

Oregon's Minimum Wage to Increase on July 1, 2020: How Employers Can Prepare for New Payment Obligations During a Pandemic

Article By:

Paul E. Cirner

Oregon employers feeling the financial strain of economic disruptions caused by the COVID-19 pandemic are bracing themselves for another impact. On July 1, 2020, Oregon's minimum wage increase will take effect.

The New Minimum Wage

In Oregon, the minimum wage rate varies depending upon an employer's location categorized by (1) standard counties; (2) Portland metropolitan areas; and (3) nonurban counties. The wage increase for each location is as follows:

Date	Standard	Portland Metro	Nonurban Counties
July 1, 2019	\$11.25	\$12.50	\$11.00
July 1, 2020	\$12.00	\$13.25	\$11.50
July 1, 2021	\$12.75	\$14.00	\$12.00
July 1, 2022	\$13.50	\$14.75	\$12.50
July 1, 2023	Adjusted annually based on the increase, if any, to the U.S. City Average Consumer Price Index for All Urban Consumers.	\$1.25 over the standard minimum wage	\$1.00 less than the standard minimum wage

The Oregon Bureau of Labor and Industries (BOLI), provides a [county-by-county map](#) to identify each location under the law. Multnomah, Clackamas, and Washington counties are subject to the Portland

metropolitan wage rate. To name a few, Deschutes and Linn counties are subject to the standard county wage rate.

Certain areas within Multnomah, Washington, and Clackamas counties are outside the Portland urban growth boundary (UGB) and are subject only to the standard county wage rate. Employers located in Multnomah, Washington, and Clackamas counties can use the Oregon [Urban Growth Boundary lookup tool](#) to determine if they are located within the UGB and subject to the Portland metro rate or the standard rate.

The July 1, 2020, Transition

All hours worked up to midnight on June 30, 2020, should be paid at the previous applicable minimum wage rate even if payroll is done on or after July 1, 2020. If an hourly employee's workday spans across June 30, 2020, and July 1, 2020, two different rates of pay should be used. For hours worked on and after 12:01 a.m., July 1, 2020, the employee must be paid at the higher applicable minimum wage rate.

Impact on Exempt Employees

In the past, Oregon's minimum wage rate increases have impacted employees' status as exempt from overtime for employees who earned salaries at the minimum wage rate. As of 2020, however, the minimum salary required for exemption from overtime under federal law is higher than the threshold set by Oregon law. To comply with federal law, employers must pay exempt executive, administrative, and professional employees under Section 13(a)(1) of the Fair Labor Standards Act at least \$684 per week or \$35,568 per year.

Misclassification of nonexempt employees can result in significant penalties, so employers may want to review the exempt status of their employees and confirm that overtime pay is adjusted according to the new wage rates.

Wage Compression

"Wage compression" occurs when senior employees are no longer better compensated than less senior employees due to minimum wage increases. Employees often judge their compensation by comparing themselves to others. If a senior employee is earning close to the same amount as a new employee as a result of wage increases, morale and retention issues can ensue. Companies may want to consider reviewing the compensation of employees who earn just above the new minimum wage and salary threshold to avoid morale, retention, and hiring issues.

COVID-19 Considerations

Business Closures

Employers that are forced to close temporarily due to COVID-19 issues are generally not required to pay nonexempt employees for hours they do not work. Under state and federal laws, employers are required to pay nonexempt employees only for hours worked. Exempt employees, however, must receive their full salaries for any week in which work is performed without regard to the number of hours or days worked. For example, if a business closes on a Tuesday and the exempt employee worked on Monday, the employee is likely entitled to his or her full salary for the entire week. Under 29 C.F.R. §541.602 the salaries of exempt "white collar" employees may be [reduced in very limited](#)

[circumstances](#) without jeopardizing the exemption.

Employers subject to [Oregon's predictive scheduling law](#) may have additional obligations during business closures. The predictive scheduling law applies to nonexempt employees of retail, hospitality, or food service establishments (including chains and integrated enterprises) that employ 500 or more employees worldwide who are primarily engaged in providing retail, hospitality, or food services.

BOLI recently published [guidance](#) on the COVID-19 pandemic's impact on predictive scheduling law obligations. The guidance clarifies that employers may qualify for relief from the penalties and obligations of providing additional compensation under the extenuating circumstances presented by the [emergency declarations](#) issued by Oregon's governor and local elected officials. However, the requirements of the predictive scheduling law have not been suspended during the pandemic, and employers may want to review them to ensure compliance. In addition, effective July 1, 2020, the number of days of advance scheduling notice that employers must provide employees increases from 7 days to 14 days.

Reimbursement of Telecommuting Expenses

An employer that requires a nonexempt employee to work from home may not require that employee to pay for or reimburse the company for business expenses where doing so would reduce the employee's earnings below the required minimum wage and overtime compensation. In other words, the costs of internet access and office equipment incurred by a nonexempt employee in order to telework cannot reduce the employee's earnings below the minimum wage and any required overtime compensation. Exempt employees must also be paid their guaranteed salaries, which cannot be reduced by such costs they incurred in order to be able to telework.

Layoffs

Layoffs and other cost-cutting measures [require careful handling](#), as a failure to comply with various laws may result in [litigation and penalties](#). Employers may want to review their obligations under the federal Worker Adjustment and Retraining Notification Act, Oregon's final paycheck rules, and other federal and state employment laws.

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