

# The Professionals Guild of Ohio



## PGO UNION NEWS

May 2017

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### **AFL-CIO Vows Fight For Overtime Rights**

Richard Trumka, President of the AFL-CIO, will sue if the Department of Labor tries to diminish the Fair Labor and Standards Act (“FLSA”) overtime eligibility standards put in place by the Obama administration, which were to become effective December 1, 2016.

Because of a lawsuit filed by the State of Texas and twenty other states against the federal government, a federal judge in Texas has temporarily blocked the implementation of the new overtime standards. The AFL-CIO is seeking to join as a party in the lawsuit and may try to make that happen by suing the federal government should the Trump administration make any changes affecting the new standards.

The eligibility standards at issue in the lawsuit are the standard salary requirements necessary for a worker to be deemed a “bona fide” executive, administrative, or professional employee who is exempt from the mandatory overtime requirements set forth in the FLSA. Since the implementation of the FLSA in 1938, the Department of Labor (“DOL”) has relied upon a weekly salary figure as a benchmark for determining whether or not an employee is genuinely employed in an executive, administrative or profes-

sional capacity exempting that employee from overtime compensation.

That salary requirement is set forth in a regulation (“rule”) adopted by the DOL through its formal rule-making process. Once adopted, it has the force of law and must be obeyed by all employers subject to the FLSA.

Under the prior DOL regulation, the minimum standard salary required for a worker to be exempted from overtime eligibility was \$455 per week (\$23,660 per year). The new “Final Rule” adopted during the Obama administration to be effective on December 1, 2016 updates the salary and compensation levels needed for workers to be exempt. Specifically, the new rule:

- increases to the standard salary level from \$455 to \$913 per week (\$47,476 per year);
- increases the total annual compensation requirement for highly compensated employees from \$100,000 to a total annual compensation of \$134,004.

Additionally, the Final Rule amends the salary basis test to allow employers to use nondiscretionary bonuses and incentive payments (including commissions) to satisfy up to 10 percent of the new standard salary level.



### GOP Attacks Ohio's Prevailing Wage Requirement

On February 2, 2017, Republican State Senator Matt Huffman introduced Senate Bill 72, which contains provisions that will eliminate the prevailing wage requirement in public improvement contracts. Unlike the State of Kentucky's recent total elimination of the prevailing wage requirement in public contracts, the Ohio legislation gives political subdivisions, state colleges and universities, and special districts the option of including a prevailing wage requirement in any public improvement contract.

If the legislation is made law, whether or not to utilize prevailing wages will need to be decided upon in each project within hundreds of counties, cities, townships, and other political subdivisions. Exactly how this lack of uniformity will work in specific public improvement projects is unclear, especially with those joint projects involving multiple political subdivisions.

Currently, SB 72 is under review by the Senate Finance Committee, subject to the referral to that Committee on March 7, 2017.

### PGO Election Underway

Ballots for the election of state PGO officers are in the mail! To exercise your right to vote for the people you want to lead your Union, you must fill out your ballot and mail it to PGO in the postage paid "secret ballot" envelope that is provided with each ballot. To be counted, your ballot must be delivered to PGO no later than June 15, 2017.

### New Study Shows Harmful Impact of Right to Work Laws

Researchers Frank Manzo IV of the Illinois Economic Policy Institute and Robert Bruno of the University of Illinois, Urbana-Champaign have studied the effect of "right to work" ("RTW") laws enacted by Midwestern states. Their research proves definitively that RTW legislation is detrimental to workers.

The researchers tracked various economic indicators from 2010 through 2016 in three RTW states (Indiana, Michigan and Wisconsin) and three states maintaining collective bargaining rights (Illinois, Minnesota and Ohio). The study shows significantly negative consequences for many middle-class workers in the RTW states. According to the study, RTW schemes have statistically lowered the hourly wages of the following work groups:

- 5.9 percent reduction in wages for construction and extraction workers;
- 3.1 percent reduction in wages for service occupations, including police officers and fire fighters;
- 2.7 percent reduction in wages for workers in office and administrative support;
- 2.4 percent reduction in wages for employees in retail and business sales;
- 1.9 percent reduction in wages for professional, educational, and health workers.



"I laid off nine secretaries to save money, and for some reason, the other one quit."



"Honest, it stands for 'Super Outstanding Boss!'"

The researchers also found that RTW schemes have been effective in reducing the unionization rate by 2.1 percent on average.

RTW legislation is always promoted as a “movement in favor of individual employee rights”, however this latest study proves the opposite to be true. By making it harder for workers to form and maintain strong labor unions, only the employers benefit and workers lose out.

