

Wages

H-2A minimum wage increases in many states

By DAN WHEAT
Capital Press

The minimum wage for H-2A visa foreign guestworkers in Washington and Oregon has been increased 27 cents an hour to \$12.69 for 2016 by the U.S. Department of Labor.

The rate went up 56 cents to \$11.89 per hour in California and up 61 cents to \$11.75 in Idaho, Montana and Wyoming.

The rate is down 10 cents to \$11.27 in Nevada, Utah and Colorado and up 66 cents to \$11.20 in Arizona and New Mexico.

The mandatory minimum, known as the Adverse Effect Wage Rate, or AEWR, is based on Department of Labor surveys of agricultural wages by region. It is above state minimum wages and is intended to prevent wages of similarly employed U.S. workers

from being adversely affected by the importation of foreign workers.

"We wish it wouldn't go up because the (federal H-2A) program is expensive. It's a high minimum wage added onto housing and transportation growers provide," said Dan Fazio, director of WAF- LA, formerly the Washington Farm Labor Association, in Olympia.

Idaho's AEWR is 62 percent higher than its minimum wage of \$7.25 per hour and "that's substantial," he said. It increases industry's costs, he said.

The increases in Idaho and California reflect tightening labor supplies, he said.

Most pickers make more than the AEWR on piece rate because they work fast. But AEWR increases push piece rates higher, Washington tree

fruit companies have said.

The highest 2016 AEWR in the nation is the Dakotas, Nebraska and Kansas at \$13.80. The lowest is Alabama, Georgia and South Carolina at \$10.59.

A year ago the rate increased 55 cents per hour in Washington and Oregon and yet the use of H-2A workers in Washington still rose from 9,077 in 2014 to 11,844 in 2015.

Increases have been largest after big crop years in which wages rise because of larger labor shortages, Fazio said.

"In the Pacific Northwest we have a severe labor shortage," he said. "The last time the state conducted a labor survey was almost two years ago. The shortage was nearly 15 percent. We need another survey. It's crucial, but we can tell labor is short because we get few, if any, referrals from the state."

He was referring to required advertising for domestic workers at the AEWR rate

before an employer can get approval for H-2A workers.

Washington uses more H-2A workers than any other Western state, mainly in the cultivation and harvest of tree fruit. Its use in packing tree fruit is increasing. Most of the workers come from Mexico.

"We will have nearly 15,000 (H-2A) in 2016. Imagine what we would do if we had 15,000 fewer seasonal workers. We would be sunk, devastated," Fazio said.

The H-2A program allows agricultural employers to hire foreign guest workers on temporary work visas to fill seasonal jobs. Employers must show a shortage of U.S. workers in the area and provide housing, transportation and a minimum wage.

Rapid growth of H-2A workers in nurseries, berries and tree fruit is likely in Oregon and in tree fruit and hops in Idaho as annual growth slows from 40 to 15 percent in Washington, where use already is high, Fazio has said.

Wafila hired and provided to growers 7,895 of the 11,844 H-2A workers in Washington in 2015, DOL statistics show. Zirkle Fruit Co., Selah, hired 2,889.

The DOL certified 17,942 H-2A workers for Florida in 2015, 17,696 for North Carolina and 14,393 for Georgia. Washington ranked fourth at 11,844 and California was fifth at 8,591. Louisiana, Kentucky, New York, Arizona and South Carolina completed the top 10.

Oregon hired about 250 H-2A workers in 2015 and is expected to increase by 100 this year, WAFLA has said. Idaho was at 30 and likely will increase to 50.

The top 10 H-2A users in 2015 by crop or occupation were: tobacco, 14,544; berries, 12,520; apples, 7,507; hay and straw, 6,989; oranges, 5,882; melons, 5,843; nursery and greenhouse, 5,109; agricultural equipment operators, 4,974; fruits and vegetables, 4,639; and onions, 4,610.

Meetings focus on minimum wage proposals

By SEAN ELLIS
Capital Press

ONTARIO, Ore. — Many farmers and others in Eastern Oregon fear efforts to significantly raise the state's minimum wage would result in businesses moving across the border to Idaho.

