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November 28, 2016

MEMORANDUM

To: Washington Fire Commissioners Association

From: Brian Snure

Re: **New FLSA Overtime Rule – ~~Effective December 1, 2016~~**

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On November 22, 2016, the federal district court for the Eastern District of Texas granted a preliminary injunction halting implementation of the new federal overtime rule discussed below. Accordingly, the new rules will not take effect on December 1, however, the decision does not permanently prevent implementation of the rule and the rule may still take effect after the court concludes its evaluation or if the temporary injunction is overturned by the Court of Appeals. If you have adjusted salaries or other employment contracts to address the impact of the new rule you should consult with legal counsel to determine the appropriate course of action.

On December 1, 2016, the Department of Labor's updated Fair Labor Standards Act (FLSA) rule on overtime compensation will take effect.

The new rule will impact fire districts and fire authorities with paid overtime exempt employees such as fire chiefs who may traditionally work in excess of 40 hours per week. Under current law, a salaried employee that performs executive or administrative duties may be exempt from overtime provided that the employee receives a minimum weekly salary of \$455 or \$23,660 annually.

Under the new rules, this threshold is increased to \$913 per week or \$47,476 annually. Future automatic updates to the new thresholds will occur every three years, beginning on January 1, 2020.

If you have salaried overtime exempt executive or administrative employees that are paid less than the new thresholds those employees will lose their overtime exemption beginning December 1, 2016. If you allow affected employees to work over forty hours per week, then you will be

required to pay overtime for all hours worked in excess of forty.

In order to avoid FLSA violations, employers may need to begin tracking hours worked and possibly place limits on hours worked. In addition, the new regulation may require that employers update or revise employment agreements with affected employees.

This rule change does not affect FLSA exempt employees that are paid more than the \$913 per week (\$47,476 annually).