Washington State Department of
Labor & Industries

Initiative 1433 Rules Development Process

Initial Stakeholder Feedback on Key Questions

February 10, 2017

AGC

ASSOCIATED GENERAL CONTRACTORS of WASHINGTON

Skill · Integrity · Responsibility

February 3, 2017

Mr. Joel Sacks
Director
Department of Labor and Industries
PO Box 44000
Olympia WA 98504-4000

Dear Director Sacks,

Below are AGC's comments regarding the paid sick leave (Initiative 1433) rulemaking.

AGC requests confirmation that a waiver for collective bargaining agreements is appropriate in light of Initiative 1433 permitting policies that are more generous or permitting use of paid sick leave for additional purposes and requiring that employees receive not less than what is due.

In commercial construction, the negotiated wage and fringe package, as agreed to by employers and labor, is and has historically been high enough to include days not worked due to illness and other reasons. Although the initiative includes language that bars agreements that allow the employee to receive "less than what is due under this chapter," we believe a waiver is appropriate because MLAs do indeed meet the minimum standards of the initiative by providing the high wage and benefit packages. Historically, labor unions have chosen to accept higher wages and benefit packages over paid sick leave. In order to continue to have the flexibility for labor unions to choose the terms and conditions of employment that matter most to them, a waiver is necessary.

We request that L&I recognize the existence of collective bargaining agreements and other contracts, and the complexity of implementing the initiative without violating these contracts.

In much of the construction industry there are CBA's with varying expiration dates which govern the working conditions and compensation packages of employees. Likewise, contracts for projects that were entered into prior to the initiative were based on very specific calculations regarding the cost of labor. The initiative significantly impacts these labor costs. To avoid the new initiative from negatively impacting these contracts, time is needed to both

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re-negotiate these existing contracts and for the creation of the system to implement that agreement.

With regard to collective bargaining agreements, AGC contractors and Washington's labor unions have a long-standing relationship that allows for consistent resolution of industry issues. Implementation of paid sick leave will require this joint effort and ample planning to ensure a successful program. Contractors need the ability and time to negotiate, whether it is through multi-employer trusts or individually by each contractor.

In the multi-employer environment, trusts have been established to administer health, pension and training programs. The benefit trusts that administer these programs and new ones such as paid sick leave are not involved in negotiations. Once the CBA's have been negotiated, the benefit trusts will need to be engaged to establish the procedures needed to implement this new benefit. Adequate time will be needed to successfully complete this process. Ultimately, these multi-employer benefit trusts will provide employees with a more generous paid sick leave policy, allow employees to more easily track their paid sick leave, and permit greater use of paid sick leave to these employees.

Ideally we would like the implementation rules to allow for an orderly phase-in. This would have the effective date for the new rules to be at the first expiration of a collective bargaining agreement. However, if January 1, 2018 effective date is impossible to change, we could make the needed accommodations if L&I meets their goal of having a final rule on October 1, 2017. If L&I misses that date, it will be impossible to make the needed changes to the collective bargaining agreement and develop the needed infrastructure to administer it.

How will the initiative affect prevailing wages?

Among the considerations for the sick leave provisions' impact on prevailing wage issues are our view that they should not apply to any existing contract, for which prevailing wages are being paid, that began before, but continue into, 2018.

Existing benefits that meet or exceed the intent of this initiative should be recognized.

Many companies provide paid time off (PTO) or sick pay as part of their total compensation package. Some also participate in the premium pay program under the Tacoma ordinance. These benefits should be accepted as meeting the requirements of this initiative.

There is support for this concept in the initiative:

- Section 5(1)(e) of the initiative states, "Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes."
- L&I website says, "Employers are not prevented from allowing employees to use paid sick leave for additional purposes."

An employer is not responsible for tracking or reporting on any accrued sick leave an employee earned while working for another employer and cannot be held liable for denying or interfering with an employee's request to use sick leave hours accrued with another employer. We accept the provision of the initiative that allow separate employees access to accrued sick leave benefits, provided that they return within 12 months. However, rulemaking should clarify that benefits accrued at one employer should not be the responsibility of another employer and cannot form the basis of a claim or charge against that employer. Employers also cannot be held liable as "joint employers" of an employee.

The normal wage will be established by the bargaining parties or the employer.
Due to varying classifications and pay scales within the construction industry, it is difficult to determine a "normal" wage as defined under this initiative. This determination should be left to the bargaining parties.

Many contractors work across state borders. Rulemaking should accommodate these circumstances.
Rulemaking should clarify that paid sick leave provided through I-1433 is accumulated for hours worked within the state, and can be used only while working within the state.

Thank you for your consideration of these comments.

Sincerely,

Jerry VanderWood
Chief Lobbyist

MEMORANDUM

To: I-1433 Rules Stakeholders Committee, via i1433rules@lni.wa.gov
From: Associated Industries of the Inland Northwest, Spokane
Re: I-1433 Submission of Feedback and proposed unanswered questions
Date: February 3, 2017

What are the important unanswered questions associated with I-1433 that need to be addressed through the rules development process?

1) Annual Use Limits
    a. Currently the Initiative does not provide for annual caps on the amount of leave that may be taken. Alternatively, the amount of leave an employee may take annual is dependent upon the amount of leave accrued.
    b. Other ESSL/PSL laws provide for annual limits on the amount of leave that can be used and designated (protected) under those provisions.
    c. Solution: Establish an annual use cap. 40 hours

2) Accrual Cap
    a. Currently the Initiative does not provide for cap on accrual (bank of leave).
        i. Accrual is presently 1 per 40 hours works
    b. For administrative recordkeeping, providing relief for employers to "stop the clock" at some point
    c. Sec. 5(j) unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty (40) hours.
        i. Does this mean the employee continues to accrued January 1 of Year 2, potentially accruing a bank of 92 hours by the end of Year 2?
        ii. Does the employee get to use all 92 hours before the end of Year 2?

3) Frontloading
    a. Frontloading is provided, however so long as "meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave."
    b. See Item 1 – Annual Use Limits

4) Frontloading for Part-time versus Full-time
    a. See Item 3. Frontloading of a Full-time employee would be dependent upon any caps or usage limits, otherwise it would default to roughly 52 hours a year for full-time employees.
        i. Ex. 40 hours per week X 52 weeks in a year = 2080 / 40 (accrual measurement) = 52 Paid Sick Leave hours annually
    b. Unanswered question – frontloading for Part-time. At the same amounts as full-time? At a prorated amount?
        i. If same amount, issue becomes, Part-time employee is able to take essentially twice (2x) as long to return to the work place as a full-time employee. Part-time employee working 5 days, 4 hour shifts will take 2

weeks to expend 40 hours, versus Full-time employee working 5 days, 8 hour shifts, required to return to the workplace or suffer unexcused/unprotected absence after 1 week of leave.

ii. If prorated, how does the employer calculate? Reasonable calculation looking back 4 months (1 quarter), look back 1 month, look back over the year?

iii. What about new part-time employees?

5) Accrual start date
   a. Sec. 5(d) – an employee is entitled to use accrued paid sick leave beginning on the ninetieth calendar day after the commencement of his or her employment.
   b. Solution: Regulation specifying that employee begins accruing leave at the commencement of his or her employment.

6) "Health-related reason"
   a. Sec. 5(b)(iii) – what is considered closure by order of a public official for any "health-related reason?"
      i. For example, Spokane are other counties throughout Washington experienced snow closures and snow delays. Would these be covered or interpreted as being covered under the permitted uses of the law?
      ii. What is the standard for establishing a "health-related reason?"

7) Shift-swapping
   a. Sec. 5(h) – while an employer may not require, as a condition of taking paid sick leave, that the employee find a replacement worker to cover the hours, may an employer encourage or allow "shift-swapping" in lieu of taking paid leave under the law initiative?

8) "Normal hourly compensation"
   a. Sec. 5(i) what is meant by "normal hourly compensation"
      i. Commission?
      ii. Tips?
      iii. Bonus?
      iv. Incentive payments?
      v. Hourly rate?
      vi. Will the payment of an hourly rate effect or destroy exempt status of many salaried employees?

9) Recordkeeping Requirements
   a. What will the recordkeeping, administration requirements look like? How will employers be required to establish compliance with the law?
   b. Line item on pay stub?
   c. Are the established periods in which an employer must communicate to an employee the amount of leave accrued, used, available, etc?

10) Penalties

a. What type of penalties/fees/taxes will be accessed for noncompliance?

11) New Business
    a. For new businesses that enter/form in Washington state, will there be any sort of period in which they have to comply? Immediate requirement, similar to minimum wage?

12) PTO
    a. Sec. 5(e) – more generous paid sick leave policies
        i. May an employer's PTO policy work in lieu of a separate, standalone "paid sick leave" policy?
        ii. Answer, yes, so long as the PTO provides leave in

Association of Washington Business
Washington State's Chamber of Commerce

To: Department of Labor & Industries

From: Bob Battles, AWB

RE: Initial Comments – I-1433 Rulemaking

The following is in response to the Department of Labor and Industries (L&I) request for initial comments regarding the implementation of Initiative 1433 ("I-1433"). L&I has asked that AWB respond to the follow two questions:

1. What are the important unanswered questions associated with I-1433 that you think need to be addressed through the rules development process?

