 the employee for the employer in determining the  
4 employee's rate of annual compensation.''.

5 **SEC. 3. ADMINISTRATIVE EXEMPTION EMPLOYEE.**

6 Section 13 (29 U.S.C. 213), as amended by section  
7 2(b), is amended by adding at the end the following:

8 “(l) The relationship between an employee's job du-  
9 ties and the management policies or general business oper-  
10 ations of the employee's employer or employer's customers  
11 shall not be considered in determining whether such em-  
12 ployee is employed in a bona fide administrative capacity  
13 for purposes of subsection (a)(1).’’.

14 **SEC. 4. EFFECT OF CERTAIN SALARY PRACTICES.**

15 Section 13 (29 U.S.C. 213), as amended by section  
16 3, is amended by adding at the end the following:

17 “(m)(1) The fact that an employee is subject to de-  
18 ductions from pay for absences of less than a full day or  
19 of less than a full pay period shall not be considered in  
20 determining whether such employee is an exempt employee  
21 described in subsection (a)(1) when there has not been an  
22 actual reduction in pay. For purposes of this paragraph,  
23 the term ‘actual reduction in pay’ does not include any  
24 reduction in accrued paid leave or any other practice that

1 does not reduce the amount of the employee's pay for a  
2 pay period.

3 “(2) The payment of overtime compensation or other  
4 additions to compensation based on hours worked in ex-  
5 cess of a daily or weekly amount shall not be considered  
6 in determining if the employee qualifies for the exemption  
7 under subsection (a)(1).”.

8 **SEC. 5. EFFECTIVE DATE.**

9 The amendments made by this Act shall take effect  
10 on the date of the enactment of this Act and shall apply  
11 to any civil action involving section 13(a)(1) of the Fair  
12 Labor Standards Act of 1938 which has not reached final  
13 judgment before such date.

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