

The World According To Trump: A Prologue

November 14, 2016 | [High Stakes Employment Issues](#), [Labor And Employment](#)



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What happens now? How will the election of Donald Trump affect labor and employment policy across this country? What will happen to the DOL, EEOC, NLRB, and OFCCP? If the hallmark of the Obama Administration has been Executive Branch activism, what will happen under the Trump Administration? And, what can we expect from a President Trump whose early post-election decisions appear, at least in some measure, less dramatic than his campaign rhetoric?

This week, the Barnes & Thornburg blog team will consider the practical impact of the impending Trump Administration on employers. Teaming with our partners on our firm's [traditional labor blog](#), we will evaluate the potential impact of Trump's decisions and policies on employers, from the rumored nomination of EEOC Commissioner Victoria Lipnic to head the Department of Labor, to the potential crumbling of EEOC Strategic Initiatives, and to the shifting sands at the NLRB. Remember that despite Donald Trump's campaign promises to "drain the swamp" and reverse course in Washington, nothing can or will change overnight.

Although it is widely reported that Trump intends to repeal many of President Barack Obama's Executive Orders, the impact of repealing those Orders will take time. And, changes to the membership of the NLRB and Supreme Court will take even longer. Perhaps most urgently, employers are likely worried about the imminent change in DOL regulations governing exempt employees and the calculation of overtime. The regulations take effect December 1st—and are unlikely to be delayed despite two pending lawsuits (see posts [here](#) and [here](#)).

Perhaps the strongest argument against the DOL's regulations is that the proposed automatic three-year increases have not satisfied the legal notice-and-comment rulemaking process. Even so, that will probably not keep the new salary levels from taking effect in a couple weeks. Employers are reminded that—at least for now—the new salary level threshold, effective December 1st for white-collar exempt employees, is \$47,476. In addition, the employee must be paid on a salary basis, and her or his duties must meet the duties test as outlined by the DOL. Also, be cautious about relying on an inevitable decline in funding for federal-employment-related initiatives. The DOL may not have any money to enforce its new rules, but the FLSA still gives employees a private cause of action against employers.

Now that the long, *long* election season is behind us, we can view these employment issues with a new perspective. Faced with the duties and difficulties of governing, President-Elect Trump may find that promises easily made on the campaign trail are not as easily fulfilled.