

ORDER OF COMMISSION

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In Re: Motion to Amend General Wage Order No. 58 filed by the Division of Labor Standards, Department of Labor and Industrial Relations

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On June 6, 2014, the Division of Labor Standards (Division) filed a Motion to Amend General Wage Order No. 58 with the Labor and Industrial Relations Commission (Commission). The Division alleged that it discovered typographical, grammatical, or clerical errors discovered by the Division subsequent to its filing of the preliminary general wage order with the Missouri Secretary of State's Office. On June 12, 2014, the Commission denied the Motion.

On June 12, 2014, the Division filed a second Motion to Amend General Wage Order No. 58 (Second Motion). The Division now provides specific allegations identifying a clerical error, and specifically identifies the changes it seeks to make. The Division seeks to change the fringe benefit payable to Operating Engineers from \$15.01 to \$12.59<sup>1</sup> in the Missouri counties of Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, St. Clair, Stone, Taney, Vernon, Webster, and Wright.

We note, once again, that § 290.260.1 RSMo sets forth an annual deadline of July 1 for filing a general wage order with the Missouri Secretary of State's Office: "A determination applicable to every locality to be contained in a general wage order shall be made annually **on or before July first of each year** for the Missouri state highways and transportation commission and shall remain in effect until superseded by a new general wage order" (emphasis added). Section 290.260.4 RSMo requires a ten-day notice period for any hearing to resolve issues related to the general wage order.

The Division's Second Motion requests changes to the rates payable in a number of Missouri counties, and it is not inconceivable that an interested party would wish to object to the Division's Second Motion. At this late date, the ability of the Commission to comply with the statutory notice periods, set a hearing in connection with any objections, and issue orders resolving any such objections before the July 1 deadline will be significantly constrained, if not impossible. The Division's Second Motion thus places the Commission in a position to either disregard the statutory July 1 deadline if there are any objections to the Division's Second Motion, or risk significant due process violations.

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<sup>1</sup> We note that, in the body of the Division's Second Motion, it incorrectly alleges the reverse, i.e., that it seeks to change the fringe benefit rate *from* \$12.59 *to* \$15.01, but a review of the Division's replacement pages reveals the opposite is true.

It appears to us that the best course is to publish the Division's Second Motion to the Commission's website, and invite objections up to and until the July 1 deadline. All interested parties are hereby directed to show cause within fifteen (15) days of the date of this order why the Commission should not enter an order granting the Division's Second Motion. If no such responses are received, the Commission may grant the Division's Second Motion.

IT IS SO ORDERED

Given at Jefferson City, Missouri, this 13<sup>th</sup> day of June 2014.



LABOR AND INDUSTRIAL RELATIONS COMMISSION

NOT SITTING

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John J. Larsen, Jr., Chairman

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James G. Avery, Jr., Member

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Curtis E. Chick, Jr., Member

Attest:

Pamela M. Hofmann  
Pamela M. Hofmann  
Secretary