



Summary of Initiative 1433

Prepared for members of the Washington House of Representatives by the House Office of Program Research.

This information has been prepared in response to various requests for a summary of Initiative 1433. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

BRIEF SUMMARY

- Raises the state minimum wage to \$11.00 in 2017, \$11.50 in 2018, \$12.00 in 2019, and \$13.50 in 2020.
- Requires employers to provide one hour paid sick leave for every 40 hours worked beginning in 2018.

BACKGROUND

Initiative 1433

Initiative 1433 was certified to the ballot on July 22, 2016. The ballot title and ballot measure summary prepared by the Attorney General and as amended by court order are as follows:

Ballot Title

Statement of Subject: Initiative Measure No. 1433 concerns labor standards.

Concise Description: This measure would increase the state minimum wage to \$11.00 in 2017, \$11.50 in 2018, \$12.00 in 2019, and \$13.50 in 2020, require employers to provide paid sick leave, and adopt related laws.

Should this measure be enacted into law? Yes [] No []

Ballot Measure Summary

This measure would increase the state hourly minimum wage for employees who are at least 18 to \$11.00 in 2017, \$11.50 in 2018, \$12.00 in 2019, and \$13.50 in 2020. The measure would require employers to provide paid sick leave starting in 2018 that employees could use in certain circumstances, including to care for family members

(as defined); make the Minimum Wage Act and this measure apply to individual care providers; and adopt related laws.

Minimum Wage

Under the state's Minimum Wage Act (MWA), all employers must pay their employees age 18 or older at least the minimum hourly wage. Certain employees, including some agricultural employees, domestic laborers in a private home, and executive, administrative, and professional employees, are exempt. The Department of Labor and Industries (L&I) has authority to set the minimum wage rate for employees under the age of 18. The rules require that employees who are 16 and 17 years old be paid at least the adult minimum wage and employees under the age of 16 be paid at least 85 percent of the minimum wage.

The current state minimum wage is \$9.47 per hour. The L&I adjusts the rate each year by the rate of inflation. The federal minimum wage is \$7.25 per hour.

Under the L&I's rules, tips and other gratuities are not part of the minimum wage, and under federal law, tips are the property of employees. Employers such as restaurants and convention centers that impose an automatic service charge related to food, beverages, and certain other services must disclose in an itemized receipt and on any menu the percentage of the charge that is paid to the employees serving the customer.

Most employees who are paid an hourly wage and work more than 40 hours in a 7-day work week must be paid overtime. When paying overtime, an employer must pay at least 1.5 times the employee's regular hourly rate.

The MWA imposes recordkeeping requirements on employers and authorizes the L&I to investigate whether any violations occurred.

If an employer fails to pay wages as required under the MWA, an aggrieved employee may file a wage complaint with the L&I. The L&I must investigate, and if it finds the employer owes wages, the L&I issues a citation and notice of assessment. In addition, if the L&I finds the violation was willful, the L&I may impose a civil penalty. Alternatively, an employee may pursue a civil action in court against the employer. In court, an employee may be entitled to attorneys' fees and double damages. Certain violations of the MWA, including failing to pay the minimum wage and retaliation for complaining or taking other actions under the MWA, are gross misdemeanors.

Several cities have adopted ordinances establishing wage rates above the state minimum wage. In Seattle, for example, the minimum wage is \$10.50 to \$13.00 per hour, depending on the size of the employer and other factors, and will eventually rise to \$15.00 per hour. An employer found to be in violation of Seattle's ordinance is liable for unpaid wages plus interest. Additional remedies may include, depending on the circumstances, liability for an amount up to twice the

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 1433. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

unpaid compensation, imposition of a civil penalty, payment of the city's enforcement costs, and suspension of any business license.

Leave from Employment

State and federal laws addressing leave from employment include the:

- Federal Family and Medical Leave Act (FMLA). Eligible employees are entitled to 12 weeks of unpaid leave in a 12-month period for specified reasons. The state Family Leave Act is very similar to the FMLA.
- State Family Care Law. If employees are entitled to sick leave or other paid time off, employers must allow employees to use their choice of leave to care for: children with health conditions that require treatment or supervision; or certain other family members who have serious health conditions or emergency conditions.
- Domestic Violence Leave Law. Victims of domestic violence, sexual assault, or stalking may take reasonable leave from work for specified legal, law enforcement, medical, and safety reasons. Family members may also take reasonable leave. The leave is with or without pay.

