



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

February 4, 2016

Senator Sara Gelser
900 Court Street NE S405
Salem OR 97301

Re: SB 1532-1 and Initiative Petition 41

Dear Senator Gelser:

You asked whether, if Senate Bill 1532, as amended by the -1 amendments, and Initiative Petition 41 both become law, the “premium” wage described in SB 1532-1 for the Portland metropolitan service district (“Metro”) would apply to the rate mandated by IP 41. The answer to your question is no.

This response is based on the -1 amendments to SB 1532, but the same analysis applies to other amendments to date. SB 1532-1 takes Oregon’s minimum wage from today’s rate of \$9.25 to a rate in 2022 of \$13.25. Beginning in 2018, the -1 amendments add \$1.25 for employees working in the Metro area, reaching a rate of \$14.50 in 2022. IP 41, in contrast, makes the minimum wage that an employer must pay an employee anywhere in the state \$15.00 beginning in 2019.

Both SB 1532-1 and IP 41 amend Oregon’s minimum wage statute, ORS 653.025. If the provisions cannot be harmonized, courts will (1) conclude that the later-enacted version impliedly repealed the earlier, or (2) determine which version is more specific.¹ SB 1532-1 is more specific than IP 41 because it includes a higher rate for Metro. The higher rate, however, is based on internally referenced amounts that are wholly inconsistent with IP 41. Courts do not sever provisions that, standing alone, are incomplete or incapable of being enforced in accordance with legislative intent.²

Even if the Metro rate were severable, the intent of SB 1532-1, based on testimony before the Senate Committee on Workforce and General Government, is to provide a rate to Metro that reaches \$14.50 gradually, from July 1, 2016, to July 1, 2023. In contrast, IP 41’s stated goal is to increase the minimum wage for the entire state incrementally, reaching \$15.00 on January 1, 2019. Adding the Metro adjustment would take the IP 41 wage rate to \$16.25 in 2019, \$3.75 more per hour than the Legislative Assembly intended to achieve in 2019 in SB 1532-1. Such a result is not supported by the plain language of either provision or the legislative history of SB 1532-1.³

¹ See ORS 174.020 (2).

² ORS 174.040 (3).

³ Initiative Petition 41 (2016); SB 1532-1; *see generally* oral testimony in Senate Committee on Workforce and General Government, public hearing on SB 1532, February 2, 2016.
<https://olis.leg.state.or.us/liz/2016R1/Measures/Exhibits/SB1532>.

Thus, despite the fact that a more specific provision may be paramount to a less specific provision, even if enacted earlier, IP 41 and SB 1532-1 cannot be reconciled. The higher Metro rate would not apply to IP 41, which would repeal SB 1532-1 in its entirety.⁴

Finally, it should be noted that this research request did not provide sufficient time for more thorough research or analysis.

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Very truly yours,

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Legislative Counsel



By
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⁴ See ORS 174.020 (2).