

ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE

February 28, 2022

1:04 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Liz Snyder, Vice Chair
Representative Harriet Drummond
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Christopher Kurka
Representative Sarah Vance

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 372

"An Act relating to exemptions from minimum wage."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 372

SHORT TITLE: ELIMINATE MINIMUM WAGE EXEMPTION

SPONSOR(S): REPRESENTATIVE(S) TUCK

02/22/22	(H)	READ THE FIRST TIME - REFERRALS
02/22/22	(H)	JUD, L&C
02/28/22	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE CHRIS TUCK
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: As prime sponsor, presented HB 372.

MYRANDA WALSO, Acting Executive Director
Governor's Council on Disabilities and Special Education
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on HB 372.

HEIDI LIEB-WILLIAMS, Chair
Governor's Council on Disabilities and Special Education
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on HB 372.

COREY GILMORE, Chair
Committee Inclusion, Supports and Services Committee
Governor's Council on Disabilities and Special Education
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony on HB 372.

RIC NELSON, Chair
Self-Advocacy and Leadership Committee
Governor's Council on Disabilities and Special Education
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony on HB 372.

MIKE MASON, Staff
Representative Chris Tuck
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: On behalf of Representative Tuck, prime sponsor, provided information during the hearing on HB 372.

TANYA KEITH, Program Manager
Wage and Hour
Labor Standards and Safety
Department of Labor and Workforce Development
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the hearing on HB 372.

PATRICK REINHART, Director
Alaska Mobility Coalition
Anchorage, Alaska

POSITION STATEMENT: Provided public testimony in support of HB 372.

ACTION NARRATIVE

[1:04:50 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 1:04 p.m. Representatives Vance, Drummond, Snyder, Kreiss-Tomkins, Eastman, and Claman were present at the call to order. Representative Kurka arrived as the meeting was in progress.

HB 372-ELIMINATE MINIMUM WAGE EXEMPTION

[1:05:26 PM](#)

CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 372, "An Act relating to exemptions from minimum wage."

[1:05:52 PM](#)

REPRESENTATIVE CHRIS TUCK, Alaska State Legislature, as prime sponsor, presented HB 372. He pointed out that HB 372 would eliminate a section of law which has not been used since 2018. He stated that in 2018 regulations which allowed employers to hire a worker with a physical or mental disability and pay this person subminimum wage had been repealed. He argued that the existence of the provision would provide for future regulations allowing a subminimum wage for workers with disabilities. He noted that work plays an important role in life, contributing to economic and social wellbeing, and many individuals with disabilities are actively employed and productive throughout Alaska. He maintained that paying a subminimum wage based on a disability is a discriminatory policy, and workers should never be paid less based on a perceived disability rather than demonstrated abilities. He maintained that the minimum wage is the "floor rather than the ceiling" for fair compensation.

[1:09:00 PM](#)

MYRANDA WALSO, Acting Executive Director, Governor's Council on Disabilities and Special Education, Department of Health and Social Services (DHSS) provided invited testimony on HB 372. She read excerpts from a document entitled, "HB 372 Supporting Document - GCDSE Letter 2.23.2022.pdf," [included in the committee packet]. She stated that the Governor's Council on Disabilities and Special Education (GCDSE) is an organization which works with community and state agencies, ensuring those with intellectual and developmental disabilities and their families receive services and supports, as well as participate in the planning and design of these services. She noted that, since the federal minimum wage was established in 1938, a

special reduced compensation rate was allowed for those with disabilities known as the "subminimum wage." She explained that the provision allows employers holding a 14(c) certificate from the United States Department of Labor to pay those with disabilities less than the federal or state minimum wage in place, using productivity rates as the sole factor in evaluating the performance of those with disabilities. She characterized the practice as discriminatory, creating a class of workers who are deemed less solely based on a disability; therefore, paid less compared to a standard of nondisabled coworkers. She referenced the letter, which read as follows [original punctuation provided]:

Can you imagine this being an acceptable standard to evaluate an individual because of their race? What if someone was required to meet a productivity quota in order to be paid the minimum wage only if they had a certain color skin? Or what if a woman could be paid less solely because she was pregnant or nursing? What if all individuals over the age of 65 had to prove they deserved to earn minimum wage at their job, but younger individuals did not? All of these scenarios are just as discriminatory and just as archaic as this provision in Alaska law to hold to the notion that an individual with a disability does not have the same standing in the job market, regardless of the quality of their work or their talents, gifts, abilities, and skills.