2. To the extent, you are able to do so, what do you believe the answers to those questions should be?

Prior to providing a response to the above questions we would like to make two overarching observations.

This Rulemaking Will Enact Significant Legislative Rules

AWB believes these rules are "Significant Legislative Rules" as defined under RCW 34.05.328, and must include the required small business impact statement. We believe this conclusion is inescapable because Section 10 of I-1433 expressly calls for the Department to adopt and implement rules necessary for various provisions of the Initiative. These rules will thus plainly adopt "substantive provisions of law pursuant to delegated legislative authority, the violation of which subjects a violator of such rule to a penalty or sanction." RCW 34.05.328(5)(c)(iii)(A). Given that the disproportionate impact of I-1433 falls on small businesses across the state, a small business economic impact statement would be required pursuant to RCW 19.85.030, unless the Department satisfied those obligations pursuant to RCW 19.85.025(4) by going through the significant legislative rule process.

Respectfully, AWB would request that the Department comply with the analysis called for by RCW 34.05.328, because it serves a significant and useful public purpose. Undoubtedly, in the rule-making process, options for businesses to comply will be identified, and those options will have different costs and requirements associated with them. A cost-benefit analysis will inform the agency and stakeholders on options that meet the requirements of I-1433 in the least disruptive manner possible.

The Paid Sick Leave Created by I-1433 Does Not Apply to Exempt Employees

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In addition to the above required analysis, AWB believe it is an inescapable conclusion that Part II of I-1433 applies only to non-exempt employees as that term is used under Ch. 49.46 RCW, the Washington Minimum Wage Act. The title of the Initiative indicates that it is amending various sections in Ch. 49.46, and adding new sections to that chapter. Section 12 of I-1433 mandates that the act shall be codified in Ch. 49.46. I-1433 does not contain any internal definition of 'employer' or 'employee' which would vary from the established definitions in Ch. 49.46 RCW, and RCW 49.46.010 makes clear that its definitions are "as used in this chapter." Thus, the definition of "employee" in RCW 49.46.010(5) applies to I-1433, and Part II may not be applied to employees exempted from that chapter. We believe that any regulations issued by the Department should acknowledge this fact.

Questions AWB believes L&I Should Consider During the Rulemaking Process.

Listed below are those questions AWB would ask L&I to consider as it moves forward with the rulemaking process. For those questions that AWB has a proposed response they are included below the questions.

1. What is the accrual rate for paid sick leave?

Response:

(from 1433) Employers shall provide employees with a minimum of one hour of paid leave for every 40 hours worked.

2. When does accrual begin?

Response:

(from 1433) Paid leave shall begin to accrue for existing employees on the effective date of I-1433 (January 1, 2018). For employees hired after the effective date, paid sick leave begins accruing on the commencement of employment

3. When can an employee use paid sick & safe leave?

Response:

(from 1433) Employees shall be entitled to use accrued paid leave beginning on the ninetieth calendar day after the commencement of their employment.

Unused paid sick leave carries over to the following year, except an employer is not required to allow an employee to carry over more than forty hours of paid sick leave.

(Suggested clarifying language – from the Spokane ordinance) "'Year' means calendar year, fiscal year, benefit year, employment year, or any other fixed consecutive twelve-month period established by the employer and used in the ordinary course of the employer's business for the purpose of calculating wages and benefits."

4. What are employees allowed to use paid sick & safe leave for under the law?

Response:

Suggest using the list directly from I-1433

5. What type of notice should an employee give when requesting/notifying an employer to use paid sick leave?

Response:

(language from I-1433) – An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

For absences exceeding three days, an employer may require verification that an employee use of paid sick leave is for an authorized purpose. If an employer required verification, verification must be provided within a reasonable time period during or after the leave. And employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

(Suggested clarifying language) A requirement of advance notice that would be permitted for use of unpaid leave under the Washington Family Leave Act, RCW Ch. 49.78, shall be considered to be a permitted requirement of reasonable advance notice for use of paid sick leave.

6. What level of pay is the employee entitled to when taking paid sick & safe leave?

Response:

(from 1433) For each hour of paid sick leave used, an employee shall be paid the greater of the minimum wage or his/her normal hourly compensation.

(clarifying language from Tacoma) An Employee is not entitled to compensation for lost tips, gratuities, or travel allowances and shall only be compensated at the hourly rate that would have been earned during the time the Paid Leave is taken.

Commission--- For an Employee who is paid on a commission (whether base wage plus commission or commission only), the hourly rate of pay shall be the base wage or minimum wage, whichever is greater.

Fluctuating pay - If an Employee performs more than one job for the same Employer or an Employee's rate of pay fluctuates for a single job, the rate of pay shall be that which the Employee would have been paid during the time the Employee used the Paid Leave

Indeterminate shifts - When an Employee uses Paid Leave for a shift of indeterminate length (e.g., a shift that is defined by business needs rather than a specific number of hours), the Employer may base hours of Paid Leave

used and payment on the hours worked by a replacement Employee in the same shift or a similarly situated Employee who worked that same or similar shift in the past

7. <u>What tools and options are available for employers to comply?</u>

Response:

a. Paid Time Off Policies

(From I-1433) Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

(suggested clarifying language from Tacoma) An employer with a combined or universal paid leave policy, such as a paid time off ("PTO") is not required to provide additional paid leave under this chapter, provided that:

Available paid leave may be used for the same purposes and under the same conditions as set forth in I-1433;

Paid leave is provided at the rate of at least one hour paid leave for every 40 hours worked. An employee may use paid sick leave after ninety calendar days of employment

Unused paid sick leave carries over the following year, except that the employer is not required to allow an employee to carry over more than forty hours of paid sick leave

b. Voluntary shift swapping

Response:

(From I-1433) An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave

(Suggested clarifying language) Upon mutual consent by the employee and the employer, an employee may work additional hours or shifts during the same or next pay period without using available paid leave for the original missed hours or shifts. However, the employer may not require the employee to work such additional hours or shifts. Should the employee work additional shifts, the employer shall comply with any applicable federal, state, or local laws concerning overtime pay.

Nothing prohibits an employer from establishing a policy whereby employees may voluntarily exchange assigned hours or "trade shifts."

When paid leave is requested by an employee who works in an eating and/or drinking establishment, the employer may offer the employee substitute hours or shifts. If the employee accepts the offer and works these substitute hours or shifts, the amount of time worked during the substitute period or the amount of time requested for paid leave, whichever is smaller, may, at the discretion of the employer, be deducted from the

employee's accrued leave time. However, no employer is required to offer such substitute hours or shifts, and no employee is required to accept such hours or shifts if they are offered. J

c. Front Loading Hours

Response:

(From I-1433) An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

(Suggested clarifying language from Tacoma) Subject to the terms and conditions established by the employer, the employer may, but is not required to, loan and/or grant paid leave time to the employee in advance of accrual by such employee. Such terms and conditions shall address what happens if the employee is discharged or terminates employment prior to accruing paid leave time equivalent to the amount of paid leave time advanced by the employer and used by the employee.

d. Employees opting to donate leave to another employee?

Response:

(from Tacoma) An Employer may establish a written policy whereby an Employee may donate unused paid sick leave to another Employee. An Employer's policy may, but is not required to, include how donated leave is counted towards the employee's available accrued leave.

8. What happens to accrued, but unused leave upon termination or separation from employment?

Response*:*

(From I-1433) Employers are not required to provide financial or other reimbursement for accrued and used paid sick leave upon the employee's termination, resignation, retirement, or other separation from employment. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment, for accrued paid leave that has not been used.

9. Enforcement

Response:

The rules should include a simplified process that allows for employees to work with their employer to resolve any complaint.

10. Minimum use requirements

Response:

(from Tacoma) Employers may require a minimum use of accrued paid leave time, subject to the FLSA. If the employer does not establish a minimum use policy for employees covered by the overtime requirements of the FLSA, accrued paid leave time may be used in hourly increments.

The above questions are not an exhaustive list. It may be necessary to ask additional questions as we move forward in the process. Further, AWB would reiterate that any rulemaking process must take into account that this rulemaking will enact significant legislative rules requiring a small business impact statement. AWB looks forward to working with L&I through this process.

I-1433 Questions from the Building Industry Association of Washington

1. How will the sick leave pay rate be calculated for commissioned sales employees, piece rate workers and others with varying rates of pay/compensation?

2. How will the Department determine if an employer's current sick leave policy is "more generous than" that mandated by I-1433? Will every piece of the employer's policy have to exceed the I-1433 mandates or can some exceed and some be less, but in the aggregate still be more generous?

3. Can the current "hours worked" reporting and recordkeeping required for industrial insurance be sufficient for the I-1433 recordkeeping requirements so employers don't have to produce two sets of hourly records; one for industrial insurance and one for paid sick leave?

4. Will the Department consider online tutorials and/or custom software updates so that bookkeepers and accountants can adjust their software programs in order to accommodate the new internal and external recordkeeping necessary to implement the paid sick leave mandate?

