

HB 1706 - H AMD 323

By Representative Kilduff

ADOPTED 03/11/2019

1 Strike everything after the enacting clause and insert the
2 following:

3

4 "Sec. 1. RCW 49.12.110 and 1994 c 164 s 19 are each amended to
5 read as follows:

6 Subject to section 3 of this act, for any occupation in which a
7 minimum wage has been established, the director may issue to an
8 employer, a special certificate or permit for an employee who (~~is~~
9 ~~physically or mentally handicapped~~) has a disability to such a
10 degree that he or she is unable to obtain employment in the
11 competitive labor market, or to a trainee or learner not otherwise
12 subject to the jurisdiction of the apprenticeship council, a special
13 certificate or permit authorizing the employment of such employee
14 for a wage less than the legal minimum wage; and the director shall
15 fix the minimum wage for said person, such special certificate or
16 permit to be issued only in such cases as the director may decide
17 the same is applied for in good faith and that such certificate or
18 permit shall be in force for such length of time as the director
19 shall decide and determine is proper.

20

21 **Sec. 2.** RCW 49.46.060 and 1959 c 294 s 6 are each amended to
22 read as follows:

23 Subject to section 3 of this act the director, to the extent
24 necessary in order to prevent curtailment of opportunities for
25 employment, shall by regulations provide for (1) the employment of
26 learners, of apprentices, and of messengers employed primarily in
27 delivering letters and messages, under special certificates issued

1 pursuant to regulations of the director, at such wages lower than
2 the minimum wage applicable under RCW 49.46.020 and subject to such
3 limitations as to time, number, proportion, and length of service as
4 the director shall prescribe, and (2) the employment of individuals
5 whose earning capacity is impaired by (~~age or physical or mental~~
6 ~~deficiency or injury~~) a disability, under special certificates
7 issued by the director, at such wages lower than the minimum wage
8 applicable under RCW 49.46.020 and for such period as shall be fixed
9 in such certificates.

10

11 NEW SECTION. Sec. 3. A new section is added to chapter 49.46 RCW
12 to read as follows:

13 (1) Beginning on the effective date of this section, the
14 director may no longer issue any new special certificates under RCW
15 49.12.110 and RCW 49.46.060 for the employment, at less than the
16 minimum wage, of individuals with disabilities.

17 (2)(a) Special certificates that have not expired as of the
18 effective date of this section remain valid until the certificate
19 expires.

20 (b) The director may extend the duration of a special
21 certificate that was valid as of the effective date of this section
22 only under the following circumstances:

23 (i) The individual employed under the special certificate is an
24 "eligible person" as defined under RCW 71A.10.020;

25 (ii) The extension will enable the individual to complete the
26 individual's period of enrollment in an employment program before
27 being offered an option to transition to a community access program,
28 as provided under RCW 71A.12.290; and

29 (iii) The employer requests the extension of the special
30 certificate.

31 (3) Before the expiration of the special certificates under this
32 section, the director shall provide written notice to the employer,
33 the employee, and the employee's legal guardian, legal
34 representative as defined under RCW 71A.10.020, or other individual

1 authorized to receive information on behalf of the employee, of the
2 following:

3 (a) The expiration date of the special certificate;

4 (b) The option of extending the special certificate if the
5 conditions under subsection (2) of this section are met; and

6 (c) The contact information for the division of the department
7 of social and health services that provides services to individuals
8 with developmental disabilities, and a statement that services and
9 individualized technical assistance may be available.

10 (4) For the purposes of allowing the department of social and
11 health services to prioritize services and individualized technical
12 assistance to individuals transitioning out of subminimum wage
13 employment, the department may share information, such as
14 individuals' contact information and expiration dates of special
15 certificates, with the department of social and health services.

16

17 NEW SECTION. Sec. 4. A new section is added to chapter 71A.10 RCW
18 to read as follows:

19 (1) The department shall provide individualized technical
20 assistance to eligible individuals employed under special certificates
21 that will be expiring pursuant to section 3 of this act.
22 Individualized technical assistance means services that assist
23 individuals eligible to receive services from the department in
24 transitioning from subminimum wage employment to other employment
25 programs or other programs under RCW 71A.12.290.

26 (2) In offering individualized technical assistance, the
27 department must prioritize individuals based on the expiration dates
28 of the special certificates, but must offer technical assistance to an
29 individual no later than four months prior to the expiration date of
30 the individual's special certificate. For individuals subject to
31 special certificates expiring sooner than four months after the
32 effective date of this section, the department must prioritize those
33 individuals first and offer individualized technical assistance
34 immediately.

1 NEW SECTION. **Sec. 5.** (1) The department of labor and industries
2 and the department of social and health services shall collaborate to
3 provide reports as required under this section regarding the impacts
4 of section 3 of this act on workers with developmental disabilities.

5 (2) By January 10, 2020, the departments shall submit an initial
6 report to the appropriate committees of the legislature with the
7 following information:

8 (a) The number of special certificates that have expired and the
9 number of unexpired certificates as of the date of the report;

10 (b) The number of applications the department of labor and
11 industries has received to extend certificates and the number of
12 extensions granted; and

13 (c) The number of individuals who were employed under a special
14 certificate and who have contacted the department of social and health
15 services to receive services and the services that were provided.

16 (3) By October 1, 2021, the departments shall submit a final
17 report to the appropriate committees of the legislature with the
18 following information:

19 (a) The number of individuals who were employed under a special
20 certificate and who have contacted the department of social and health
21 services to receive technical assistance and services and the
22 assistance and services that were provided;

23 (b) The number of individuals who continued to be employed after
24 the expiration of their special certificates, and the hours worked,
25 wages earned, and wage rate of those individuals;

26 (c) For individuals who did not continue employment after the
27 expiration of the individual's special certificate, a description of
28 alternative employment or other services, including services under
29 chapter 71A.12 RCW, if any, that were provided to those individuals;
30 and

31 (d) Any recommendations from the departments on providing
32 employment services or other assistance to persons with disabilities.

33 (4) This section expires December 1, 2021."
34

1 Correct the title.

2

EFFECT: Specifies that special certificates existing as of the effective date of the act remain valid until they expire.

Allows the Director of the Department of Labor and Industries (L&I) to extend the expiration date of certificates for workers who are clients of the Department of Social and Health Services (DSHS) Developmental Disabilities Administration (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.

Requires the L&I to notify the employer and the employee of the expiration of the special certificate, the ability to extend the certificate under limited circumstances, and the DSHS contact information.

Requires the DSHS to provide services that assist eligible individuals in transitioning from subminimum wage employment to employment programs or other programs under DDA. Authorizes the L&I to share information, such as individuals' contact information and expiration dates of special certificates, with the DSHS for purposes of the DSHS offering assistance.

Requires the DSHS and the L&I to submit an initial report and a final report to the Legislature regarding the impacts of the bill on workers with developmental disabilities. Requires the reports to 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.

Updates language in current statutes to use the term "disabilities" rather than "handicapped" and "physical or mental deficiency."

--- END ---