AN ILLINOIS LAW FIRM

HEYL ROYSTER GOVERNMENTAL NEWSLETTER

 September 2014

WELCOME LETTER

Dear Friends:

Spring and early summer brought us many cases that substantially impact the operations of local governmental entities. Most notably, the Illinois Supreme court struck down the Illinois eavesdropping statutes. While sheriffs and police Chiefs will need to educate deputies and officers on the new law, all governmental bodies need to be aware of what the change means for your employees. Keith Fruehling provides a great analysis that will explain the substantial change in Illinois. Next, we highlight a case under the Open Meetings Act that demonstrates the importance of having concise and consistent public comment policies. Although it has been several years since the Freedom of Information Act was overhauled, we still see the courts struggling to interpret various sections of this law. Recently, the appellate court made it clear that the fees you charge for responding to a FOIA request must be done so with care.

We report on a case that is favorable for public employers when it comes to enforcing residency requirements, and we also provide an update on *Lane v. Franks*, where employers need to proceed with caution when considering terminating an employee who can claim protection under the First Amendment as a whistleblower.

Local municipalities and schools, alike, will be interested in "Walking the Line." Whether you are the public works department charged with caring and marking crosswalks or the crossing guard helping school children get to school safely, *Swain v. City of Chicago* provides guidance for all. Finally, in honor of the new school year beginning, Stacy Crabtree highlights a federal case that explains why a school's unconstitutional hair length policy matters for all government entities.

The public bodies involved in the cases we have included this quarter range from park districts to county assessors, school districts to local municipalities. Regardless of size, no public entity is immune from litigation these days. Please feel free to contact any of the attorneys in our government practice group to assist your public entity. Whether you need an answer to a routine FOIA question or have complex litigation, we have attorneys experienced with every level of governmental work.

Chrissie L. Peterson

Chrissie L. Peterson
Governmental Practice Group

ATTENTION EDUCATORS

Are you planning your in-service trainings for the 2014-2015 school year? We have experience in all areas related to school law, including but not limited to special education and due process, bullying, FOIA/OMA, labor and personnel, mandated reporting and more. We are available to present at your upcoming meetings or workshops. Contact Beth Jensen at bjensen@heylroyster.com or (309) 676-0400 for your in-service training needs.

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EAVESDROPPING IN ILLINOIS: YOU CAN DO WHAT NOW?

By: Keith Fruehling
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On March 20th, the Illinois Supreme Court struck down Illinois' eavesdropping statute (720 ILCS 5/14-2) ruling it unconstitutional. In two separate cases (*People v. Clark* and *People v. Melongo*), the court found that much of the language of the present eavesdropping statute was overly broad under the First Amendment in criminalizing the recording of conversations without the consent of all parties even if they have no expectation of privacy. Specifically, the court ruled that as written, Illinois' law criminalizes recordings of conversations that are clearly public. The court reflects that under the law, recording a political debate on a college quad, a loud argument on a street corner, or fans yelling at a game could be deemed a crime.

In the absence of an eavesdropping law in Illinois, where can employers – both public and private – in the state of Illinois find guidance? A look back at the history of eavesdropping laws in the context of the *Clark* and *Melongo* cases, and in light of today's almost unlimited eavesdropping technologies, may put some things in perspective.

In *Clark*, the defendant recorded courtroom conversations involving himself, his attorney and the presiding judge. Additionally, he recorded the adverse party's counsel conversation. Clark did not obtain consent from any of the parties to record the conversations. Thereafter, he was indicted under the Illinois eavesdropping statute. He filed a motion to dismiss the indictment and argued that the section under which he was charged violated his First Amendment rights and his right to substantive due process. The circuit court agreed and dismissed the indictment, bringing the matter before the Supreme Court in the state's direct appeal in defense of the legislation.

In *Melongo*, which was not consolidated with *Clark*, but had been argued on the same day, Chief Justice Garman, again writing for a unanimous court, stated that the court's analysis was guided by its holding in *Clark*. Again, the strictures of the statute were not found to serve any legitimate interest in protecting conversational privacy, rendering the statute unconstitutional on its face. Melongo actually spent nearly two years in jail after being charged under the statute for recording a Cook County court official over the phone who she believed wasn't carrying out her duties properly.