Topic	Provision	Question
Minimum Wage		
Annual CPI Increase	*The adjusted minimum wage rate shall be calculated to the nearest cent using the consumer price index for urban wage earners and clerical workers, CPI-W, or a successor index, for the twelve months prior to each September 1st as calculated by the United States department of labor.*	Will the rules specify whether L&I will use a national or regional CPI-W?
Tips and service charges	*Tips and service charges paid to an employee are in addition to, and may not count towards, the employee's hourly minimum wage.*	Will the rules specify whether restrictions on counting service charges paid to employee only apply to state minimum wage?
Service charges • **Employees servicing the customer?**	*An employer must pay to its employees: … all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer.*	For enforcement of service charges payable to employees, will the rules clarify which employees will be covered by "payable to the employee or employees servicing the customer"? Consider the following scenario: #1, Restaurant imposes a service charge without an itemized statement and fails to pay the service charge to employees. Which employees servicing the customer are entitled to a claim for unpaid service charges? Do both front and back of house employees have a claim?
Service charges • **Amount owed to each employee servicing the customer in the absence of an itemized statement**	*An employer must pay to its employees: … all service charges as defined under RCW 49.46.160 except those that, pursuant to RCW 49.46.160, are itemized as not being payable to the employee or employees servicing the customer.*	For enforcement of service charges payable to employees, will the rules clarify how enforcement will determine the amount owed to the employee or employees servicing the customer absent an itemized statement? Consider the following scenario: #1, Restaurant imposes a service charge without an itemized statement and fails to pay the service charge to employees. How will L&I determine the amount owed to each employee who serviced the customer?
Employees who are typically based outside of the state		For employees who are typically based outside of the state, is there a threshold amount of time that employees must work in the state before the state minimum wage applies? Consider the following scenario

Topic	Provision	Question
		#1, Employee is based in Portland and makes a quick delivery in Vancouver, WA over a period of 45 minutes. Must the employer pay the employee the WA state minimum wage for those 45 minutes? What if the employee worked one hour in Vancouver, WA?
Paid Sick Leave		
Workplace poster		Must employers display employee rights to paid sick leave on a workplace poster? If so, what are the core rights that must be included in the poster?
Written policy		Must employers provide employees with a written paid sick leave policy and procedure at time of hire? If so, what are the core components that must be included in such a policy and procedure?
Family member • **Non-marital spouse**	*For purposes of this section, "family member" means any of the following…* *(c) A spouse;* *(d) A registered domestic partner*	Does the definition of *spouse* include an individual whose close association with the employee is the equivalent of a spouse even though they are not married?
Employer exemptions		Are any employers exempted from the paid sick leave requirements? Do the paid sick leave requirements apply to the following employers? • federal government entities • other government entities outside the state • employers based outside of the state
Employee		Do the paid sick leave requirements cover the following employees? • non-exempt (i.e. hourly) employees • exempt employees • individuals who work under a work study agreement?
Employees who are typically based outside of the state		For employees who are typically based outside of the state, is there a threshold amount of time that employees must work in the state before the state minimum wage applies? Consider the following scenario

Topic	Provision	Question
		#1, Employee is based in California and comes to Seattle for a work conference. Does the employee accrue paid sick leave during hours worked at the Seattle conference? #2, Employee is based in Portland and makes deliveries in Vancouver, WA. Does the employee accrue paid sick leave for hours worked while making deliveries in Vancouver?
Accrual	*An employee shall accrue at least one hour of paid sick leave for every forty hours worked as an employee.*	Is there a cap on accrual of paid sick leave?
Use		Is there a cap on how many hours of paid sick leave an employee can use in a year?
Carry-over & Year	*Unused paid sick leave carries over to the following year, except that an employer is not required to allow an employee to carry over paid sick leave in excess of forty hours.*	How is year defined?
On-call		Can employees use paid sick leave for on-call shifts?
Retention of Benefits		Do employees retain benefits during use of paid sick leave? If so, what benefits are retained (e.g. medical benefits, vacation accrual)?
Increment of use		What increments of use can employees use paid sick leave? Consider the following scenarios? Example #1 - Employee leaves work 20 minutes early due to illness. How much paid sick leave does the employee use? Example #2 – Employee calls-in sick for a 6.5 hour shift. How much paid sick leave does the employee use?
Notification of available paid leave	Employer is responsible for providing *regular notification* to employees about the amount of paid sick leave available to the employee.	What is the time period for *regular notification?* Is it every time that wages are paid? Can the *regular notification* be in physical or electronic format?
Notice of absence	Employer may require *reasonable notice* of absence so	What constitutes *reasonable notice* of absence?

Topic	Provision	Question
	long as the notice does not interfere with use of leave.	Can employee request paid sick leave retroactively (i.e. for past absences)?
Documentation of absence • **Absences exceeding three days**	For absences *exceeding three days*, employer may require *verification* that an employee's use of paid sick leave is for an authorized purpose.	What is the time period for absences *exceeding three days*? Does the time period mean absences exceeding three consecutive calendar days or three consecutively scheduled days?
• **Verification**		What types of documentation constitute *verification?*
• **Time period for providing verification**	Verification must be provided to the employer within a *reasonable time period* during or after the leave.	Will the rules provide parameters on what constitutes *reasonable time period during or after the leave*?
• **Reimbursement for cost of obtaining documentation**	Requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.	For employee not offered health insurance by the employer, must employer pay for half the cost of obtaining the documentation?
• **Privacy**		Must employees disclose the nature of the medical condition that led to the need for paid sick leave? For absences covered by RCW 49.76, does an employee's written statement constitute sufficient documentation?
Rate of Pay • **Amount owed**	Paid sick leave shall be provided at the greater of the newly increased minimum wage or the *employee's regular and normal wage*. For each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established by state law or the employee's *normal hourly compensation*.	What payment is an employee entitled to for use of paid sick leave? What is the difference between *employee's regular and normal wage* and *normal compensation*?
• **Lost tips, service charges and commission**	*See above*	Is an employee entitled to lost tips, service charges, and commissions during use of paid sick leave? Are these types of compensation included in *normal hourly compensation*?

Topic	Provision	Question
• **Overtime**	*See above*	If an employee calls in sick for a shift that would have earned overtime, does the employee get paid at the regular rate or the overtime rate of pay?
Waiver	"Any agreement between such employee and the employer allowing the employee to receive less than what is due under this chapter shall be no defense to such action." RCW 49.46.090(1).	Are employees covered by a bona fide collective bargaining agreement allowed to waive rights to paid sick leave?
Successor employer		When a successor employer acquires a business, do employees have the right to retain and use all accrued paid sick leave? What is the definition of *successor employer*?

To: Department of Labor & Industries
From: Paula C. Simon, Davis Wright Tremaine LLP
Date: February 3, 2017

RE: I-1433 Rulemaking, Initial Comments

This submission raises issues the Department should consider as it drafts rules interpreting the amendments to RCW 49.64 effective in 2018 pursuant to Initiative 1433. This submission does not propose precise language, nor does it represent an exhaustive list of questions not answered by the plain language of the law.

1. Relating to Employers and Unions with Collective Bargaining Agreements

Q: Does "employee" include an employee covered by a valid collective bargaining agreement?

A: No, provided the collective bargaining agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, and arbitration of disputes concerning the application of its paid sick days provisions. Unions and employers have engaged in good faith collective bargaining to reach agreement on how such paid leave will be addressed in their particular workforce. Those agreements should be honored. To the extent employers and unions wish to consider new provisions, the opportunity to amend the sick leave, paid leave, or paid time off policy arises during their normal course of bargaining.

[Alternative]

Q: May employers and unions agree to waive the provisions of I-1433 in a collective bargaining agreement?

A: Yes.

2. Relating to Air Carriers and Other Employers With Employees Who Work in Washington on an Occasional Basis

Q: Are airlines exempt from I-1433 under the RLA (Railway Labor Act, 45 U.S.C. Sec. 151 et seq.)?

A: Yes.

[Alternative]

Q: Does "employee" include flight crews on air carriers?

A: No. Exceptions for flight crews are commonly incorporated in federal and state leave laws given the unique circumstances affecting their scheduling, work locations (crews typically

engage in interstate and international travel), and time away from work. Consider the challenges in applying the law in the following examples:

> Scenario 1: Flight crew flies from Washington to Texas to Florida on Monday, and from Florida to Illinois to Washington on Tuesday. Are these employees covered by the law? If so, when are they performing work in Washington?
>
> Scenario 2: Flight crew flies from Oregon to Washington to Minnesota on Monday, and from Minnesota to Washington to Oregon on Tuesday. Are these employees covered by the law? If so, when are they performing work in Washington?

Washington can look to California and federal law for guidance. Section 245.5 of the California Labor Code (Paid Sick Days) states:

> **SECTION 1.**
> Section 245.5 of the Labor Code is amended to read:
>
> **245.5.**
> As used in this article:
> (a) "Employee" does not include the following:
>
> (1) An employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.
>
> . . .
>
> (3) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to the provisions of Title II of the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

Likewise, the Family and Medical Leave Act's interpretive regulations also recognize the special needs of the airline industry in its section "Special rules for airline flight crews employees," (29 CFR Part 825, Subpart H), which covers hours of service requirements, calculation of leave, and recordkeeping requirements. For example, 29 CFR 825.802(b) observes the difficulty of administering intermittent leave for flight crews, who cannot temporarily leave work mid-flight or mid-route:

> (b) Increments of FMLA leave for intermittent or reduced schedule leave. When an airline flight crew employee takes FMLA leave on an intermittent or reduced schedule basis, the employer must account for the leave using an increment no greater than one day. For example, if an airline flight crew employee needs to take FMLA

leave for a two-hour physical therapy appointment, the employer may require the employee to use a full day of FMLA leave. The entire amount of leave actually taken (in this example, one day) is designated as FMLA leave and counts against the employee's FMLA entitlement.

