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TRANSFORMATION TO COMPETITIVE EMPLOYMENT ACT (H.R. 873/S. 260)

Most people with disabilities want to work, live independently and be economically self-sufficient. Unfortunately, employment for people with disabilities continues to lag significantly compared to those without disabilities. For too many people with disabilities, their only option is to work in segregated settings called “sheltered workshops,” where they are isolated from co-workers without disabilities and the broader society and are legally paid pennies on the dollar under Section 14(c) of the Fair Labor Standards Act (FLSA).

The bipartisan *Transformation to Competitive Employment Act (H.R. 873/S. 260)* will address barriers to employment and expand opportunities for competitive integrated employment for people with disabilities while phasing out subminimum wage certificates under 14(c) of the FLSA over a six-year period. This bill was introduced in the Senate by Senators Bob Casey (D-PA) and Chris Van Hollen (D-MD) and in the House by Chairman Bobby Scott (D-VA) and Representative Cathy McMorris Rodgers (R-WA).

CPR, along with the Collaboration to Promote Self Determination (CPSD), strongly supports this bill that will end the discriminatory and unfair payment of subminimum wages to people with disabilities while increasing opportunities for competitive integrated employment. The Transformation to Competitive Employment Act will:

- **Create a competitive state grant program** to help states transition the business models of 14(c) certificate holders to support competitive integrated employment for individuals with disabilities. States will be able to apply for these transformation grants and must establish an advisory committee that includes employers, organizations specializing in employment for individuals with disabilities, people with disabilities, and state Medicaid and vocational rehabilitation agencies.
- **Create a competitive grant program for current 14(c) certificate holders** located in states that do not apply for the state grants to transition their business models to support individuals with disabilities in competitive integrated employment.
- **End the payment of subminimum wages to people with disabilities under Section 14(c) of the FLSA** by immediately ending the issuance of any new 14(c) certificates by the Department of Labor and phasing out the use of existing 14(c) certificates over six years until employees are paid the federal minimum wage.
- **Establish a national technical assistance (TA) center to support all entities**, even those not receiving the transformation grants, to transition to competitive integrated employment. The TA center will disseminate information about best practices, lessons learned, and models for transition to all entities transitioning to competitive integrated employment.
- **Require reporting and evaluation** on the progress of creating and expanding the service delivery structure to support workers with disabilities in competitive integrated employment and with inclusive wraparound services when not working. States and 14(c) certificate holders will be

required to report on their grant activities, evaluate changes in employment for individuals with disabilities, report average wage information, and evaluate employer actions taken to comply with the phase-out of 14(c) and transformation grants.

Why is the capacity-building component of this bill so important?

All people with disabilities deserve opportunities for competitive integrated employment. A phase out of 14(c) must also include a systematic approach to expand capacity for competitive integrated employment, particularly for people transitioning out of sheltered workshops. The grants provided under this bill would provide technical assistance and funding to help states and 14(c) certificate holders move to a paradigm of more integrated and innovative approaches to disability employment. The grants would bring stakeholders together to develop the system infrastructure and align funding for competitive integrated employment and ensure that ending the subminimum wage is done thoughtfully to avoid unintended consequences for individuals with disabilities. This imperative for capacity-building efforts to accompany a 14(c) phase out is emphasized in the report to Congress from the WIOA Advisory Committee.¹ The *Transformation to Competitive Employment* bill aligns the Committee's recommendations and will help people with disabilities transition to competitive integrated employment opportunities in a careful and responsible way.

Why is it important to phase out subminimum wage under Section 14(c)?

Section 14(c) of the FLSA enables public and private employers to obtain special certificates from the Department of Labor to pay workers with disabilities at rates well below the current federal minimum wage, often pennies on the dollar. This law, created in 1938, is outdated, discriminatory, and reinforces a life of poverty, segregation, and dependency on public support for people with disabilities.

In passing the bipartisan Workforce Innovation Opportunity Act (WIOA) of 2014, Congress made clear that competitive integrated employment – where people with disabilities work in mainstream jobs alongside, and are paid comparable wages to, co-workers without disabilities – is a national priority. The broader disability community, the Advisory Committee created by Congress in WIOA, the National Council on Disability and others have all called for a phase-out of subminimum wage.²

Legislative request

Please sign on to cosponsor the **Transformation to Competitive Employment Act (H.R. 873/S. 260)** by contacting Phoebe Ball with Chairman Scott on the House Committee on Education & Labor (phoebe.ball@mail.house.gov) or Michael Gamel-McCormick with Senator Casey on the Senate Committee on Aging (Michael_Gamel-McCormick@aging.senate.gov).

If you have any questions, or to follow up, please reach out to Alison Barkoff, Director of Advocacy at CPR and Policy Advisor to CPSD (abarkoff@cpr-us.org).

¹ See *Advisory Committee on Increasing Competitive Integrated Employment for Individuals with Disabilities, September 15, 2016 Report* (Committee Report) at 28-32, available at https://www.dol.gov/odep/topics/pdf/ACICIEID_Final_Report_9-8-16.pdf.

² See *Committee Report; National Council on Disability, From the New Deal to the Real Deal: Joining the Industries of the Future* October 2018 Report, available at https://ncd.gov/sites/default/files/New%20Deal%20to%20Real%20Deal%20FINAL_508.PDF.