H. R. 3658

To amend the Fair Labor Standards Act of 1938 to provide that employees in classified positions in community colleges are not required to receive overtime compensation for service in a certified or other academic position.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 22, 1993

Mr. LEHMAN (for himself, Mr. MOORHEAD, Mr. BERMAN, Mr. DOOLEY, Mr. MATSUI, Mr. DELLUMS, and Mr. ROHRABACHER) introduced the following bill; which was referred to the Committee on Education and Labor

A BILL

To amend the Fair Labor Standards Act of 1938 to provide that employees in classified positions in community colleges are not required to receive overtime compensation for service in a certified or other academic position.

1  Be it enacted by the Senate and House of Representa-
2  tives of the United States of America in Congress assembled,

3  SECTION 1. OVERTIME EXEMPTION.

4  Section 13(b) of the Fair Labor Standards Act of
5  1938 (29 U.S.C. 213(b)) is amended by adding at the end
6  the following:
“(30) any employee who is employed in a classified position by a community college which provides 2 years of undergraduate education leading to an associate degree or certificate and who, in addition to the employee’s duties as a classified employee, serves, on the employee’s own volition, in a certified or other academic capacity, except that section 7 shall apply to such employee’s employment in such classified position if employed in such position for more than 40 hours in a week.”.
Mr. Dan Silvia  
Diablo Valley College  
321 Golf Club Drive  
Pleasant Hill, California 94523

Dear Mr. Silvia:

I am contacting you to share recent developments regarding classified employees at community colleges.

In response to the financial shortfalls confronting community colleges and the education system as a whole in California, I have introduced legislation which exempts classified employees from the overtime pay requirement for additional academic duties they perform. It is my desire to provide classified employees, such as yourself, with the opportunity to continue an enjoyable and self-enhancing activity, while not creating an undue financial burden on our educational system.

Attached to this correspondence is a copy of the legislation (H.R. 3658), which is awaiting consideration before the Committee on Education and Labor. You can be assured I will continue to work with my colleagues to generate support for this legislation.

Again, thank you for sharing your thoughts with me. If ever I can be of any assistance, please do not hesitate to contact me.

Sincerely,

RICHARD H. LEHMAN
Member of Congress

RHL/mm
Enclosure
Exemption for Classified Workers Under the Fair Labor Standards Act

by

Congressman Richard Lehman

November 22, 1993

Mr. Speaker, I rise today to introduce legislation to assist community colleges across the nation by amending the Fair Labor Standards Act. This legislation will exempt classified personnel from overtime pay provisions as a result of their part-time academic work.

Classified work is that which does not require academic certification, and it includes such activities as support and maintenance. However, many classified personnel earn academic certification in order to teach certain courses at the community college in which they are employed. Unfortunately, under current law community colleges such as Fresno City College and Kings River Community College in California are financially prohibited from hiring classified staff in an educational capacity.
According to the Fair Labor Standards Act, any additional workload which exceeds the 40 hour/week limit is to be considered overtime and the employee must compensated for the work performed regardless if the work occurs in a certified or classified position. Community colleges that abide by this federal law are therefore forced to pay not only the negotiated part-time instructor salary for the academic duties, but also the overtime pay formula mandated by the Fair Labor Standards Act. This "double-paying" by community colleges has forced many districts to discontinue the practice of hiring classified staff as part-time instructors.

In response to the financial shortfalls confronting community colleges and the education system as a whole, I am proposing legislation which exempts classified employees from the overtime pay requirement for additional academic duties they perform. It is my desire to provide classified employees with the opportunity to continue an enjoyable and self-enhancing activity, while not creating an undue financial burden on our educational system.

Classified employees play an important role in our educational system, however, without amending the Fair Labor Standards Act, community colleges will be permanently prohibited from utilizing these valuable people in an academic capacity.
I urge my colleagues to cosponsor this important legislation which has the support of the State Center Community College District in Fresno, the California Federation of Teachers and the California State Educational Employees Association.
Ms. Phyllis L. Peterson  
President  
Diablo Valley College  
321 Golf Club Rd  
Pleasant Hill, CA 94523

Dear Ms. Peterson:

Thank you for contacting me to express your support for H.R. 3658, a bill to exempt certain employees from overtime compensation requirements of the Fair Labor Standards Act (FLSA).

You'll be pleased to know that I've cosponsored H.R. 3658. I understand the harm that certain community college employees have suffered due to inflexible FLSA overtime requirements. I hope that this legislation will remove the FLSA barriers faced by those who want to teach courses.

This bill has been referred to the Committee on Education and Labor where no action has been scheduled. I am hopeful that the Chairman of the Committee, Representative William Ford (D-MI), will allow the bill to move forward.

Again, thank you for contacting me and bringing this matter to my attention. If there is anything else I can do for you in the future please don't hesitate to contact me.

Sincerely,

Bill Baker  
Member of Congress