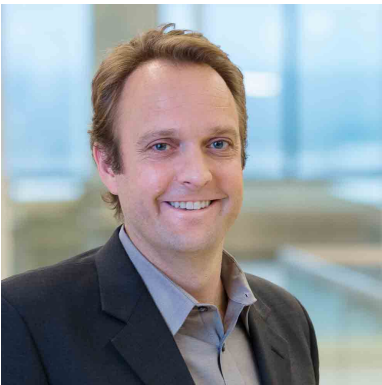




Jeremy Ben Merkelson

Of Counsel
 Washington, D.C., Denver
jbmerkelson@hollandhart.com



Bradford Williams

Of Counsel
 303.295.8121
 Denver
bjwilliams@hollandhart.com



Robert Thomas

Of Counsel
 303.295.8381
 Denver
rmthomas@hollandhart.com

Expansive New Overtime and Minimum Pay Requirements Coming for Most Colorado Employers

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Just in time for the holiday season, the Colorado Department of Labor and Employment, Division of Labor Standards and Statistics ("Division"), has proposed replacing Colorado Minimum Wage Order #35 with Colorado Overtime and Minimum Pay Standards ("COMPS") Order #36. If adopted in its current proposed form, the new COMPS Order would radically change Colorado's minimum pay and overtime landscape for most private employers in Colorado. Employers should be aware of multiple important changes proposed in the new order, but perhaps the two most significant changes are: (1) expanded employer coverage; and (2) increased salary thresholds for exempt employees.

Expanded Employer Coverage

Previous Colorado Minimum Wage Orders only covered work performed in Colorado within four broadly defined industries: Retail and Service, Food and Beverage, Commercial Support Service, and Health and Medical. The new COMPS Order, as proposed, **would cover nearly every private employer in the state, unless specifically excluded**. The proposed order lists numerous exemptions from Colorado minimum pay and/or overtime requirements, some of which apply to all employers of certain types, and others of which only apply to specific jobs. Employers who previously relied on exemptions from Colorado minimum pay and/or overtime requirements will want to closely examine the proposed order to confirm whether these specific exemptions would continue to apply.

Increased Salary Thresholds for Exemption

The COMPS Order, as currently proposed, continues to track federal law for the most common overtime exemptions (e.g., administrative, executive, and professional employees), including the substantive duties tests used for evaluating whether these exemptions apply. But the proposed order also adopts new minimum exempt salary thresholds for these exemptions, which are significantly higher than those provided in federal law. The proposed order would require a minimum exempt salary of \$42,500 beginning on July 1, 2020, for the exemptions to apply, as compared to the new federal minimum exempt salary threshold of \$35,568 (which is going into effect on January 1, 2020). After January 1, 2022, the COMPS Order would then raise the minimum exempt salary threshold in Colorado by \$3,000 per year until reaching \$57,500 in 2026. The threshold would thereafter be adjusted annually to account for inflation.

The table below summarizes the COMPS Order's proposed six-year phase-in for the new minimum exempt salary thresholds in Colorado:

Phase-In Date	
July 1, 2020	\$42,500 per y
January 1, 2022	\$45,500 per y
January 1, 2023	\$48,500 per y
January 1, 2024	\$51,500 per y
January 1, 2025	\$54,500 per y
January 1, 2026	\$57,500 per y
January 1, 2027	2026 salary at Minimum Wage

A copy of the Division's new proposed COMPS Order, plus a summary of its major proposed changes, may be found on the Division's website [here](#).

Timing of Changes

The new COMPS Order was proposed on November 15, 2019, and the comment period on the proposed changes will conclude by the year's end. Unless there are further changes to the proposed order (or a successful legal challenge), the final order will likely become effective on March 1, 2020, with the exception of the new minimum exempt salary thresholds, which will likely become effective on July 1, 2020. Unfortunately, we do not foresee major changes to the proposed COMPS Order in the coming weeks, but stay tuned to our [blog](#) for developments.