



EQUALITY ♦ LAW ♦ JUSTICE

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Neutral for HB 2416

House Commerce, Labor & Economic Development Committee

February 6, 2020

Chairman Tarwater and members of the Committee:

My name is Mike Burgess. I am the Director of Policy & Outreach at the Disability Rights Center of Kansas (DRC). DRC is a public interest legal advocacy organization that is part of a national network of federally mandated organizations empowered to advocate for Kansans with disabilities. DRC is the officially designated protection and advocacy system in Kansas. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of state government and whose sole interest is the protection of the legal rights of Kansans with disabilities.

While DRC appreciates the work of the bill sponsors to bring forward ideas to work to help increase employment opportunities for Kansans with disabilities, we have some concerns with the bill as drafted.

As we talked with other disability advocates, we sensed some unease with the bill and wanted to work to ensure Kansas takes advantage of this opportunity to help improve employment outcomes for Kansans with disabilities and went to work to come up with language to make it more effective and align it with federal law.

We worked with the folks at COF as well as disability advocates to come up with language to address those concerns. With our amendment, we move from neutral to a strong supporter of the bill.

While this bill is not going to be a magic bullet, it can serve as an important tool to increase competitive integrated employment opportunities for Kansans with disabilities.

Amendment being offered by the Disability Rights Center of Kansas to HB 2416

Below provides a little background and the reason for each change.

- It includes a technical amendment fixing language in the bill to make the definition of competitive and integrated employment follow the federal definition in the Workforce Innovation and Opportunities Act of 2012 (WIOA) as well as fixing other technical issues in the bill to carry out the intent of the bill drafter.
- **Amendment Language: Delete “competitive” employment references and definitions. Delete “integrated” employment references and definitions. In their place insert the federal definition in WIOA of “competitive integrated” employment and use the term “competitive integrated” throughout the remainder of the bill.** (I have included the definition in the federal law later in my testimony.)
- **Amendment Language: Page 2, line 19, after Kansas by adding the following “, federal program unearned income funded at least in part with state general fund dollars, or Supplemental Security Income or Social Security Disability Insurance received by virtue of meeting the Social Security definition of disability.”**
 - This will fix language to ensure the drafter’s intent regarding unearned income is carried out.

- **Amendment Language: Page 2, line 22, add “or disability, including federal program unearned income funded at least in part with state general fund dollars or Supplemental Security Income or Social Security Disability Insurance received by virtual of meeting the Social Security definition of disability.”**
 - This will fix language to ensure the drafter’s intent regarding the definitions is carried out and also make clear individuals who receive income from either SSI disability or SSDI would be eligible employees under this bill (as was always the intent).
- **Amendment Language: Page 2, line 13-14, deleting “for at least 2080 hours”. Also, on page 2, line 32, delete “at least 2080 hours”.**
 - This will fix language in the bill inadvertently saying each individual employee must work full time (2080 hours) to allow for the tax credit. That was not the intent. Most people with disabilities do not work a full 2080 hours per year. Additionally, this would ensure small businesses would be able to benefit from this tax credit. Because a huge percentage of small businesses have few employees, this will help ensure more people with disabilities are hired under this incentive. Many small businesses would have great difficulty meeting the 2080 hour threshold in the bill, and this amendment fixes that. Also, disproportionately rural communities have more small businesses.
- Provide an enhanced tax credit to the targeted employment business if the employee is placed in the targeted employment business by either a community service provider or vocational rehabilitation (VR) contracted provider.
 - **Amendment Language: Page 2, line 38, after country by adding “or if the eligible individual is placed in the targeted employment business by either a community service provider or vocational rehabilitation contractor.”**
 - **Amendment Language: In the definitions section, add the definition “Vocational rehabilitation contractor” means an entity contracted with vocational rehabilitation services of the Kansas department for children and families.”**
- The sponsor organization would like to make a small change in Section 3 to accomplish their original intent of the bill to allow a taxpayer outsourcing work to a Targeted Employment Businesses to get benefit from it. This is an important tool to help incentivize work for the Targeted Employment Businesses.
 - **In Section 3 of the bill, add “or a taxpayer outsourcing work to a targeted employment business”**
- The goal of this bill is to not only get jobs for Kansans with disabilities, but to help address barriers for that prevent them from having career paths. The amendment further incentivize the tax credit by making the credit a percentage of the eligible employee’s wages, instead of a flat amount of \$4 or \$6 per hour. This will help in hiring people with disabilities and other eligible employees hopefully at wages higher than minimum wage, as tax credit is based on the percentage of compensation. These percentages were selected as \$4 is approximately 55% of the current minimum wage and \$6 is approximately 80% of the current minimum wage.
 - **Amendment Language: Page 2, line 36, by striking “\$4 per hour” and inserting “55% of the gross wages paid to the eligible individual”. Further, on Page 2, line 36, by striking “\$6 per hour” and inserting “80% of the gross wages paid to the eligible individual”.**
- Have the Kansas Dept. for Aging and Disability Services (KDADS) develop a plan to make Kansas I/DD HCBS Waiver rates incentivized towards the preferred outcome detailed in the Kansas Employment First Initiative act of competitive integrated employment for Kansans with disabilities. The department will create this plan by engaging with Kansas disability stakeholders and national outside expertise. This process would also develop a plan to assist providers with transformation to come into compliance with the Kansas Employment First law and federal requirements (final settings

