

# HOUSE BILL REPORT

## EHB 1706

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### As Amended by the Senate

**Title:** An act relating to eliminating subminimum wage certificates for persons with disabilities.

**Brief Description:** Eliminating subminimum wage certificates for persons with disabilities.

**Sponsors:** Representatives Frame, Sells, Macri, Doglio, Gregerson, Riccelli, Callan, Jinkins, Goodman, Valdez, Bergquist, Kloba and Pollet.

#### Brief History:

##### Committee Activity:

Labor & Workplace Standards: 2/14/19, 2/18/19 [DP].

##### Floor Activity:

Passed House: 3/11/19, 81-17.

Senate Amended.

Passed Senate: 4/17/19, 48-0.

#### Brief Summary of Engrossed Bill

- Eliminates special certificates that allow an employer to pay below the minimum wage to workers with disabilities.
- Allows the Department of Labor and Industries (Department) to extend existing certificates for certain workers receiving services under the Department of Social and Health Services' (DSHS) Developmental Disability Administration (DDA), and requires the DDA to provide services to eligible workers.
- Requires the Department and the DSHS to submit reports to the Legislature.

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#### HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

**Majority Report:** Do pass. Signed by 6 members: Representatives Sells, Chair; Chapman, Vice Chair; Mosbrucker, Ranking Minority Member; Gregerson, Hoff and Ormsby.

**Minority Report:** Do not pass. Signed by 1 member: Representative Chandler, Assistant Ranking Minority Member.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Staff:** Trudes Tango (786-7384).

**Background:**

Special Certificates.

Employers covered under the state Minimum Wage Act are required to pay employees age 18 or older at least the minimum hourly wage. The Department of Labor and Industries (Department) has authority to issue special certificates to employers to pay wages below the minimum wage, in order to prevent curtailment of opportunities for employment.

The Department may issue special certificates applicable to employees who are physically or mentally handicapped and other workers with disabilities. "Worker with a disability" is defined as an individual whose earning capacity is impaired by age or physical or mental deficiency or injury for the work the person is to perform.

In the application for a special certificate, the employer must set forth, among other things, the proposed wage to be paid, the nature of the disability, and how the worker's disability affects the work performed.

Generally, the pay rate may not be less than 75 percent of the applicable minimum wage unless, after investigation, a lower rate appears to be clearly justified. Special certificates are effective for only the period of time designated by the Department, which is normally two years.

Developmental Disabilities Administration.

The Department of Social and Health Services' (DSHS) Developmental Disability Administration (DDA) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. Eligibility for DDA services depends on whether the client has a qualified developmental disability, has a functional need, and meets certain income and asset standards. The services provided to clients include employment services and community access services, which are contracted with counties. Employment services provide ongoing support services and training for eligible persons in a variety of settings and work sites. These include individual supported employment, group supported employment, and preemployment services. Community access services assist individuals to participate in activities that promote individualized skill development, independent living, and community integration. In general, DDA clients 21 years and older must be enrolled in employment services for nine months before transferring to community access services.

**Summary of Engrossed Bill:**

The Department may not issue any new special certificates to employ persons with disabilities at less than the minimum wage. Special certificates existing as of the effective date of the act remain valid until they expire.

The Director of the Department may extend the expiration date of certificates for workers who are clients of the DDA if: (1) the extension would enable the worker to complete the

employment services period required before the person can receive certain services under the DDA program; and (2) the employer requests an extension.

The Department must notify the employer and the worker of the expiration of the special certificate, the ability to extend the certificate under limited circumstances, and the DSHS contact information. The Department may share information, such as individuals' contact information and expiration dates of special certificates, with the DSHS for purposes of the DSHS offering assistance.

The DSHS must provide services that assist eligible individuals in transitioning from subminimum wage employment to employment programs or other programs under DDA.

The DSHS and the Department must submit an initial and a final report to the appropriate committees of the Legislature regarding the impacts of the act on workers with developmental disabilities. The reports must include, among other things, the number of individuals who continued to work after expiration of their certificates, the number of individuals who contacted DSHS for services, and services provided.

Statutory language is updated to use the term "disabilities" rather than "handicapped" and "physical or mental deficiency."

#### **EFFECT OF SENATE AMENDMENT(S):**

The Senate amendment strikes all provisions of the bill, and instead prohibits state agencies, beginning July 1, 2020, from employing individuals with disabilities under special certificates for subminimum wages.

**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on April 2, 2019.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

#### **Staff Summary of Public Testimony:**

(In support) There are practices, other than paying subminimum wages, that help disabled people find employment. Parents of disabled workers are concerned that ending subminimum wages would mean their children would not be able to find jobs. However, this is an arcane practice and to eliminate subminimum wages for these workers is a civil rights issue. There is a national movement to end this practice and disabled people are behind it. Other states are banning the practice. Supportive employment programs that do not pay subminimum wages have high retention rates. These workers should be given the same opportunity to work for the same pay just like everyone else.

(Opposed) None.

**Persons Testifying:** Representative Frame, prime sponsor; Ramona Hattendorf and Shaun Bickley, The Arc of King County; Adrienne Stuart, Community Employment Alliance; Jim Larson; Hugh Bertolin; Amelia Gross; Ivanova Smith, AtWork and People First of Washington; David Lord, Disability Rights Washington; and Robert Wardell.

**Persons Signed In To Testify But Not Testifying:** None.