In Alaska, the Employment First Act requires vocational services be provided to help people with disabilities become gainfully employed at or above the minimum wage.

In 2018, the regulations enacting subminimum wages for those with disabilities was repealed by the State Department of Labor and Workforce Development. We strongly support the repeal of the statutory provision which would allow such a regulation to be reintroduced in the future. It is not acceptable for public policies to remain in effect which conflict with the basic premise that all those with disabilities are valuable members of society and have the same rights as everyone else to fully participate in all aspects of life, including gainful employment and the pursuit of economic self-sufficiency. We urge the legislature

to move forward with repealing this provision and ensuring the laws of Alaska reflect our values.

[1:11:58 PM](#)

HEIDI LIEB-WILLIAMS, Chair, Governor's Council on Disabilities and Special Education, Department of Health and Social Services, provided invited testimony on HB 372. She shared that she has lived with disabilities and has been designated as an Honoree of the Women's Federation for World Peace for the United States. She stated that, speaking as a disabled person, she and others experiencing disabilities have gifts and talents of value to offer in employment, and judging a person based on a disability and offering the person [less than minimum wage] is demeaning. She argued that repealing the provision in the law would acknowledge the skills and talents individuals with disabilities bring to employment. She urged the passage of HB 372.

[1:14:25 PM](#)

COREY GILMORE, Chair, Committee Inclusion, Supports and Services Committee, Governor's Council on Disabilities and Special Education, Department of Health and Social Services, provided invited testimony on HB 372. He noted that in 2018, GCDSE passed the Developmental Disability Shared Vision, which served to change the way people with disabilities receive services, and one of these services is helping to secure gainful employment. He related his personal experience of being judged by people based on the way he moves and talks. He shared that some individuals avoid talking directly to him in mixed company. He stated that he attended college and has many life pursuits. He characterized a job offer with a subminimum wage as subhuman and an insult to his intelligence. He urged the passage of HB 372.

[1:17:28 PM](#)

RIC NELSON, Chair, Self-Advocacy and Leadership Committee, Governor's Council on Disabilities and Special Education, Department of Health and Social Services, provided invited testimony on HB 372, with the aid of an interpreter. He offered biographical information. His interpreter read an excerpt from the committee packet item entitled, "HB 372 Supporting Document - GCDSE Member Statements 2.23.2022.pdf," which read as follows [original punctuation provided]:

This bill is so important because all people no matter their disability should get paid at least minimum wage

to do the same job as their able-bodied peers. Having a law that singles someone out as not deserving the same pay solely because of their disability is dehumanizing. As a person with a disability who has worked hard to have a successful career and earned a master's degree, I find that this statute reinforces the misconception that individuals with disabilities are somehow a liability for an employer. Keeping this statute sends the message that Alaska is a land of opportunity only if you are not disabled.

[1:19:32 PM](#)

REPRESENTATIVE EASTMAN asked whether there existed data reflecting positive or negative impacts following the repeal of the regulations in 2018.

REPRESENTATIVE TUCK stated that he is unaware of any supporting data and explained that GCDSE has brought forward the issue of the law still in existence.

REPRESENTATIVE EASTMAN asked where a source of data may exist to demonstrate positive impacts resulting from the repeal of the regulation, including data from other states which have taken similar action.

[1:21:37 PM](#)

MIKE MASON, Staff, Representative Chris Tuck, Alaska State Legislature, offered to conduct research, including researching data from other states.

CHAIR CLAMAN asked the Department of Labor and Workforce Development to offer its perspective on the repeal of the regulation and any entity which may have requested subminimum wage exemptions.

[1:22:20 PM](#)

TANYA KEITH, Program Manager, Wage and Hour, Labor Standards and Safety, Department of Labor and Workforce Development (DOLWD), answered that the department has no record of requests for the exemption.

CHAIR CLAMAN asked Ms. Keith to confirm whether the statute had ever been applied to an employer exemption.

MS. KEITH answered that records retained for the prior six to ten years revealed no example of an exemption having been granted.

CHAIR CLAMAN asked whether a business entity would be required to apply to DOLWD for such an exemption.

