



# Legislative UPDATE

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## New Federal Overtime Rules

Last week, the U.S. Department of Labor's Wage and Hour Division (DOL) published final regulations governing which executive, administrative, and professional employees – *public and private sector* – are entitled to the Fair Labor Standards Act's (FLSA) minimum wage and overtime pay protections. In total, the new rule is expected to extend overtime payments to 4.2 million more Americans and increase wages by \$12 billion over the next 10 years.

As [previously reported](#), last year's comment solicitation resulted in over 290,000 comment letters being filed with the DOL. Because the proposed changes were expected to have an impact on local governments, the National League of Cities (NLC) and other local government associations pressed for modifications. NLC submitted [comments](#) last September that outlined cities' concerns with the proposal.

The key details of the final regulations are as follows:

- The new salary threshold to be exempt from overtime under one of the "duties" tests (e.g., administrative, professional, or executive) is raised from \$23,660 to \$47,476.
- The salary threshold is automatically updated every three years.
- The effective date of the final regulations is December 1, 2016.

DOL will host [webinars](#) on the regulations, including one for state and local governments on Wednesday June 8, 2016. Visit [www.dol.gov/overtime](http://www.dol.gov/overtime) for additional information and resources.

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## **Interim Hearing: Annexation**

The Senate Intergovernmental Relations Committee met last week to discuss the following interim charge:

*Identify areas of concern in regards to statutory extraterritorial jurisdiction expansion and the processes used by municipalities for annexation, specifically reviewing whether existing statute strikes the appropriate balance between safeguarding private property rights and encouraging orderly growth and economic development. Make recommendations for legislative action, if necessary.*

The Committee heard invited testimony from League staff and the Cities of McKinney (Mayor Brian Loughmiller) and Rockport (City Manager Kevin Carruth) relating to those cities' annexation practices. Witnesses pushing for annexation "reform," including those from the Texas Public Policy Foundation and others, testified as well.

Most of the discussion centered on why cities annex, how annexation is an important component of Texas' economic success, and the services that cities provide to an annexed area. The League will continue to monitor and participate in the debate on annexation in the coming months.

## **Texas Supreme Court: Animal Control Ordinances**

The Texas Supreme Court recently issued its opinion in [\*Lira v. Greater Houston German Shepherd Dog Rescue\*](#). In the wake of the opinion, city officials should review the provisions of their animal control ordinances to ensure that the city takes ownership of a stray animal if the owner does not claim it.

The case involved a dog that escaped from its owner's home with no collar or microchip. The dog ended up in the City of Houston's animal control facility. After the "hold period" in the city's ordinance, the dog was transferred to a rescue organization. The organization then placed the dog with in a foster home.

Some time later, the original owner learned that the dog was in foster care, and asked the rescue organization to return the dog to her. When the organization refused, she sued to get her dog back. The resulting Supreme Court opinion is unclear. At worst, it could be read to mean that a city's animal control ordinance can never divest ownership from an animal's original owner. At best, it concludes that the City of Houston's ordinance could have done so, but did not.

Also troubling is *dicta* in the case relating to euthanasia by an animal control facility. ("*Dicta*" is simply language in a judicial opinion that goes beyond the facts before the court and is not technically binding in subsequent cases as legal precedent.) The Court concluded that "[p]utting an animal down is arguably an act so inconsistent with the rights of the owner as to imply a divestment of ownership, but that...did not apply because [this dog] was picked up without tags and was not euthanized." Such a statement appears to indicate that the Court may question the

practice of euthanasia of stray animals in the custody of a city, especially absent clear ordinance language divesting the ownership rights to the animal.

City officials should review the language of their animal control ordinances with legal counsel to ensure that the city takes ownership of a stray animal upon the expiration of any hold period.

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