



# Your HIGHWAY HEADQUARTERS

Snowplow • Scrapers • Hitches • Wings • Spreader • Anti-ice • Pre-wet • Vegetation



Contract # 080114-MTE

Government Agencies can purchase off our NJPA Contract without having to go out to BID!



INFRARED HEATERS  
HOTBOX/RECLAIMERS  
ASPHALT RECYCLER  
CRACK MAINTENANCE



A SIMPLE WAY  
TO STAY SAFELY  
AHEAD OF THE STORM.



Monroe Truck Equipment  
1051 W. 7th Street, Monroe, WI 53566

For more information call or visit us online at:  
Monroe Marshfield DePere  
800-356-8134 • 800-882-1900 • 800-848-5400  
[www.monroetruck.com](http://www.monroetruck.com)

**NEED A MUNICIPAL VEHICLE NOW?**  
**MTE has a Complete List of**  
**Municipal Work-Ready**  
**Vehicles Ready for Immediate Delivery!**  
[www.monroetruck.com/DealerWorkReady](http://www.monroetruck.com/DealerWorkReady)



## Legal Issues Relating to County Government

### Legal Issues to Consider When Using Temporary & Seasonal Employees

—Andrew T. Phillips & Bennett J. Conard, von Briesen & Roper, s.c.

Using temporary/seasonal employees can be an excellent way to fill out your workforce for limited periods of time. Many counties use temporary/seasonal employees during the summer months when weather conditions are more amenable for maintenance and other outdoor projects. This article is designed to provide the employment law basics on temporary/seasonal employees who, in some instances, are treated differently than the balance of the county workforce.

#### Business as Usual

The most important thing to keep in mind when using temporary employees is that nearly all employment laws that apply to your permanent employees will apply to your temporary employees as well. In general, the only exception is going to be leave under the Family Medical Leave Act (FMLA) and the Wisconsin Family Medical Leave Act (WFMLA). Due to the eligibility requirements, which include both a minimum duration of employment (12 months for FMLA and 52 consecutive weeks for WFMLA) and a minimum number of hours worked in the prior year (1,250 in prior 12 months for FMLA and 1,000 in prior 52 weeks for WFMLA), temporary employees are unlikely to qualify for leave under either law. However, it is also important to note that if a temporary employee is hired into a permanent position, their time as a temporary employee may count toward their eligibility for FMLA and WFMLA.

#### Do Not Skip On-Boarding

Since various employment laws such as the Fair Labor Standards Act (FLSA), Wisconsin Fair Employment Act (WFEA), Title VII, and the Americans with Dis-

abilities Act (ADA) apply to temporary employees, it is very important that those employees, and their supervisors, are fully trained on the handbooks and policies that govern their employment.

For example, temporary employees must understand your time keeping practices and overtime policies so that you do not run afoul of the FLSA where employees are working additional hours not accurately reflected in their time records. Employers will need to also make sure that temporary employees are aware of how to report harassment and discrimination issues or how to go about requesting a reasonable accommodation under the ADA or WFEA if necessary.

When employment is for a defined period, temporary employees should be notified up front about the anticipated end date of their employment. This is commonly included in an offer letter that also notifies the employee of important information such as benefit ineligibility. Further, even if their employment is for a defined period of time, temporary employees must understand that they are still “at-will” and that they may be terminated at any point. Supervisors should exercise caution when discussing employment duration, permanent openings, and possible transition to permanent employment so as to avoid creating an expectation of continued employment.

#### Be Careful When Permanently Hiring a Temporary Employee

There is no law prohibiting an employer from permanently hiring a temporary employee. However, employers must be mindful that permanently hiring a temporary employee may have some unexpected consequences if others were passed over. If one, or a few,

# Legal Issues

Relating to County Government

temporary employees are permanently hired, the employees who were not chosen may question why they were not considered for the permanent position(s). Employers should be prepared to point to specific reasons, including employment history, education, and job performance, to demonstrate why a particular temporary employee was offered a permanent position over other comparable individuals.

## Vet Your Staffing Agencies

If you opt to use a staffing agency for your temporary labor needs, make sure that the staffing agency is properly vetted, including references if necessary, because you may share responsibility for employment law violations even if compliance was out of your control. Though a temporary employee generally

remains employed by their agency, the employer at which they are placed can be found liable as a “joint employer” for violations of various employment laws, including the FLSA. Because “joint employer” liability is also “joint and several” liability, you, as the secondary employer, may be required to cover damages such as unpaid wages owed to the agency’s employees who were placed with you. This could be the case even if the staffing agency was in complete control of the payroll for their employees and you had no way of knowing they were not being properly compensated.

If you have any questions about using temporary and seasonal employees, or any other employment law needs, please contact the WCA or any member of the von Briesen & Roper Government Law and Employment Law Groups. ♦

Counties play a vital role in ensuring that state and local transportation and public service infrastructure is safe and efficient. At times, counties and county highway departments are called upon to make difficult decisions regarding the acquisition of private lands for the public good. Navigating a county’s authority in condemnation proceedings is difficult when a landowner’s statutory and constitutional rights are involved. Our Government Law Group has significant experience with eminent domain proceedings, and equally as important, we understand the mission of county government.

To learn more about how our Government Law Group can assist you with your Eminent Domain issues, please contact Andy Phillips at [aphillips@vonbriesen.com](mailto:aphillips@vonbriesen.com).

Every tool you need, from one trusted resource.

**von Briesen**

von Briesen & Roper, s.c. | Attorneys at Law  
[vonbriesen.com/government](http://vonbriesen.com/government)

Milwaukee • Madison • Waukesha • Oshkosh • Green Bay  
Neenah • Appleton • Manitowoc

## WE’VE GOT YOU COVERED ON EMINENT DOMAIN



## COUNTY COUNSEL WITH ANDY PHILLIPS

Join us as we discuss the latest in county legal issues in the Wisconsin Counties Association’s new quarterly online TV show, “County Counsel with Andy Phillips” at [vonbriesen.com/government](http://vonbriesen.com/government) or [wicounties.org](http://wicounties.org).

**BAIRD**

# Imagine

## Financing Solutions That Keep Your County’s Needs First

Your county’s needs don’t change with the market. When securing your county’s future, you need solutions that are built to last.

That’s why we bring broad capabilities to every client we serve, large and small. A deep bench of diverse, experienced finance professionals. Knowledgeable and responsive support. Plus the No. 1 underwriting team in Wisconsin.\*

We have been putting clients first for the past 100 years. Imagine the power of you and Baird.

Brad Viegut  
Kevin Mullen  
Brian Ruechel  
Rebekah Freitag  
Emily Timmerman  
Jordan Masnica

800-792-2473 ext. 3827  
[rwbaird.com/publicfinance](http://rwbaird.com/publicfinance)

**f t in**

\*Source: Ipreo MuniAnalytics as of March 31, 2019. Does not include Private Placements or Notes.  
©2019 Robert W. Baird & Co. Incorporated. Member SIPC. MC-314758.

**100  
YEARS**