Telefax

To: LEON WILLIAMS

From: John Liu
Office of Congressman Bill Lowery
Phone: (202) 225-3201
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Re: LEON -

It is crucial that each Congressional Member from CA. receive a letter of support from county supervisors / mayors of cities in their district ASAP to co-sponsor H.R. 4305 & H.R. 5112.

Thanks! J

7 Pages

102D CONGRESS
2D SESSION

H. R. 4305

To amend the Fair Labor Standards Act of 1938 to permit State and local agencies to adopt flexible and compressed work schedules.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 1992

Mr. LOWERY of California introduced the following bill; which was referred to the Committee on Education and Labor

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A BILL

To amend the Fair Labor Standards Act of 1938 to permit State and local agencies to adopt flexible and compressed work schedules.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SCHEDULES.

Section 7 of the Fair Labor Standards Act of 1938 (29 U.S.C. 207) is amended by adding at the end the following:

"(r)(1) A public agency which is a State, a political subdivision of a State, or an interstate governmental agency which adopts a flexible and compressed work schedule in accordance with subchapter II of chapter 61, title 5,

1 United States Code, and paragraph (2) shall, in lieu of
2 the requirement of subsection (a), pay overtime com-
3 pensation at the rate prescribed by subsection (a) for over-
4 time hours worked in accordance with such schedule.

5 "(2) In the case of a public agency described in para-
6 graph (1) which adopts the work schedule described in
7 such paragraph in accordance with the subchapter re-
8 ferred to in such paragraph—

9 "(A) the definitions of 'collective bargaining',
10 'collective bargaining agreement', and 'exclusive rep-
11 resentatives' shall be the definitions given such
12 terms by the applicable statutes, ordinances, or reg-
13 ulations of such public agency,

14 "(B) all references to holidays designated by
15 Federal statute or Executive Order under such sub-
16 chapter shall mean the holidays designated by the
17 applicable statutes, ordinances, or regulations of
18 such public agency, and

19 "(C) the authority granted to the Office of Per-
20 sonnel Management under such subchapter shall be
21 exercised by the personnel director of such public
22 agency.".

23 **SEC. 2. EFFECTIVE DATE.**

24 The amendment made by section 1 shall take effect
25 180 days after the date of the enactment of this Act.

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102D CONGRESS
2D SESSION

H. R. 5112

To amend the Fair Labor Standards Act of 1938 to provide that an employee shall not be excluded from the minimum wage and maximum hour exemption for certain employees because the employee is not paid on a salary basis, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 7, 1992

Mr. LOWERY of California introduced the following bill; which was referred to the Committee on Education and Labor

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A BILL

To amend the Fair Labor Standards Act of 1938 to provide that an employee shall not be excluded from the minimum wage and maximum hour exemption for certain employees because the employee is not paid on a salary basis, 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. MINIMUM WAGE AND MAXIMUM HOUR EXEMP-**
4 **TION FOR CERTAIN EMPLOYEES WHO ARE**
5 **PAID ON OTHER THAN A SALARY BASIS.**

6 Section 13(a)(1) of the Fair Labor Standards Act of
7 1938 (29 U.S.C. 213(a)(1)) is amended by inserting be-

1 fore the semicolon at the end the following: ", and except
2 that an employee of a State, a political subdivision of a
3 State, or an interstate governmental agency shall not be
4 excluded from the definition of an employee employed in
5 a bona fide executive, administrative, or professional ca-
6 pacity because the employee is not paid on a salary
7 basis.".

8 **SEC. 2. EFFECTIVE DATE.**

9 (a) The amendment made by section 1 shall apply
10 to an employee (described in the amendment) before, on,
11 and after the date of enactment of this Act unless—

12 (1) an action was brought in a court involving
13 the application of section 13(a)(1) of the Fair Labor
14 Standards Act of 1938 (29 U.S.C. 213(a)(1)) to the
15 employee; and

16 (2) a final judgment has been entered in the ac-
17 tion on or before the date of enactment of this Act.

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news release

PUBLIC AFFAIRS OFFICE • COUNTY ADMINISTRATION CENTER
1600 PACIFIC HIGHWAY • SAN DIEGO, CALIFORNIA 92101-2422

FOR IMMEDIATE RELEASE
February 26, 1992

TINA – I HOPE THIS WORKED OUT OK.
Roger Houberger

Contact: Bob Lerner
(619) 531-4833

COUNTY APPLAUDS LOWERY LEGISLATION ALLOWING ALTERNATE WORK SCHEDULES

San Diego County government officials lauded Congressman Bill Lowery today for introducing legislation which would permit hourly employees to work more than 40 hours per week.

Board of Supervisors Chairman George F. Bailey said County officials were elated at the Lowery proposal which would revise the Fair Labor Standards Act (FLSA) to allow government employers and their employees to utilize work schedules other than the current 40-hour/5-day week. As the law currently stands, hours worked in excess of 40 must be paid at a higher hourly rate.

"The FLSA was a well-intentioned piece of legislation," said Bailey, "but it is wreaking havoc with local government. Congressman Lowery's efforts to correct this imbalance are very welcome. His proposal will provide local governments with a tool to improve management of human resources."

Bailey pointed out that many employees would prefer work schedules other than the traditional 40-hour/5-day formula, and the nature of their work would make it more productive to offer alternate schedules. Offering such schedules under existing FLSA requirements is extremely costly to local government and to the taxpayer. An added benefit of Congressman Lowery's proposal would be a

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significant reduction in automobile trips. This proposal, which would allow for modified work schedules such as a 4-day/10-hour schedule, would reduce trips and stagger hours for worktime commutes, resulting in improved air quality and reduced traffic congestion.

In a FLSA law suit decided in federal court on February 10, 1992, the County was held liable under FLSA and required to pay overtime retroactively to approximately 500 County employees who are plaintiffs in the lawsuit for hours worked in excess of 40 per week.

According to Ethel M. Chastain, Human Resources Director for the County, potential cost exposure for the County as a result of the court's interpretation of the FLSA may exceed $6 million. The County argues that "hourly employees" covered by the act should not include the hundreds of managerial and administrative employees whose duties require them to work irregular hours.

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