

USING EMPLOYEES AS VOLUNTEERS

Churches are businesses governed by the Federal Fair Labor Standards Act, recently amended by Fair Pay Initiative. This act REQUIRES “non-exempt” persons to be paid overtime wages (time-and-a-half) for hours worked above 40 per week. What constitutes an exempt or non-exempt person has just been changed. Church boards and pastors need to be familiar with the new law. In general a church cannot allow a non-exempt employee to volunteer hours performing the usual tasks of his or her regular position, whether they are a part-time or full-time employee. Beyond the discovery of which employees are exempt, the next most difficult question is, what constitutes an hour worked? For instance, if a church has a children’s pastor, does that pastor’s time spent at a

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Vacation Bible School constitute work? The answer is probably yes, and the extra hours worked may well constitute overtime hours. Churches must understand this concept or risk being sued for back overtime pay owed.

Such law suits against employers are becoming common. The new law went into effect on

August 23, 2004. The easiest way to avoid trouble is not to allow a part-time employee to volunteer in the area of their regular duties, nor allow a full-time employee to volunteer extra hours beyond 40 in the performance of that employee’s normal duties without pay. Please check out www.dol.gov/esa/regs/fedreg/final/2004009016.htm. This Web site has a complete copy of the new government regulations (281 pages) and also contains seminars on the new law.

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