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**ENGROSSED SUBSTITUTE SENATE BILL 5284**

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**State of Washington 67th Legislature 2021 Regular Session**

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

AN ACT Relating to eliminating subminimum wage certificates for persons with disabilities; amending RCW 49.12.110, 49.46.060, and 49.46.170; adding a new section to chapter 71A.10 RCW; creating a new section; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 49.12.110 and 2020 c 274 s 40 are each amended to read as follows:

((~~For~~)) Subject to RCW 49.46.170, for any occupation in which a minimum wage has been established, the director may issue to an employer, a special certificate or permit for an employee with a disability to such a degree that ((~~he or she~~)) the employee is unable to obtain employment in the competitive labor market, or to a trainee or learner not otherwise subject to the jurisdiction of the apprenticeship council, a special certificate or permit authorizing the employment of such employee for a wage less than the legal minimum wage; and the director shall fix the minimum wage for said person, such special certificate or permit to be issued only in such cases as the director may decide the same is applied for in good faith and that such certificate or permit shall be in force for such length of time as the director shall decide and determine is proper.

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

((~~The~~)) Subject to RCW 49.46.170, the director, to the extent necessary in order to prevent curtailment of opportunities for employment, shall by regulations provide for (1) the employment of learners, of apprentices, and of messengers employed primarily in delivering letters and messages, under special certificates issued pursuant to regulations of the director, at such wages lower than the minimum wage applicable under RCW 49.46.020 and subject to such limitations as to time, number, proportion, and length of service as the director shall prescribe, and (2) the employment of individuals whose earning capacity is impaired by ((~~age or physical or mental deficiency or injury~~)) a disability, under special certificates issued by the director, at such wages lower than the minimum wage applicable under RCW 49.46.020 and for such period as shall be fixed in such certificates.

**Sec.**  RCW 49.46.170 and 2019 c 374 s 1 are each amended to read as follows:

(1) Beginning July 1, 2020, no state agency may employ an individual to work under a special certificate issued under RCW 49.12.110 and 49.46.060 for the employment of individuals with disabilities at less than the minimum wage. Any special certificate issued by the director to a state agency for the employment of an individual with a disability at less than minimum wage must expire by June 30, 2020. For the purposes of this section, "state agency" means any office, department, commission, or other unit of state government.

(2) After July 31, 2023, the director may not issue any new special certificates under RCW 49.12.110 and 49.46.060 for the employment, at less than the minimum wage, of individuals with disabilities.

(3)(a) Special certificates that have not expired as of July 31, 2023, remain valid until the certificate expires.

(b) The director may extend, no more than once and for no longer than one year, the duration of a special certificate that was valid as of the effective date of this section only under the following circumstances:

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

(ii) The employer requests the extension of the special certificate.

(4) Ninety days before the expiration of the special certificates under this section, the director shall provide written notice to the employer, the employee, and the employee's legal guardian, legal representative as defined under RCW 71A.10.020, or other individual authorized to receive information on behalf of the employee, of the following:

(a) The expiration date of the special certificate;

(b) The employer's option to extend the special certificate if the conditions under subsection (3) of this section are met; and

(c) Upon request, the contact information for the department of social and health services and a statement that provides the supportive services available to the individual with disabilities.

(5) For the purposes of allowing the department of social and health services to prioritize services and existing individualized technical assistance to individuals advancing to at least minimum wage employment, the department of labor and industries may share information, such as individuals' contact information and expiration dates of special certificates with the department of social and health services.

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

(1) To the extent consistent with federal law and federal funding requirements, the department must prioritize individuals, utilizing the expiration dates of the special certificates, for the provision of individual technical assistance to an individual, prior to the expiration date of the individual's special certificate, and may utilize the individual technical assistance to allow for an effective transition into at least minimum wage employment or other services.

(2) Subject to the availability of amounts appropriated for this specific purpose, the department must work with contracted providers to expand employment and day services to individuals leaving special certificate employment, including but not limited to providing individual technical assistance and individual supported employment services to individuals leaving special certificate employment.

(3) Prior to the expiration date of the individual's special certificate, the department must provide written and verbal notification to the individual and their legal representatives informing them of all available waiver services and the processes for the individual to identify, transition to, and request any of the available waiver services.

NEW SECTION. **Sec.**  (1) By October 1, 2021, the department of labor and industries, in collaboration with the department of social and health services' developmental disabilities administration and division of vocational rehabilitation, must submit a report to the appropriate committees of the legislature with the following information:

(a) The number of special certificates remaining;

(b) The number of individuals who were employed under a special certificate who have contacted the department of social and health services to receive individual technical assistance and other services provided by the department of social and health services' developmental disabilities administration or division of vocational rehabilitation and the assistance and services that were provided; and

(c) The number of individuals who continued to be employed after the expiration of the individual's special certificate, a description of employment or other services, including services under chapter 71A.12 RCW, if any, that were provided to those individuals, and other services provided by the department of social and health services' developmental disabilities administration or division of vocational rehabilitation and the assistance and services that were provided.

(2) The report must be provided annually until all remaining special certificates have expired.

(3) This section expires December 1, 2024.

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