

ORDER OF COMMISSION

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

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 alleges that the purpose of its Motion to Amend is to correct 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. But the Motion does not identify any errors in General Wage Order No. 58, nor does it identify which changes are proposed.

In order to discern the changes the Division seeks to make, we have conducted our own line-by-line comparison of the preliminary general wage order against each of the 39 replacement pages attached to the Motion. It appears that the Division now seeks to change the fringe benefit payable to Operating Engineers from \$15.01 to \$12.59 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. The Division's Motion contains no explanation as to how this alleged clerical error occurred or was discovered. Where the Division's Motion requests significant changes to the rates payable in twenty-three Missouri counties, we hesitate to accept the characterization of the Motion as an attempt to correct a mere clerical error.

Section 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. Section 290.262.4 RSMo requires a ten-day notice period for any hearing to resolve issues related to the general wage order. Because the Division's Motion requests a substantive change in the rates payable in a number of Missouri counties, it is not inconceivable that an interested party would wish to object to the Division's Motion. But at this late date, the ability of the Commission to comply with the statutory notice periods, set a hearing on the Motion, and issue orders resolving any objections by the July 1 deadline will be significantly constrained, if not impossible. The Division's Motion thus raises significant due process concerns.

In light of the foregoing considerations, we must deny the Division's Motion.

IT IS SO ORDERED

Given at Jefferson City, Missouri, this 12th day of June 2014.

LABOR AND INDUSTRIAL RELATIONS COMMISSION

John J. Larsen, Jr., Chairman

James G. Avery, Jr., Member

Attest:

Curtis E. Chick, Jr., Member

Pamela M. Hofmann
Secretary