While the cases took some time to make their way through process to get to the Supreme Court and for the Supreme Court to enter its Order, there was little doubt that the court would take some action. A quick internet search of the statute reveals that for two to three years prior to the holdings above, various commentators referred to the statute as the strictest in the nation. It was referred to as unfair, creating criminals out of completely innocent people, and simply inconsistent with the technology of the times. More recently, the Illinois law had suffered a significant defeat in 2012 when the 7th Circuit of the U.S. Circuit Court of Appeals struck down one provision of the statute that barred anyone from video recording police officers doing their jobs in public.

The Illinois eavesdropping statute has been around for quite some time. In fact, it has been around in one form or another since 1961. So . . . why was there suddenly a problem with it now?

It turns out the problem with the statute was created by the legislature in 1994. At that time, the eavesdropping statute in existence since the 1980s was amended to require "two-party" consent to be able to lawfully record a conversation. In other words, all parties to the conversation would have to consent to the recording for it to be lawful.

Keith Fruehling has represented many governmental entities, including local municipalities, counties, and the State of Illinois, as well as the Governor's Office and the Illinois Department of Natural Resources. Prior to joining Heyl Royster, Mr. Fruehling served as a Senior Assistant State's Attorney with Champaign County, and he continues to handle cases as a Special Prosecutor for Champaign County.

This requirement alone is why many referred to the Illinois law as the nation's toughest. If you couple the statute's requirements with its penalties, you instantly get the idea.

"One-party" consent is to be distinguished from "two-party" consent. Federal law requires "one-party" consent. Assuming you are not trying to commit a crime, your own consent to the recording makes it legal under the federal wiretap law to record your own conversations. The concept behind this requirement is that if you can repeat from memory what somebody told you, then replaying a recording of that conversation is simply a more accurate manner of doing so. "One-party consent" laws like the federal law are aimed at true eavesdroppers — those listening in on other peoples' conversations in which they are not one of the parties to the discussion.

Under the Illinois law, if "two-party" consent is not obtained, any person making a recording without the other person's consent committed a felony offense. Some provisions of the statute carried extremely harsh penalties. Had someone pointed a smart phone camera at a police officer and recorded the conversation without his consent, they would have been guilty of a Class 1 felony. This is significant because, in general, the potential penalty for a Class 1 felony is from 4 to 15 years in prison and/or a possible fine of up to $25,000. Only offenses like murder, involuntary manslaughter and rape (a class X felony) carry more significant penalties.

What is eavesdropping anyway? Today, eavesdropping is known as listening to a conversation to which you are not a party. But where did that term come from? "Eavesdrop" as it turns out, is a very old word. Originally, it referred to the water dripping off the eaves of a building (or the ground onto which such water would fall). Looking back into medieval times, there were legal restrictions on how close one could build to another's property line so that the eavesdrop would not damage the neighbor's land. So, how did the word further evolve to involve conversations?

The impulse to listen to others' conversations has been around for a long time, too. One who stood in the "eavesdrop" of a building and listened to conversations within became known as an eavesdropper. There are records dating back to the mid-1400s describing testimony to a court that a defendant had been found to be a common eavesdropper and prowler at night. Thus, the act of secretly listening to a conversation to which one was not a party became known as eavesdropping.

The main issue with eavesdropping is the notion that a person should be entitled to have a private conversation in private. It is no wonder then that the Illinois Supreme Court focused on the nature of a person's expectation of privacy. Whether someone has an expectation of privacy is often the standard nationwide for deciding if a conversation is private or not, but Illinois' statute did not include that guideline. The Illinois Supreme Court held that was a serious flaw. The court conceded the nearly universal presence of smart phones and other sophisticated listening technology that makes it that much harder to impose the appropriate restrictions in a statute. However, the Illinois Supreme Court said that difficulty did not justify a statute so sweeping and ill-defined as to undermine important constitutional rights.

Given today's technology, one's sense, and expectation, of privacy is under constant change. The ability to record with a smart phone is just one example. There are cameras in almost all new electronic technology that we own – web-cameras at the office, laptops, and tablets are just a few examples. Not only can a person activate these cameras while they are in his or her possession, many may be activated remotely by the owner. In fact, many may be activated remotely by someone other than the owner.

The ability to anticipate each and every way that existing and new technology can be used is critical to drafting legislation that properly balances the need to protect private conversations while honoring fundamental First Amendment rights. However, having the foresight to do so will be difficult. We are entering an era where limitations on the ability to eavesdrop are evaporating.

