



Rep. Theresa Mah

**Filed: 4/9/2018**

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LRB100 03465 KTG 38199 a

1 AMENDMENT TO HOUSE BILL 1592

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1592 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Declaration of policy and intent. Section 14(c)  
5 of the Fair Labor Standards Act of 1938 authorizes the United  
6 States Department of Labor to grant special wage certificates  
7 to certain entities, which may then pay special minimum wages  
8 less than the federal minimum wage to workers who have  
9 disabilities. 119 Illinois entities are permitted to employ  
10 11,555 individuals with disabilities under certificates issued  
11 to Community Rehabilitation Programs under Section 14(c) of the  
12 Fair Labor Standards Act of 1938. Among those now working for  
13 less than minimum wage are people with autism, cerebral palsy,  
14 spina bifida, Down syndrome, and other intellectual,  
15 developmental, and sensory disabilities including blindness  
16 and deafness. Employees with disabilities rarely transition  
17 from Section 14(c) programs to integrated employment at

1 competitive wages. The practice of paying workers with  
2 disabilities less than the federal minimum wage dates back to  
3 the 1930s, a time when there was virtually no employment  
4 opportunities for workers with disabilities in the mainstream  
5 workforce. The Illinois Employment First Act stipulates that  
6 "competitive and integrated employment shall be considered the  
7 first option when serving persons with disabilities of working  
8 age". Advancements in vocational rehabilitation, technology,  
9 and training now provide greater opportunities to workers with  
10 disabilities.

11 Section 5. The Department of Human Services Act is amended  
12 by adding Sections 1-75 and 1-80 as follows:

13 (20 ILCS 1305/1-75 new)

14 Sec. 1-75. Phase-out plan.

15 (a) The Department, in partnership with other State  
16 agencies, including the Department of Labor, the Department of  
17 Healthcare and Family Services, the Department of Central  
18 Management Services, the Department of Commerce and Economic  
19 Opportunity, the Department of Employment Security, and the  
20 State Board of Education, shall develop and implement a plan to  
21 phase out, on or before July 1, 2022, authorizations under  
22 Sections 5 and 10 of the Minimum Wage Law to pay an employee  
23 with a disability less than the minimum wage otherwise required  
24 for the employee under Illinois law.

1       (b) The phase-out plan shall include all of the following:

2           (1) Benchmarks and desired outcomes for each year of  
3       the phase-out.

4           (2) A list of the resources necessary, including  
5       changes to State policy or service and program  
6       reimbursement rates, to ensure that individuals with  
7       disabilities receive support according to the needs and  
8       preferences of the individuals and in an integrated  
9       setting, regardless of the nature or severity of the  
10       individuals' disabilities.

11           (3) A description of alternative revenue options,  
12       including non-subminimum wage programs, for holders of  
13       certificates issued under Section 14(c) of the Fair Labor  
14       Standards Act of 1938.

15           (4) An examination of the measures needed to improve  
16       future employment and day service options for people with  
17       disabilities, including recommendations for new or  
18       reformulated day services programming designed to  
19       strengthen statewide capacity to maximize the potential of  
20       every individual with a disability. This should include a  
21       review and recommendation about transitioning subminimum  
22       workshops into integrated work centers, where all workers  
23       earn at least the standard minimum wage.

24           (5) A timeline for comprehensive training about  
25       supported employment and customized employment. The  
26       training shall include benefits counseling and education

1 to reduce misinformation that discourages income-producing  
2 work. Training audiences shall include the following  
3 persons and organizations:

4 (A) Counselors from the Department's Division of  
5 Rehabilitation Services.

6 (B) Staff from the Department's Division of  
7 Developmental Disabilities.

8 (C) Organizations affiliated with the Department's  
9 Division of Rehabilitation Services or Division of  
10 Developmental Disabilities that are certified to serve  
11 persons with disabilities by the State or federal  
12 government.

13 (D) High school special education and transition  
14 staff.

15 (E) Independent Service Coordination agency staff.

16 (F) Community Work Incentives Coordinators.

17 Training content developed or approved by federal  
18 agencies shall be used, if possible, including training  
19 content from the following agencies:

20 (i) The Office of Disability Employment Policy in  
21 the United States Department of Labor.

