

# HOUSE BILL REPORT

## SHB 1496

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**As Passed House:**  
March 9, 2015

**Title:** An act relating to addressing vocational rehabilitation by making certain recommendations from the vocational rehabilitation subcommittee permanent and creating certain incentives for employers to employ injured workers with permanent disabilities.

**Brief Description:** Addressing vocational rehabilitation by making certain recommendations from the vocational rehabilitation subcommittee permanent and creating certain incentives for employers to employ injured workers with permanent disabilities.

**Sponsors:** House Committee on Labor (originally sponsored by Representatives Sells, Gregerson and Ormsby; by request of Department of Labor & Industries).

**Brief History:**

**Committee Activity:**

Labor: 2/5/15, 2/9/15 [DPS];

Appropriations: 2/24/15, 2/26/15 [DPS(LAB)].

**Floor Activity:**

Passed House: 3/9/15, 98-0.

**Brief Summary of Substitute Bill**

- Makes permanent the provisions of the vocational rehabilitation pilot program, with some changes.
- Provides financial benefits, such as partial wage reimbursement, for employers who employ an injured worker receiving vocational services.

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### HOUSE COMMITTEE ON LABOR

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Sells, Chair; Gregerson, Vice Chair; Manweller, Ranking Minority Member; G. Hunt, Assistant Ranking Minority Member; McCabe, Moeller and Ormsby.

**Staff:** Trudes Tango (786-7384).

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

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## HOUSE COMMITTEE ON APPROPRIATIONS

**Majority Report:** The substitute bill by Committee on Labor be substituted therefor and the substitute bill do pass. Signed by 33 members: Representatives Hunter, Chair; Ormsby, Vice Chair; Chandler, Ranking Minority Member; Parker, Assistant Ranking Minority Member; Wilcox, Assistant Ranking Minority Member; Buys, Carlyle, Cody, Condotta, Dent, Dunshee, Fagan, Haler, Hansen, Hudgins, G. Hunt, S. Hunt, Jinkins, Kagi, Lytton, MacEwen, Magendanz, Pettigrew, Sawyer, Schmick, Senn, Springer, Stokesbary, Sullivan, Taylor, Tharinger, Van Werven and Walkinshaw.

**Staff:** Derek Rutter (786-7157).

### **Background:**

#### Vocational Rehabilitation.

One of the primary purposes of the Industrial Insurance Act is to enable injured workers to become employable at gainful employment. The Department of Labor and Industries (Department) pays, or directs self-insurers to pay, the costs of vocational rehabilitation services when these services are necessary and likely to enable the injured worker to become employable at gainful employment.

In 2007 the Legislature created a pilot program for improving vocational rehabilitation. Some of the significant provisions of the pilot program include:

- establishing timeframes for the Department to approve vocational rehabilitation plans and establishing accountability requirements for injured workers;
- increasing benefits for training and other costs, such as books, tuition, and tools (originally starting at \$12,000, the benefits are adjusted based on changes in tuition at the state community colleges, and is currently \$17,599);
- allowing a vocational rehabilitation plan to last up to two years;
- giving eligible workers an option to receive funds equal to six months of time-loss benefits to pursue self-directed training (called Option 2);
- placement of vocational professionals at pilot WorkSource locations for job placement services.

The pilot program also created a vocational rehabilitation subcommittee to provide recommendations to the Department and the Legislature. The pilot program is set to expire on June 30, 2016.

#### Preferred Worker Program.

The Preferred Worker Program (PWP) provides financial incentives to employers who hire workers that have been injured in previous employment. The worker must first be certified by the Department as a "preferred worker." An employer hiring a preferred worker does not pay Accident Fund or Medical Aid premiums on the preferred worker for as long as the worker is a certified "preferred worker" (which cannot be more than 36 months). If the worker is injured on the job during the worker's certification period, the employer is not liable for the costs of the new claim and it will not affect the employer's experience rating.

#### Stay at Work.

While the PWP provides benefits for subsequent employers of injured workers, the Stay at Work program provides financial incentives for employers to keep an injured worker on the job with the same employer. The Stay at Work program includes benefits, subject to certain conditions, such as:

- reimbursing the employer for 50 percent of the employee's base wages up to 66 days, not to exceed \$10,000 per claim within a 24-month period;
- funds for training, instruction, or materials, such as books, up to \$1,000 per claim;
- funds for tools, up to \$2,500 per claim; and
- clothing, up to \$400 per claim.

**Summary of Substitute Bill:**

Provisions created by the vocational rehabilitation pilot program are made permanent, with some changes to certain provisions. Workers choosing Option 2 are provided an amount equal to nine months of temporary total disability compensation, rather than six months. Up to 10 percent of the worker's Option 2 funds may be used for vocational counseling and job placement services.

The total amount allowed for an individual worker's vocational plan may not exceed \$17,500, and the annual adjustment based on the average percentage change in community college tuition cannot exceed 2 percent per year, with certain exceptions.

Financial incentives used in the Preferred Worker Program and Stay at Work Program are provided to employers, including the employer of injury, who employ injured workers receiving vocational services. In addition, a one-time payment equal to 10 percent of the worker's wages or \$10,000, whichever is less, is available if the employer provides continuous employment to the worker without a reduction in the worker's base wages for at least 12 months. The one-time payment is available at the sole discretion of the Department.

The benefits are available to state fund employers, and available to a self-insured employer only in cases where the worker was employed by a state fund employer at the time of injury.

Other changes to the vocational rehabilitation program regarding vocational professionals at WorkSource locations and accountability agreements for injured workers are made.

A vocational rehabilitation advisory committee is created. The Department must conduct a study to determine the impact on return-to-work outcomes, long-term disability, and claim costs. The Department must report back to the appropriate committees of the Legislature by December 1, 2018.

The Department may adopt rules governing the eligibility for and admission of benefits available under the vocational rehabilitation program.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony (Labor):**

(In support) The Vocational Rehabilitation Subcommittee helps advise the Department of Labor and Industries on how to improve the system and create incentives for employers to rehire injured workers. The pilot program has resulted in cooperation between the labor and business community. They have identified common problems. The changes made to the program will improve and enhance worker outcomes and create savings to the system. The existing incentives are minimal and haven't attracted workers and employers. The incentives will apply both to new employers and the "employers of injury." This approach allows injured workers to maintain the existing employee benefits they've acquired with their current employer. The incentives will be funded from the Second Injury Fund and result in savings in the Accident Fund.

(Opposed) None.

**Staff Summary of Public Testimony (Appropriations):**

(In support) The Department of Labor and Industries has worked very hard with the vocational rehabilitation advisory group, which includes both business and labor, to develop this bill. It improves options and outcomes for injured workers when it comes to returning to work. It also saves more than the cost of the program for the employer community.

(Opposed) None.

**Persons Testifying (Labor):** (In support) Vickie Kennedy, Department of Labor and Industries; Terri Hering-Puz, Washington State Association for Justice; Terry Peterson and Joe Kendo, Washington State Labor Council; Kris Tefft, Washington Self-Insurers Association; Lauren Gubbe, Association of General Contractors; and Bob Battles, Association of Washington Business.

(Opposed) None.

**Persons Testifying (Appropriations):** Vickie Kennedy, Department of Labor & Industries.

**Persons Signed In To Testify But Not Testifying (Labor):** None.

**Persons Signed In To Testify But Not Testifying (Appropriations):** None.