MS. KEITH confirmed this as correct.

[1:23:33 PM](#)

REPRESENTATIVE DRUMMOND questioned whether there is statutory reference to the term "subhuman."

MR. MASON answered that the term "subhuman" has no reference in the state's statutes; however, the term has been alluded to in other state's statutes. He noted that he had not seen the exact phrasing of "subhuman" in state law.

REPRESENTATIVE EASTMAN noted other exemptions in the state's statute, and he questioned this process which may be sought by an employer.

REPRESENTATIVE TUCK offered the example of a 40-hour workweek in which employees may request 4, 10-hour workdays. He explained that employees request such exemptions, and the request would be subject to the approval of the commissioner.

MS. KEITH stated that many exemptions exist, and some require approval from DOLWD, such as a flexible work plan. She noted other exemptions, such as the job of hand-picking shrimp. She stated that this exemption is automatic and does not require a request for approval from DOLWD.

MS. KEITH, in response to a question from Representative Eastman, said that the [subminimum wage] exemption has always been subject to approval by the commissioner. In response to a follow-up question, she stated that automatic exemptions are not tracked or reported.

[1:28:49 PM](#)

REPRESENTATIVE SNYDER expressed support for removing the language from the statute. She referred to Section 1 of the bill and questioned the proposed legislation's effect on workers under the age of 18, who are temporarily employed by nonprofit organizations.

REPRESENTATIVE TUCK answered that the criteria of age would be allowed for an exemption to minimum wage, subject to approval by the commissioner. He explained that this would apply to individuals in school-to-work programs or apprenticeship programs. He noted that the King Tech High School offers on-the-job training for less than minimum wage.

REPRESENTATIVE SNYDER, per the proposed legislation, referred to the words, "nonprofit" and "learner" on line 8 and line 15, respectively. She questioned whether "learner" was being emphasized and asked for additional explanation of the "nonprofit" qualification for exemption [to minimum wage.]

REPRESENTATIVE TUCK offered examples of the Alaska Works Partnership, Incorporated and the Alaska [Technical] Center in Kotzebue. He explained that at these facilities students may seek training and education. He stated that the Alaska Works Partnership facilitates employment of students with the goal of future employment at the facility.

[1:32:39 PM](#)

CHAIR CLAMAN opened public testimony on HB 372.

[1:33:11 PM](#)

PATRICK REINHART, Director, Alaska Mobility Coalition, testified in support of HB 372. He offered a brief biographical history. He expressed the opinion that HB 372 would strike an unwanted and unnecessary provision from existing statute. He stated that programs have previously existed, for which the exemption may have been appropriate, but those programs are no longer in existence.

[1:34:44 PM](#)

CHAIR CLAMAN ascertained that there was no one else who wished to testify and closed public testimony on HB 372.

[1:35:12 PM](#)

REPRESENTATIVE EASTMAN questioned the proposed legislation's exemption to minimum wage for nonprofit organizations.

REPRESENTATIVE TUCK answered that the intent would be to provide training and education opportunities. He pointed out that this is not for business entities to profit by paying employees less.

[1:36:06 PM](#)

REPRESENTATIVE KURKA stated that, as a business owner, he was required to train new employees. He offered that many businesses have a training process for employees. He requested comments on this statement.

REPRESENTATIVE TUCK answered that the only exemption the proposed bill would provide is for indentureships and apprenticeships, which are not the typical training associated with new employee training. He emphasized that the proposed bill would underscore the right for those with disabilities to be paid at least minimum wage.

REPRESENTATIVE EASTMAN, referring to exemptions for shrimp handlers, asked for additional information on exemptions subject to approval by the commissioner.

REPRESENTATIVE TUCK answered that the previous line of questioning pertained to those who may be subject to approval by the commissioner. He noted that HB 372 would be specific to the payment of compensation below minimum wage. He noted that other exemptions would not be affected by the passage of HB 372.

MR. MASON requested that Ms. Keith weigh in on the exemptions which may exist.

CHAIR CLAMAN responded that none of the exemptions being discussed appear in AS 23.10.070.

MR. MASON offered to follow up to the committee with additional information on exemptions.

[1:40:27 PM](#)

CHAIR CLAMAN announced that HB 372 was held over.

[1:41:00 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 1:41 p.m.