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CO

nal Association of Black County Officials

P.O. Box 8036
San Bernardino, California 92412
(714) 387-5401

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July 2, 1992

The Honorable Edolphus Towns, Chairman
Congressional Black Caucus
House Annex III
Ford Building, Room 344
Washington, D.C 20515

Dear Congressman Towns:

This letter respectfully requests an opportunity for County Supervisor Leon Williams to address the Congressional Black Caucus on behalf of the National Association of Black County Officials during one of your meetings prior to your summer recess. Supervisor Williams is an elected official from San Diego County and Vice President of the California Supervisor Association of Counties. The Supervisor would like to present to the Caucus information and a definitive description of a crisis facing counties and municipal government nationwide (States and Cities) in regards to the Fair Labor Standards Act (FLSA) and recent court decisions.

As I am sure your are aware, County government provides critical human care services which directly impact the quality of life of ethnic minority citizens. In far too many cases, the intervention and provision of services by counties are the first and last recourse available to identity, develop options and respond to problems faced by citizens on a daily basis. The pending judgements have the potential to bankrupt state and local government and deny services to the most needy of our populations.

Recent court decisions, and subsequent judgements not only have created a financial burden and crisis, but we believe the court's interpretation was contrary to the intent of Congress. The focal point for much of the current controversy regarding the FLSA centers on the application of the salary basis test to public sector employees.

The Fair Labor Standards Act (FLSA), as amended in 1985 and regulations promulgated by the Department of Labor, contains provisions which adversely impact local governments by (1) treating certain public "white collar" employees differently than private sector "white collar" employees, and (2) precluding efficient management of human resources through alternative work schedules agreeable to management and labor. The law and DOL regulations provide that certain employees having salaries over defined levels and performing specified duties are exempt from the requirement that they receive premium overtime pay at the "time-and-one-half" rate.

State and local governments have historically, for purposes of public accountability for taxpayer's dollars, required employees to use there paid leave credits for absences of less than a day, and to be paid overtime in the form of compensatory time off or straight time pay-- i.e., no overtime pay rate. This practice has resulted in rulings by various courts which make most public sector employees "hourly" employees, as opposed to "salaried" employees, thus due overtime pay for hours worked over the 40-hour limit per week at a time and one-half rate.

The potential impact of these decisions require the immediate attention of our legislators, and we request an opportunity to discuss possible solutions to the current crisis with your caucus. Your granting of our request to address the Congressional Black Caucus would be sincerely appreciated.

If you require further information, please contact me at (714) 387-5401 or Supervisor Leon Williams at (619) 531-5867.

All good wishes.

Sincerely,

Thelma J. Moore
President