

POLICY MATTERS

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President Trump Renominates Pearce for 3rd NLRB Term. Earlier this week, President Trump [nominated Mark Gaston Pearce \(D\)](#) for another term on the National Labor Relations Board (NLRB). If confirmed by the Senate, Pearce would serve a five year term on the Board. Pearce's nomination was part of a [reported agreement](#) between Senate Majority Leader Mitch McConnell (R-KY) and Minority Leader Chuck Schumer (D-NY) where Democrats agreed to waive waiting periods and confirm other pending nominations in the judicial and executive branch in exchange for Pearce. This comes in the face of [staunch opposition](#) from business and management groups to deny Pearce another term.

DOL Announces Wage and Hour Listening Sessions. On Monday, the Department of Labor's Wage and Hour division announced [planned listening sessions](#) regarding Part 541 of the white collar exemption regulations, otherwise known as the "Overtime Rule." According to the most recent regulatory agenda, a new Overtime rule is expected in January 2019. These listening sessions, happening in five different cities across the country, are intended to provide DOL with feedback as to how to best move forward with the new proposal.

See Seyfarth's recently published [blog post](#) for more information on the listening sessions and be sure to register for our upcoming webinar—[Seyfarth's Call for Involvement: WHD's FLSA Exemption Listening Sessions](#)—to be held on Friday, September 7, at 3:00pm ET.

DOL's Wage and Hour Releases New Opinion Letters. The Wage and Hour division at DOL [released six new opinion letters](#) on Tuesday, offering employers guidance on a range of wage and leave issues. The letters clarify application of the Fair Labor Standards Act and the Family and Medical Leave Act to specific situations and industries. The opinion letters issued addressed the following:

- Organ donors' qualification for FMLA leave;
- Compensability of time spent voluntarily attending benefit fairs and certain wellness activities;
- Application of the movie theater overtime exemption to a movie theater that also offers dining services;
- Application of the commissioned sales employee overtime exemption to a company that sells an internet payment software platform;
- Volunteer status of nonprofit members serving as credentialing examination graders; and
- "No-fault" attendance policies and roll-off of attendance points under the FMLA.

President Trump to Sign Retirement Security Executive Order Tomorrow. At an event tomorrow in Charlotte, North Carolina, President Trump is expected to [sign an executive order](#) aimed at "strengthening retirement security in America" and expanding access to workplace retirement savings plans. The exact details of the executive order have not yet been released.

Midterm Election News:

- In [Florida's gubernatorial primary](#), Republicans nominated Rep. Ron DeSantis, President Trump's preferred candidate, while Democrats tapped Andrew Gillum, the progressive mayor of Tallahassee. Gillum's narrow, [three-point defeat](#) of Gwen Graham [came as a shock](#) to the Democratic establishment and is seen as one of the most significant upsets of the primary season.
- In Arizona, Rep. Martha McSally [won the Republican nomination](#) for Senate, despite significant support for former state Sen. Kelli Ward and former Maricopa County Sheriff Joe Arpaio. McSally will face Rep. Kyrsten Sinema (D), who won her primary race soundly. Either McSally or Sinema will become the first female senator from the state of Arizona.

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