

# POLICY MATTERS

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**House Ed & Labor Addresses FLSA Salary Level.** In a sometimes contentious [hearing](#) earlier this week, the Subcommittee on Workforce Protections reviewed the Department of Labor's proposed salary increase to the white collar exemption threshold. In addition, the Subcommittee [chair](#) and several other members of the Majority advocated for the Restoring Overtime Pay Act ([H.R. 3197](#)), which would set the salary level at nearly \$51,000 (i.e., higher than the court-enjoined level set in 2016) with automatic updates every three years. Regardless of what happens in the House, the bill is not likely to get through the Senate. The battle over the proper salary level, however, will continue. Notably, both Senator Alexander, Chair of the Senate HELP Committee and Rep. Foxx, Ranking Republican of the House Education and Labor Committee, [have written in support of the rule](#).

**POWADA, Workplace Violence Protection Act, and Multiemployer Pensions Measure Clear House Committee.** A busy House Education and Labor Committee also held a markup this week on the Protecting Older Workers Against Discrimination Act (POWADA) (H.R. 1230), the Workplace Violence Prevention for Health Care and Social Service Workers Act (H.R. 1309), and the Rehabilitation for Multiemployer Pensions Act (H.R. 397). As discussed previously, POWADA would reverse a 2009 Supreme Court decision on mixed motive discrimination under the ADEA. Republicans Stefanik and Grothman supported final passage of the bill. H.R. 1309 would require OSHA to implement a safety standard requiring health care and social service providers to implement workplace violence programs. Republicans Roe and Stefanik supported final passage. The hugely expensive multiemployer pension bill would create an agency within the Treasury Department to issue loans to failing plans. No Republicans supported the bill which was brought up with little notice and without any opportunity for debate, much less amendments. The business community [wrote a lengthy letter](#) detailing the severe problems facing the multiemployer system, but did not expressly oppose the bill. While all these bills will likely be brought to the House Floor for consideration, their future, as currently written, in the Senate is doubtful.

**Regular Rate Comment Period Ends; Joint Employment Up Next.** The Department of Labor has had a busy spring, with three proposed regulations out of the Wage & Hour Division alone. The first, on the [exempt status salary threshold](#), was the subject of the hearing described above. The second, a more technical exercise regarding the proper overtime rates of pay for nonexempt employees, saw its comment period close yesterday with a scant [77 comments received](#). The final proposal—one addressing joint employment under the FLSA—is starting to gather steam. Approximately two weeks out from the comment deadline, well over 7500 comments have been submitted to the [docket](#).

**Marijuana Laws Sprouting Up Everywhere.** Earlier this month, Nevada became the first state to restrict an employer's use of pre-employment cannabis tests. For more, see [Seyfarth's Client Alert](#). Illinois, meanwhile, is on the path to legalizing recreational cannabis, but includes some employer protections in its legislation, which is expected to be signed by the governor. For more, see [Seyfarth's Client Alert](#).

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