Q: Does the law apply to employees who work in Washington on an occasional basis, or who are just passing through the state en route to a location out of state?

3. Relating to Paid Time Off (PTO) Programs and Other Types of Paid Leave

The rules should clarify that employers may offer PTO programs or other types of paid leave rather than dedicated sick leave, so long as the accrual, use, and other provisions of the law are satisfied.

4. Verification of Absences and Discipline for Abuse/Excessive Absenteeism

Similar to Seattle's rules for Paid Sick and Safe Time, the rules should clarify that employers may request physician verification in cases of suspected sick leave abuse or excessive absenteeism, regardless of whether the employee has been absent for more or less than three consecutive days. Will the law prohibit employers from disciplining employees who abuse sick leave by calling in sick when not ill? Will the law prohibit employers from administering attendance policies and disciplining employees for excessive absenteeism as defined in those policies?

Department of Health and Social Services
Aging and Long Term Support Administration
Comments on I-1433

DSHS requests that L&I adopt rules implementing RCW 49.46.800(2) that are consistent with the U.S. Department of Labor's (DOL) interpretation and guidance on the application of the Fair Labor Standards Act (FLSA) to Individual Providers, commonly referred to as the Home Care Rule.

The rules should recognize the unique nature of paid family and household member caregivers, Individual Providers (IP), and not require payment for hours worked beyond the number of monthly hours authorized by DSHS to the beneficiary, which defines the employment relationship. The rules should also allow DSHS to consider informal supports that family or household members are willing to provide without payment, when determining the needed amount of paid assistance allocated to the beneficiary. Finally, DSHS requests that the rules reflect that client participation is not included in the provisions of RCW 49.46.800(2) as the state is not the payer.

Washington State's In-Home Personal Care System

One key component of the State's long-term care system is the provision of in-home personal care. Beneficiaries are able to hire Individual Providers (IP) and/or choose a licensed home care agency to provide personal care services in the beneficiary's home. Providers are paid through state dollars and matching federal funds. In situations where the client chooses to hire an IP, the client is the employer and is responsible for hiring, firing, supervision and determining how and when they want their authorized hours and services provided. Washington has a long history of allowing clients to choose to hire family members and/or friends as an Individual Provider; and have established policies to define the employment relationship while also recognizing the importance of the existing familial relationship.

In Washington, Medicaid beneficiaries who are eligible to receive personal care services are assessed by DSHS using a standardized tool called CARE. The assessment identifies unmet need for assistance with activities of daily living and allocates the number of paid personal care hours available to the beneficiary each calendar month. Personal care services are defined as assistance with activities of daily living such as eating, bathing, dressing, medication reminders and instrumental activities of daily living such as meal preparation, housekeeping and shopping.

There are over 36,000 IPs, currently providing services in Washington to approximately 36,000 Medicaid beneficiaries. Of these IPs, more than 60% are family members of the beneficiary and a number of others live with the beneficiary and had a pre-existing live-in relationship prior to providing care. In 2016, the IPs were paid just over one billion dollars for the provision of personal care service.

Payment for Hours Worked

The FLSA Home Care Rule "recognizes the significance and unique nature of paid family and household caregiving in certain Medicaid-funded …programs" and "does not necessarily require that once a family or household member is paid to provide some home care services, all care provided by that family or household member is part of the employment relationship".[1]

[1] Application of the Fair Labor Standards Act to Domestic Service, 78 Fed. Reg. 60,487 (Oct. 13, 2015) (to be codified at 29 CFR 552).

The rule makes a distinction between payment to providers with *only* an employment relationship and payment to providers who also have a relationship as family members or pre-existing household members.

In addition, examples provided in both the final rule[2] and DOL Fact Sheet 79F[3] indicate that DSHS is allowed to consider informal supports provided willingly by family or household members when determining the amount of paid support needed by the beneficiary.

DSHS requests that the rules implementing RCW 49.46.800(2) reflect the unique nature of paid family and pre-existing household member caregivers. The rules should recognize that IPs who fit this criteria are not entitled to payment for hours worked beyond the number of monthly hours authorized by DSHS to the beneficiary. The rules should also allow DSHS to consider voluntarily provided informal supports, provided by family or household members, when determining the needed amount of paid assistance allocated to the beneficiary.

Beneficiary Participation

Medicaid Beneficiaries with incomes over the federally designated level are required to participate towards the cost of their Long Term Services and Supports (LTSS).[4] Beneficiaries pay the required amount directly to the IP for hours worked, up to the assigned amount. DSHS then pays the remainder of the hours worked. DSHS is not required to pay the beneficiary's participation amount to the IP.

DSHS requests that L&I rules reflect that client participation is not included in the provisions of RCW 49.46.800(2) as the state is not the payer.

---

[2] Application of the Fair Labor Standards Act to Domestic Service, 78 Fed. Reg. 60,489 (Oct. 13, 2015) (to be codified at 29 CFR 552).

[3] US Dept. of Labor, Wage and Hour Division, Fact Sheet #79F: Paid Family or Household Members in Certain Medicaid-Funded and Certain Other Publicly Funded Programs Offering Home Care Services Under the Fair Labor Standards Act (FLSA)

[4] 42 CFR 435.726(1994)

To: Department of Labor and Industries and I-1433 rulemaking stakeholders
From: Kory Brown
Date: February 2, 2017
Re: Requested feedback of unanswered questions and responses associated with the paid sick leave portion of I-1433

Unanswered Questions & Responses

#1 Q - What is the definition of an "employer" in the context of this initiative?

Proposed A – Due to the language of Part II, Sec. 5.k, it is important that the definition of "employer" be clearly defined. In certain locales within the state of Washington, "employer" has been broadly construed to also include businesses associated with a franchise or network of franchises. Due to the nature of the information associated with accumulated sick leave and the limited information independent businesses can and should share regarding prospective or new hires, independent businesses which operate under a license such as a franchisee must not be expected to reinstate previously accrued unused paid sick leave and the previous period of employment must not be counted for purposes of determining eligibility. Hiring, pay and benefits are independent decisions by these businesses which license from a franchisor. This may also protect the employee's rehiring potential within the franchisor network from possible selection bias.

#2 Q – Will an employer's Paid Time Off (PTO) benefit that at a minimum meets the requirements of this initiative qualify as Paid Sick Leave as defined in this initiative?

Proposed A – Yes. Most PTO benefit programs provide flexible personal leave independent of the reason, thus eliminating many of the sticky challenges of notification and verification. Employers which provide flexible PTO benefits meet both the spirit and principle of this initiative. It is critical that firms which offer PTO benefits are not required to reconfigure paid leave programs that already meet the requirements (e.g. separate paid sick leave and paid vacation). For those employees who have PTO plans, this may also protect the employee's interests as an employer which is required to separate its PTO plans into a paid sick leave benefit and a vacation benefit would likely greatly reduce the unregulated vacation benefit.

#3 Q – What is "reasonable" notice (Part II Sec. 5.k)?

Proposed A – The initiative authors put rule makers in a bind with this one. I simply can't envision a rule that would even cover most situations as it relates to reasonable notice. In some cases, replacement employees to work a shift may need to come from another state and require sufficient notice for preparation and travel. In small businesses with few employees (and many with a single employee working at a location), sufficient notice is needed to find a replacement

or in some cases, to notify customers that the business will close due to unavailable staff. In an ideal world, very small employers should be exempt from many parts of this initiative.

#4 Q – What happens when an employee takes sick leave for an entire shift for which the employee does not have sufficient hours earned to cover the entire shift?

Proposed A – As an example of some of the issues associated with partial-shift paid sick leave (assuming the other part would be taken unpaid), Part II, Sec. 5.h suggests a provision that the employee does not need to search for or find a replacement worker as a condition of an employee taking paid sick leave. Again, purely in the spirit of illustration, can the employee be required to find a replacement for the non-paid portion of their shift? Fundamentally, sufficient paid sick leave for an entire shift should be "banked" to be able to enjoy the provisions of this policy.

#5 Q – Like many vacation, PTO and paid sick leave programs with carryover limitations, employees are likely to "Use-it" as opposed to "Lose-it." Outside of eliminating carryover limitations (which also presents some accounting challenges), how can employers reduce the possible abuse of a sick leave policy with carryover limitations?

Proposed A – One possible response is to give employers flexibility to determine their own "end of year" for the purposes of this initiative. For example, businesses that are particularly sensitive to absent employees around the end of calendar year holidays may want to set their "end of year" to a much less sensitive time.

#6 Q – I know of firms which currently have policies that require the scheduled shifts before and after a paid holiday to be worked to receive the pay for the holiday. Under what conditions does the use of "paid sick leave" become a "scheduled" shift for such a provision?

Proposed A – The initiative probably doesn't provide sufficient framework for rulemaking around these kinds of provisions.

#7 Q – How does overtime play into this? Similar to this, how is sick leave determined for salaried, commissioned or contract workers (including those which are not considered "full time")?

