

3/18/21

Dear Committee Members,

Thank you so much for the opportunity to talk with you about the important issue of commensurate “subminimum wages”. I am here today to urge you to oppose HF439 and support a full range of employment options for people with disabilities.

My name is Dawn Kovacovich and I am a retired Special Education and classroom teacher in Northern Hubbard County. My husband and I have raised three children, including our daughter, Laura, who is multi-handicapped. The extent of her special needs has dominated much of our family life since she was born. The threats to eliminate the services, routines, and quality of life she currently knows is constantly at the forefront of our concerns. Looking after the needs of our most vulnerable is the responsibility of everyone, so we hope that the issue of subminimum wages does not become a politically polarized issue. I believe it is a largely misunderstood issue. It is certainly not about “equality”.

Commensurate “subminimum wages” were established under section 14c of the Fair Labor Standards Act as a *disability accommodation* that allows people to work at their own ability level and pace. It is an economically feasible model of compensation that allows employment agencies, primarily nonprofit DT&H centers, to provide otherwise unemployable people the dignity and purpose of having the choice to work like other adults in their community. Like our constitution, it has stood the test of time. It serves no benefit to anyone to eliminate this provision, as it will not magically make people more employable. People with mild disabilities who are able to successfully work in competitive settings are either already doing so or will not be prevented from doing so in the future, with or without this provision. This action will simply make it unfeasible for any employer, including nonprofit organizations, to hire people with significant disabilities. The logical result will be total unemployment and closure of supported work centers.

Current trends toward buzzwords like “Fully Integrated Competitive Community Employment” have been promoted through the national Employment First movement, based on the *notion* that all people are capable, interested, and best served by employment in competitive jobs in the community. States and advocacy agencies across the US have jumped on the bandwagon without researching or even investigating the potential outcomes of this initiative. Typically, good legislation will provide unbiased data and research to justify changes in the law, as well as reasonably predict the effects of the change. No part of this proposed legislation or even the notions promoted by Employment First have ever been proven to be true. In fact, individuals and groups like MNFAC, have analyzed the limited data available through the Institute for Community Inclusion and the 2020 Civil Rights Commission and have found horribly flawed information, contradictory data, and even contradictory conclusions. One of the biggest flaws in this limited research is that all disabled people, from very mild to very severe, are clumped into one big category. This action alone makes every bit of gathered data irrelevant.

Federal law requires the Department of Employment and Economic Development to annually interview every client who receives special minimum wages to see if they are interested in working in the competitive, mainstreamed workforce. **In 2019, 9,900 people were interviewed in the state of Minnesota, with 83% of them indicating satisfaction with their current working situation and not interested in pursuing competitive employment.** In most cases, these people had already demonstrated that they are not able to successfully work outside of a supported work setting and/or work at an average level of productivity.

This data indicates the **nearly 10,000 Minnesotans will be displaced** from an employment situation that is currently working for them if 14c provisions are eliminated. This potential outcome will be devastating for not only the disabled people who will be displaced, but also to their families who will be forced to absorb the impact of closure of work centers. In contrast to unverified propaganda, the majority of people who utilize work centers actually love to be there. In rural areas, like much of Minnesota, these centers serve as community hubs for people with disabilities. Even if suitable jobs with consistent, competent supervision were available, which is typically not the case, these primarily non-profit organizations provide support services, transportation, life enrichment activities, and developmentally appropriate opportunities for socialization. They are typically safe, vibrant, and cheerful community environments filled with people who want to be there. Many significantly disabled people, like my daughter, thrive on predictable routines and repetitive activities. She absolutely loves to work because it fills those needs, along with her emotional need to feel like a productive member of her community. Many of the people who will be displaced have worked in their positions for 30 years or more.

The 2020 Civil Rights Commission Report notes that the amount of public comment received during its hearings and receipt of public comments was the largest it has seen in 13 years, with **9,700 submissions, and 98% of comments received support the continuation of Section 14(c)**. The Report recommendations ignored these public comments. Court appointed legal guardians, like me, are extremely frustrated that after spending half our lives looking after the often severe disability needs of our family members, our recommendations are being disregarded in favor of a political bandwagon promoted by people who either don't understand the full impacts of the law or haven't even considered the point of view of a severely handicapped person who might happen to love their daily working routine. The Least Restrictive Environment Laws in our public schools recognize the need for a full array of options for the broad range of abilities of children on IEPs. Once these children turn 21 and leave school, we cannot expect their disabilities to suddenly change to the point where every one of them is capable of independent, competitive employment. It is simply unrealistic.

