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**ENGROSSED HOUSE BILL 1706**

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**State of Washington 66th Legislature 2019 Regular Session**

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

AN ACT Relating to eliminating subminimum wage certificates for persons with disabilities; amending RCW 49.12.110 and 49.46.060; adding a new section to chapter 49.46 RCW; 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 1994 c 164 s 19 are each amended to read as follows:

Subject to section 3 of this act, 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 who ((~~is physically or mentally handicapped~~)) has a disability to such a degree that he or she 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:

Subject to section 3 of this act 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.

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

(1) Beginning on the effective date of this section, the director may no longer 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.

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

(b) The director may extend 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;

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

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

(3) 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 option of extending the special certificate if the conditions under subsection (2) of this section are met; and

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

(4) For the purposes of allowing the department of social and health services to prioritize services and individualized technical assistance to individuals transitioning out of subminimum wage employment, the department 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) The department shall provide individualized technical assistance to eligible individuals employed under special certificates that will be expiring pursuant to section 3 of this act. Individualized technical assistance means services that assist individuals eligible to receive services from the department in transitioning from subminimum wage employment to other employment programs or other programs under RCW 71A.12.290.

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

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

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

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

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

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

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

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

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

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

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

(4) This section expires December 1, 2021.

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