A BILL FOR AN ACT

RELATING TO THE MINIMUM WAGE.

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

SECTION 1. The legislature finds that the real problems of
disability come not from a medical condition itself but rather
from the associated low expectations, misinformation, and
socially-constructed systemic barriers. Individuals with
disabilities are subject to low expectations in particular in
the employment arena and in systems preparing them for
employment, such as education and rehabilitation.

As reported by the National Council on Disability in its
2018 report "National Disability Employment Policy, From the New
Deal to the Real Deal: Joining the Industries of the Future",
for-profit entities use subminimum wage work at federally- and
state-funded employment service providers across the country in
their supply chains. This outdated system struggles in a
dynamically changing legal and policy environment. As employers
straddle the requirements of new and old laws, they confront
significant barriers, as the intended outcomes of many
employment funding sources, programs, and services, still
conform to models that were conceived of more than fifty years before the Americans with Disabilities Act, when legal protections were based in a manufacturing-based economy, and at a time when people with disabilities were largely absent from the labor market altogether and employment was conflated with charity. As a result, workers depend on welfare programs to replace the wages not paid by their employers. The legislature further finds that a number of other states have already amended their minimum wage laws to strike the language excluding workers with disabilities.

The purpose of this Act is to include people with disabilities in the minimum wage requirements applicable to all workers.

SECTION 2. Section 103D-1001, Hawaii Revised Statutes, is amended by amending the definition of "qualified community rehabilitation program" to read as follows:

"Qualified community rehabilitation program" means a nonprofit community rehabilitation program for persons with disabilities that:
(1) Is organized and incorporated under the laws of the United States or this State, and located in this State;

(2) Is operated in the interest of and employs persons with disabilities;

(3) Does not inure any part of its net income to any shareholder or other individual;

(4) Complies with all applicable occupational health and safety standards required by the federal, state, and county governments; and

(5) Holds a current certificate from the United States Department of Labor pursuant to the Fair Labor Standards Act, Title 29 United States Code section 214(c), and is certified by the state department of labor and industrial relations under [section 387–9 and] applicable administrative rules relating to the employment of persons with disabilities."

SECTION 3. Section 387-9, Hawaii Revised Statutes, is amended by amending its title and subsection (a) to read as follows:
§387-9 Special minimum wages for learners; apprentices; full-time students; paroled wards of Hawaii youth correctional facility; handicapped workers. (a) Notwithstanding the provisions of section 387-2, the director may, by rule, may provide for the employment of learners, of apprentices, of part-time employees who are full-time students attending public or private schools other than colleges, universities, business schools, or technical schools, and of wards paroled from the Hawaii youth correctional facility, under special certificates issued by the director, at such wages lower than the applicable minimum wage and subject to such limitations as to time, number, proportion, and length of service as the director shall prescribe.

(2) Of individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury, under special certificates issued by the director, at such wages lower than the applicable minimum wage and for such period as shall be fixed in the certificates."
SECTION 4. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 5. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 6. This Act shall take effect on January 1, 2020.

INTRODUCED BY: Calvin K. Ay
Report Title:
Employment; Individuals with Disabilities; Minimum Wage; Deaf and Blind Task Force

Description:
Repeals the exemption of persons with disabilities from minimum wage requirements. Takes effect on 1/1/2020.

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