

# HOT SHEET

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Full-Circle HR



## HR Trends:

- Of 100,000 employees asked, 6% said they valued getting gifts from their employers, while 46% said they value getting words of affirmation.
- HB 1450 that imposes new restrictions on all agreements that contain non-compete covenants becomes effective January 1.
- In 2020, maximum employee 401k deferrals have increased from \$19K to \$19.5K; additional catch-up contributions for employees over age 50 have gone up from \$6K to \$6.5K.
- 15% of US employers offer reduced workweeks of 32 hours or less for all or part of the year; studies show this practice actually maintains or improves productivity.
- According to SHRM, the Federal Department of Labor has seven priorities for the coming year: 1. Defending the new overtime rule; 2. Expanding apprenticeship programs; 3. Updating rules for fluctuating workweeks; 4. Changing tip-sharing rules; 5. Updating the 'regular rate' calculation (the rate used for overtime calculations); 6. Clarifying the joint-employer rule; and 7. Allowing online benefit plan disclosures.

## Dominant Skills Gap is Soft Skills

According to a study by Association for Talent Development, soft skills such as communication, critical thinking, and managerial/supervisory comprise the biggest skills gap in the U.S. workforce. They also found that, while the skills gap is widening and we are finding it more difficult to hire or promote people with necessary skills, the percentage of employers offering internal training opportunities dropped from 65% in 2015 to 59% in 2018. Instances of external training have dropped as well. While the Federal Department of Labor (DOL) has made it a goal to expand apprentice-

ships, few respondents to this survey offer them—those that do are in the skilled trades.

There is debate whether or not a skills gap exists. Many doubt that it is primarily responsible for the fact that in 2015 unemployment was 5.3% with 5.2 million open jobs and in 2018 unemployment was 4.0% with 6.5 million open jobs. Those who argue against the skills gap say that employers are simply unwilling to pay higher wages for these skills or pay for recruiters to match applicants to these jobs. One example given was in the tech industry where the job openings tend to be in

the night shift and employers were unwilling to compensate for this less desirable work schedule. Believers in the skills gap suggest that this is all part of a complex problem that cannot be attributed to any one factor. 85% of employers surveyed agree that there is indeed a skills gap. Large organizations such as Walmart and Amazon, to name two, have ramped up their training programs in response to this. However, small companies usually do not have the funds to do this, and, since soft skills are often shunted to the side as unimportant, it is easy to

see why these skills are the dominant gap. Coaching and mentorship are not quick fixes. Further, if management at the company does not possess these skills themselves, then outside services must be sought and these can be costly.

Suggestions for smaller companies include: Set a tone of life-long learning and lead by example; Personalize the delivery; Align the training with company and employee goals; and celebrate learning. This can be done through a solid performance review and goal setting process.

## Federal Department of Labor Finalizes Overtime Rule

In September, the Federal DOL finalized its revision to the Fair Labor Standards Act (FLSA) Overtime Rule. It takes effect on January 1, 2020. To be exempt from overtime under the federal FLSA, employees must be paid a salary of at least \$684/week (\$35,568 annually) and meet certain duties tests. If they are paid less or do not meet the tests, they must be paid 1 and 1/2 times their regular hourly rate for hours worked in excess of 40 in a workweek. You may recall that in 2016 the minimum annualized rate for a job to be considered exempt from overtime was slated to more than double. This was stopped by the current administration and the DOL has been working to revise this ever since. Under the new rules, up to 10% of this amount may be made up of commissions, non-discretionary bonuses

and other incentive payments.

In addition to this change, the highly compensated amount was raised from \$100,000 to \$107,000. This is significant because someone who is highly compensated has a more lenient duties test to meet in order to be classified as exempt.

Another element that was not specifically addressed in this revision was continuing increases to this minimum. The proposed change in 2016 also included regular increases based on cost of living. This is an important piece since this minimum had not been adjusted since 1975 and the DOL was attempting to assure that it did not fall far behind again. In this revision they have simply stated that they will regularly review and update these thresholds more regularly in the future.

So, what now? According

to SHRM, they estimate the revision will cause employers to reclassify more than a million exempt employees as non-exempt and cause many more to have their pay raised to the threshold. Employers should be taking steps pull data on their exempt staff and to review the job duties of their job descriptions. This revision does not change the 'duties' tests regarding what qualifies a job as exempt. The white-collar exemptions are summarized by the following (for fact sheets, click on the hyperlinks): **Executive exemption**—The employee's primary duty must be [managing the enterprise or a department or subdivision of the enterprise](#). The employee must regularly direct the work of at least two employees and have the authority to hire/fire/change status of workers (or have input to the decision that is given weight). **Administrative**

*The invariable mark of wisdom is to see the miraculous in the common.*  
—Ralph Waldo Emerson

**exemption**—The employee's primary duty must be office or nonmanual work that is directly related to the management or general business operations of the employer or the employer's customers. The employee's primary duty also must [include the exercise of discretion and independent judgment](#) in significant business matters. **Professional exemption**—The employee's primary duty must be [work requiring advanced knowledge](#) in a field of science or learning acquired by prolonged, specialized, intellectual instruction and study.

Additionally, communicate with your employees to assure that they understand that moving to non-exempt status is NOT a demotion. Be sure your timekeeping systems are updated to capture the necessary hourly data.