Proposed A – Taken literally, sick leave must be earned for hours worked and so for hourly workers, overtime (and undertime) should likely be considered. Many employers have policies that are not tied to hours worked (e.g. X days/month or y days/year) and many employers do not require employees to track their hours and simply suggest 40 hours when accounting for these employees (especially salaried workers) even though many of these employees may be working far more (or less) than 40 hours. This seems straightforward for hourly employees (all hours worked as reported on our unemployment reports), but far less straight forward for salaried or commissioned employees or contract workers.

#8 - Q. How might business owners be affected by this part of I-1433? Similar to unemployment, can certain people be “exempted” due to their ownership or management position?

Proposed A. Rulemaking should align with the requirements of unemployment reporting.

Issues to consider:
(1) clarification how much leave an employer can "frontload" to comply as the law is silent on this and lacks ANY accrual OR use caps (would suggest that an employer can *prorate* frontloading based on employee's normal work schedule rather than being forced to give a part time employee a full 7 days);
(2) not including an increment use requirement, or only a reasonable increment of use (i.e., not forcing employers to have to allow employees to take leave in 15 minute increments like Seattle, but may require employees to take it in minimum increments of an hour - akin to FMLA and federal contractor leave); and
(3) an exception to any increment of use requirement if it is a hardship for the employer to only give one hour of leave (e.g., at a remote worksite) - akin to what is in federal contractor leave.

Erik Poulsen
Director of Government & Regulatory Affairs
Greater Spokane Incorporated
Create Something Greater
C: 509.808.5890

www.greaterspokane.org

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I-1433 Rules Q&A

This brief contains IUOE Local 612's concerns and input into the upcoming rulemaking regarding state wide sick leave legislation. We fully understand that the law applies to all employers in the state. However, we will be targeting only the construction trade for obvious reasons. As was mentioned in the first meeting, we believe that there are existing ordinances in Seattle and Tacoma that work very well for all our members and contractors.

It is our concern that contractors in our state will be held to a higher standard than a contractor from out of state. As it stands now, we have found contractors coming into Washington and trying to circumvent prevailing wage law to underbid our in state contractors. Contractors find it very easy to come into our state, do the work, and be long gone before the wheels of justice catch up with them. Measures need to be in place to safeguard workers and in state contractors from predatory practices.

- Every professional construction company I have worked for requires a daily or weekly safety meeting. At the beginning of a project, require the employees sign a paper acknowledging that they know and understand that their employer has a sick leave policy. This is to be turned into the Awarding Agency. Just like a 4-10 agreement. The reason for project specific signage is that due to the cyclic nature of the work, employees come and go on a regular basis.
- Awarding Agency has responsibility to include the sick leave RCW/WAC into the contract documents. Public and Private. Just like Prevailing Wage, Awarding agency is responsible for wages if there is noncompliance, and they have not done their due diligence.
- Does this count as a benefit on prevailing wage jobs? If so, when an employee's sick time "bank" is full, the benefit goes back onto their wages. This allows the prevailing wage to remain intact. We have recently found a contractor playing shell games with the benefits on prevailing wage jobs. We are concerned that this will be more of the same.
- Penalties need to be stiff. There needs to be a substantial fine ($1000.00?), and escalating damages regardless of intent to violate the law or not. Fines need to go to L&I directly to fund the prevailing wage program. Damages need to go to the worker. Don't forget, he/she is the one that is to be protected.
- How is this going to be enforced? There are laws on the books right now that are not being enforced due to lack of staffing, or untrained staffing. How is L&I going to police, and enforce this new law?

- There are concerns that if employees take sick time, that they will be disciplined or laid off. How does the department plan on combating this with its limited resources?

If you have any questions or comments you would like to address with us please feel free to contact IUOE Local 612.

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February 3, 2017

VIA EMAIL: I1433RULES@LNI.WA.GOV

Washington State
Department of Labor & Industries
PO Box 44000
Olympia, WA 98504-4000

Comments on Proposed Rules (I-1433)
Initiative No. 1433

To Whom It May Concern:

Littler Mendelson is the largest global employment and labor law practice, with more than 1,200 attorneys in over 75 offices worldwide. As the largest law firm in the world exclusively devoted to representing management in employment, employee benefits and labor law matters, we regularly represent employers of all sizes with operations in Washington State, including employers with both a local and national footprint. We appreciate the opportunity to provide the following comments for consideration in the development of proposed Rules for Initiative 1433 ("I-1433"):

A. Benefit Year. I-1433 uses the term "year," without defining it. Since employers use different benefit years such as a calendar year, a fiscal year, an employee's anniversary year with the employer, etc., we recommend developing a rule that defines "year" as any consecutive 365-day period.

B. Caps on Use and Accrual. Although Section 5(1)(j) of I-1433 establishes a cap on the amount of paid sick leave an employee can *carry-over* year to year, I-1433 does not establish any caps on *use* or *accrual* of paid sick leave. We recommend developing rules that establish such caps so that paid sick leave use and accrual can be administrated consistently and efficiently by employers.

C. Notice to Employees. Section 5(1)(i) of I-1433 requires employers to provide "regular notification to employees about the amount of paid sick leave available to the employee." However, I-1433 does not specify how an employer may provide such notice. We recommend developing a rule that permits employers to choose a reasonable system for providing this notification, including but not limited to, listing remaining available paid time on pay stubs, in an email or a memo, or by using/developing an online system where employees can access their own paid leave information.

D. Notice to Employer. Section 5(1)(f) of I-1433 permits employers to require employees to "give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave." However, I-1433 does not define "reasonable notice." We recommend adopting a rule that defines "reasonable notice."

E. Verification Required, and Reasonable Action Permitted, For Abuse. Section 5(1)(g) permits an employer to require verification that an employee's use of paid sick leave is for an authorized purpose if an employee has used sick leave for more than 3 days. We recommend adopting a rule that also permits employers to require verification when there is a clear instance or pattern of abuse of leave, regardless of whether the employee has been absent for more than 3 days. Additionally, we recommend adopting a rule that permits employers to take reasonable action (e.g. discipline) when an employee's paid leave use is not in good faith, such as a clear instance or pattern of abuse. Finally, we recommend adopting a rule that allows employers to choose a "reasonable time period" (e.g. one week, one month, prior to end of pay period in which leave is used, etc.) for employees to return requested verification to the employer.

F. Increment of Use. Although Section 5(1)(i) of I-1433 references "**each hour of paid sick leave used**," I-1433 does not definitively establish an increment for use of paid sick leave. We recommend adopting a rule that provides the following:

- Employers may require a minimum amount of leave be used.
- If a minimum use policy is not established, leave may be used in hourly increments.

G. Frontload. Section 5(1)(a) of I-1433 provides that "an employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave." We recommend adopting a rule that further clarifies how frontloading can be used to meet or exceed the requirements. For instance, many jurisdictions provide that if any employer frontloads the amount of paid sick leave that can be used in a year on hire and at the start of the benefit year each year thereafter, they need not track accrual and need not carryover unused leave (as the employee will always have the maximum amount that can be used at the start of the year).

H. PTO/Vacation/Existing Sick Leave Policies. I-1433 does not state whether an employer can use a combined or universal or existing sick leave policy to satisfy the requirements of the law. We recommend adopting a rule that provides that employers may choose to comply with the law by modification of an existing sick, personal days, vacation, or other paid time off policy, or a combination of the same. As long as the minimum standards of the law are satisfied, there is no basis for prohibiting an employer from using, for example, an otherwise applicable nationwide vacation or PTO policy as part of its compliance with the law.

I. Rate of Pay. Section 5(1)(i) provides for "each hour of paid sick leave used, an employee shall be paid the greater of the minimum hourly wage rate established in this chapter or his or

her **normal hourly compensation**." (Emphasis added). To avoid confusion regarding the term "normal hourly compensation," we recommend adopting a rule that states that commissions, bonuses and other similar periodic payments are not included in determining an employee's "normal hourly compensation."

Please feel free to contact either of us if you have any questions about the comments provided herein.

Sincerely,

Vanessa Lee

Pamela Salgado & Vanessa B.K. Lee

PS/sks

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How to incorporate the new law with CBA's that already provide some, but not all of the benefits required by 1433?

Also, does sick pay require all fringe benefits that would have been paid if the person actually worked? Many of our federally chartered trusts only allow contributions for hours worked under the CBA.

Thanks.

Barry W. Sherman
Executive Director
Puget Sound Chapter, NECA
Work: 206-284-2150
Fax: 206-284-2159
Cell: 206-799-1288

PearStreet Parlors, Inc.
(dba) Great Clips
7007 Fairway Lane SE
Olympia WA 98501

To: Allison Drake
Department of Labor and Industries and I-1433 rulemaking
From: Chris and Julie Smith
Date: February 2, 2017
Re: Requested feedback of unanswered questions and responses associated with the paid sick leave portion of I-1433 Unanswered Questions & Responses

In addition to what Kory Brown of Great Clips had questioned and suggested, we'd like to add:

- Question: Can the annual period be other than on a calendar yearly basis?

- Answer: Make it optional for an employer to use a yearly anniversary period for each employee rather than all employees being on the same calendar year ending in December. The "year" would be based on an employee's anniversary date of hire. This staggering of dates could help ease a possible problem of the "use-it or lose-it" concern where lots of employees could be "sick" in December causing shift shortages.