22 (ii) The Rehabilitation Services Administration in  
23 the United States Department of Education.

24 (iii) The Administration for Community Living in  
25 the United States Department of Health and Human  
26 Services.

1           (6) A proposal to modify the Business Enterprise  
2           Program and the State Use Program to ensure future State  
3           contracts are not awarded to entities paying workers less  
4           than the minimum wage.

5           (7) Application for and use of all federal and State  
6           funding programs, including programs available under  
7           Medicaid waiver amendments and resources under the federal  
8           Workforce Innovation and Opportunity Act, to assist  
9           individuals with disabilities to obtain competitive,  
10          integrated employment.

11          (8) The tracking of outcomes of individuals with  
12          disabilities on the basis of:

13               (A) wages;

14               (B) unemployment rates;

15               (C) the number of individuals who move from  
16               subminimum wage positions to competitive, integrated  
17               employment; and

18               (D) the number of individuals who move from  
19               subminimum wage positions to nonpaying activities.

20          (9) In the formulation of the phase-out plan, special  
21          attention must be paid to building adequate capacity in the  
22          disability provider ecosystem to ensure individuals with  
23          all levels of disability can secure competitive,  
24          integrated employment as defined in the federal Workforce  
25          Innovation and Opportunity Act. Special care must be given  
26          to prevent any systematic shift of income-earning activity

1 to unpaid day habilitation activity.

2 (c) In implementing the phase-out plan, the Department  
3 shall consult with:

4 (1) the State agencies listed in subsection (a);

5 (2) the ARC of Illinois;

6 (3) the Illinois Association of Rehabilitation  
7 Facilities;

8 (4) the Illinois Network of Centers for Independent  
9 Living;

10 (5) the Illinois Task Force on Employment and Economic  
11 Opportunity for Persons with Disabilities;

12 (6) the Illinois Self-Advocacy Alliance;

13 (7) the Institute on Public Policy for People with  
14 Disabilities;

15 (8) the Great Lakes ADA Center;

16 (9) holders of certificates issued to Community  
17 Rehabilitation Programs under Section 14(c) of the Fair  
18 Labor Standards Act of 1938;

19 (10) the Association of People Supporting Employment  
20 First;

21 (11) the Illinois Association of the Deaf;

22 (12) the University Center of Excellence in  
23 Developmental Disabilities;

24 (13) the National Federation of the Blind of Illinois;

25 and

26 (14) any other relevant stakeholders.

1       (d) (1) On or before January 1, 2019, the Secretary of Human  
2 Services shall submit the phase-out plan to the Governor and  
3 the General Assembly.

4       (2) On or before January 1, 2020, January 1, 2021, and  
5 January 1, 2022, the Secretary shall report to the Governor and  
6 the General Assembly on:

7           (A) the benchmarks and status of achieving the outcomes  
8 included in the phase-out plan; and

9           (B) recommendations for funding levels or other  
10 resources necessary to implement the phase-out plan.

11       (20 ILCS 1305/1-80 new)

12       Sec. 1-80. Customized work plans.

13       (a) (1) For each individual who is paid less than the  
14 minimum wage under Sections 5 and 10 of the Minimum Wage Law,  
15 the Department shall develop a written individualized  
16 customized work plan on or before January 1, 2020 that  
17 addresses how community integration and employment will be  
18 accomplished.

19       (2) The customized work plan shall be developed with input  
20 from the individual receiving services, and, where applicable,  
21 from the individual's family, the individual's vocational  
22 rehabilitation counselor, and any staff from the Department's  
23 Division of Developmental Disabilities or a Pre-Admission  
24 Screening/Independent Service Coordination agency who have  
25 interacted with the individual concerning employment and other

1 life goals.

2 (3) The Department shall use appropriate communication  
3 devices and techniques, including sign language, to facilitate  
4 the involvement of the individual in the development of each  
5 customized work plan.

6 (b) Customized work plans shall include all of the  
7 following:

8 (1) A recommendation on the most integrated setting  
9 appropriate to meet the individual's needs.

10 (2) A description of the services and supports required  
11 for the individual to work, if so desired by the  
12 individual, in the most integrated setting appropriate to  
13 meet the individual's goals.

