

**CLIENT ALERT: Portland Minimum Wage and Emergency Pay
November 9, 2020**

Last Tuesday Portland voters passed a new minimum wage ordinance, which includes an allowance for additional pay during an emergency. We expect further guidance to be released by the City in the coming weeks and we will update you with any new information that is provided. For more information, please contact Peter Lowe at plowe@brannlaw.com.

In general, what was passed by voters in the City of Portland?

Portland voters approved Question A on the November 3rd ballot, which proposed an increase in Portland's minimum wage to \$15 per hour, to be implemented over the next three years, as well as an additional increase in the minimum wage for on-site work performed in Portland during a state of emergency ("emergency pay"). These measures do not apply to exempt employees and other employees such as taxicab drivers, camp counselors, and employees in the fishing industry.

When will these changes to Portland's minimum wage ordinance take effect?

The first step of the minimum wage increase takes effect January 1, 2022. The emergency pay portion of the ordinance takes effect on December 3, 2020.

How will Portland incrementally increase the minimum wage to \$15.00 per hour?

The current minimum wage in Portland of \$12.00 per hour will increase by one dollar per year over three years as follows: Beginning on January 1, 2022, the minimum wage will increase to \$13.00 per hour; on January 1, 2023, the minimum wage will increase to \$14.00 per hour; and on January 1, 2024, the minimum wage will increase to \$15.00 per hour.

What is "emergency pay"?

"Emergency pay" is an increase in the minimum wage that must be paid for work that is performed on-site at a workplace within Portland throughout the duration of a state of emergency declared by the City, or by the state if the emergency applies geographically to the City. The current Maine state of emergency relative to COVID-19 applies to the entire state through November 27, 2020.

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What is the minimum emergency rate of pay when the new law takes effect?

Emergency pay is equal to 1.5 times of Portland's minimum wage. This makes the minimum wage \$18 per hour (\$12 x 1.5) on December 3rd for employees who work onsite in Portland so long as the state of emergency remains.

Does the "emergency pay" ordinance apply to employees working remotely?

No. Emergency pay does not apply to employees while working remotely in Portland during a state of emergency. If an employee works part of the time onsite at the employer's Portland workplace, they must receive emergency pay during that time.

What penalties could be imposed for a failure to comply with the new ordinance?

An employer could be subject to paying back wages, penalties of at least \$100 per day, and any costs of suit including reasonable attorney's fees. In addition the employer could face a claim under Maine's wage statute.