Chris & Julie Smith

INITIATIVE 1433 – PART II: PAID SICK LEAVE REQUIREMENT

INITIAL FEEDBACK FROM **PORT ANGELES SCHOOL DISTRICT** WITH REGARD TO RULEMAKING

FEBRUARY 2, 2017

After reviewing the Paid Sick Leave Requirement under I-1433, the Port Angeles School District Finance and Human Resources Administrative Teams met and developed the following questions and feedback to be submitted to the State Department of Labor and Industries, charged with adopting and implementing rules to carry out and enforce this act:

- What is the definition of an employee for the purpose of the paid sick leave requirement?
- Schools employ variable-hour employees (substitutes) and seasonal employees (coaches). We feel they <u>should be exempt</u> from the application of the "Paid Sick Leave Requirement" for the following reasons:
    1. Substitutes work in multiple locations for varying hours on an "On-call" basis for multiple school districts and in varying positions with different rates of pay.
    2. Coaches work seasonally, basically, three months out of the year.
    3. It would be difficult to track all substitutes' and coaches' activity, cumulative hours, and 90-day eligibility to accumulate/use sick leave.
    4. There is no mention of funding for the "Paid Sick Leave Requirement." How would schools, who are already underfunded, pay for the monitoring and benefit of this proposed requirement?

    - How would this requirement work with existing Collective Bargaining Agreements?

Respectfully submitted to the State Department of Labor & Industries of Washington by the Administrative Teams of the Port Angeles School District, Port Angeles, Washington on February 2, 2017

Re: Teck Washington Incorporated I-1433 Stakeholder Feedback

Sent to:

Thank you for taking the time to review the January 5, 2017 letter submitted by Mark Brown and the time that you spent with us last week. It was nice to meet you and be able to get a clearer understanding of the process with this initiative. Of particular interest to Teck are the following points:

1- Teck offers a Sick Leave Program to its employees that is of greater benefit to the employees than required by I-1433. It allows the employee to utilize three paid vacation days to cover the first three days of illness (employees are frontloaded 80 hours of vacation on the first day of employment and the first of each year). After that point, the employee will receive 60% pay for up to 180 days at which time the employee may qualify for Long Term Disability. I-1433 = $1,560 vs. Teck = $25,500

   How do we maintain our current level of benefits and comply with I-1433?

   Solution:

   Provide a variance waiver program that would allow the employer to demonstrate that the program that it is offering is of greater value and would be in compliance with the law.

2- Employers have employees that are based and payrolled out of a different state. Does the employer have to offer paid sick leave for the time worked in Washington?

Again, thank you for willingness to take input in this matter.

Kim F Witt, SPHR

Administrative Services Superintendent

Teck Washington Incorporated

509-690-8350

An Opinion Piece about minimum wage
for anyone who is involved in the decision making process:

My husband and I have a small stand alone seasonal summertime business which we started in 1971 to supplement my husband's teaching salary. From the beginning we looked to students and school personnel for employees because they were available when we needed them. The last several years we have had over 50 local employees. I would love to be paying our adults more so I have no objection to raising the minimum wage.

Each summer we hire over 20 adults (ages 19-79 this year), over 20 young adults (over18), about 10 minors in the 16-17 age group and occasionally a minor under 16.

We start the under 16's at the 85% state minimum rate for them, the 16-17 year olds at the state minimum, the 18 & over at about 50 cents above minimum and seasoned adults one dollar above the minimum. We give regular raises during the summer and for any returning employee the next season so about 10 of our long time employees are already making $15-$20 per hour.

The concern I have which is seldom addressed is the raising of the minimum wage as it applies to minors.

People between the ages of 14 and 21 are maturing rapidly. There is a distinct difference in the skills, attitudes, work ethics, common sense and willingness to step up to a new level as the person matures. It would even make sense to have a wage step up **each** year during these formative years, but there definitely should be different wage levels when the requirements for hiring and jobs that can be done are different. Washington already has a reduced rate for employees under age 16. I think we need another level for the 16-17 year olds since they cannot legally do what an 18 year old can do. The state requires the business to have a minor work permit in order to hire them and there are many tasks they cannot do until they are 18. They can't use (or even wash the parts of) power driven equipment, so they can't make or sheet pizza dough. They can't cook which means, even though they can make a pizza, they cannot put it in or out of the oven. They have to have an adult supervisor after 8:00 PM and can't work later than 9:00 PM on school nights (We are open until 10:00 so scheduling gets tricky.). Many of them have no prior job experience. So it makes sense to have a wage hike at 18. And then again, for businesses that sell liquor and have to hire people over 21, it would make sense to have another wage level increase at 21 to compensate for that additional responsibility.

Having different wages actually puts the minors in a better position to get beginning jobs. From the beginning we made providing "first jobs" for young people one of our goals. (Maybe it's the "teacher gene".) Many of those beginners have told us repeatedly that they were glad we were their first job because they learned a lot and were working with people who valued and appreciated them. Having a lower wage for minors is good. It gives young people an opportunity to work and learn skills and it allows employers to hire at a rate that gives some compensation for the extra time and effort in training an inexperienced person. As a society we pay a good amount per hour to educate them; as an employer we pay them while they learn.

If we are talking about raising the minimum wage--especially if we are talking about making it a "living wage"[1]--it should apply to adults who can do any job and are supporting themselves and their families, NOT to minors up to 18 and maybe even up to the age of 20. We would really like to be paying our adults more because they are great hard working folks trying to support their families.

Thank you for listening to my concern. Now that the minimum wage has been raised for Washington State, I hope you can insert this principle into the discussion of raising the minimum wage for minors. I would very much like to have direct interaction with anyone who is in the position of setting the new minimum wage for minors. Please feel free to call me at 360-371-2070 or 360-223-6789 (cell).

Sincerely,

Patricia Alesse
The C Shop

[1] When our son and his partner became members of our LLC, we began paying them $10 an hour because that's what the business could afford. After a few years it was obvious that even though they were often working more than 40 hours a week and living very frugally that was NOT enough to provide a "living wage". We have raised them to $15 an hour and it's still not very generous, so we are very aware that the minimum wage for adult households needs to be higher.

Allison -

I have received several question from members regarding implementation of paid sick leave of I-1433:

- Can you combine sick and vacation leave and call it PTO to satisfy the requirement? (somewhat similar to Seattle's).
- Our bargaining agreement is in effect to Feb 28, 2019. Does this new law "grandfather" these agreements?
- When does sick leave accrual start? As of 1-1-18?

As you draft the guidance and as you prepare Q&A for employers, we would appreciate addressing these questions.

Thank you,

Rick Anderson
wafla
8830 Tallon Ln. NE, Suite C
Lacey, WA 98516
(360) 455-8064 ext. 1
wafla.org

February 3, 2017

To: Ms. Elizabeth Smith, Assistant Director Fraud Prevention and Labor Standards

From: Julia Gorton, Washington Hospitality Association

RE: Initial Comments – I-1433 Rulemaking

The Washington Hospitality Association appreciates the opportunity to provide input on issues that should be addressed and/or clarified in the rules implementing I-1433. The following comments provide ideas on how the rules could address these issues – in many instances, we believe I-1433 provides all the necessary guidance.

The Washington Hospitality Association represents more than 6,000 restaurants, hotels, and allied businesses that collectively, employ more than 250,000 people in Washington state. The vast majority of these businesses are small employers who are increasingly challenged with complying with new labor, wage and employment laws. Accordingly, we believe that these rules should strive to provide as many tools as possible for businesses to comply. For example, restaurants, bars and tavern employees routinely "swap shifts" to accommodate someone who is ill or has a family emergency. These rules should clarify how such tools can be used to comply with I-1433 – like Seattle, Tacoma and Spokane ordinances. Additionally, many of our members already have universal paid time off policies. The rules should clarify when those policies adhere to the I-1433. The following comments suggest rule language on these issues.

Additionally, as an over-arching theme, the rules should strive to ease record keeping, documentation and other administrative burdens on employers.

Finally, the Washington Hospitality Association believes these rules are "Significant Legislative Rules" as defined under RCW 34.05.328, and the process should include a detailed Small Business Economic Impact Statement (SBEIS). The impact of I-1433 falls disproportionally on small businesses across the state. Undoubtedly, the rule-making process will identify options for businesses to comply, and those options will have different costs and requirements associated with them. An SBEIS will assist in informing the agency and stakeholders on options that meet the requirements of I-1433 in the least disruptive manner possible.

We look forward to working with the Department, and stakeholders, as the rule-making process moves forward.

1. What is the accrual rate for paid sick leave?

From I-1433:

Employers shall provide employees with a minimum of one hour of paid leave for every 40 hours worked.

2. When does accrual begin and when can an employee use paid sick leave?

From I-1433:

Paid leave shall begin to accrue for existing employees on the effective date of I-1433 (January 1, 2018). For employees hired after the effective date, paid sick leave begins accruing on the commencement of employment

An employee may use accrued sick leave beginning on the ninetieth calendar day after commencement of employment

3. What about unused paid sick leave at the end of the year?

From I-1433:

Unused paid sick leave carries over to the following year; however, an employer is not required to allow an employee to carry over more than forty hours of paid sick leave

4. If an employee separates, but returns to the same employer?

From I-1433:

When there is a separation from employment and the employee is rehired within twelve months by the same employer, including different business locations of the employer, previously accrued unused paid leave shall be reinstated. If there is a separation of more than twelve months an employer shall not be required to reinstate accrued paid leave and the rehired employee shall be considered to have newly commenced employment.