rule and WIOA). These are things that the department has said it wants and are also incredibly important to the IDD advocacy community.

- **Amendment Language: Page 3, line 15, by adding a new Sec. 8 with the following language: “Pursuant to the requirements of the the Kansas Employment First Initiative Act, K.S.A. 44 1136 to 1138, which requires competitive integrated employment must be the first option when serving people with disabilities of working age, the Kansas department for aging and disability services will develop a detailed plan to make adjustments to rates paid under the intellectual and developmental disability home and community based services Medicaid waiver program by incentivizing such rates towards the outcome of competitive integrated employment. As part of this planning process, the department will also develop a plan to help providers through transformation grants, training, technical assistance, and other measures to assist with the transitions necessary to come into compliance with current or pending changes at the federal level regarding competitive integrated employment and Kansas’ Employment First Initiative Act. In developing this plan, the department will engage outside experts who will work closely with Kansas disability stakeholders, including disability service providers, self-advocates with disabilities, disability organizations, the federally designated developmental disability network, and parents/family members. The department will report the results of and any actions taken pursuant to that planning process to members of the Kansas Legislature by no later than the start of the 2021 legislative session.”**
- Below is the full language from the federal law defining competitive integrated employment. This language below would take the place of the two separate definitions of “competitive” employment and “integrated” employment in the bill. Also, wherever “competitive” and or “integrated” was use in the bill, it would be replaced with the term “competitive integrated”.

(1) *Competitive integrated employment* means work that -

(i) Is performed on a full-time or part-time basis (including self-employment) and for which an individual is compensated at a rate that-

(A) Is not less than the higher of the rate specified in section 6(a)(1) of the [Fair Labor Standards Act of 1938 \(29 U.S.C. 206\(a\)\(1\)\)](#) or the rate required under the applicable [State](#) or local minimum wage law for the place of employment;

(B) Is not less than the customary rate paid by the employer for the same or similar work performed by other employees who are not individuals with disabilities and who are similarly situated in similar occupations by the same employer and who have similar training, experience, and skills; and

(C) In the case of an individual who is self-employed, yields an income that is comparable to the income received by other individuals who are not individuals with disabilities and who are self-employed in similar occupations or on similar tasks and who have similar training, experience, and skills; and

(D) Is eligible for the level of benefits provided to other employees; and

(ii) Is at a location –

(A) Typically found in the community; and

- (B) Where the employee with a disability interacts for the purpose of performing the duties of the position with other employees within the particular work unit and the entire work site, and, as appropriate to the work performed, other persons (*e.g.*, customers and vendors), who are not individuals with disabilities (not including supervisory personnel or individuals who are providing services to such employee) to the same extent that employees who are not individuals with disabilities and who are in comparable positions interact with these persons; and
- (iii) Presents, as appropriate, opportunities for advancement that are similar to those for other employees who are not individuals with disabilities and who have similar positions.

Thank you for the opportunity to speak on this bill. Even though we are neutral on the bill as drafted, we would be a strong supporter with our amendment added to the bill. I would be happy to stand for questions at the appropriate time.