In this new age, we have remote controlled flying drones with audio-visual equipment capable of recording the images and sounds of a conversation taking place on a balcony 70 stories up or on the street below. Recording those conversations would seem to be fairly

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PARK DISTRICT BOARD SETTLES OPEN MEETINGS ACT LAWSUIT

By: Chrissie Peterson and Shawnnell Brown
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The adoption and implementation of public comment rules may avoid litigation for public bodies. Recently, the Clark County Park District Board ("Park") settled an Open Meetings Act lawsuit for $415.50. The settlement amount represented the fees incurred by Kirk Allen ("Allen") who sued the Park when the Park did not allow public comments during a special meeting. On May 12, 2014, the Park District held a special meeting to discuss the employment status of the executive director. Community members anticipated they would be able to make comments during the public portion of the meeting, but when the Park Board returned from closed session, it tabled the agenda item for "status of executive director" and informed the public there would be no public comment.

At issue was whether Section 120/2.06(g) of the Open Meetings Act required the Park to allow comments at the special meeting. Section 120/2.06(g) provides, in relevant part that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body."

Unfortunately, we will not receive a court interpretation on that section of the Open Meeting Act based on this case. On June 26, the Park District held a special board meeting to address the lawsuit. There, the Board voted to settle the suit by personally paying Allen's court fees, as well as adopting rules that would regulate public comments. On June 27, Allen filed a Motion to Dismiss with Prejudice.

All public entities should work with their legal counsel to adopt reasonable regulations allowing public comment. Public bodies that have already adopted regulations should review them for compliance with recent cases and train staff appropriately on enforcement.

The attorneys in Heyl Royster's Governmental Practice are experienced in drafting and implementing public comment regulations for various public bodies and can assist you or your legal counsel in drafting policies that fit your needs.

Chrissie L. Peterson practices in all aspects of Municipal law. Prior to joining Heyl Royster, Chrissie served as the City Attorney for Canton, Illinois, where she provided guidance on the Freedom of Information and Open Meetings Acts, construction contracts, franchise agreements and utility infrastructure. She was also responsible for drafting all resolutions, ordinances, policy updates and managing all legal aspects of economic development including zoning and land use.

2015 IAPD/IPRA SOARING TO NEW HEIGHTS CONFERENCE

In mid-September, registration will open for the Illinois Association of Park Districts' annual conference. Attorneys Mark McClenathan and Andy Keyt will be presenting on how to "Avoid Liability and Legal Troubles." The conference runs from January 22-24, 2015 at the Hyatt Regency in Chicago. For more information and to register for the conference, go to www.ilparksconference.com.

The Cost-Only Rule Applies to FOIA Fees For Property Tax Records

By: Chrissie Peterson and Alisha Biesinger
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A recent Illinois appellate court decision should remind government entities that charging a fee for a FOIA request should not be assessed without due care. In *Sage Information Services v. Suhr*, 2014 IL App (2d) 130708, the plaintiffs requested "a copy, on CD or similar electronic media, of the current real property assessment record file for the entire county, together with an electronic copy of the sales file" from the Supervisor of Assessments.

The requestor asserted that under section 6(a) of the FOIA, the defendant could charge no more than the cost of the disc. However, the defendant responded that the plaintiff would have to pay $6,290.45 (five cents per parcel) to obtain the records, relying on section 9-20 of the Property Tax Code.

The parties disagreed on which statute governs how much the defendant should charge for electronic records. Defendant asserted that the governing statute was section 9-20 of the Property Tax Code, which provides that, "In all counties, all property record cards maintained by...the chief county assessment officer shall be public records.... Upon request and payment of such reasonable fee established by the custodian, a copy or printout shall be provided to any person." 35 ILCS 200/9-20. The plaintiff contends the governing statute is section 6(a) of the FOIA, which provides, "When a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible.... A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium... Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records furnished in an electronic format." 5 ILCS 140/6(a).

The Second District relied heavily on the Fifth District's opinion in *Sage Information Services v. Humm*, 2012 IL App (5th) 110580, which was the first to decide this issue. The court noted the 2010 Amendment to section 6(a) changed the language to distinguish between paper records and electronic records. Section 6(b) of the FOIA allows an agency to rely on another statute to charge more than the cost of production if it is a request for paper documents. However, if the request is for electronic documents, as it was in this case, section 6(a) governs. The amendment narrowed the exception to the cost-only rule. ***Therefore, if a government entity wants to charge more than the actual cost, another statute must expressly provide that the assessor may charge fees "applicable to copies of public records when furnished in a paper format."***

The Tax Code does not contain express language that allowed the defendant to escape the cost-only rule. The court found the amendment to section 6(a) to be unambiguous and inescapably applied to the case at-hand. Therefore, the court held the defendant could not charge more than the cost of purchasing the record medium for the requested electronic documents.