5. Use of paid sick & safe leave

From I-1433:

Employees shall be entitled to use accrued paid leave beginning on the ninetieth calendar day after the commencement of their employment.

Unused paid sick leave carries over to the following year, except an employer is not required to allow an employee to carry over more than forty hours of paid sick leave.

6. What are employees entitled to use paid sick & safe leave for:

Suggest using the list directly from I-1433

7. Requesting/notifying employer to use paid sick leave

From I-1433)

An employer may require employees to give reasonable notice of an absence from work, so long as such notice does not interfere with an employee's lawful use of paid sick leave.

For absences exceeding three days, an employer may require verification that an employee use of paid sick leave is for an authorized purpose. If an employer required verification, verification must be provided within a reasonable time period during or after the leave. And employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law.

Suggested clarifying language (adopted in Tacoma):

When the need for use of accrued time is foreseeable, the employee shall make a reasonable effort to schedule the use of paid leave in a manner that does not unduly disrupt the operations of the employer

If the paid leave is foreseeable, a written request shall be provided at least ten days, or as early as possible, in advance of the paid leave, unless the employer's normal notice policy requires less advance notice.

If the paid leave is unforeseeable, the employee must provide notice as soon as it is practicable and must generally comply with an employer's reasonable normal notification policies and/or call-in procedures.

If an Employer obtains any health information about an Employee or an Employee's family member, including when a doctor's note or other medical documentation for the use of Paid Leave is obtained by the Employer, the Employer shall treat that information in a confidential manner consistent with federal, state, and local medical privacy laws.

If an Employer obtains any records or information about an Employee or an Employee's family member related to domestic violence, harassment, sexual assault, stalking or other safety related issues, such records or information are confidential and may not be released without express written permission of the Employee, unless specifically required otherwise by l

8. What level of pay is the employee entitled to when taking paid sick & safe leave?

From I-1433

For each hour of paid sick leave used, an employee shall be paid the greater of the minimum wage or his/her normal hourly compensation.

Suggested clarifying language (adopted in Tacoma):

An Employee is not entitled to compensation for lost tips, gratuities, or travel allowances and shall only be compensated at the hourly rate that would have been earned during the time the Paid Leave is taken.

Commission --- For an Employee who is paid on a commission (whether base wage plus commission or commission only), the hourly rate of pay shall be the base wage or minimum wage, whichever is greater.

Fluctuating pay - If an Employee performs more than one job for the same Employer or an Employee's rate of pay fluctuates for a single job, the rate of pay shall be that which the Employee would have been paid during the time the Employee used the Paid Leave

Indeterminate shifts - When an Employee uses Paid Leave for a shift of indeterminate length (e.g., a shift that is defined by business needs rather than a specific number of hours), the Employer may base hours of Paid Leave used and payment on the hours worked by a replacement Employee in the same shift or a similarly situated Employee who worked that same or similar shift in the past

9. Tools and Options for Employers to Comply

a. Paid Time Off Policies

<u>From I-1433:</u>

Employers are not prevented from providing more generous paid sick leave policies or permitting use of paid sick leave for additional purposes.

<u>Suggested clarifying language:</u>

An employer with a combined or universal paid leave policy, such as a paid time off ("PTO") is not required to provide additional paid time off, provided that:

Available paid time off may be used for the same purposes and under the same conditions as set forth in I-1433;

Paid time off is provided at the rate of at least one hour paid time off for every 40 hours worked. An employee may use paid sick leave after ninety calendar days of employment

Unused paid time off carries over the following year, except that the employer is not required to allow an employee to carry over more than forty hours of paid time off

b. Voluntary shift swapping

<u>From I-1433</u>

An employer may not require, as a condition of an employee taking paid sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is on paid sick leave

<u>Suggested clarifying language (from Seattle, Tacoma & Spokane)</u>

Upon mutual consent by the employee and the employer, an employee may work additional hours or shifts during the same or next pay period without using available paid leave for the original missed hours or shifts. However, the employer may not require the employee to work such additional hours or shifts. Should the employee work additional shifts, the employer shall comply with any applicable federal, state, or local laws concerning overtime pay.

Nothing prohibits an employer from establishing a policy whereby employees may voluntarily exchange assigned hours or "trade shifts."

When paid leave is requested by an employee who works in an eating and/or drinking establishment, the employer may offer the employee substitute hours or shifts. If the employee accepts the offer and works these substitute hours or shifts, the amount of time worked during the substitute period or the amount of time requested for paid leave, whichever is smaller, may, at the discretion of the employer, be deducted from the employee's accrued leave time. However, no employer is required to offer such substitute hours or shifts, and no employee is required to accept such hours or shifts if they are offered.

c. Front Loading Hours

From I-1433

An employer may provide paid sick leave in advance of accrual provided that such front-loading meets or exceeds the requirements of this section for accrual, use, and carryover of paid sick leave.

10. What happens to accrued, but unused leave upon termination or separation from employment?

From I-1433

Employers are not required to provide financial or other reimbursement for accrued and used paid sick leave upon the employee's termination, resignation, retirement, or other separation from employment. Nothing in this section shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement, or other separation from employment, for accrued paid leave that has not been used.

11. Employer record keeping, notification and posting requirements

Since I-1433 has been codified in Chapter 49.46 (Minimum Wage), record keeping and notification processes should be part of, and aligned with current requirements.

February 3, 2017

Via email to i1433rules@Lni.wa.gov and allison.drake@Lni.wa.gov

Allison Drake
Labor Standards Policy Advisor
Fraud Prevention & Labor Standards
Department of Labor & Industries
P.O. Box 44000
Olympia, WA
98504-4000

Re: Comments on I-1433 proposed rulemaking topics

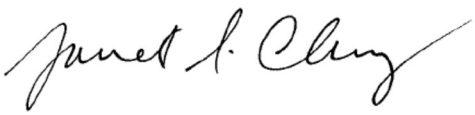
Dear Ms. Drake:

Legal Voice and the Washington State Coalition Against Domestic Violence (WSCADV) wish to submit the following feedback regarding the scope and content of proposed rulemaking implementing Initiative 1433 (I-1433). Both Legal Voice and WSCADV were deeply involved in the legislative process for Washington State's Domestic Violence Leave statute, RCW 49.76, as well as contributing to the development of subsequent implementing regulations, WAC 296-135. Our organizations have substantial experience working with employers to ensure safe workplaces, and specifically, to ensure appropriate and feasible workplace protections for survivors of domestic violence, sexual assault, and stalking. We believe that it is vital for I-1433 rulemaking to address the important topics of verification and confidentiality, particularly for employees seeking to use "safe leave" – leave for domestic violence, stalking, or sexual assault.

Verification requirements for "safe leave" due to domestic violence, sexual assault, or stalking under I-1433 should adopt the same standards as in WAC 296-135, implementing the state statute (RCW 49.76) providing unpaid safe leave for domestic violence, sexual assault, or stalking. The types of information that are sufficient to verify that the leave is for a covered reason are different in a safe leave situation than for other purely health-related sick leave situations. Rulemaking must also ensure that confidential information is protected by employers. This is a critical issue for survivors, as inadvertent disclosure can further jeopardize their safety. Employers should not treat requests for leave as opportunities for overly intrusive inquiries. Clear and consistent guidance is essential so that survivors can safely access legal protections, and employers can adequately comply with minimal burden. Utilizing standards already present in existing rulemaking can simplify the implementation process and help ensure that the intent of the law is more readily realized.

Thank you for your consideration of these comments.

Sincerely,



Janet S. Chung
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Legal Voice

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Washington State Farm Bureau

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February 3, 2017

ALLISON DRAKE
FRAUD PREVENTION AND LABOR STANDARDS
DEPARTMENT OF LABOR & INDUSTRIES
PO BOX 44278 (MS4278)
OLYMPIA WA 98504

Sent via facsimile to i1433rules@Lni.wa.gov

MATTER: INITIATIVE 1433 RULEMAKING

RE: Request for Feedback

Dear Ms Drake:

The Washington Farm Bureau, representing over 45,000 member families, has polled its members for their most pressing questions regarding the rulemaking for I-1433. The major source of concern regarding I-1433 was summed up by one apple orchardist: It is becoming more difficult ever year to keep a small business going in the state of Washington especially in agriculture and yet small businesses provide many jobs in this state. How much more can we endure? You will see that this is an underlying problem for most small businesses.

Although there is general confusion about the process based upon the incomplete language of the initiative itself, there were some strong and specific lines of concern. Our response was sufficient that I am identifying the basic areas of concern, coupled with representative questions themselves. Due to the vagueness of the initiative itself, there were few proposed answers. However, where appropriate, proposed responses to the concern are listed in *italics*.

