

BILL ANALYSIS

Senate Research Center
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H.B. 3685
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Natural Resources & Economic Development
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

According to interested parties, the description of persons engaged in rehabilitative work needs to be updated in the Labor Code to remove any presumption in statute that individuals with disabilities are not able to fully participate in the labor market. The legislation seeks to shift the paradigm, statutorily, from the belief that opportunities for individuals with disabilities in the workplace are limited to the belief that individuals with disabilities can fully participate in the workplace with the full rights and benefits of their colleagues who do not have disabilities.

H.B. 3685 acknowledges that enhanced training, accommodations, and new technologies in the workplace have allowed individuals with disabilities to be productive members of the workforce. H.B. 3685 amends the Labor Code as it relates to exceptions to employment for blind persons participating in certain rehabilitation work programs.

H.B. 3685 amends current law relating to the employment status of certain individuals engaged in rehabilitative work-training programs.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 201.067, Labor Code, as follows:

Sec. 201.067. New heading: REHABILITATIVE SERVICE; WORK RELIEF; EXCEPTION FOR SERVICES PERFORMED BY CERTAIN TRAINED INDIVIDUALS. (a) Provides that, in this subtitle, "employment" does not include service performed:

(1) by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury while the individual is in training at a sheltered workshop or other facility operated by a charitable organization under a rehabilitation program that includes:

(A) an individual plan for employment as required by 29 U.S.C. Section 722, as amended by the Workforce Innovation and Opportunity Act (Pub. L. No. 113-128);

(B) a timeline for completion of the training; and

(C) a planned employment outcome; or

(2) by an individual who receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.

Deletes existing text providing that, in this subtitle, "employment" does not include service performed by an individual who receives rehabilitative work or paying work in the employ of a facility that is conducted to carry out a program of rehabilitation for individuals whose earning capacity is impaired by age, physical impairment, other than blindness, or mental deficiency or injury; or an individual who provides paying work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market. Deletes existing text providing that, in this subtitle, "employment" does not include service performed by an individual who is blind while the individual is in training at a sheltered workshop operated by a charitable organization under a rehabilitation program that includes certain criteria set forth, or an individual who receives work relief or work training as a part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency, an agency of a state, a political subdivision of a state, or an Indian tribe.

(b) Provides that, notwithstanding Subsection (a)(1), in this subtitle "employment" includes service performed by an individual whose earning capacity is impaired by age, physical impairment, developmental disability, mental illness, or intellectual disability or injury, other than an individual compensated as provided by Section 62.057 (Patients and Clients of Texas Department of Mental Health and Mental Retardation), Labor Code, and who, after training, is working for a sheltered workshop or other facility operated by a charitable organization:

- (1) temporarily while awaiting placement in a position of employment in the competitive labor market; or
- (2) permanently because the individual is unable to compete in the competitive labor market.

Deletes existing text providing that notwithstanding Subsection (a), in this subtitle "employment" includes service performed by an individual who is blind and who, after training, is working for a sheltered workshop operated by a charitable organization temporarily while awaiting placement in a position of employment in the competitive labor market, or permanently because the individual is unable to compete in the competitive labor market.

SECTION 2. Effective date: January 1, 2016.