

# Senate Bill 494

Sponsored by Senator GELSER, Representative PILUSO (Pre-session filed.)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires employers who are authorized to pay subminimum wages to individuals with disabilities to pay certain wage rates until June 30, 2023. Requires employers to pay individuals with disabilities at minimum wage rate by July 1, 2023.

Removes individuals with disabilities from category of persons for whom employers may pay subminimum wage.

Lowers percentage of work hours of direct labor required for nonprofit organization to meet definition of "qualified nonprofit agency for individuals with disabilities."

Requires Oregon Department of Administrative Services to promote public agency compliance with requirements and objectives of provisions regarding qualified nonprofit agencies for individuals with disabilities.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

1  
2 Relating to employment of individuals with disabilities; creating new provisions; amending ORS  
3 279.835, 279.840, 279.845 and 653.030; and prescribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS 653.010 to**  
6 **653.261.**

7 **SECTION 2. (1) An employer who is authorized to employ individuals with disabilities at**  
8 **subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c) or in ac-**  
9 **cordance with rules under ORS 653.030 or of the Department of Human Services may not**  
10 **employ or agree to employ individuals with disabilities at an hourly rate lower than:**

11 (a) From July 1, 2020, to June 30, 2021, \$9.25.

12 (b) From July 1, 2021, to June 30, 2022, \$10.75.

13 (c) From July 1, 2022, to June 30, 2023, \$12.50.

14 (2) After June 30, 2023, an employer who is authorized to employ individuals with disa-  
15 bilities at subminimum wage pursuant to a special certificate issued under 29 U.S.C. 214(c)  
16 or in accordance with rules under ORS 653.030 or of the Department of Human Services may  
17 not employ or agree to employ individuals with disabilities at a rate lower than the hourly  
18 rate required under ORS 653.025.

19 **SECTION 3. ORS 653.030 is amended to read:**

20 653.030. The Commissioner of the Bureau of Labor and Industries shall issue rules prescribing  
21 the employment of other types of persons at fixed minimum hourly wage rates lower than the mini-  
22 mum wage rate required by ORS 653.025, when the commissioner has determined that the applica-  
23 tion of ORS 653.025 would substantially curtail opportunities for employment for specific types of  
24 persons. The types of persons for whom a minimum hourly wage rate may be set are limited to  
25 persons [*with mental or physical disabilities or*] who are student-learners, as defined in ORS 653.070.

26 **SECTION 4. ORS 279.835 is amended to read:**

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

279.835. As used in ORS 279.835 to 279.855:

(1) "Department" means the Oregon Department of Administrative Services.

(2) "Direct labor" includes *[all work required for preparation, processing and packing]* **all hours directly related to the performance of a service or manufacture of a product**, but not supervision, administration, inspection and shipping.

(3) "**Disability**" means a **physical or mental impairment that substantially limits one or more major life activities**.

[(3)] (4) "Individual with a disability" means an individual who, because of the nature of disabilities, *[is not able to participate fully in competitive employment, and for whom specialized employment opportunities must be provided]* **relies upon specialized employment services to find, secure and maintain employment**.

[(4)] (5) "Public agency" or "public contracting agency" means any agency of the State of Oregon or any political subdivision thereof authorized by law to enter into public contracts and any public body created by intergovernmental agreement.

[(5)] (6) "Qualified nonprofit agency for individuals with disabilities" means a nonprofit *[activity center or rehabilitation facility]* **organization**:

(a) Organized under the laws of the United States or of this state and operated *[in the interest of]* **to provide training or employment for** individuals with disabilities **in this state**, and the net income of which does not inure in whole or in part to the benefit of any shareholder or other individual;

(b) That complies with any applicable occupational health and safety standard required by the laws of the United States *[or]* **and** of this state; and

(c) That in the manufacture of products and in the provision of services, whether or not the products or services are procured under ORS 279.835 to 279.855, during the fiscal year employs individuals with disabilities for not less than *[75]* **51** percent of the work hours of direct labor required for the manufacture or provision of the products or services.

**SECTION 5.** ORS 279.840 is amended to read:

279.840. The purpose of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335 is to further the policy of this state to encourage and assist individuals with disabilities to achieve maximum personal independence **within their communities** through *[useful and]* productive gainful employment by assuring an expanded and constant market for *[sheltered workshop and activity center]* products and services **produced by qualified nonprofit agencies for individuals with disabilities**, thereby enhancing their dignity and capacity for self-support *[and minimizing their dependence on welfare and need for costly institutionalization]*.

**SECTION 6.** ORS 279.845 is amended to read:

279.845. (1) It is the duty of the Oregon Department of Administrative Services to:

(a) Determine the price of all products manufactured and services offered for sale to the various public agencies by any qualified nonprofit agency for individuals with disabilities. The price shall recover *[for the workshops]* the cost of raw materials, labor, overhead, delivery costs and a margin held in reserve for inventory and equipment replacement;

(b) To revise such prices from time to time in accordance with changing cost factors; *[and]*

(c) To make such rules regarding specifications, time of delivery and other relevant matters of procedure as shall be necessary to carry out the purposes of ORS 279.835 to 279.855, 279A.025 (4) and 279C.335*[.]*; **and**

**(d) To promote the requirements under ORS 279.835 to 279.855.**

1           (2) The department shall establish and publish a list of sources or potential sources of products  
2 produced by any qualified nonprofit agency for individuals with disabilities and the services provided  
3 by any such agency[, *which*] **that** the department determines are suitable for procurement by public  
4 agencies pursuant to ORS 279.835 to 279.855, 279A.025 (4) and 279C.335. This procurement list and  
5 revisions thereof shall be distributed to all public purchasing officers.

6           (3) The department may not delegate any duty imposed under this section to any person or  
7 public agency outside of the department.

8           **SECTION 7. This 2019 Act takes effect on the 91st day after the date on which the 2019**  
9 **regular session of the Eightieth Legislative Assembly adjourns sine die.**

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