A full report of the study is available at this website: <https://illinoisupdate.com/2017/04/03/right-to-work-laws-in-the-midwest-have-reduced-unionization-and-lowered-wages/>

### Supreme Court Appointee is a Corporation’s Dream Judge

Neil Gorsuch, President Donald Trump’s pick for a lifetime seat on the Supreme Court, has a long history of making rulings favoring corporations over workers, unions, and consumers. The 49-year-old Gorsuch had a legal career representing corporations before joining the Justice Department. Soon after, President George W. Bush appointed him to the federal bench.

Gorsuch has a reputation of disagreeing with the National Labor Relations Board, writing that he rejects the federal courts’ 33-year history of deferring expertise of the NLRB regarding the interpretation of federal law. However, Gorsuch is fine with deferring to the ruling of the NLRB when it favors the employer. Here, are a sampling of Neil Gorsuch’s judicial rulings demonstrating his anti-union/anti-worker perspective:

### Trans Am Trucking v. DOL Administrative Review Board

A truck driver pulled off the highway in sub-zero weather after the trailer’s brakes froze. His torso went numb after waiting three hours in an unheated cab for roadside assistance. A boss ordered the driver to not abandon the cargo. Fearing for his health and safety, the driver unhitched the trailer and drove off a short distance to a nearby gas station to get warm. TransAm promptly fired him for disobeying an order.

The NLRB ruled the driver’s action was protected by a law that bars companies from firing a driver who “refuses to operate” an unsafe truck. The majority of the judges on the federal court of appeals agreed. Gorsuch disagreed, writing that by driving off in the cab without the cargo, the driver was technically not refusing to operate the truck. “There’s simply no law anyone has pointed us to giving employees the right to operate their vehicles in ways their employers forbid,” he said.

### NLRB v. Community Health Services, Inc.,

In a situation where a hospital unlawfully reduced the full-time work hours of respiratory-department workers, the NLRB ruled that their interim earnings from work taken outside of their hospital jobs should be disregarded. The hospital appealed, and the majority of the court agreed with the NLRB about how best to make the hospital workers “whole.” Gorsuch dissented, deciding the back-pay award gave too much money to the workers and observing that the Board’s “statutory charge isn’t to promote full employment.” (*To be continued...*)



"It's true I paid no taxes last year. That's what employees are for."



"Beavers, you were unconscious for fifteen minutes... I guess you know, that comes off your sick leave."

### **Historic Unionization Showdown in the South**

Mississippi, like all other southern states, has staunchly supported the anti-union agenda. It is one of a handful of states that have actually amended its state constitution to protect the right to work agenda. As such, employers in Mississippi have felt empowered to go to any extreme in opposing the efforts of workers to unionize. However, the activities of the Nissan Motor Company in its opposition to unionization efforts at its plant in Canton, Mississippi are receiving international attention.

For several years, the United Auto Workers (UAW) has been campaigning for representation of 6,400 workers at the Canton plant. All the while, labor law violations and safety complaints keep mounting up against the company, which the UAW cites as ongoing intimidation of workers who support unionization. Recent allegations against Nissan include charges that a company security guard wrongfully stopped workers from handing out literature and asking fellow employees to sign cards authorizing a union vote outside a gate of the Canton plant Thursday afternoon.

All of the discord at the Nissan plant prompted a visit by Vermont Senator Bernie Sanders, who attended the "March for Mississippi" rally in Canton to support the organization efforts of the Nissan plant workers. "What corporations understand is if they stop workers in Mississippi from forming a union, they can keep wages down in Michigan, Wisconsin, and Pennsylvania", shouted Sanders from the

speaker's podium. Also participating in the rally were Actor Danny Glover and former Ohio State Senator Nina Turner.

The labor abuses carried out by Nissan at its Canton plant has come under so much fire that even politicians in France, where Nissan's corporate partner Renault is headquartered, have released several videos expressing their solidarity with the Canton employees' fight for union rights.

In regard to the recent allegations of worker intimidation by the security guards, Nissan said the company is investigating the matter, but isn't sure yet what happened.

### **Pennsylvania State Workers Sign Deal for 11.75 Percent Raise**

A three-year labor agreement covering more than 9,000 Pennsylvania state government employees, working in the departments of Corrections, Human Services, Labor and Industry and other agencies, has been finalized. The final agreement, which originated as a tentative agreement reached late last summer, includes five separate raises totaling 11.75 percent over a three-year period, as follows:

- 2.75 percent step increase on Oct. 1, 2016 (or lump sum payment in the case of those at the top of the 20-step salary);
- 2 percent general increase on July 1, 2017;
- 2.25 percent step increase on January 1, 2018;
- 2.5 percent general on July 1, 2018;
- 2.25 percent step increase on January 1, 2019.

As a result, the average pay for the union members will increase from \$49,502 to \$55,591 over the three years covered by the contract.

## **Memorial Day**



**Remember Those Who Served**