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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 439

01/28/2021 Authored by Xiong, J.; Hassan; Gomez; Vang; Lee and others
The bill was read for the first time and referred to the Committee on Labor, Industry, Veterans and Military Affairs Finance and Policy

1.1 A bill for an act
1.2 relating to wages; eliminating subminimum wage; creating a task force on
1.3 eliminating subminimum wage; repealing statute and rules allowing payment of
1.4 subminimum wage to employees with disabilities; requiring a report; appropriating
1.5 money; amending Minnesota Statutes 2020, section 177.24, by adding a
1.6 subdivision; repealing Minnesota Statutes 2020, section 177.28, subdivision 5;
1.7 Minnesota Rules, parts 5200.0030; 5200.0040.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2020, section 177.24, is amended by adding a subdivision
1.10 to read:

1.11 Subd. 6. Subminimum wage. Notwithstanding any law to the contrary, beginning
1.12 August 1, 2025, an employer must not pay an employee with a disability less than the
1.13 minimum wage required by this section.

1.14 Sec. 2. TASK FORCE ON ELIMINATING SUBMINIMUM WAGE.

1.15 Subdivision 1. Purpose. The purpose of the task force on eliminating subminimum wage
1.16 is to develop and implement a plan to phase out payment of subminimum wage authorized
1.17 under Minnesota Statutes, section 177.28, subdivision 5, and Minnesota Rules, parts
1.18 5200.0030 and 5200.0040, on or before August 1, 2025.

1.19 Subd. 2. Membership. (a) The task force consists of the following members:

1.20 (1) two members of the senate, one appointed by the majority leader and one appointed
1.21 by the minority leader;

1.22 (2) two members of the house of representatives, one appointed by the speaker of the
1.23 house and one appointed by the minority leader;

- 2.1 (3) the commissioner of labor and industry or a designee;
- 2.2 (4) the commissioner of employment and economic development or a designee;
- 2.3 (5) the commissioner of human services or a designee;
- 2.4 (6) the commissioner of education or a designee;
- 2.5 (7) three members of organizations working to protect the rights and opportunities of
- 2.6 persons with disabilities selected by the commissioner of labor and industry;
- 2.7 (8) three employers authorized to pay subminimum wage pursuant to Minnesota Statutes,
- 2.8 section 177.28, subdivision 5, and Minnesota Rules, parts 5200.0030 and 5200.0040, selected
- 2.9 by the commissioner of labor and industry;
- 2.10 (9) one or more employees with a disability paid subminimum wage pursuant to
- 2.11 Minnesota Statutes, section 177.28, subdivision 5, and Minnesota Rules, parts 5200.0030
- 2.12 and 5200.0040, selected by the commissioner of labor and industry;
- 2.13 (10) one or more learners or apprentices paid subminimum wage pursuant to Minnesota
- 2.14 Statutes, section 177.28, subdivision 5, and Minnesota Rules, parts 5200.0030 and 5200.0040,
- 2.15 selected by the commissioner of labor and industry;
- 2.16 (11) a representative of the Department of Employment and Economic Development's
- 2.17 Vocational Rehabilitation Services division; and
- 2.18 (12) a representative of the State Rehabilitation Council.
- 2.19 (b) To the extent possible, membership on the task force under paragraph (a) shall reflect
- 2.20 geographic parity throughout the state.
- 2.21 (c) The commissioner of labor and industry shall appoint the members under clause (7)
- 2.22 so that the three most predominant percentages of individuals with disabilities utilizing
- 2.23 sheltered workshops are represented.
- 2.24 Subd. 3. **Appointment deadline; first meeting; chair.** Appointing authorities must
- 2.25 complete member selections by July 15, 2021. The commissioner of labor and industry shall
- 2.26 convene the first meeting of the task force by August 17, 2021. The task force shall select
- 2.27 a chair from among their members at their first meeting.
- 2.28 Subd. 4. **Compensation.** Members shall be compensated and may be reimbursed for
- 2.29 expenses as provided in Minnesota Statutes, section 15.059, subdivision 3.
- 2.30 Subd. 5. **Duties.** The task force shall:

3.1 (1) develop and implement a plan to phase out the payment of subminimum wage
3.2 authorized under Minnesota Statutes, section 177.28, subdivision 5, and Minnesota Rules,
3.3 parts 5200.0030 and 5200.0040, by August 1, 2025;

3.4 (2) identify and collaborate with employees, employers, businesses, organizations,
3.5 agencies, and stakeholders impacted by the phase out of subminimum wage on how to
3.6 implement the plan and create sustainable work opportunities for employees with disabilities;

