

By: Zaffirini

S.B. No. 1973

A BILL TO BE ENTITLED

AN ACT

relating to competitive and integrated employment of persons with disabilities.

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

SECTION 1. Subchapter B, Chapter 62, Labor Code, is amended by adding Section 62.058 to read as follows:

Sec. 62.058. SUBMINIMUM WAGE SETTINGS; STATE FUNDING. (a) In this section, "community rehabilitation program," "individual with a disability," "sheltered workshop," and "subminimum wage setting" have the meanings assigned by Section 352.151.

(b) Beginning September 1, 2026, state money may not be used for services provided by, or to purchase goods from, an entity that employs individuals with disabilities in subminimum wage settings, including a community rehabilitation program, sheltered workshop, or work activity center.

SECTION 2. Subchapter B, Chapter 352, Labor Code, is amended by adding Sections 352.060 and 352.061 to read as follows:

Sec. 352.060. PLAN FOR REDUCTION OF FUNDING FOR CERTAIN ENTITIES PROVIDING EMPLOYMENT AT SUBMINIMUM WAGES. (a) In this section, "community rehabilitation program," "individual with a disability," "sheltered workshop," and "subminimum wage setting" have the meanings assigned by Section 352.151.

(b) Not later than September 1, 2022, the commission shall:

(1) in consultation with the Health and Human Services

1 Commission, the Texas Education Agency, the comptroller, the
2 advisory committee established under Section 122.0057, Human
3 Resources Code, the Rehabilitation Council of Texas, and other
4 relevant state agencies and statewide organizations, adopt a plan
5 to phase out the use of state money for services provided by, and
6 goods purchased from, an entity that employs individuals with
7 disabilities in subminimum wage settings, including a community
8 rehabilitation program, sheltered workshop, or work activity
9 center; and

10 (2) submit the plan to the governor, lieutenant
11 governor, speaker of the house of representatives, and chairs of
12 the legislative committees with appropriate jurisdiction.

13 (c) The plan adopted under this section must identify:

14 (1) benchmarks and desired outcomes for each year of
15 the phaseout period;

16 (2) the resources necessary to ensure that individuals
17 with disabilities:

18 (A) receive support according to the needs and
19 preferences of the individuals; and

20 (B) are employed in integrated settings,
21 regardless of the nature or severity of the individuals'
22 disabilities;

23 (3) all federal and state money, including money
24 available under Medicaid, that may be used to assist individuals
25 with disabilities in obtaining competitive, integrated employment;
26 and

27 (4) a system for tracking the employment outcomes of

1 individuals with disabilities, including tracking the:

2 (A) wages received by the individuals;

3 (B) unemployment rates of the individuals; and

4 (C) number of individuals moved from subminimum
5 wage settings to:

6 (i) competitive, integrated employment;

7 and

8 (ii) nonpaying activities.

9 (d) Not later than September 1 of each year, the commission
10 shall submit to the governor, lieutenant governor, speaker of the
11 house of representatives, and chairs of the legislative committees
12 with appropriate jurisdiction a report on the development of the
13 plan required under this section. The report must include:

14 (1) a description of the benchmarks and desired
15 outcomes identified in Subsection (c)(1) and the status of
16 achieving the benchmarks and outcomes; and

17 (2) recommendations for funding and resources
18 necessary to implement the plan.

19 (e) This section expires September 1, 2026.

20 Sec. 352.061. WAGE STUDY. (a) In this section:

21 (1) "Individual with a disability" has the meaning
22 assigned by Section 352.151.

23 (2) "Integrated setting" has the meaning assigned by
24 34 C.F.R. Section 361.5.

25 (b) The commission, in consultation with relevant state
26 agencies, advisory committees, and organizations, shall conduct a
27 study concerning individuals with disabilities in this state who

1 are employed at or above minimum wage but below the federal
2 prevailing wage for employees who do not have a disability. The
3 study must address:

4 (1) the number and demographics of individuals with
5 disabilities who earn at least minimum wage but less than the
6 federal prevailing wage for employees who do not have a disability;

7 (2) to what extent the individuals with disabilities
8 are employed in integrated settings;

9 (3) the type of employment of individuals with
10 disabilities, including whether the individuals are employed under
11 federal AbilityOne contracts;

12 (4) whether any changes in federal law or policy
13 regarding the payment of lower wages to individuals with
14 disabilities occur or are likely to occur after September 1, 2019,
15 and if so a description of those laws or policies; and

16 (5) whether opportunities exist for individuals with
17 disabilities to obtain employment at similar rates of pay in
18 competitive work settings.

19 (c) Not later than September 1, 2020, the commission shall
20 submit to the governor, lieutenant governor, speaker of the house
21 of representatives, and chairs of the legislative committees with
22 appropriate jurisdiction a report on the findings of the study
23 conducted under this section. The report must include
24 recommendations for increasing the employment of individuals with
25 disabilities in integrated settings at competitive wages.

26 (d) This section expires September 1, 2021.

27 SECTION 3. Chapter 352, Labor Code, is amended by adding

1 Subchapter D to read as follows:

2 SUBCHAPTER D. COMPETITIVE WAGES AND INTEGRATED WORK SETTINGS FOR
3 INDIVIDUALS WITH DISABILITIES

4 Sec. 352.151. DEFINITIONS. In this subchapter:

5 (1) "Community rehabilitation program" has the
6 meaning assigned by Section 122.002, Human Resources Code.

