



Multiple Jobs or Dual Employment?

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](http://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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“An employee paid on a hourly basis who performs two or more different kinds of work (multiple jobs) for the same employer, each with different pay scales, may be paid on the basis of regular rates calculated as the weighted average hourly rate earned during the week.” 29 C.F.R. § 778.115. That is, the employees total earnings are computed to include his/her compensation during the workweek from all such rates, and are then divided by the total number of hours worked at all jobs.

Where an employee performs two different jobs for the same employer (dual employment), the hours worked must be combined together to determine what overtime over 40 hours is due. The regular rate should be fixed by one of the procedures previously described. As a general rule, any employee, who works for two different departments of the same city or county government, is a dual employee entitled to payment for which all compensable time has been totaled to determine the overtime rate. This means that employers must check their records carefully, and they must properly compensate such moonlighting or dual employees. “Such employees may agree with his/her employer in advance to be paid overtime for the type of work that is performed during the overtime hours.” 29 C.F.R. § 778.419.

No additional overtime pay will be due under the act provided that these general requirements are met:

1. The hourly rate upon which the overtime rate is based in a bona fide rate;
2. The overtime hours for which the overtime rate is paid qualify as overtime hours;
3. The number of overtime hours for which the overtime rate is paid equals or exceeds the number of hours worked in excess of the applicable maximum hours standard.
4. An hourly rate will be regarded as a bona fide rate for a particular kind of work it is equal to or greater than the applicable minimum rate therefore and if it is at the rate actually paid for such work when performed during non-overtime hours. 29 C.F.R. § 778.419.

DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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