When a request demands records in an electronic format, the FOIA officer should proceed with caution when assessing fees for the response. If the requested records are subject to a fee provision, other than the fee provision in the Freedom of Information Act, the FOIA officer must determine if the applicable language explicitly allows for recovery of more than the cost of actual production. For questions on fee provisions in the Freedom of Information Act or assistance in updating your FOIA policies, please contact one of our Governmental Practice attorneys.

VIOLATION OF A RESIDENCY REQUIREMENT CAN RESULT IN DISCHARGE FOR PUBLIC EMPLOYEES

By: Chrissie Peterson
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Recently, the Illinois First District Appellate Court upheld the termination of two Chicago school teachers for failing to abide by the Board of Education's residency requirement. *Crowley v. Board of Education of the City of Chicago*, 2014 IL App (1st) 130727. In these consolidated cases, two teachers admitted they did not reside within the City of Chicago, but they argued the Board's residency requirement had become "stale" because the Board failed to vigorously enforce it and that the Board had failed to enforce the policy against other employees.

The teachers had been in violation of the residency requirement for 12 years and 8 years, respectively, when the Chicago School Board eventually audited employee files for residency compliance. The Chicago School Board issued warnings to 77 non-resident teachers, including the plaintiffs, warning that they would be discharged if they did not comply with the residency requirements within sixty (60) days. Both teachers obtained administrative hearings before the Illinois State Board of Education hearing officers for their proposed termination. While the ISBE hearing officer found there was insufficient cause to dismiss the teachers, the recommendation was rejected by the Chicago School Board. When the teachers filed a complaint for administrative review, the circuit court affirmed the Chicago School Board's order upholding the terminations and this appeal followed.

The appellate court was not persuaded by the teachers' arguments that the residency requirements had not been enforced against two other employees. *Crowley*, 2014 IL App (1st)130727 at ¶ 8. The other employees were not teachers. One was the Chief Administrative Officer, a high-level employee not covered by a union contract. The other employee was one of a group of social workers who the Board had issued warning letters to but later rescinded due to deficient due process.

The court was clear that "[e]mployers are not estopped from moving from lax enforcement of employee conduct rules to more strict enforcement if the change is made clear to the employees and announced in advance." *Id.* at ¶ 34 quoting *Western Dairymen Cooperative, Inc. v. Board of Review of the Industrial Comm'n*, 684 P.2d 647, 649 (Utah 1984).

Keeping with other precedents upholding residency requirements, the appellate court upheld the teachers' terminations.

Whether your public body has a residency requirement as the result of mandatory bargaining, an employment contract or personnel policies, this case is a good reminder to periodically conduct a compliance audit to determine if your employees are in violation of the residency requirements. For additional information on conducting a compliance audit or necessary due process requirements if a violation is discovered, the attorneys at Heyl Royster can provide comprehensive assistance.

Whistleblower Protection for Public Employees

By: Chrissie L. Peterson and Shawnnell T. Brown
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The U.S. Supreme Court unanimously held that a public employee's sworn testimony, given under subpoena, which was outside the scope of his ordinary job duties, was entitled to protection by the First Amendment. *Lane v. Franks,* 134 S.Ct. 2369 (2014).

In this case, *Lane*, was employed as a program director at Central Alabama Community College ("CACC"). Lane discovered that a state legislator was on the program's payroll, but had never reported to work. Lane terminated the state representative and stopped paying her. When the state representative was investigated, Lane was subpoenaed to testify at her criminal trial where she was eventually convicted of mail fraud and theft. The College's President, Steve Franks, terminated Lane, allegedly due to financial reasons. In response, Lane sued Franks, in his official and individual capacity, under 42 U.S.C. 1983 claiming that Franks violated the First Amendment when he terminated Lane as retaliation for testifying against the state representative.

The Supreme Court ruled that Lane's testimony was protected by the First Amendment, determining that he testified as a citizen, not as an employee. The Court further held that the information was merely obtained in the course of Lane's employment, was not directly related to his employment, it was a matter of public concern and the College failed to demonstrate any interest that outweighed Lane's right to speak on the matter.

Government employees enjoy greater whistleblower protection after *Lane v. Franks*, with the Court's holding that the First Amendment protects public employees who provide truthful, sworn testimony. Although the opinion was limited to public employees who testify *outside* the scope of their employment, whether information is directly or indirectly related to employment may be a gray area for lower courts. Public employers are encouraged to consult with legal counsel when considering an employment action against any employee who has given testimony or participated in other whistleblower activities.