3.7 (3) propose a plan to establish and evaluate benchmarks for measuring progress for each
3.8 year of the phase out;

3.9 (4) propose a plan to monitor and track outcomes of employees with disabilities;

3.10 (5) identify initiatives, investment, training, and services designed to improve wages,
3.11 reduce unemployment rates, and provide support and sustainable work opportunities for
3.12 persons with disabilities;

3.13 (6) identify benefits to the state in eliminating subminimum wage by August 1, 2025;

3.14 (7) identify barriers to eliminating subminimum wage by August 1, 2025, and make
3.15 recommendations for compliance; and

3.16 (8) identify and make recommendations for sustainable financial support, funding, and
3.17 resources for eliminating subminimum wage by August 1, 2025, including the cost of
3.18 implementing and providing ongoing employment services, training, and support for
3.19 employees with disabilities and the cost of paying minimum wage to employees with
3.20 disabilities.

3.21 Subd. 6. **Report.** The task force shall report to the chairs and ranking minority members
3.22 of the committees in the senate and the house of representatives with primary jurisdiction
3.23 over employment and wages and health and human services by January 14, 2023, with
3.24 recommendations to eliminate the payment of subminimum wage authorized under Minnesota
3.25 Statutes, section 177.28, subdivision 5, and Minnesota Rules, parts 5200.0030 and 5200.0040,
3.26 by August 1, 2025, and any legislation or rulemaking required to implement the
3.27 recommendations.

3.28 Subd. 7. **Administrative support.** The commissioner of labor and industry shall provide
3.29 meeting space and administrative services to the task force.

3.30 Subd. 8. **Sunset.** The task force sunsets August 31, 2023.

4.1 Sec. 3. **APPROPRIATION.**

4.2 \$..... in fiscal year 2022 is appropriated from the general fund to the commissioner of
4.3 labor and industry for the task force on eliminating subminimum wage.

4.4 Sec. 4. **REPEALER.**

4.5 Minnesota Statutes 2020, section 177.28, subdivision 5, and Minnesota Rules, parts
4.6 5200.0030; and 5200.0040, are repealed effective August 1, 2025.

177.28 POWER TO MAKE RULES.

Subd. 5. **Rules regarding people with disabilities.** In order to prevent curtailment of opportunities for employment, avoid undue hardship, and safeguard the minimum wage rates under sections 177.24 and 177.25, the department shall also issue rules providing for the employment of disabled workers at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and for periods of time as specified therein. The rules must provide for the employment of learners and apprentices at wages lower than the wage rates applicable under sections 177.24 and 177.25, under permits and subject to limitations on number, proportion, length of learning period, occupations, and other conditions as the department may prescribe. The rules must provide that where a disabled person is performing or is being considered for employment where work must be performed which is equal to work performed by a nondisabled person, the disabled person must be paid the same wage as a nondisabled person with similar experience and skill.

5200.0030 SUBMINIMUM WAGE RATES FOR WORKERS WITH DISABILITIES.

Subpart 1. **Permit required.** Subminimum wage rates may be paid to workers with disabilities only after receiving a permit from the Labor Standards Division. If no permit is issued, a worker, no matter how severely disabled, shall be paid the minimum wage. The subminimum rate will be based on the extent to which the worker's performance is limited but in no case may it fall below 50 percent of minimum wage, except as provided under subpart 4. "Performance" is based on a time study of workers with disabilities as compared to a time study of nondisabled workers on the same job. The time study must be conducted under the same working conditions for the disabled and the nondisabled.

Subp. 2. **Limit on work force at subminimum wage.** No profit-making organization may employ disabled workers at a subminimum wage for more than ten percent of its total work force unless granted a special permit by the commissioner of labor and industry to exceed the ten percent limitation.

Subp. 3. **Rehabilitation facilities.** Rehabilitation facilities are excluded from the percentage limitations of numbers of employees and percentage of minimum wage contained in subparts 1 and 2, but not from the permit requirement.

Subp. 4. **United States labor permits.** Permits issued by the United States Department of Labor under Code of Federal Regulations, title 29, part 524 or 525, authorizing subminimum wage rates shall be accepted by the division in lieu of the permit required in subpart 1. Where the worker would otherwise be employed in a rehabilitation facility, the commissioner of labor and industry may grant a special permit authorizing a wage rate of less than 50 percent of the minimum wage.

5200.0040 EQUAL PAY FOR WORKERS WITH DISABILITIES.

Where a person with a disability is now performing or is being considered for employment where he or she will perform work which is equal to work performed by a nondisabled person, such person with a disability shall be paid the same wage as a nondisabled person with similar experiences.