



Speaking Engagement

Leo Peloquin will be presenting "Surveillance Cameras, On the Streets - on the Highways, in the Schools; Surveillance and Searches in the Workplace" at the 13th Annual MCLE-MMLA Municipal Law Conference on March 18, 2015 10:30 AM-10:55 AM MCLE Conference Center, 10 Winter Place.



"I decided to hire an attorney for when I start melting"

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Gun Violence Act Requires School Policy Changes

Under a new law, school districts are required to develop and implement a plan to address the mental health needs of students, families, teachers and administrators in the district. The plan must also address the potential need for emergency mental health treatment of students as a result of a crisis within the district or school. This requirement comes as part of a new law called "*An Act Relative to the Reduction of Gun Violence*."

Most aspects of the law, at least as they pertain to schools, are subject to appropriation. However, the requirement to have a plan to address the mental health needs of community members is one aspect of the statute that does not rely upon appropriation. If funds are appropriated, the Act permits

school districts to take steps to implement the safe and supportive schools framework. In addition to developing an emergency response plan, the new law encourages schools to work closely with police and fire departments to improve communications and plan for emergencies. The law also encourages suicide awareness and prevention training every three years to all licensed school personnel. The new statute goes into effect at the end of the current school year, and the Department of Elementary and Secondary Education is expected to issue regulations and other guidance during the course of this spring. Stay tuned for further developments in this rapidly changing area of the law. If you have any questions or concerns, please contact your CLP attorney.

Let's Not Be Too N-N-Nervous About FLSA Salary Threshold

Some municipal and school officials have expressed concern about the prospect of the U.S. Department of Labor substantially raising the dollar threshold at which employees can be exempted from the provisions of the Fair Labor Standards Act (FLSA). The current threshold, unchanged for decades at about \$23,000/year, could be raised to \$42,000 or even \$52,000 under proposals being actively considered.

With very few exceptions, we think even a substantial increase in the threshold will not have a significant impact on public employers in Massachusetts, for four main reasons. First, the salary threshold only comes into play for employees properly deemed exempt in administrative or executive or professional positions. Those exemptions under both federal and state law, require various levels of duties and/or supervision. If an employee has been improperly classified, there is potential liability without regard to the salary threshold.

Second, we think that a number of positions in public service which could be deemed exempt under the FLSA and state law, are in fact, not treated as exempt. Many are covered by collective bargaining agreements which provide overtime pay for all hours worked (and usually counting time off as hours worked) in excess of a regular workweek, even a workweek of 35 or 37.5 hours per week.

Third, we think the vast majority of Massachusetts municipal employers who properly exempt administrative and executive and professional employees are paying salaries above the proposed higher thresholds.

Fourth, even if the threshold causes the loss of exempt status, overtime (or, by agreement comp-time) is only required under the FLSA for hours actually worked in excess of 40 hours in a week. All leave time does not count under the FLSA. Of course, if a previously exempted position becomes subject to the FLSA, there will be a need to track actual hours worked, which in the case of some heads of small departments (e.g. recreation) could be somewhat challenging.