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WALKING THE LINE: TORT IMMUNITY AND PEDESTRIANS OUTSIDE THE CROSSWALK

By: Chrissie L. Peterson
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With Contributions By: Wade Blumenshine

Recently, the First District Appellate Court determined that a pedestrian who "walked the line" and was injured while partially inside and partially outside of a crosswalk was barred from recovering for those injuries from the City of Chicago. In *Swain v. City of Chicago*, the plaintiff was walking through an intersection and broke his foot while stepping in a pothole just a few inches outside of the marked crosswalk. *Swain v. City of Chicago*, 2014 IL App (1st) 122769 at ¶ 3.

The Illinois Supreme Court has recognized the well settled rule regarding the duty of a municipality to maintain its street in a reasonably safe condition "is that, since pedestrians are not intended users of streets, a municipality does not owe a duty of reasonable care to pedestrians who attempt to cross a street outside the crosswalks." *Vaughn v. City of West Frankfort*, 166 Ill. 2d 155, 158 (1995). The court explained:

> "[T]he question of whether a municipality owes a duty does not depend on whether the plaintiff-pedestrian was struck by a moving vehicle or tripped over a pothole, but rather *depends on whether the municipality intended that the plaintiff-pedestrian walk in that part of the street where the injury occurred and permitted the plaintiff-pedestrian to do so*. We note that, except for those cases in which street defects were in the area immediately around a parked vehicle, Illinois courts have refused to impose a duty on municipalities for injuries to pedestrians which were caused by those defects." *Vaughn*, 166 Ill. 2d at 163. [emphasis added]

Vaughn further held that "local municipalities owe no duty to maintain streets and roadways in a reasonably safe condition for pedestrians who choose to cross the street outside the protection of the crosswalks." *Id.* at 164.

This case serves as a reminder that public bodies benefit by having well maintained intersections and crosswalks that are clearly marked. When injuries allegedly occur within those intersections or crosswalks, the public body should take immediate action to (1) obtain an exact description of where the "injury" occurred and (2) examine and document the intersection and area immediately surrounding.

Why a School's Unconstitutional Hair Length Policy Matters for All Governmental Entities

By: Stacy E. Crabtree
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A school's hair length policy was the subject of a recent lawsuit, and the federal appellate court's opinion on the matter serves as a reminder for all schools and other governmental entities to be wary because, in the words of Bob Dylan, "the times they are a-changin'." As the facts are described in *Hayden v. Greensburg Community School Corp.*, 743 F.3d 569 (7th Cir. 2014), the Greensburg, Indiana school district's board of trustees deferred to its superintendent and principals for establishing grooming policies applicable to students. When it came to athletics, the principals in turn deferred to the coaches. The boys varsity basketball coach's unwritten hair length policy required each player's hair to be cut above the ears, eyebrows, and collar. The coach explained that the purpose of the policy was to promote team unity and project a clean-cut image. Aside from baseball, no other boys or girls sport had a comparable policy. When a student was prohibited from playing boys basketball because of his hair length, the student's parents brought the lawsuit on behalf of their minor son claiming, among other things, that the policy was unconstitutional gender discrimination.

The federal appellate court ultimately agreed with the parents finding that the boys basketball hair length policy violated the equal protection clause of the Fourteenth Amendment. Where the school district went wrong is that it failed to show that the girls basketball players were subject to a comparable (but not necessarily identical) grooming policy. The school district could have still succeeded absent a comparable policy for girls basketball players if the school district's justification for the male-only hair length policy been exceedingly persuasive. But the court did not find promoting team unity and projecting a clean-cut image as even a rational justification for the male-only policy because every sport, male and female alike, would have those goals. Notably, because the school district received federal financial assistance, it also found itself in violation of Title IX, which prohibits discrimination on the basis of sex in any education program or activity receiving federal financial assistance. The case was then returned to the lower court to determine the appropriate remedy for the student.

As alluded to above, *comparable* grooming policies does not necessarily mean *identical*. In determining whether grooming policies are comparable, previous courts have relied in part on whether the differences between male and female grooming policies are based on community norms or standards. Consequently, previous courts have allowed grooming policies that impose a hair-length restriction on males and not females. Nonetheless, this court stated "it is worth noting that the community standards which may account for the differences in standards applied to men and women, girls and boys, do not remain fixed in perpetuity." *Hayden*, 743 F.3d at 581. The court indicates that it is becoming more mainstream for males to have longer hair styles (at least those going past the ears, collar, or eyebrows) and therefore seems to reject any reliance the school district may have had on community standards.