14 (3) A listing of barriers that prevent the individual  
15 from receiving the services and supports required for the  
16 individual to work in the most integrated setting  
17 appropriate to meet the individual's needs, including:

18 (A) barriers to accessing funding and resources,  
19 including for staffing, transportation, and other  
20 needed services and supports;

21 (B) decision-making by the individual or the  
22 individual's representative, as appropriate;

23 (C) barriers to accessing medical or behavioral  
24 support needs;

25 (D) family members' concerns or opposition; and

26 (E) options for activity other than compensated



1           employment in the person's life and community.

2           (4) An update on the status and progress made toward  
3           addressing and resolving barriers identified under  
4           paragraph (3) in a previous customized work plan.

5           (c) The Department shall develop, in consultation with  
6           interested stakeholders, the protocol and format for the  
7           customized work plan.

8           (d) (1) On an annual basis, and at any other time as  
9           requested by the individual, an individual who is paid less  
10           than the minimum wage under Sections 5 and 10 of the Minimum  
11           Wage Law and the individual's vocational rehabilitation  
12           counselor, or any other responsible party designated by the  
13           Secretary, shall discuss the most integrated employment  
14           setting that is appropriate for the individual in accordance  
15           with the federal Americans with Disabilities Act.

16           (2) The annual review shall document in the individual's  
17           customized work plan:

18           (A) any discussions held in accordance with paragraph  
19           (1); and

20           (B) any recommendations that resulted from the  
21           discussions held in accordance with paragraph (1).

22           (e) (1) The Department shall track the progress of  
23           individuals who have customized work plans by collecting the  
24           following data:

25           (A) the wages of the individuals;

26           (B) the unemployment rates of the individuals;

1           (C) the number of individuals who moved from subminimum  
2           wage positions to competitive, integrated employment;

3           (D) the number of individuals who moved from subminimum  
4           wage positions to nonpaying activities; and

5           (E) the health costs, including outpatient mental  
6           health costs, paid by Medicaid for the individuals.

7           (2) On or before January 1, 2021, January 1, 2022, and  
8           January 1, 2023, the Secretary shall submit to the Governor and  
9           the General Assembly a summary of the data collected under  
10           paragraph (1) on a statewide and regional basis.

11           (f) A new employee employed at less than the minimum wage  
12           under Sections 5 and 10 of the Minimum Wage Law shall:

13           (1) be informed by his or her employer of all  
14           opportunities to obtain competitive, integrated  
15           employment;

16           (2) have a customized work plan in accordance with this  
17           Section that includes:

18           (A) a goal to achieve a specific employment  
19           outcome;

20           (B) a description of the supports needed to achieve  
21           the goal;

22           (C) a plan for monitoring progress toward the goal;

23           (D) the barriers to competitive, integrated  
24           employment; and

25           (E) any goals and activities for the employee when  
26           work is not available or the employee chooses not to

1           work on a specific day or during a specific shift; and  
2           (3) when choosing to work, be engaged in work that is  
3           consistent with the employee's unique strengths,  
4           resources, priorities, concerns, abilities, capabilities,  
5           interests, and informed choice;  
6           (4) choose the employer and the employment; and  
7           (5) be informed of the employee's right to choose when  
8           to work.

9           Section 10. The Department of Labor Law of the Civil  
10          Administrative Code of Illinois is amended by adding Section  
11          1505-215 as follows:

12           (20 ILCS 1505/1505-215 new)

13           Sec. 1505-215. Special wage certificates; persons with  
14           disabilities.

15           (a) As used in this Section:

16           "Director" means the Director of Labor.

17           "Federal certificate" means a certificate that the United  
18           States Department of Labor issues to a work activities center  
19           or other sheltered workshop to allow the work activities center  
20           or sheltered workshop to pay an individual less than the wage  
21           otherwise required for that individual under the federal Fair  
22           Labor Standards Act of 1938.

23           (b) (1) Subject to the limitations in this Section, the  
24           Director may not authorize a work activities center or other

1 sheltered workshop to pay an employee who has a disability less  
2 than the minimum wage otherwise required under the Minimum Wage  
3 Law for the employee.

4 (2) Beginning January 1, 2020, the Director may not  
5 authorize a work activities center or other sheltered workshop  
6 to pay an employee with a disability less than the minimum wage  
7 if the work activities center or sheltered workshop was not  
8 authorized to do so before January 1, 2019 by the United States  
9 Department of Labor.

