
The Commonwealth of Massachusetts

DEPARTMENT OF LABOR AND INDUSTRIES,
STATE HOUSE, BOSTON 33, November 22, 1960.

*To the Honorable Senate and the Honorable House of Representatives, State House,
Boston 33, Massachusetts.*

GENTLEMEN:— Pursuant to the directive contained in chapter 77 of the Resolves of the current year, I have made an investigation and study of the subject of said Resolve, to determine whether any special wage provisions or special workmen's compensation provisions should be made to encourage the employment of physically handicapped and aging workers. Legislation covering my recommendations accompanies this report.

In order to determine the extent of the problem and its importance to the Commonwealth, a hearing was held at which there were present Representative Francis W. Perry, the sponsor of the study, Francis A. Harding, Commissioner on Rehabilitation, Louis M. Tracy, Chief of Case Services, Commission on Rehabilitation, Donald S. Donnelly, Chief Supervisor of Operations Department, Division of Employment Security, Michael A. Donovan, Supervisor of the Industrial Accident Board, Mrs. Dorothy Singer, and Miss Priscilla Clark, Personnel Director of Morgan Memorial, most of whom are engaged in pursuits in which the subject of the Resolve is a factor.

On the first phase of the Resolve, the special wage provision feature, section 9 of chapter 151 of the General Laws, the Minimum Wage statute, authorizes the commissioner of labor and industries to issue special licenses to persons whose earning capacity is impaired by age or physical or mental deficiency or injury, permitting them to be employed for wages less than established minimum wages. This authority is used, in some instances, with care being exercised that the intent of the section will not be violated.

It has been suggested that the right to issue such licenses be extended to those cases in which the Commission on Rehabilitation issues a certificate of need, in the same manner that is now being followed by the U. S. Department of Labor, Wages and Hours Division. This proposal appears to have merit, and I would favor such an amendment to the statute.

Relative to the special workmen's compensation provisions, it is an accepted fact that handicapped persons, whether the handicap arose in or apart from employment, are finding it increasingly difficult to secure employment, even in occupations in which the handicap would in no manner affect their work. Many employers profess sympathy, but are understandably reluctant to employ such persons because of the risk of injury and the consequent responsibility for workmen's compensation benefits, which they feel would probably not have occurred with another employee. This is in spite of the fact that people in this category have proven themselves to be efficient, careful workers, not accident prone, but the opposite because of their cognizance of their own limitations.

One answer to the obstacle of workmen's compensation appears to be the establishment of a second-injury fund, so called, in the workmen's compensation statute, under which an employer who employs a handicapped person would be responsible for the compensation, if that person were injured, only up to a prescribed amount, the balance to be paid from the fund whether the injury were an aggravation of a pre-existing condition, or a prior disease. The effect would be not only protection to the willing employers, but encouragement to all employers to hire these people. Such a measure has been proposed, but the General Court has not seen fit to adopt it.

The enforcement of the workmen's compensation act is within the jurisdiction of the Division of Industrial Accidents and not subject to this Department, and for that reason, plus the broad complexities attending such a change in the statute, it is recommended that a legislative commission be established to study the matter with a representative of the Industrial Accident Board on the commission. The question is serious enough and has social problems sufficient to warrant a full-scale investigation.

As a result of this study, it is obvious to me that numbers of our employable citizens are unable to secure employment, and the Commonwealth is failing to utilize the skills which these people possess, thus depriving them of the opportunity to support themselves and depriving the state of the contribution which could be made to our industrial production.

Respectfully submitted,

JOHN A. CALLAHAN,

Commissioner.

The Commonwealth of Massachusetts

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In the Year One Thousand Nine Hundred and Sixty-One.
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AN ACT PERMITTING THE EXEMPTION FROM THE MINIMUM WAGE LAW OF PHYSICALLY HANDICAPPED PERSONS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 9 of chapter 149 of the General Laws, as amended,
2 is hereby further amended by inserting after the word "injury",
3 in line four, the following words:— or an employee who is
4 certified by the commission on rehabilitation as a handicapped
5 person.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-One.

RESOLVE FOR INVESTIGATION OF THE PROBLEMS OF HANDICAPPED PERSONS.

1 *Resolved*, That a special unpaid commission to consist of two
2 members of the senate, to be designated by the president thereof,
3 three members of the house of representatives, to be designated
4 by the speaker thereof, the chairman of the industrial accident
5 board, or his designee, and three persons to be appointed by the
6 governor, is hereby established for the purpose of making an
7 investigation and study relative to the problems of handicapped
8 persons securing employment, with attention being given to,
9 but not limited to, establishing a "second-injury fund," so
10 called, under the workmen's compensation statute. Said special
11 commission shall report to the general court the results of its
12 investigation and study hereunder and its recommendations,
13 together with drafts of legislation necessary to carry its recom-
14 mendations into effect, by filing the same with the clerk of the
15 house of representatives not later than the first Wednesday of
16 January, nineteen hundred and sixty-two.