The equal protection clause of the Fourteenth Amendment applies to state and local governments, not just school districts. Therefore, *Hayden v. Greensburg Community School Corp.* should serve as a reminder for all governmental entities to review their current grooming policies, written and unwritten, to make sure they are comparable between males and females. And keep in mind that what was once the norm 10, 20, or 30 years ago, is more than likely not the norm today. In any event, case law based on the equal protection clause is voluminous and daunting and cannot be summarized in this article alone. Therefore, consult with your attorney regarding any grooming or other policies that are gender specific to help ensure that you stay on the right side of the equal protection clause.

Stacy E. Crabtree concentrates her practice on governmental affairs as well as tort litigation and representation of corporate and individual clients in the areas of commercial and contract law.

Eavesdropping In Illinois continued from page 3

characterized as illegal. But where does the "private" end and the "public" start? What if that drone was simply hovering over a public beach or pool? What happens if such drones become as ubiquitous as smart phones? Will that change what our reasonable expectations of privacy are?

Soon enough, there will hundreds, if not thousands, of everyday people wearing "smart glasses." These glasses will have the ability to record similar to smart phones. However, they will be capable of doing so without drawing any attention to the fact that they are recording. People will wear these glasses everywhere. They will wear them to the courthouse; to the office; to the ball game; to the pool; to the gym; and, to the grocery store.

So now . . . is that chat at the side of the public pool private in nature? How about that gossip by the dairy cooler at the grocery store? How about the conversation that is recorded unintentionally at a child's soccer game simply because the people speaking were too close to the recording device held by a third-party? What about that soft-spoken discussion recorded by the water cooler at the office? Where are objective lines of reasonable expectations of privacy drawn?

These are the types of issues that the Illinois legislature will have to wrestle with as it returns to session and begins to draft the necessary amendments to the eavesdropping statute. This will be no easy task. After the Illinois Supreme Court struck down the old law, the Senate quickly drafted proposed amendments, voted on the same and sent the bill (HB 4283) to the Illinois House of Representatives, where it stalled in June.

The proposed amendment appears to be a reasonable start. It introduces language that balances the interests identified by the Illinois Supreme Court and the 7th Circuit Court of Appeals in this era of increasingly advanced "everyday" technology. The Senate's effort introduces a definition of a private conversation. It defines it as follows:

"Any communication between two or more persons intended to be of a private nature under circumstances 'reasonably justifying that expectation.'"

While these circumstances do not necessarily mean that an employee (or employer) now has carte blanche to record any and all people in the workplace, employers should understand that employees may now attempt to record workplace actions with increasing frequency, especially as they learn of the ruling on blogs and in other media. Moreover, employers who find themselves defending a civil action may have a harder time excluding employee recordings on the grounds that the recording was not lawfully obtained. This is especially so when the circumstances surrounding the recording demonstrate that the individual being recorded had no reasonable expectation of privacy.

In the interim, employers – both public and private – may wish to address their privacy issues as employment policy matters and develop appropriate internal privacy policies. Regardless of new legislation, internal privacy policies would provide important guidance to employers and employees alike in this arena.

News & Notes

Jensen Named Chair of ISBA Education Section Council

Beth Jensen (Peoria) was recently named the chairperson of the Illinois State Bar Association's (ISBA) Education Section Council.

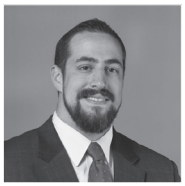
Bertschy to Speak on Prevailing Wage Law

Governmental Practice Chair Tim Bertschy is speaking to the Cincinnati Township Road District in South Pekin, IL on September 24 on changes to the Prevailing Wage Law and the original Prevailing Wage Public Act.

Attorneys to Speak at TOI Conference in November

The firm is pleased to announce that it will again participate in the Township Officials of Illinois' annual conference on November 10 and 11. Attorneys from our Governmental Practice will speak on various topics, including lessons learned from the polar vortex, legal considerations for construction contracts, and how to adopt appropriate information technology practices. The firm is also proud to be a sponsor of TOI's first mobile app for the conference, which will provide mobile users with a real time agenda for the conference and the ability to set reminders for their own, personal schedule while in Springfield.

2015 IAPD/IPRA Soaring to New Heights Conference



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