

108TH CONGRESS  
2D SESSION

# H. R. 4396

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2004

Mr. DEMINT (for himself, Mr. NORWOOD, and Mrs. MUSGRAVE) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Fair Labor Standards Act of 1938 to clarify the exemption from the minimum wage and overtime compensation requirements of that Act for certain construction engineering and design professionals.

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. FAIR LABOR STANDARDS ACT OF 1938.**

4       Section 13(a) of the Fair Labor Standards Act of  
5       1938 (29 U.S.C. 213(a)) is amended—

6               (1) in paragraph (17), by striking the period at  
7       the end and inserting “; or”; and

1           (2) by adding at the end the following new  
2 paragraph:

3           “(18) any employee providing professional con-  
4 sulting services recognized by a 4-year degree or  
5 greater, professional licensure, professional certifi-  
6 cation, or at least 8 years of similar work experi-  
7 ence, if—

8           “(A) the duties of the employee include—

9                   “(i) interpretation and adherence to  
10 design documents and applicable construc-  
11 tion codes;

12                   “(ii) supervision during a project;

13                   “(iii) interpretation of contract re-  
14 quirements through analysis of specifica-  
15 tions and drawings;

16                   “(iv) the application of a variety of  
17 testing and inspection techniques;

18                   “(v) implementation of research meth-  
19 ods;

20                   “(vi) supervision of the inspection of  
21 materials and workmanship; or

22                   “(vii) the interpretation of engineering  
23 principles and national, State, and local  
24 construction code requirements or of estab-  
25 lished codes (such as the Uniform Building

1 Code) set by nationally recognized stand-  
2 ard-setting organizations (such as the  
3 International Conference of Building Offi-  
4 cials); and

5 “(B) the services of the employee relate to  
6 the preliminary or conceptual design and devel-  
7 opment, design, bidding, construction, or  
8 postconstruction evaluation phases of engineer-  
9 ing, architecture, landscape architecture, land  
10 and hydrographic surveying, land use planning,  
11 natural, environmental, and earth sciences, or  
12 construction technology.”.

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