



## Policy Brief: LD 402

# Overtime bill would guarantee living wages for workers with long hours

by James Myall, Policy Analyst | February 11, 2020

**Summary:** LD 402 would restore overtime pay for workers who have lost that benefit over time. Labor laws enacted almost a century ago protected the 40-hour workweek and guaranteed extra pay for extra work by creating overtime pay for all but the highest-paid workers. But over the decades, the share of workers who receive overtime pay has decreased as business interests have fought to cut overtime protections and keep wages low — even as corporate profits hit record highs.

LD 402 would restore lost overtime protections for roughly 28,000 middle-class Mainers. It would increase wages by \$8.8 million and boost Maine's economy.

**How it works:** Nearly all hourly workers are already guaranteed overtime when they work more than 40 hours. Contrary to common understanding, overtime protections apply to salaried workers too. All workers, including salaried workers, who earn less than a "salary threshold" set by federal and state overtime regulations must also receive time-and-a-half pay for overtime. But the salary threshold has not kept up with inflation, causing a growing number of salaried workers to lose overtime protections — including those with low-to-moderate salaries.

LD 402 would increase the salary threshold to guarantee overtime for all workers who earn less than \$55,000 annually, ensuring that no one is made to work long hours without receiving a living wage.

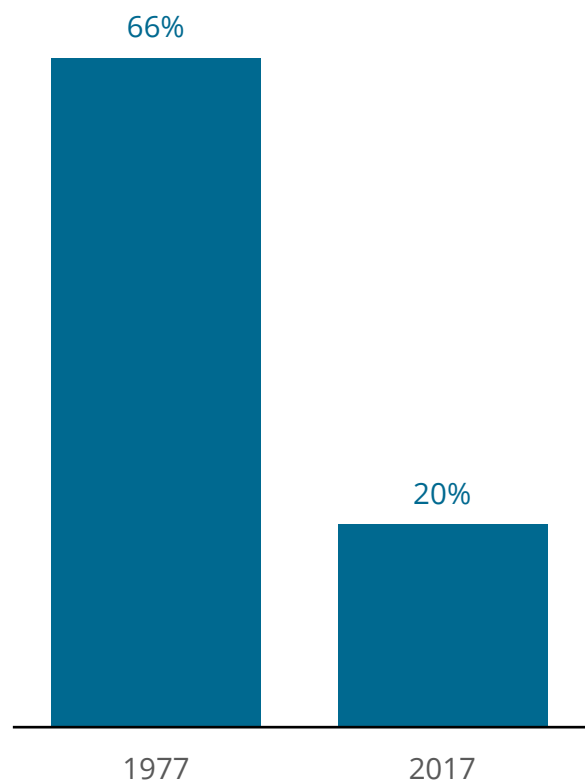
## Overtime bill would restore overtime to historic levels

In 1977, roughly two-thirds of salaried workers were eligible for overtime.<sup>1</sup> Only the highest-paid workers and those workers whose roles provided them some autonomy over their schedules were ineligible for

time-and-a-half pay. All other salaried workers and all hourly workers were eligible for overtime.

Salary was never meant to be a tool for employers to use to get out of paying overtime. But over the years the categories of salaried workers ineligible for overtime have become so broad, and the salary threshold so low, that a large majority of salaried workers in Maine are no longer eligible. Today, roughly 80 percent of salaried workers, even those with relatively low pay, can be made to work 50, 60, or even more hours per week without an extra dime of pay.<sup>2</sup>

Chart 1: Share of salaried Mainers eligible for overtime has dropped dramatically



*Note: Figures represent percentage of salaried workers who earn less than the salary threshold. Source: MECEP analysis of data from US Census Bureau's Current Population Survey.*

LD 402 would raise the salary threshold incrementally until 2022, when it would guarantee overtime pay for all workers who earn less than \$55,000.

That figure represents a living wage for a working parent in Maine,<sup>3</sup> and is roughly where the salary threshold would be today if it had kept up with the cost of living since 1975.<sup>4</sup>

## LD 402 extends overtime protection to 28,000 Mainers

Increasing the overtime protections would cover an additional 28,000 Mainers, doubling the number of salaried workers in Maine to be guaranteed overtime when they work extra hours.

MECEP estimates that of the 28,000 Mainers who would gain overtime protections as a result of LD 402, roughly 17,000 don't work overtime. An estimated 1,000 more are workers who regularly work overtime hours and already receive overtime pay.<sup>5</sup>

That leaves roughly 9,500 Mainers who work overtime without pay on a regular or occasional basis. Employers of those workers have a variety of ways to respond to the threshold change.

- **Pay overtime:** Employers can keep employees on the same schedule and pay them time-and-a-half for the extra hours.
- **Manage workers' hours:** Employers can manage overtime so that fewer employees work more than 40 hours per week. Workers would receive the same salary they currently receive but would have more time to spend with their families or on activities outside the workplace.
- **Raise salaries:** Employers can increase workers' salaries to exceed the new overtime threshold so that they remain exempt from overtime protections. Public-sector employers can also offer compensation time in lieu of extra wages. Following estimates derived by the US Department of Labor, MECEP estimates that for 11.5 percent of those who regularly work unpaid overtime, employers will decide to increase base salary rather than pay overtime rates.

