



Legislation Text

File #: 23-1469, **Version:** 1

Resolution Directing the City Administrator to Advocate for the Michigan Legislature to End the Use of 14(c) Certificates and Subminimum Wage in the State of Michigan

Whereas, Section 14(c) of the Fair Labor Standards (Act) authorizes employers, after receiving a certificate from the United States Department of Labor's Wage and Hour Division, to pay wages less than minimum wage, or subminimum wage, to workers who have disabilities;

Whereas, The Act places no limit on how little an employee with a disability can be paid but does not allow such provisions for underperforming employees;

Whereas, 63 percent of 14(c) employees in Michigan earned a subminimum wage of \$3/hour, with nearly half of this group earning less than \$2/hour and 23 percent of this group earning less than \$1/hour, while the state's minimum wage rests at an already low \$10.10/hour¹;

Whereas, In 2019, nearly half of all people with disabilities in Michigan lived below the ALICE (Asset Limited, Income Constrained, Employed) threshold of financial survival²;

Whereas, People with disabilities are more likely to become impoverished and people living in poverty are more likely to have or acquire a disability or have their existing disability exacerbated by poverty³;

Whereas, 2020 Census data shows that as the US population ages, more people than ever before identify as having a disability⁴;

Whereas, The rate of non-white people with disabilities is disproportionately higher than the rate of white people with disabilities, contributing to an increase in the rates and types of discrimination experienced⁵;

Whereas, The lack of regulation of the 14(c) program by agencies such as the Department of Labor (DOL) and the Department of Justice (DOJ) has exacerbated the exploitation of 14(c) employees⁶;

Whereas, Paying wages based on ability violates Article 23 of the United Nations' Universal Declaration of Human Rights⁷;

Whereas, Governor Whitmer's 'Make it in Michigan' plan commits to growing the state economy, but paying individuals poverty-inducing wages limits a person's ability to meaningfully contribute⁸;

Whereas, In 2002, Vermont became the first state to ban subminimum wage and has experienced some of the highest rates of employment and highest median annual income among people with disabilities in the country⁹;

Whereas, 13 states have eliminated the use of subminimum wage prior to 2023. Since then, 5 more states have advanced in approving a multi-year phase-out process, with several other states in various stages of eliminating subminimum wage¹⁰;

Whereas, Some states that have banned 14(c) certificates and subminimum wage have used a multi-year phaseout plan that invests in resources to help affected employees find competitive integrated employment (CIE) at minimum wage or higher¹¹;

Whereas, Michigan law currently allows the use of subminimum wage;

Whereas, Michigan law also prohibits local governments from locally banning the use of subminimum wage;

Whereas, The City of Ann Arbor strives to be an accessible and equity-focused City where everyone, regardless of their abilities, can thrive;

RESOLVED, The Ann Arbor City Council does not support the Fair Labor Standards Act's permitting of 14(c) certificates or subminimum wage; and

RESOLVED, The Ann Arbor City Council strongly discourages local businesses and other City employers from seeking a 14(c) certificate to pay a subminimum wage to any employee; and

RESOLVED, The Ann Arbor City Council believes that every person should be paid a livable wage that, at minimum, is consistent with an area's prevailing minimum wages, without exception; and

RESOLVED, The Ann Arbor City Council directs the Ann Arbor City Administrator to engage with the Michigan State Legislature to advocate for the end of the use of 14(c) certificates and subminimum wage throughout the State of Michigan; and

RESOLVED, The Ann Arbor City Council urges the Michigan State Legislature to adopt a multi-year phaseout plan informed by the US DOL's Office of Disability Employment Policy (ODEP) CIE program area¹².

Sponsored by: Councilmembers Ghazi Edwin, Harrison, Radina, Akmon and Eyer

1. Michigan Department of Health and Human Services, *Employment First In Michigan*, September 2014.
2. United for ALICE, "Financial Hardship Among People With Disabilities: Michigan," ALICE in Focus, July 2022, <http://www.unitedforalice.org/Attachments/ALICEInFocus/ALICE-in-Focus-Disabilities-Michigan.pdf>.
3. Michael Morris et al., "Closing the Disability Gap: Reforming the Community Reinvestment Act Regulatory Framework," *Georgetown Journal on Poverty Law and Policy* 26, No. 3, 2019: 355-382 <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/06/cra-closing-the-disability->
4. Jennifer Leppert and Katherine Schaeffer, "8 Facts About Americans With Disabilities," Pew Research

Center, July 24, 2023,

<https://www.pewresearch.org/short-reads/2023/07/24/8-facts-about-americans-with-disabilities/>.

5. Nanette Goodman et al., "Financial Inequality: Disability, Race and Poverty in America," National Disability Institute, February 2019, <https://www.nationaldisabilityinstitute.org/wp-content/uploads/2019/02/disability-race-poverty-in->
6. US Commission on Civil Rights, *Subminimum Wages: Impacts on the Civil Rights of People with Disabilities*, September 2020.
7. United Nations General Assembly, "Universal Declaration of Human Rights," United Nations, December 10, 1948, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.
8. Michigan Department of Health and Human Services, *Inclusive Employment*, ND.
9. Serres, Chris, "Today many disabled Vermont residents are thriving in the community - and the state is saving money," StarTribune, November 11, 2015, <https://www.startribune.com/vermont-took-a-bold-step-to-end-the-segregation-of-disabled-adults/330697181/>.
10. "2023 State Legislative Watch", APSE, updated May 1, 2023, [https://apse.org/state-legislation/#:~:text=Note%3A%20The%20following%20states%20have,%2C%20South%20Carolina%](https://apse.org/state-legislation/#:~:text=Note%3A%20The%20following%20states%20have,%2C%20South%20Carolina%20)
11. California Legislature, Senate Rules Committee, SB 639, 2021, p. 1-6.
12. US Department of Labor. Department of Disability Labor Policy. Competitive Integrated Employment (CIE). <https://www.dol.gov/agencies/odep/program-areas/cie>.