OBAMA-BIDEN TRANSITION PROJECT

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EPI Recommendations for a More Effective Wage Hour Division

The Fair Labor Standards Act is a complex and confusing law that no one in America understands – not workers, not employers, not the Secretary of Labor. It is riddled with exemptions and loopholes, it uses definitions that run counter to common sense, and the regulations and opinion letters have compounded the confusion. The law should be rewritten, but because that is a time-consuming undertaking that depends on Congress, regulatory actions should be taken first.

The most important regulatory change is to raise the threshold below which workers are guaranteed overtime pay. DOL should raise the level (currently $455/wk) to at least the national average wage. That eliminates all confusion for tens of millions of people, including those who need help the most, like the so-called executives "managing" burger joints while they work the cash register and sweep the floors.

After the threshold is raised, much can be done by regulation (and more by Congress) to simplify the overtime law, and especially Part 541.

WHD should hire at least 100 net new inspectors each year for five years. If more could be recruited and trained, hire 200 per year for four years. WHD needs to bring back the best of the recent retirees from WHD and SOL to re-train current staff and train new staff about the laws and their potential.

Much tougher penalties, use of hot goods provisions, and public obloquy for violators should be the norm.

DOL and WHD should start a broad advertising and education campaign to teach citizens their rights. Public service ads on TV and radio, ads on buses, billboards that say, for example, "Most workers have the right to premium pay – time and a half for each hour -- if they work more than 40 hours in a week."

Reinstate the Carter-Marshall "Employers of undocumented workers" program. Target employers known or suspected of hiring undocumented workers for wage and hour violations, while strictly ignoring the immigration problems of the workers. Bring OSHA and IRS, too.

Partner with unions, community groups, and worker centers. Complaints from such partners should be given high priority for investigation.

Ask Congress to use the Congressional Review Act to repeal the H-2A and H-2B regulatory changes.

Make the federal agencies accountable for Davis-Bacon and SCA enforcement. Compliance is a contract requirement, so get the agencies to monitor and then cut off the contracts of employers that cheat.