



## Comp Time Legislation

April 26, 2017

**Background:** In 1938 Congress passed the Fair Labor Standards Act (FLSA). Among the act's provisions was the requirement that hours of work by non-exempt employees beyond 40 hours in a seven-day period must be compensated at a rate of 1 ½ times the employee's regular rate of pay. In 1978 Congress passed a temporary bill, the Federal Employees Flexible and Compressed Work Schedules Act, which changed the FLSA, authorizing compensatory (or comp) time for federal employees. In 1985 the Federal Employees Flexible and Compressed Work Schedules Act was reauthorized and made permanent. At the same time, Congress amended the FLSA to expand coverage requirements to include state and local agencies and their employees. Additionally, public-sector employers were now eligible to offer their employees the choice of receiving pay or compensatory time off for working overtime.

**Issue:** The FLSA does not currently extend the same "comp time" benefit given to federal- and public-sector employees to private-sector employees. Historically, there have been several proposals introduced in Congress to allow private employers the option of offering employees the choice of paid time off in lieu of cash wages for overtime hours worked.

A growing number of employees report challenges in negotiating the dual demands of work and family. As a result, more and more companies compete for talent in today's economy by adopting workplace flexibility strategies as a way to recruit and retain valuable employees without additional costs. Proposals in support of comp time would provide companies with an additional flexibility tool to offer employees and still remain competitive in our global economy.

**115<sup>th</sup> Congress:** Rep. Martha Roby (R-Ala.) introduced H.R. 1180, the Working Families Flexibility Act of 2017 in February. The bill would amend the FLSA to allow private-sector employers to provide comp time, giving these employers the option of offering their hourly employees the choice of compensatory time off or pay for overtime hours worked. As with cash overtime pay, compensatory time accrues at a rate of 1 ½ times the employee's regular rate of pay for each hour worked over 40 within a seven-day period. The legislation does not affect the 40-hour workweek or change the way that overtime is calculated. Other key provisions expected to be included in the legislation are:

- Allowing employees to accrue up to 160 hours of compensatory time a year;
- Allowing the employee or the employer to "cash out" unused comp time within specified periods of time;
- Permitting use of the accrued comp time within a reasonable time after request as long as use of the comp time does not unduly disrupt the operations of the employer; and
- Permitting employers to offer a comp time program only if it is part of a collective bargaining agreement or the employer and employee voluntarily agree in writing to the program prior to the performance of work.

**SHRM Position:** SHRM believes that private-sector employees should be afforded the same flexibility that public-sector employees have in choosing between compensatory time or overtime pay. SHRM supports Rep. Roby's comp time bill to give private employers an additional workplace flexibility option

to assist employees in meeting their work and family obligations. As the 21<sup>st</sup> century workforce continues to evolve, and as the needs of the American family continue to change, now more than ever employees need flexibility options to manage their work-life responsibilities.

### *Talking Points*

- As an HR professional, I strongly support Rep. Roby's comp time bill, to allow private employers to offer non-exempt employees the choice of receiving compensatory time or overtime pay in situations in which the employee is eligible for overtime.
- In today's competitive marketplace, it is increasingly difficult for a dual-income family to juggle work and family responsibilities. Compensatory time off as a workplace option gives employees more control over their time and can improve employee morale and job satisfaction and increase productivity by giving employees the choice to elect paid time off instead of cash payments.
- According to the National Study of the Changing Workforce, four in five employees say workplace flexibility is important when considering a new job, but less than one in four have access to high levels of flexibility. Comp time can help provide additional flexibility for private-sector employees as they negotiate their work-life responsibilities.
- I also recognize that in a down economy many employees still want to receive pay as opposed to compensatory time in overtime situations. While many employees of the federal- and public-sector have that option, employees at private businesses do not. I believe employees at private businesses should be afforded the same flexibility that their federal- and public-sector counterparts enjoy to help meet their own work-family needs by allowing all employees the opportunity to have the choice between compensatory time and overtime pay.
- How might this proposal benefit your organization and/or your workforce? Please share your personal stories on the benefits of this proposal in the workplace with your representative.
- **The ASK — I urge you to support H.R. 1180 that will be considered the week of May 1<sup>st</sup> by the U.S. House of Representatives.**

**Questions:** For questions and additional information regarding compensatory time and Rep. Roby's comp time legislation, contact Patrick Brady, SHRM's senior government relations advisor, at [patrick.brady@shrm.org](mailto:patrick.brady@shrm.org) or 703-535-6246.