Townhall meetings were held in Eastern Oregon this week to inform people about the different proposals to raise the state's minimum wage and discuss the impacts they could have.

One proposed ballot measure would increase Oregon's minimum wage from \$9.25 to \$15 an hour over three years and another would raise it to \$13.50 over that same period.

Idaho's minimum wage is \$7.25.

The meetings were organized by Rep. Cliff Bentz, R-Ontario, who said he has heard from many people that the current \$2 an hour difference between the two states' minimum wages makes it extremely difficult to create new jobs in Eastern Oregon.

The unemployment rates in Malheur, Grant, Harney and Baker counties in Eastern Oregon are 2-4 percentage points higher than the rates in Idaho's Canyon, Payette and Washington counties, which border Oregon. Bentz believes the difference between the states' minimum wages is a big reason for that disparity.

"It's been difficult just to attract jobs" in Eastern Oregon, he said. "It's going to be impossible if (the minimum wage) goes higher..."

Several proposals to raise the state's minimum wage were introduced in the Oregon Legislature last year, including one that would have increased it to \$15 in 2018.

Passing legislation that increases Oregon's minimum wage is expected to be a priority during the upcoming legislative session.

Farmers and agribusinesses in Eastern Oregon said they couldn't compete against their colleagues on the Idaho side if the state's minimum wage is increased substantially and Idaho's stays the same.

"I guarantee you there will be packing sheds in this valley that move to the other side," said farmer Paul Skeen, president of the Malheur County Onion Growers Association. "They'll have to. They won't have any other choice."

Owyhee Produce General Manager Shay Myers said his onion packing plant in Nyssa couldn't compete against its Idaho counterparts if Oregon's minimum wage is raised to anywhere near \$15 an hour while Idaho's doesn't change.

"There are only two ways to cut labor costs: moving or automation," he said. "It might be easier for me to move across the border."

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NOTICE OF PUBLIC MEETING
The USDA Natural Resources Conservation Service (NRCS) announces a meeting of the Washington State Technical Advisory Committee on January 26, 2016 from 9:30 am to 3:00 pm, 316 W. Boone Ave., Suite 450, Spokane, WA. Remote access is also available.

For more information contact Sherre Copeland, (360) 704-7758.

LEGAL

SECRETARY OF STATE NOTICE OF TEMPORARY RULEMAKING
Oregon Department of Agriculture, Pesticides Program, Administrative Rules Chapter #603, Sue Gooch, Rules Coordinator, (503) 986-4583.
Amend: OAR 603-057-0107, 603-057-0155, 603-057-0157.

RULE SUMMARY: As a result of HB 3549 (2015), the Oregon Department of Agriculture is legislatively obligated to create rules requiring the certification of aerial pesticide applicator trainees and aerial pesticide applicators for the year 2016. HB 3549 (2015) mandates that for 2016, there be an aerial pesticide applicator trainee and aerial pesticide applicator license. Rule will be effective January 1, 2016 thru June 28, 2016.

Yakima may look at minimum wage hike

By DAN WHEAT
Capital Press

YAKIMA, Wash. — The Yakima City Council may move toward increasing the minimum wage this year, and if it does many tree fruit packers will be concerned.

The Service Employees International Union and the affiliated Working Washington group have been pushing for a \$15 per hour minimum wage in several cities but mainly in Yakima and Olympia, said Maxford Nelsen, a labor policy analyst with Freedom Foundation, a conservative think tank in Olympia.

The minimum wage is \$9.47 an hour throughout the state except in Seattle and SeaTac, where \$15 is being phased in. In November, voters in Tacoma



Dan Wheat/Capital Press

Eleodoro Rameriz loads a box with Fuji apples at Washington Fruit & Produce in Yakima, Wash., on Dec. 8. The new plant is one of many fruit packing facilities in and around Yakima that would be impacted by any increase in the city's minimum wage.

approved a gradual increase to \$12.

In Yakima, the city council is more inclined to increase the minimum wage because four of seven members were newly elected last fall, Nelsen said.

"To my knowledge no ordinance has been introduced yet, but I won't be surprised if there are steps in that direction at some point this year," Nelsen said.

