



June 1, 2006

FLSA2006-11NA

Dear **Name ***:

This letter is in response to your request on behalf of the **Name *** (hereinafter Town) for an opinion whether the Executive Secretary employed by the Town's Finance Committee is excluded from coverage under the Fair Labor Standards Act (FLSA). Based on the information you provided and as discussed more fully below, it is our opinion that the Executive Secretary is excluded from FLSA coverage pursuant to sections 3(e)(2)(C)(i) and (ii)(V) (copy enclosed).

You provided the following relevant information as part of your request either in your letter and the attached documents or in a telephone conversation with a member of the Wage and Hour Division staff:

- The Town's legislative branch of government is the representative Town Meeting, and the Finance Committee is an agency of the Town Meeting.
- The Town's general Bylaws require that all Articles of Warrant calling for appropriations be referred to the Finance Committee.
- The Finance Committee examines the budgets submitted by various Town departments, then reports and provides recommendations on those budgets to the Town Meeting.
- The Executive Secretary is employed by the Town's Finance Committee and is not subject to the civil service laws.

The FLSA is the Federal law of most general application concerning wages and hours of work. This law requires that all covered and nonexempt employees be paid a minimum wage of \$5.15 per hour for all hours worked and overtime pay for all hours worked over 40 in a workweek. The FLSA provisions apply to employees of state governments and political subdivisions, such as the Town, except when the employment position is specifically excluded from the definition of "employee" under the FLSA. FLSA sections 3(e)(2)(C)(i) and (ii)(V) specifically exclude legislative branch employees who are not subject to the civil service laws of the state (or its subdivisions) and also not employed by a legislative library. See 29 C.F.R. § 553.12(a); Wage and Hour Opinion Letter April 7, 1993 (copies enclosed).

Accordingly, since the Executive Secretary is employed by an agency in the Town's legislative branch that is not a legislative library and the position is not subject to civil service laws, it is our opinion that the Executive Secretary would be excluded from FLSA coverage pursuant to sections 3(e)(2)(C)(i) and (ii)(V).

This opinion is based exclusively on the facts and circumstances described in your request and is given based on your representation, express or implied, that you have provided a full and fair description of all the facts and circumstances that would be pertinent to our consideration of the question presented. Existence of any other factual or historical background not contained in your letter might require a conclusion different from the one expressed herein. You have represented that this opinion is not sought by a party to pending private litigation concerning the issues addressed herein. You have also represented that this opinion is not sought in connection with an investigation or litigation between a client or firm and the Wage and Hour Division or the Department of Labor.



We trust that this letter is responsive to your inquiry.

Sincerely,

Barbara R. Relerford
Fair Labor Standards Team
Office of Enforcement Policy

Enclosures:
FLSA section 3(e)(2)(C)
29 C.F.R. § 553.12(a)
Wage and Hour Opinion Letter April 7, 1993

** Note: The actual name(s) was removed to preserve privacy in accordance with 5 U.S.C. § 552(b)(7)*