## Restoring overtime would yield an \$8.8 million wage boost

All told, middle-class workers in Maine would receive an additional \$8.8 million in overtime pay annually as a result of updating Maine's overtime protections to keep pace with the increasing cost of living.

The average additional pay will be just over \$1,000 for workers who regularly work unpaid overtime, or roughly a 2.5 percent raise. Those who currently work occasional unpaid overtime and those whose existing salaries are already close to \$55,000 — whose employers are likely to simply increase their salary over the new threshold — will receive smaller pay increases, but still an annual increase of more than one percent.



**Salary should not be a trap that results in long hours and low pay.**

**Workers with long hours deserve fair pay for their hard work.**

**LD 402 would guarantee a living wage for workers who put in extra hours on the job.**

Table 1: Estimated impact of overtime protection on newly eligible salaried workers

		Number of individuals	Average annual pay increase	Total pay increase
Workers who do not work overtime hours		17,386	\$0	\$0
Workers already paid for overtime as a result of duties-based eligibility		1,070	\$0	\$0
Workers who occasionally work unpaid overtime		1,843	\$469	\$864,367
Regularly works unpaid overtime	Likely to receive time-and-a-half pay	6,789	\$1,083	\$7,352,487
	Likely to see salary increased to new threshold	882	\$689	\$607,698
<b>Total</b>		<b>27,969</b>		<b>\$8,824,552</b>

Source: MECEP analysis of data from US Census Bureau, Current Population Survey, Outgoing Rotation Group, 2008-2017; US Department of Labor, 2016 Economic Impact Summary for final overtime rule (81 Federal Register 32391). Impact represents LD 402 when fully phased in. Dollars represent 2019 values.<sup>6</sup>

## Overtime bill would have a minimal effect on businesses

The cost of expanding overtime protection represents only small additional costs to employers. The \$8.8 million boost to workers' paychecks represents a tiny fraction of existing business costs. The total payroll for private businesses in Maine was \$23.2 billion in 2018.

In 2016, the US Department of Labor estimated the cost of a similar overtime expansion proposed at the federal level. Its estimates indicated that new business costs associated with overtime – including wages and administrative costs – would amount to less than one-tenth of 1 percent of private-sector payroll.

## Maine would join other states in restoring workers' overtime

Several states have recently passed increases to their overtime threshold, and others are considering doing so. Alaska, California, Colorado,

New York, and Washington all have existing laws strengthening their overtime protections, while Michigan and Pennsylvania's governors are currently drafting rules to do so. 73 million Americans – more than one fifth of the population – live in these states with stronger overtime protections, and more states are likely to join.

## About MECEP

The Maine Center for Economic Policy is a nonprofit research and policy organization dedicated to economic justice and shared prosperity by improving the well-being of low- and moderate-income Mainers. Since its founding in 1994, MECEP has provided policymakers, advocates, media organizations, and the public with credible, rigorous research and analysis. MECEP is an independent, nonpartisan organization.

## About the author

**James Myall** is MECEP's lead on labor and workforce issues and education and health care policy. He conducts research and impact analyses, writes educational materials, and collaborates with partners. James is skilled in data collection, research, and statistical and policy analysis. He has a master's degree in public policy and management from the University of Southern Maine and a master's degree in ancient history and archaeology from the University of St. Andrews in Scotland.

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## Endnotes

- 1** MECEP analysis of Current Population Survey, May Demographic Supplement, 1977. In 1975, the salary threshold was set at a maximum of \$250 per week. In 1977, 66 percent of nonhourly employees in Maine had usual weekly earnings below this level. This is similar to national rates of overtime coverage, as reported by the Economic Policy Institute. See <https://www.epi.org/publication/ib381-update-overtime-pay-rules/>
- 2** MECEP analysis of US Census Bureau, Current Population Survey, Outgoing Rotation Group, 2008-2017 pooled data. See methodology note below.
- 3** Glasmeier, Dr. Amy K., "Living Wage Calculator." Massachusetts Institute of Technology. Accessed February 7, 2019. <https://livingwage.mit.edu/states/23>
- 4** MECEP analysis based on inflation-adjusted 1975 salary threshold using Consumer Price Index U-RS.
- 5** These workers are eligible for overtime despite earning more than the salary threshold because their job duties make them explicitly eligible.
- 6** **METHODOLOGY:** Estimates were derived from analysis of the US Census Bureau, Current Population Survey, Outgoing Rotation Group, 2008-2017 pooled data, via the Integrated Public Use Microdata System (IPUMS). Pooling ten years of samples allowed for 24,346 observations of employees with earnings in Maine. Earnings in the pooled sample were adjusted to 2019 dollars using the CPI and further inflated to 2023 dollars at an estimated rate of 2 percent annually. Maine's minimum wage was also adjusted annually after 2020 at a rate of 2 percent per year, rounded to the nearest 5 cents, consistent with Maine law. The impact of changes to the overtime salary threshold, including estimates of which Mainers are covered by state and federal overtime laws, were estimated following methodology developed by the US Department of Labor and the Economic Policy Institute. For a full description, see <https://www.epi.org/publication/overtime-estimates-technical-memo/>