

FLSA-130

May 22, 1980

Thank you for your recent letter to Secretary of Labor Marshall concerning the application of the Federal Minimum Wage Law (Fair Labor Standards Act) to jurors and voting inspectors.

We have considered your comments under the provisions of the Fair Labor Standards Act, the Federal law of most general application concerning wages and hours of work. The major highlights of this law concerning employment relationship are contained in the enclosed WH Publication 1297.

For the Fair Labor Standards Act to apply to a person engaged in work which is covered by the Act, an employer-employee relationship must exist. Since a City or State clearly can be an employer, the opinion as to whether, jurors and voting inspectors must receive the Federal minimum wage turns on the issue of whether an employment relationship exists between the two parties. Although the courts have made it clear that the employment relationship under the Fair Labor Standards Act is broader than the traditional common law concept of the master and servant relationship, nevertheless, we are convinced that if Congress had intended such an extension of the employment relationship to include jurors and voting inspectors, Congress would have expressly provided for coverage of them. Therefore, all persons serving as jurors or voting inspectors for a City or State government are not employees, and thus not subject to the Fair Labor Standards Act.

We hope the above has been responsive to your inquiry.

Sincerely,

Brooks N. Sipes, Chief
Branch of Wage and Hour
Standards

Enclosure