Jeff Cutter, interim city manager, said no such measure is before the council but that doesn't mean it couldn't materialize tomorrow.

An attempt to increase the minimum wage likely would be opposed by the more than a dozen tree fruit packing companies in Yakima and the surrounding area that employ thousands of workers, said David Henze, president of C.M. Holtzinger Fruit Co., a Yakima packer.

Packers outside the city limits and in neighboring towns

such as Selah, Moxee, Union Gap, Wapato, Naches, Tieton and Cowiche would have to follow suit to remain competitive in hiring workers, Henze said.

"We want to make sure our employees are compensated fairly. Labor is a major component of costs. The industry is recovering from poor pricing in 2014, so right now would be poor timing," he said.

Packers have been experiencing a labor shortage, he said.

Mike Gempler, executive director of the Washington Growers League in Yakima, said generally employers feel they are paying market rates and would not welcome large increases in floor rates because it increases their costs across the board.

Jon DeVaney, president of the Washington State Tree Fruit Association in Yakima and Wenatchee, said labor groups started a petition drive last fall in the Yakima area for a higher minimum wage.

"It's very troubling. This could severely complicate the ability to bring on and train more staff," he said.

City-by-city increases are a bad idea because economies are complex and the state is already disadvantaged with a high minimum wage making it a high-priced producer, he said.

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SECRETARY OF STATE NOTICE OF PROPOSED RULEMAKING HEARING

Oregon Department of Agriculture, Pesticides Program, Administrative Rules Chapter #603, Sue Gooch, Rules Coordinator, (503) 986-4583.

Amend: 603-057-0502, 603-052-0530 & 603-052-0532.

RULE SUMMARY: The civil penalty provisions for violation of Oregon's pesticide laws have been in place since the 1970's with the exception of a penalty of \$10,000 for gross negligence and willful misconduct. The current base pesticide civil penalty provisions have not been updated since 1970 and may no longer be effective at achieving the goals of enforcement including but not limited to providing a deterrent. The 2015 Legislative Assembly increased the amount of civil penalties for violations of Oregon's pesticide laws by enacting section 11 of HB 3549 (2015). That section amends ORS 634.900(1) as of January 1, 2016, so that it will provide, in addition to any other liability or penalty provided by law, that the Director of Agriculture may impose a civil penalty on a person for violation of any of the provisions of this chapter relating to pesticide application, sale or labeling. The civil penalty for a first violation shall be not more than \$2,000. For a subsequent violation, the director may impose a civil penalty of not more than \$4,000. This rulemaking will amend the rules that describe the maximum amount allowed and describe how to calculate the amount of a civil penalty that is not based on a gross negligence or willful misconduct. This is necessary in order to implement the policy provided by the 2015 Legislative Assembly. Hearing date: January 26, 2016 at 1:30 p.m. Location: Oregon Department of Agriculture, 3rd Floor Media Room, 635 Capital St NE, Salem, OR. Last day for public comment is January 26, 2016.

2-4/#4

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SECRETARY OF STATE NOTICE OF PROPOSED RULEMAKING HEARING

Oregon Department of Agriculture, Market Access & Certification Program, Administrative Rules Chapter #603, Sue Gooch, Rules Coordinator, (503) 986-4583.

Amend: OAR 603-052-0385.

RULE SUMMARY: The proposed amendments to OAR 603-052-0385 would harmonize the regulatory language in Oregon's Malheur County Bean Control Area with Idaho's IDAPA 02.06.06 and IDAPA 02.06.25. The proposed amendments would: 1) harmonize the scientific names for the diseases of concern; 2) harmonize eradication methods by amending section 4(b) to add "Seed harvested from any commercial or garden beans first found infected during windrow inspection shall not be eligible for certification for replanting;" 3) delete Section 5(a), as this control method was determined to be impractical, and 4) harmonize phytosanitary requirements for imported non-Phaseolus bean seed for planting by adding a soil tolerance. Hearing date: January 21, 2016 at 8:30 a.m. Location: 309 NE Third Ave, Ontario, OR. Last day for public comment is January 21, 2016.

2-4/#4

SAGE Fact #124
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