10 (c) (1) To authorize a work activities center or other  
11 sheltered workshop to pay less than the minimum wage, the  
12 Director shall:

13 (A) issue a State certificate that sets wages for  
14 employees of the work activities center or sheltered  
15 workshop;

16 (B) accept a federal certificate for the work  
17 activities center or sheltered workshop; or

18 (C) grant an exception for the work activities center  
19 or sheltered workshop, but only if:

20 (i) the Director has not issued a State certificate  
21 to the work activities center or sheltered workshop;

22 (ii) the work activities center or sheltered  
23 workshop is not eligible for a federal certificate; and

24 (iii) the Director investigates and holds a  
25 hearing on the exception.

26 (2) The Director shall accept a federal certificate if a

1 work activities center or other sheltered workshop submits that  
2 federal certificate to the Director within 10 days after the  
3 work activities center or sheltered workshop receives the  
4 federal certificate.

5 (d) (1) Each certificate that the Director issues under this  
6 Section shall state the period for which the certificate is in  
7 effect.

8 (2) The acceptance of a federal certificate does not apply  
9 automatically to an individual whom a work activities center or  
10 other sheltered workshop continues to employ after the  
11 individual completes a training program that the work  
12 activities center or sheltered workshop runs.

13 (e) (1) The Director may revoke acceptance of a federal  
14 certificate if:

15 (A) the United States Department of Labor revokes the  
16 federal certificate; or

17 (B) at any time before revocation by the Department of  
18 Labor and after an investigation and hearing, the Director  
19 finds good cause to revoke the acceptance.

20 (2) The Director shall send notice of a hearing under this  
21 subsection, by certified mail, to the holder of the federal  
22 certificate at least 30 days before the hearing.

23 Section 15. The Illinois Council on Developmental  
24 Disabilities Law is amended by adding Section 2008 as follows:

1 (20 ILCS 4010/2008 new)

2 Sec. 2008. Independent study on phase-out and customized  
3 work plans.

4 (a) The Illinois Council on Developmental Disabilities  
5 shall:

6 (1) commission an independent study of the phase-out  
7 plan and the customized work plans described in Sections  
8 1-75 and 1-80 of the Department of Human Services Act;

9 (2) determine through the study:

10 (A) whether the plans are having their intended  
11 effects;

12 (B) how many people have transitioned from  
13 subminimum wage work to competitive, integrated  
14 employment opportunities;

15 (C) whether there are any significant, related,  
16 regional, or demographic trends; and

17 (D) whether there are health care savings or costs  
18 as a result of the plans; and

19 (3) make any related recommendations for possible  
20 changes in State law or policy regarding the employment of  
21 individuals with disabilities.

22 (b) On or before July 1, 2021, the Illinois Council on  
23 Developmental Disabilities shall report its findings and  
24 recommendations to the Governor and the General Assembly.

25 Section 20. The Minimum Wage Law is amended by changing

1 Section 5 as follows:

2 (820 ILCS 105/5) (from Ch. 48, par. 1005)

3 Sec. 5.

4 (a) The Director may provide by regulation for the  
5 employment in any occupation of individuals whose earning  
6 capacity is impaired by age, or physical or mental deficiency  
7 or injury at such wages lower than the minimum wage rate  
8 provided in Section 4, subsection (a), as he may find  
9 appropriate to prevent curtailment of opportunities for  
10 employment, to avoid undue hardship, and to safeguard the  
11 minimum wage rate of this Act, except that no person who  
12 maintains a production level within the limits required of  
13 other employees may be paid at less than the minimum wage. No  
14 employee shall be employed at wages fixed pursuant to this  
15 Section except under a special license issued under applicable  
16 regulations of the Director.

17 (b) Notwithstanding the provisions of subsection (a),  
18 beginning July 1, 2022, the State of Illinois shall not fund  
19 any entity that pays individuals less than the minimum wage  
20 under a certificate issued by the United States Department of  
21 Labor that authorizes Community Rehabilitation Programs to pay  
22 individuals less than the wage otherwise required for the  
23 individuals under federal law.

24 (Source: P.A. 77-1451.)

1           Section 99. Effective date. This Act takes effect upon  
2    becoming law.".