[MS-0398.040.013.021]

Larry:

- contacts w/ DOL
- changes on page 10
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Question

- Why Public sector different than Public
-

- Chester Sherwood - Representing state / City of New York / Corporation Counsel — Representing Mayor Dinkins
- Gov.?
- League of Cities?

Larry: spoke w/
Congressman Don Paine / NJ. (Former County official)
(Democrat)

WHICH LEAVES FEWER RESOURCES AVAILABLE TO FAIRLY COMPENSATE -- AND INDEED, TO RETAIN -- THE RANK AND FILE WORKERS WHO WERE AND REMAIN THE INTENDED BENEFICIARIES OF THE ACT.

- HURTS THE VERY PERSONS (RANK AND FILE WORKERS) IT WAS INTENDED TO PROTECT (AND, LET ME SAY PARENTHETICALLY LEST THE POINT ESCAPE ATTENTION, WHEN WORKERS ARE NOT FAIRLY COMPENSATED AND LAID OFF, THE PUBLIC IS HURT AS WELL).

- CAUSES PUBLIC EMPLOYERS TO VIOLATE BASIC, FUNDAMENTAL PRINCIPLES OF PUBLIC ACCOUNTABILITY IN AN EFFORT TO CONFORM TO THE "FUZZY LOGIC" OF COURT INTERPRETATIONS.

- SETS THE STAGE FOR AN EVENTUAL POLITICAL BACKLASH AGAINST NOT JUST THE FLSA, BUT AGAINST LABOR AND AGINST CONGRESS WHEN THE FISCAL RAMIFICATIONS OF THE ACT BECOME MORE WIDELY KNOWN.

THIS CRISIS ORIGINATED WITH THE 1990 FEDERAL APPEALS COURT RULING IN THE CASE OF ABSHIRE V. COUNTY OF KERN. AS A RESULT OF THIS COURT DECISION, STATE AND LOCAL GOVERNMENTS ARE FACING SUBSTANTIAL LIABILITY FOR BACK PAY TO THEIR HIGHER PAID PROFESSIONALS, ADMINISTRATORS AND EXECUTIVES.

THE PLAINTIFFS IN THE ABSHIRE CASE SERVED IN PROFESSIONAL, ADMINISTRATIVE OR EXECUTIVE POSITIONS. BASED UPON THEIR STATUS, KERN COUNTY EXEMPTED THEM FROM THE OVERTIME PROVISIONS OF THE FLSA.