HOUSE RESEARCH

Information Brief

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Mark Shepard, Legislative Analyst
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THE FAIR LABOR STANDARDS ACT: APPLICATION TO STATE AND LOCAL GOVERNMENTS

The federal Fair Labor Standards Act (FLSA) prescribes minimum wage and overtime pay standards, and regulates employment of minors.

In February, 1985 the United States Supreme Court ruled, in the Garcia case, that Congressional extension of the act to employees of state and local government was constitutional. In November, 1985 Congress enacted amendments to the FLSA that lessened the financial effect of the Garcia case on state and local government.

This information brief:

- Describes Congressional and judicial action affecting the Fair Labor Standards Act from 1938 to 1976
- Summarizes the Supreme Court's 1985 Garcia decision
- Summarizes the amendments that Congress made to the Fair Labor Standards Act in 1985
- Discusses the continuing implications of the Garcia decision for state and local government

CONGRESSIONAL AND JUDICIAL ACTION ON THE FLSA: 1938 - 1976

Below is a summary of major Congressional and judicial actions between 1938 and 1976 affecting the application of the Fair Labor Standards Act to state and local government.

Original Enactment: The Fair Labor Standards Act, as originally enacted in 1938, required private employers to pay certain minimum wages to their employees. Included in the act was a requirement that employers pay one-and-one-half times the normal rate of pay for work in excess of a specified number of hours per week. The original act specifically excluded the federal government and states and their political subdivisions. The original act, and all subsequent versions, also contained exemptions for certain categories of employees, such as those who are executive, administrative or professional.

Limited Application to State and Local Government: In 1966 Congress amended the FLSA to cover employees in hospitals and other specified occupations, both public and private. The Supreme Court, in the Wirtz case, held that these amendments were constitutional.

Full Application to State and Local Government: In 1974 Congress amended the Fair Labor Standards Act to apply fully to employees of state and local government, and to many federal employees.

Court Declares Application to State and Local Government Unconstitutional: In 1976 the United States Supreme Court held, in the National League of Cities case, that the 1974 amendments applying the FLSA fully to employees of state and local governments were unconstitutional, since they interfered with traditional aspects of state sovereignty.

THE "GARCIA" DECISION

In 1985 the United States Supreme Court issued the Garcia decision. That decision overruled National League of Cities and held that it was constitutional for Congress to apply the FLSA to state and local governments. The Court found that the Tenth Amendment to the United States Constitution (which reserves to the states powers not expressly granted to Congress) did not prevent Congress from applying the FLSA to state and local government. Justices who dissented from the majority decision argued that the decision substantially altered the federal system embodied in the constitution, by apparently leaving state sovereignty at the mercy of the federal political process.

The most significant aspect of the Garcia decision for state and local government was the FLSA requirement that covered employees be paid at one-and-one-half times their regular rate of pay for hours worked in excess of 40 in a week. The FLSA did not permit the use of compensatory time off as a substitute for overtime, so it appeared that state and local governments would incur substantial new costs as a result of the decision. For example, in 1985 the Legislature appropriated approximately $13 million for implementation of the act on the state level during the next biennium.

1985 AMENDMENTS TO THE FAIR LABOR STANDARDS ACT

After the Garcia decision, state and local governments lobbied Congress for amendments to the Fair Labor Standards Act. In November, 1985 Congress adopted amendments that partially ameliorated the effects of Garcia on state and local governments. Under these amendments:

- State and local government employers may grant compensatory time off to their employees instead of paying overtime at the time and one-half rate. Compensatory time off must be granted at the rate of one-and-one-half hours for each hour for which overtime pay would have been required.

  The Act limits the amount of compensatory time that an employee may accumulate. Once this limit is reached, additional overtime hours must be paid in cash. The limit is 480 hours for public safety employees, and 240 hours for other employees.

- The overtime requirements of the act do not apply to employees of state and local legislative bodies, except for those covered by civil service laws or those who work in legislative libraries.

- Volunteers are exempt from FLSA coverage.

- The effective date of the FLSA is delayed until April 15, 1986 for state and local government employees brought under the act by Garcia.

CONTINUING IMPLICATIONS OF THE "GARCIA" DECISION

The Garcia decision will continue to affect state and local governments even after the 1985 congressional amendments to the Fair Labor Standards Act. On a practical level, state and local governments will have to grant compensatory time off to employees in cases in which they previously were not obligated to do so.

The Garcia decision may also have important implications apart from the Fair Labor Standards Act. Commentators have suggested that the Garcia ruling, that the Tenth Amendment does not prevent Congress from applying the FLSA to state and local governments, may be extended to permit Congress to legislate in other areas that were previously thought to be reserved for state control. These areas might include state labor relations or public pension plans. The case could also have implications in other federal/state relations, such as the power of congress to tax the income from state and local bonds.