7 (2) "Individual with a disability" means any
8 individual who has a physical or mental impairment that constitutes
9 a substantial impediment to employment, or to achieving maximum
10 personal independence, but that is of a nature that rehabilitation
11 services may be expected to enable the individual to engage in a
12 gainful occupation or enable the individual to achieve a greater
13 level of self-care and independent living.

14 (3) "Sheltered workshop" means an organization
15 described by Section 62.161.

16 (4) "Subminimum wage setting" means an employment
17 environment in which persons with disabilities are segregated and
18 receive wages that are less than the federal minimum wage.

19 Sec. 352.152. INDIVIDUAL PLAN FOR COMPETITIVE AND
20 INTEGRATED EMPLOYMENT. (a) The commission shall develop
21 processes for:

22 (1) identifying all clients who are individuals with
23 disabilities and are employed in subminimum wage settings by an
24 entity that employs individuals with disabilities in subminimum
25 wage settings, including a community rehabilitation program,
26 sheltered workshop, or work activity center; and

27 (2) creating an individual plan for competitive and

1 integrated employment for each client described by Subdivision (1)
2 that addresses moving the client into employment in an integrated
3 work setting at a competitive wage.

4 (b) A counselor of a client identified by the commission as
5 an individual with a disability who is employed in a subminimum wage
6 setting as described by Subsection (a)(1) shall prepare for the
7 individual an individual plan for competitive and integrated
8 employment in the format prescribed by the commission.

9 (c) An individual plan for competitive and integrated
10 employment must:

11 (1) include a recommendation on the type of integrated
12 work environment that is most appropriate to meet the client's
13 needs based on the client's strengths, resources, priorities,
14 concerns, capabilities, interests, and informed choices;

15 (2) identify the services, supports, and
16 accommodations necessary for the client's employment in the most
17 appropriate integrated work environment;

18 (3) identify the barriers preventing the client from
19 receiving the necessary services, supports, and accommodations,
20 including:

21 (A) access to funding or necessary resources and
22 services;

23 (B) access to medical or behavioral support;

24 (C) decision-making by the individual or the
25 individual's representative, as appropriate; and

26 (D) family members' concerns about or opposition
27 to the client's employment in an integrated work environment;

1 (4) include a plan for monitoring progress in
2 resolving the barriers identified in Subdivision (3); and

3 (5) for a client employed in a subminimum wage
4 setting:

5 (A) establish a goal for the client to achieve a
6 specific employment outcome with the employer;

7 (B) include a description of the actions,
8 accommodations, and supports needed to achieve the client's goal;

9 (C) identify barriers to the client obtaining
10 competitive and integrated employment with the employer;

11 (D) establish a plan for monitoring the progress
12 toward achieving the client's goal; and

13 (E) establish goals and activities for the client
14 on days that work is not available or the client chooses not to
15 work.

16 (d) A counselor shall involve the client, the client's
17 representative, if applicable, and the client's employer in
18 preparing and revising the individual plan. The counselor must use
19 appropriate communications devices and techniques to facilitate
20 the client's involvement in preparing and revising the individual
21 plan.

22 (e) Annually or at the request of a client, the client's
23 counselor shall meet with the client to discuss the progress of the
24 client's goals under the individual plan and reevaluate the most
25 appropriate integrated work environment for the individual in
26 accordance with the Americans with Disabilities Act of 1990 (42
27 U.S.C. Section 12101 et seq.). The counselor shall document the

1 discussions held and recommendations made during the meeting.

2 Sec. 352.1521. OUTCOMES OF INDIVIDUAL PLANS FOR COMPETITIVE
3 AND INTEGRATED EMPLOYMENT. (a) Not later than September 1 of each
4 year, the commission shall submit to the governor, lieutenant
5 governor, speaker of the house of representatives, and chairs of
6 the legislative committees with appropriate jurisdiction a report
7 summarizing by region and statewide the progress of commission
8 clients with individual plans for competitive and integrated
9 employment under Section 352.152, including de-identified
10 information about the:

- 11 (1) wages received by the individuals;
- 12 (2) unemployment rates of the individuals; and
- 13 (3) number of individuals moved from subminimum wage
14 settings to:

- 15 (A) competitive, integrated employment; and
- 16 (B) nonpaying activities.

17 (b) This section expires September 1, 2026.

18 Sec. 352.153. REQUIRED NOTICE TO CLIENT. (a) A client's
19 counselor shall provide notice to the client that the client has the
20 right to:

- 21 (1) choose the type of employment and employer the
22 client prefers; and
- 23 (2) decide when to work.

24 (b) At the time an individual with a disability begins
25 employment in a subminimum wage setting, the individual's employer
26 shall provide information about all opportunities to obtain
27 competitive, integrated employment with the employer.

1 SECTION 4. Not later than March 1, 2020, the Texas Workforce
2 Commission shall adopt rules necessary to implement Subchapter D,
3 Chapter 352, Labor Code, as added by this Act.

4 SECTION 5. If before implementing any provision of this Act
5 a state agency determines that a waiver or authorization from a
6 federal agency is necessary for implementation of that provision,
7 the agency affected by the provision shall request the waiver or
8 authorization and may delay implementing that provision until the
9 waiver or authorization is granted.

10 SECTION 6. This Act takes effect September 1, 2019.