In addition to minimum wage ordinances, several cities also have paid sick leave ordinances. In the City of SeaTac, for example, certain hospitality and transportation employees are entitled to one hour of paid leave for every 40 hours worked and a lump sum payment at the end of the calendar year for any unused time. Employees in Tacoma also receive one hour of paid leave for every 40 hours worked, up to a total of 24 hours per year, and unused hours carry over to the following year.

Individual Providers

Individual providers (IPs) provide in-home care services to aging persons on Medicaid and to people with developmental disabilities who are eligible to receive services. Consumers have the right to select, hire, supervise the work of, and terminate any IP providing services to them. The Department of Social and Health Services (DSHS) pays IPs for their services. Following adoption of federal rules requiring overtime pay for IPs, the state enacted legislation in 2016 authorizing the DSHS to establish rules that limit the number of hours it may pay any single IP. The consumer has the right to assign hours to the IP of his or her choice, but the assigned hours must be consistent with the DSHS's rules regarding overtime hours. Wages, hours, and working conditions of IPs are determined through the collective bargaining process, and the state is the employer only for the purposes of collective bargaining.

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 1433. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

SUMMARY

Minimum Wage

The state minimum hourly wage is increased to \$13.50 by January 1, 2020, as follows:

- Beginning January 1, 2017: \$11.00
- Beginning January 1, 2018: \$11.50
- Beginning January 1, 2019: \$12.00
- Beginning January 1, 2020: \$13.50

Beginning January 1, 2021, the rate is adjusted annually for inflation.

Employers must pay all tips and gratuities to employees. Service charges must also be paid to employees except those the employer itemizes as not being payable to employees. Tips and service charges do not count toward the minimum wage.

Paid Sick Leave

As part of the MWA, beginning January 1, 2018, employers must provide employees at least one hour of paid sick leave for every 40 hours worked. Employees entitled to paid sick leave are those covered by the MWA. Employees are entitled to use accrued paid sick leave beginning on the ninetieth day after employment commences. For employees rehired by the same employer within 12 months of separation, the previous period of employment is counted for purposes of determining eligibility to use leave and any previously accrued leave is reinstated. Unused leave carries over to the following year, except that an employer may limit carry-over to 40 hours. No cash-out of unused leave is required upon separation. Employees must receive the greater of the minimum wage or the employee's normal hourly compensation for each hour of leave.

Employees may use paid sick leave for their own, or to care for a family member with a:

- mental or physical illness, injury, or health condition;
- need for medical diagnosis, care, or treatment; or
- need for preventative medical care.

Paid sick leave may also be used when the employee's place of business or an employee's child's school or place of care is closed by a public official for any health-related reason and for absences that qualify for leave under the domestic violence leave law.

A "family member" is a:

- child, including a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent;
- an employee's or the employee's spouse's or registered domestic partner's biological, adoptive, de facto, or foster parent, stepparent, or legal guardian; or a person who stood in loco parentis when the employee was a minor child;

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 1433. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.

- spouse;
- registered domestic partner;
- grandparent;
- grandchild; or
- sibling.

An employer may require employees to give reasonable notice of leave, so long as the notice does not interfere with an employee's lawful use of paid sick leave. For absences longer than three days, an employer may require verification that the leave is for an authorized purpose.

Employers must provide regular notification to employees about the amount of paid sick leave available.

Employers may not require employees to search for or find replacement workers for the hours an employee is on leave or count use of sick leave as an absence that may lead to or result in discipline.

Individual Providers

The state must pay IPs in accordance with the minimum wage, overtime, and paid sick leave requirements of the MWA.

Other

All existing rights and remedies under state or local law for enforcement of the minimum wage apply to the rights established under the initiative. Enforcement provisions of the MWA are modified to include paid sick leave. An employer is prohibited from retaliating against an employee for exercising rights under the MWA, including the use of paid sick leave. The investigation and recordkeeping provisions of the MWA apply to the initiative provisions.

The L&I must adopt rules, including procedures for notification to employees and reporting regarding sick leave and protecting employees from retaliation. The rules for enforcement of rights must be at least equal to enforcement of the minimum wage.

Local jurisdictions may enact more generous minimum wage or paid sick leave requirements, and employers may provide more generous policies.

Effective Date: The initiative takes effect on January 1, 2017.

Staff Contact: Joan Elgee (360)-786-7106

Prepared for members of the Washington House of Representatives by the House Office of Program Research. This information has been prepared in response to various requests for a summary of Initiative 1433. It is provided for analytical and legislative policy purposes only. It is not provided as an expression of support for or opposition to any ballot measure. These materials are intended to provide general information and are not intended to be an exhaustive analysis of all issues presented by the measure.