

BILL ANALYSIS

Senate Research Center

S.B. 753
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Natural Resources & Economic Development
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The federal Fair Labor Standards Act (FLSA) of 1938 allows entities to pay a person with a disability "special minimum wages," which are wages below the federal minimum wage by an employer who receives a special minimum wage certificate, known as a 14(c) waiver.

This exemption was originally passed to help wounded veterans find employment. Today, this loophole solely targets individuals who are blind, deaf, and/or with intellectual and developmental disabilities.

S.B. 753 would solidify Texas' promise to treat individuals with intellectual or developmental disabilities (I/DD) with respect and dignity, by paying them what businesses would be required to pay neuro-normative individuals. The proposed legislation would require businesses who participate in the Purchasing from Individuals with Disabilities Program to either pay those individuals with I/DD minimum wage; work with the Texas Workforce Commission to find these individuals employment in other businesses; or in some cases, continue to pay the individual with I/DD less than minimum wage. (Original Author's/Sponsor's Statement of Intent)

S.B. 753 amends current law relating to wage requirements for community rehabilitation programs participating in the purchasing from people with disabilities program.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 122, Human Resources Code, by adding Sections 122.0075 and 122.0076, as follows:

Sec. 122.0075. MINIMUM WAGE PLAN. (a) Provides that this section applies to a community rehabilitation program that is participating in the program administered under this chapter (Purchasing From People With Disabilities) and pays workers with disabilities employed by the program wages that are less than the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206).

(b) Requires the Texas Workforce Commission (TWC) to assist:

(1) a community rehabilitation program in developing a plan to increase the wages paid to its workers with disabilities to the federal minimum wage not later than September 1, 2022, for work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter; and

(2) a community rehabilitation program by providing:

(A) information about certified benefits counselors to ensure that workers are informed about work incentives and the potential

impact that increase in wages may have on a worker's eligibility for any federal or state benefit program; and

(B) a referral to a certified benefits counselor to any worker with a disability who requests a referral.

(c) Requires each community rehabilitation program to ensure, to the maximum extent possible, that each worker with a disability remains employed by the program after the program increases the wages paid to those employees in accordance with the plan developed under Subsection (b).

(d) Requires a community rehabilitation program, if the community rehabilitation program is unable to employ all workers with a disability after the program increases the wages paid to those employees to the federal minimum wage, to work with TWC and any other governmental entity to seek and obtain any job training and employment services that may be suitable for those former employees to find other employment that pays at least the federal minimum wage.

(e) Authorizes TWC, in addition to the assistance described by Subsection (d), to assist a worker with a disability not retained by a community rehabilitation program to secure employment in a position that pays at least the federal minimum wage.

(f) Authorizes TWC, on request of a community rehabilitation program, to extend the period for compliance with the program participation requirements of Section 122.0076 for not more than 12 months if the community rehabilitation program meets certain criteria.

(g) Requires TWC to make a decision on a request for an extension under Subsection (f) not later than May 1, 2022. Prohibits TWC from granting more than one extension to a community rehabilitation program.

(h) Provides that this section expires September 1, 2023.

Sec. 122.0076. WAGE REQUIREMENTS. (a) Prohibits a community rehabilitation program from participating in the program administered under this chapter unless each worker with a disability employed by the program is paid at least the federal minimum wage under Section 6, Fair Labor Standards Act of 1938 (29 U.S.C. Section 206), for any work relating to any products or services purchased from the community rehabilitation program through the program administered under this chapter.

(b) Authorizes TWC to exempt the community rehabilitation program from the requirements of this section with respect to a worker with a disability if TWC determines, based on the worker's circumstances, that requiring the program to pay the worker at the federal minimum wage would result in the program not being able to retain the worker with a disability, the worker would not have success obtaining work with a different employer, and the worker, based on the worker's circumstances, would not be able to obtain employment at a higher wage than the program would be able to pay the worker notwithstanding the requirements of this section.

(c) Provides that, to the extent of a conflict between this section and Chapter 62 (Minimum Wage), Labor Code, this section controls.

(d) Provides that this section does not apply to a community rehabilitation program's eligibility to participate in the program administered under this chapter before the later of September 1, 2022, or the date an extension granted under Section 122.0075(f) expires.

(e) Provides that this subsection and Subsection (d) expire September 1, 2023.

SECTION 2. Effective date: September 1, 2019.