# **Montana State Council**

**Affiliate of the Society for Human Resource Management**



***LEGISLATIVE UPDATE***

***DECEMBER UPDATE***

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| Grover Wallace – Montana State Legislative Director |
| |  | | --- | | **Montana SHRM well represented at SHRM VBLM in Washington DC**  Thank you **Dawn Lambert, Amanda Kieth, Rayne Hoover, Alyssa Bernhardt and Sarah Raymond** for your involvement and participation in the VBLM Conference last month in Washington DC! You all made Montana SHRM proud. | |  | | **Effective Date of Joint Employer Rule Pushed Back**  The National Labor Relations Board (NLRB) announced it will extend the effective date of its joint employer rule to Feb. 26, 2024, to facilitate resolution of legal challenges to the rule.  The NLRB released the final rule on Oct. 26 with an implementation date of Dec. 26. The rule was published in the Federal Register on Oct. 27.  U.S. Sen. Bill Cassidy, R-La., sent a letter informing the NLRB that it was out of compliance with the Congressional Review Act's 60-day threshold rule, which mandates that the implementation of all major federal rules must be delayed 60 days from when they are received by Congress.  **SHRM Article Link**: [Effective Date of Joint Employer Rule Pushed Back (shrm.org)](https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/joint-employer-rule-effective-date.aspx?utm_source=marketo&utm_medium=email&utm_campaign=editorial~Workplace%20Compliance~NL_2023-12-01_Workplace%20Compliance&linktext=Effective-Date-of-Joint-Employer-Rule-Pushed-Back&mktoid=49915738&mkt_tok=ODIzLVRXUy05ODQAAAGPxYbLN53ysyLkxj5qkVnCyQdSxcKH2gGa47iYLxnNOeeBGNHXJm_QGjISH6JSyaaDdQSpzm_YYvG_aWyenACqjshEiRiWq4b9wys4HgmqmjF_dpr7) | |  | | **The Elusive Salary Basis Requirement** | | Much attention has been paid to the minimum salary and exempt duties required to be exempt under a white-collar exemption from the Fair Labor Standards Act’s (FLSA’s) [overtime requirement.](https://www.dol.gov/agencies/whd/flsa#:~:text=FLSA%20Overtime:%20Covered%20nonexempt%20employees%2cthe%20regular%20rate%20of%20pay.) However, the salary basis requirement must be satisfied as well.  Under the FLSA, for an employee to be exempt from overtime under a white-collar exemption, three requirements must be met:   * The employee’s primary duties must be exempt in nature. * The employee must be paid at least the minimum salary as set by the U.S. Department of Labor. * The employee must be paid on a salary basis.   Most litigation, as well as legal ­education, has focused on the first two requirements. However, the third requirement—that the employee be paid on a salary basis—is just as important, a lesson that one employer learned the hard way earlier this year, courtesy of the U.S. Supreme Court.  **SHRM Article Link:** [**The Elusive Salary Basis Requirement (shrm.org)**](https://www.shrm.org/hr-today/news/hr-magazine/fall-2023/Pages/the-elusive-salary-basis-requirement-.aspx?utm_source=marketo&utm_medium=email&utm_campaign=editorial~Workplace%20Compliance~NL_2023-12-01_Workplace%20Compliance&linktext=The-Elusive-Salary-Basis-Requirement&mktoid=49915738&mkt_tok=ODIzLVRXUy05ODQAAAGPxYbLN9vQlacmXhFQBV_6NlQkRo6Rr9z2AXzGk4xXcvEq3HaedDzQFyLY1fGSflow-NG0ok9YJL_3KlzWiKIUjrfn6P5uXEoJz6g2ypYzT7UZF9Nd) |   **Next Stop for Big Labor: More Organizing**  Union organizing will be a primary goal for big labor in 2024 following the recent [deals between the United Auto Workers (UAW) and Ford, General Motors and Stellantis](https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/general-motors-UAW.aspx). While many employers don't want unions, the threat of union organizing can help companies take employee concerns more seriously.  "I have always been glad there is some threat of unions," said Phyllis Hartman, SHRM-SCP, president of the Pittsburgh HR consulting firm PGHR Consulting. "They prevent employers from getting lazy about employee satisfaction."  However, she added that "having been an HR director in a union environment, I prefer a nonunion organization."  **SHRM Article Link:** [Next Stop for Big Labor: More Organizing (shrm.org)](https://www.shrm.org/ResourcesAndTools/legal-and-compliance/employment-law/Pages/Next-stop-for-big-labor-more-organizing.aspx?utm_source=marketo&utm_medium=email&utm_campaign=editorial~HR%20Daily~NL_2023-12-01_HR-Daily&linktext=Next-Stop-for-Big-Labor-More-Organizing&mktoid=49915738&mkt_tok=ODIzLVRXUy05ODQAAAGPxTVGAxzgr9_UREZE2FIIul7FAQ-BqDn5LShWFHkWkwMlryqTSx-10HNDxA0srP8Pt6R9sxL8TWorMyLm4MVTTcnnj6Ds68yHWoNL8Nqo4ab1PgYV)  ***UPCOMING CALENDAR EVENTS:***  **WEBCASTS/CONFERENCE SESSIONS**   |  | | --- | |  | | [**The Compliance Alliance: 5 Steps IT, HR and Payroll Should Take to Join Forces**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGPxYbLN6bCBvWs64KB8JZH_NVVHqaZ7D0DiDNCKUOpnC4-aN3EFnUAYwZsm5sL9y8Qmwh2ZF8=) Dec. 7, 2 p.m. ET / 11 a.m. PT   |  | | --- | |  | | [**Workplace Compliance Trends for 2024**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGPxYbLNxIbt4ZK9ezKuZnADsPAdJVmC1v9Fqy49-GiSdgqlSPCsJgqpw5UFxIzXA6OJH7ccMc=) Dec. 13, 2 p.m. ET / 11 a.m. PT | | |  | | [**Fireside Chat: HR Transformation Lessons from the Leaders**](https://c.shrm.org/n/ODIzLVRXUy05ODQAAAGPxTVGAw_pNOOHnDH5Ej22uIbiGfnPRqViaqOn_o9GyfrNqtjLi1Fhy_77okD7V24wxYaRlh0=) Dec. 11, noon ET / 9 a.m. PT |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  | | --- | --- | --- | --- | --- | | |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | | **DEC** 5 | | |  | | --- | | [EEO-1 Reporting Period](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JteneCDp1d1W3hLOkHWrzYE5zXllVMSLFAOgn4sKCNn3t9L-xuuzaCl7tKfR45kAIxFe5fQDF4cxubMH9HOVS_KflYU7HTCth1Ljc314bDu0zETYWAoyYpqb6HryD7nooPOTGiImLj_93vWxMxKrza8epSrg9hfD6-pFSC7LKPk4DHay6E1zKbcYNxicX5g0K7Lw-1z-TkONE9zYTlVzt1J-8ypAaVBiM8SCPFwMtrG4P57LokK9c2IKNE42Ab6jQ-2O8UYkVzWQUC4PiEnPBsciFO99eo_Y_fi_0KIp7_8YFcCG5M295Pu-pZea8tOWtgj-tnv93j4RVCuoZ_Z0zcwkagsTHTzyF3uMd7II2uZR_5l/ODIzLVRXUy05ODQAAAGPxYbLNyXqxKsTspmQpPFOnIZ2WfqZFepmeuuuu_89jMvSDVdgzK4gdYYTceY5g8Csq8SZ9SU=" \t "_blank) The EEO-1 filing platform opened Oct. 31 with a filing deadline of Dec. 5. | | | | |  |  |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | |  |  |  |  |  | | --- | --- | --- | --- | --- | | |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | | **DEC** 26 | | |  | | --- | | [NLRB’s ‘Quickie’ Election Rule Takes Effect](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JteneCDp1d1W3hLOkHWrzYE5zXllVMSLFAOgn4sKCNn3t9L-xuuzaCl7tKfR45kAIxFe5fQDF4cxubMH9HOVS_KflYWjXOD2MGo7EFOvFyCeH2XUPWp5orAr4Up4spbEd_9iEeVciKIYc5znfQ3_KUE62Ed0l_-BgLsctKCu3nb-YfXJ_lhz9cfii0gCG428QU5t_2if4wAJ5wkylqchPoghdijLy7CecgFnYYqj_MaNf8tBwUBZEI0O-eaLUjH6AI3ZNv7rF7e1I8AAb2pP8RRhlobbav7U288GKi6zm8SM3DcVXm5yFG63qTOKwhFzVqLz8yoDJt3cbeeMQT72H9ogsHcL6Pf84xtH5s2_jFHGGW7O1f9QNlIWRfFWHk9koMHMC5J2_4IKTQQirZbJgfLKX0piXSrkyOMmCtqhlhaqgoR/ODIzLVRXUy05ODQAAAGPxYbLNyXqxKsTspmQpPFOnIZ2WfqZFepmeuuuu_89jMvSDVdgzK4gdYYTceY5g8Csq8SZ9SU=) The NLRB issued a final rule Aug. 24 requiring union elections to be held at “the earliest date practicable.” The rule, which takes effect Dec. 26, also provides that disputes concerning individuals’ eligibility to vote in a union election do not need to be litigated or resolved prior to an election. | | | | |      |  |  |  |  | | --- | --- | --- | --- | | |  | | --- | | **JAN** 1 | | |  | | --- | | [OSHA Requires More Employers to Submit Injury and Illness Data](https://c.shrm.org/dc/Bblvn7lUvEnneGOj_JteneCDp1d1W3hLOkHWrzYE5zXllVMSLFAOgn4sKCNn3t9L-xuuzaCl7tKfR45kAIxFe5fQDF4cxubMH9HOVS_KflYubO_L3Ppv73I-lwQhAa6arMPQVqdRPHceI83oImsw9Ukq12A0YUm12RE0qaBKY_-ESVRMW6Es2LMLvj_kFYz4b9um0tI7uXCfJzpt_aa2wypPPMQTQu2K8FjuO1r-zIFxifh1BK3HE9fh91gnQtYTuw6SuKosqQRbkfL1wUgJ3G-DdnovaCNCb5Xd36-2HeE2hsmK-Xen9nKl-seaK4ESc8DIRVYYnqDjIx2i_65j5IWvp-8LvFuhdGJqiu60CW77tUHgxa3zeclcs5_zF-lfQdKsb11qtyww56BHp9eSJnOKD3IXkrHD9PNtv8WAfQE=/ODIzLVRXUy05ODQAAAGPxYbLNyXqxKsTspmQpPFOnIZ2WfqZFepmeuuuu_89jMvSDVdgzK4gdYYTceY5g8Csq8SZ9SU=) More employers will be required to submit workplace injury and illness information under a final rule released by the U.S. Occupational Safety and Health Administration (OSHA) on July 17. The new rule will take effect on Jan. 1, 2024. OSHA is amending its regulations to require certain companies to electronically report work-related injury and illness data. | | |
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***THANK YOU and HAPPY HOLIDAYS***