Our family has found it necessary to come to realistic terms regarding Laura's current abilities and her future. She is a vulnerable adult who needs a fully supported living and working environment, both for her own safety and for the safety of others around her. We live in a very competitive, capitalistic society where disruptive behavior, high anxiety, and low productivity are generally not tolerated in the workplace. A baseline capability is necessary for any entry level job in the competitive community. For those who do not have that baseline capability, the special wage provisions in 14C allows them to work in a supported setting at their own pace to the best of their ability. Many of these people, like our daughter, have a mix of abilities that if given a supported environment, can help them reach full potential. Without support, they are relegated to isolation at home and no purposeful daily goals.

Integration should not be defined only from the perspective of a non-disabled adult mixing a few disabled people into a group. True integration would be an *even split* of both disabled and nondisabled people. The choice of with whom to live and work, according to our Constitution, is a civil right. **An uneven distribution, having mostly disabled people among a few nondisabled people should be just as acceptable and common as the current "assumed" definition that nondisabled people should be in the majority.** There is absolutely no data to prove that all disabled people are better off or happier mixed with nondisabled people. Shut down of work centers, which will be the inevitable result of elimination of 14c, will actually destroy whole communities of people who voluntarily gather in a safe setting with friends and trusted coworkers every day. The notion that these centers, as well as businesses like the Bearly Used Thrift Store in Park Rapids, which uses a reverse integration model with a majority of disabled employees with a few nondisabled supervisors who love working with the handicapped, are not "part of the community" is also unfounded. If that were the case, every manufacturing, retail, and/or craft producing job in America should also be labeled as not part of the community.

Opportunities to work competitively, set goals for independence, and reaching one's full potential should always be part of a full array of employment options. Denial of these options is discriminatory to disabled people. **On behalf of my daughter and her friends and coworkers, I am urging you to understand that denial of options to work at their own abilities in a least restrictive environment where they can meet their full potential, is also discriminatory.** They have the right to chose to be together with other disabled people as well.

Elimination of subminimum wages will lead to closure of supported work centers and a quality of life that at least 9,900 Minnesotans and their families have already indicated that they wish to preserve. We are not ready to accommodate the displacement of this many people without realistic alternatives. Supported work options, like the Bearly Use Thrift Store, can be profitable, thriving businesses in small communities that make it possible for people with severe disabilities to be successfully employed without being a burden to our DHS system. Instead of eliminating these options, our state should be looking at how they can expand options for all Minnesotans.

In his 09/29/2015 Olmstead ruling, the Honorable Judge Frank made some notable statements that appear to support the protection of the 14(c) special minimum wage certificate. These include:

1. "In approving the revised Olmstead Plan, the Court also takes this opportunity to respond to those who have expressed fears about the plan's purported harmful effects. The Court has received numerous submissions from concerned community members, parents, and advocates expressing fears that the Olmstead Plan will lead to fewer choices and diminished respect for individuals who choose not to fully integrate into community-based settings. **Many individuals with disabilities in this state value living and working alongside other individuals with disabilities in settings such as group homes and sheltered workshops**".
2. "The Court emphasizes that the Olmstead decision is **not about forcing integration upon individuals who choose otherwise or who would not be appropriately served in community settings**".
3. "The goal of placing individuals with disabilities in the most integrated setting must be **balanced against what is appropriate and desirable for the individual**". Minnesotans should celebrate that their state supports

Along with other advocates, guardians, and stakeholders, I would love to work together with our lawmakers on a task force to help improve disability services and think outside of the box to reduce Medicaid costs with out reducing the quality of life for ALL individuals with disabilities, from mild to severely handicapped. Please reject the current proposal, to eliminate special subminimum wage with no plan in place or accommodation for a wide range of needs. It is economically unfeasible and will displace nearly 10,000 people.

Minnesotans should celebrate that their state supports 14(c) as an option for people with I/DD to make a wage based on their productivity that provides real solutions to hundreds of businesses in our local communities. Thank you again for taking time to consider this very important information.

Sincerely,
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