

FINAL BILL REPORT

ESSB 5284

C 97 L 21
Synopsis as Enacted

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

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Randall, Billig, Carlyle, Das, Hasegawa, Hunt, Keiser, Kuderer, Lias, Lovelett, Nguyen, Nobles, Robinson, Saldaña, Salomon, Stanford, Wellman and Wilson, C.).

Senate Committee on Labor, Commerce & Tribal Affairs
House Committee on Labor & Workplace Standards

Background: Minimum Wage. Employers covered under the Washington Minimum Wage Act are required to pay employees age 18 or older at least the minimum hourly wage. The Washington Department of Labor and Industries (L&I) calculates the state minimum wage. The minimum wage is calculated by using a formula tied to the federal Consumer Price Index for urban wage earners and clerical workers. L&I must calculate the minimum wage annually. The current state minimum wage is \$13.69 per hour. Some local jurisdictions have higher minimum wage rates, such as the cities of Seattle and SeaTac.

Special Certificates. L&I has authority to issue special certificates to employers allowing them to pay wages lower than the minimum wage for a fixed period of time. Employers with special certificates can pay sub-minimum wages to learners, student workers, apprentices, and individuals with a disability. If an employer wishes to pay employees less than the federal minimum wage, they must apply for permission through the U.S. Department of Labor. Washington State agencies may no longer pay a subminimum wage to workers with a disability and previous subminimum wage certificates issued to state agencies expired on June 30, 2020.

State Services. The Washington Department of Social and Health Services (DSHS) provides certain services to individuals with a disability, such as employment services, family counseling and support, health services and equipment, legal services, residential services and support, and transportation services.

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

Summary: Special Certificates. After July 31, 2023, the director of L&I (director) may not issue any new special certificates to employers. The director may extend the duration of a special certificate once and for one year, if:

- the employee is eligible for services provided to individuals with a disability; and
- the employer requests the extension.

Provisions authorizing the director to issue special certificates for employment of individuals with a disability are amended to align with the special certificate process.

Notice. The director must provide written notice to the employer, the employee, and the employee's legal guardian the following information:

- the special certificate expiration date;
- the special certificate extension option; and
- DSHS contact information relating to services offered.

State Services. Subject to federal law and federal funding requirements, DSHS must prioritize and provide technical assistance to individuals transitioning out of subminimum wage employment. Subject to appropriation, DSHS must work with contracted providers to expand employment and day services to individuals leaving subminimum wage employment. DSHS must provide individuals leaving subminimum wage employment and their legal representatives with written and verbal notification informing them of all available waiver services and processes for the individual to identify, transition to, and request any of the available waiver services.

Reporting. By October 1, 2021, and annually until all special certificates have expired, L&I and the DSHS Developmental Disabilities Administration and Division of Vocational Rehabilitation must report the following information to the Legislature:

- the number of special certificates remaining;
- the number of individuals with a special certificate who contacted DSHS for technical assistance or services;
- the number of individuals still employed after special certificate expiration; and
- any reduction in waiver service hours for individuals who leave special certificate employment on or after the act's effective date.

Votes on Final Passage:

Senate	42	7
House	75	23

Effective: July 25, 2021