1. Seasonal/Part-Time Work.
   Far and away, this category prompted the most confusion. As most know, the majority of the work-force in Washington agriculture is seasonal. This means a worker is unlikely to still be with the same employer when needing accrued sick leave. This comes from aspects of §5(d) and §5(k), amongst others. Representative comments:

   How would this rule apply to temporary help when I may never see them again? I feel the sick leave provision should not be apply to temporary farm help.

   Is there a different classification for agriculture?

   How will it apply to farms who have exemptions for family members?

If a worker works a 45-hour week at one employer and then works a 30-hour week elsewhere, is he credited with 75 hours/40 hours (or 1.75 days of sick time) or credited with 8 hours for the first week and none for the second?

2. Holdover Provisions.
   The confusion also comes from the seasonality of agriculture's workforce. Typical comments were:

   How long do we have to hold the hours accumulated? If seasonal workers come back the next year are they still eligible to use the previous year's hours? If we don't see them for 3 years?

   Do the hours only carry over for 1 year? After that, do they expire? *We would like the hours to expire at the end of each fiscal year.*

3. Appropriate Use.
   Employers want to provide honest employees with the kind of benefits that make them healthy, productive workers. However, such benefits are not cost neutral and it is important to protect from misuse, which would squander costs reserved for the intended beneficiaries. Representative comments:

   What is the check and balance system going to be to check for fraud? As an employer, what if verification of illness is not provided?

   What documentation can the employer require to insure the worker isn't just using the hours for paid time off?

   How does this affect those of us who already have a Paid Sick Day Policy?

   A related issue was the question of timelines for that certification, if any:

   It is our understanding the new law states after 3 days an employer may require verification that an employee's use of paid sick leave is for an authorized purpose. Our current policy is that if an employee is sick one day they must provide a physician's note for the absence to be excused. Will this violate the new provisions?

4. Accrual.
   Agriculture is a wide ranging, seasonal, complicated industry. Nowhere is this more obvious than in wage rates. It is the norm for an employee to work a series of seasonal positions, at one or more rates of pay, whether for a single employer or for a series of employers. Representative questions:

   Do we pay them at the current wage rate or the wage when the hours were accrued? What do we do about piece rate and break time wages? This changes each week. If a person comes back on and is working at an hourly pay job, but has hours accrued at piece rate, what is the rate?

   Are the sick leave hours paid by amount of wages per hour or across time employed? If the latter, is it the income level of the farm? Or all farms?

   If not exempted, will employers be required to pay seasonal employees for unused sick leave when laid off?

5. Minors/Policy.
   Agriculture (as well as other industries) provides an excellent first job for many a young person. One small vegetable grower put it best:

   The new minimum wage standard is intended to provide a living wage for adults. Yet it applies to youth who are still students and need an opportunity to develop employable skills. Currently, youth who are 15 years of age or younger have a wage modification factor of 85% of minimum wage. I think this standard should be expanded to apply to all minors, ages 17 and younger. Young people are going to become collateral damage in an effort to get the most for the wages now having to be paid. Employers are going to be forced to favor older more experienced workers to the disadvantage of youth.

6. Applicability to H2A Workers.
   Washington State is the fourth largest user of the H2A visa program. While only a few members saw this as a potential concern, for those growers who do hire this was, it is make-or-break. An example:

   Does it apply to foreign H2A workers and domestic workers in similar employment?
   With AEWR higher than the new increased minimum, I think a case could be made that it shouldn't. Most workers don't stay 90 days with the same employer for paid sick leave to start being paid, so farmers would be bookkeeping that info for no reason. H2A workers already get paid travel and paid housing, and with the increasing minimum wage the AEWR certainly will rise also. With AEWR already almost at 2020 levels compared to the increasing minimum, today we get zero referrals from citizens to work when we advertise our positions as required by the Department of Labor. I-1433 doesn't benefit any citizens and only serves to increase agricultural costs.

7. Accounting.
   Each of these categories begs the question of documentation and compliance. There is also the question of portability. Together, these are: Who will bear the burden of making the system work? Requiring a worker potentially to seek out 8 different employers (or more) for a single day of sick leave is ridiculous. Similarly, a small agricultural employer keeping 75 separate accounts for approximately 1 hour each would be a nightmare. One simple question brought all the others in line:

   And who is going to pay for all the record keeping, not to mention the sick leave itself?

WFB looks forward to helping the department resolve these thorny issues in ways that benefit all parties.

Best

Richard K. Clyne
Director of Retro/Safety
Washington Farm Bureau

1433 Implementation
Labor and Industries Task Force
February 3, 2017

LNI questions:

- *What are the important unanswered questions associated with I-1433 that you think need to be addressed through the rules development process?*
- *To the extent you are able to do so, what do you believe the answers to those questions should be?*

Questions and Ideas:

1. We would like to address how sick and safe leave are accrued for farm workers. For example, the rules could address how sick leave is earned especially for seasonal workers, folks who don't work for one employer for 90 consecutive days. Additionally, it will be important to include language about workers who are hired back after a certain time and how those workers can keep banking sick leave. We want to make sure piece rate workers in agriculture have explicit rules for accruing their earned sick and safe leave. Since employers must track hours to ensure the pay rate is above minimum wage, there should be explicit rules around how employers in agriculture calculate sick leave time and pay. Overall, we would like the rules to provide clear guidance on how piece-rate employees are entitled to the Washington State paid minimum wage and have access to sick leave.

2. We would like to have a clear definition of "reasonable notice" of absence from work (Section 5f). It may be reasonable to define notice as a set number of hours before shift starts when feasible, with clear exceptions for emergencies, accidents, or sudden illnesses.

3. We want to make sure there is clarity that an employee can roll over up to 40 hours, but also be clear that an employee can continue to earn more than the 40 hours banked in the following year. The rules should help employers and employees understand how these carry over hours will be added to the hours earned in the subsequent year.

4. Regarding joint employers, the rules should also address how collective bargaining agreements with unions and employers apply to the ability to earn sick and safe leave.

5. We would like the rules to clearly address retaliation, both reporting and protection processes when a worker experiences retaliation. The initiative provided direction to the department to make it clear to workers that they have the right to be protected against retaliation. The rule should build on existing guidance around wage theft and retaliation, and should provide direction for repeat violators of the law so that those with repeated retaliation violations are properly addressed. The Labor Standards Harmonization Ordinance (pp 4-5), the State's worker compensation statute and the Human Rights

Commission all have example language that we can look to regarding the factors that should be considered in determining whether retaliation has occurred. http://www.seattle.gov/Documents/Departments/LaborStandards/wt-ordinance-topic_chart_highlights-121615.pdf

6. We would like the rules to provide clear guidance on how the employer should notify employees of how much leave they have and how they can use it. The Labor Standards Harmonization Ordinance in Seattle has good language around notification from the employer that could be used in this rule as template language. In terms of notifying employees of their sick leave, they could 1) post all necessary posters 2) provide (in writing) that employees have access to paid sick leave and how they may request it, and 3) notify employees of how much sick leave they have accrued on their pay stubs.

7. We would like to address how sick and safe leave are accrued for workers who work for joint employers, specifically temp agencies, and W2 employees. One example could be specific to temp agencies, and address how the sick leave rate is calculated if they work different jobs and different pay rates. For subcontracting or temp employers, the employer of record should be keeping track, but since all "employers" are subject to the law, we'd want to make sure that the temp-worksite allows workers to take their leave, does not discriminate or retaliate, etc. For example, there could be cases where a person works on-site for one agency, and then on-site for a second one, but would need to add the hours from both in order to take sufficient leave.

8. We would like the rules to clearly help employers and employees in the trucking industry understand how to apply leave to workers driving through, or flying through, Washington State (truck drivers and airplane workers)? For example, they could accrue sick leave during the hours driving/flying through WA state, and clarify they must be paid at least WA's minimum wage during that trip.

9. We would like there to be guidance on the various ways an employee can notify an employer about the need to use leave. For example, the rules should provide scenarios that the employer can look at as guidance for what is allowed. Employees should be able to call and/or notify their employer by saying "I need to take a sick day." Further details about the reason for leave may be sensitive and a request should not be an opening for overly intrusive inquiries – for example, into the nature of the illness or a domestic violence situation. If the employer requests a doctor's note, they should not do so unless the employee takes 3 consecutive days. Verification requirements for "safe leave" due to domestic violence, sexual assault, or stalking should adopt the same standards as in WAC 296-135, implementing the state statute (RCW 49.76) providing unpaid safe leave for DV/SA/stalking.

10. We would like clear guidelines for what constitutes "unreasonable burden." If the worker is uninsured, underinsured, or earns the minimum wage – arguably requesting a doctor's note could constitute an undue burden on the employee as seeing the doctor could be

costly to the worker. Initiative 1433 says, an employer's requirements for verification may not result in an unreasonable burden or expense on the employee and may not exceed privacy or verification requirements otherwise established by law, thus some good examples of who to make sure there is not unreasonable burden would be helpful.

11. We would like guidance for employers who already have Paid Time Off Policies and how or if this leave meets the requirements in Initiative 1433 for sick or safe leave.

Submitted on behalf of:

Economic Opportunity Institute
Fair Work Center
Legal Voice
National Employment Law Project
Restaurant Opportunity Center – Seattle
Service Employees International Union, 775
United Food and Commercial Workers, Local 21
Washington State Budget and Policy Center
Washington State Labor Council, AFL-CIO