

SENATE BILL REPORT

SSB 5451

As Passed Senate, March 10, 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: Senate Committee on Commerce & Labor (originally sponsored by Senators Braun, Keiser, Conway, Kohl-Welles and McAuliffe; by request of Department of Labor & Industries).

Brief History:

Committee Activity: Commerce & Labor: 2/11/15, 2/16/15 [DPS].
Passed Senate: 3/10/15, 49-0.

SENATE COMMITTEE ON COMMERCE & LABOR

Majority Report: That Substitute Senate Bill No. 5451 be substituted therefor, and the substitute bill do pass.

Signed by Senators Braun, Vice Chair; Hasegawa, Ranking Minority Member; Conway, Keiser, King and Warnick.

Staff: Mac Nicholson (786-7445)

Background: Vocational Rehabilitation. Injured workers are eligible for vocational rehabilitation benefits when they cannot return to their old job due to the effects of their injury, and they lack the training or skills for a different job to become employable. Vocational benefits are discretionary, and the Department of Labor and Industries (L&I) will notify the worker and the employer of benefit eligibility.

Legislation was enacted in 2007 that established a vocational training pilot program, known as the Vocational Improvement Project (VIP). Under the VIP, injured workers eligible for vocational benefits have 90 days to develop and submit a training plan to L&I, and employers have 15 days to offer the injured worker a job. A vocational retraining plan includes a job goal based on skills, interests, and medically documented limitations. The

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plan can include schooling or on-the-job training and cannot exceed two years' duration. Plans also must contain an accountability agreement detailing expectations and progress measures. Other significant provisions of the VIP include the following:

- benefits for training and other costs, such as books, tuition, and tools – starting at \$12,000 originally, the benefits are adjusted based on changes in tuition at the state community colleges, and are 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 VIP also established a vocational rehabilitation subcommittee to provide input and oversight of the program. The VIP will expire on June 30, 2016.

Preferred Worker Program (PWP). The PWP provides financial incentives to employers who hire workers that have been injured in previous employment. The worker must first be certified by L&I 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: The vocational rehabilitation pilot program is 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 PWP 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 \$10,000 or 10 percent of the worker's wages, 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 L&I. The benefits are available to employers under the

state fund, 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. L&I must conduct a study to determine the impact on return-to-work outcomes, long-term disability, and claim costs. L&I must report back to the appropriate committees of the Legislature by December 1, 2018.

L&I may adopt rules governing the eligibility for and admission of benefits available under the vocational rehabilitation program.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: The bill expands the premium discount and claims protection benefit for employers of injured workers. This benefits both the employer and employee. The bill gets workers back to work, and has been heavily vetted by business, labor, and L&I. This bill rewards the risk employers take in hiring an injured worker. The preferred worker benefit provides an incentive to employers to bring injured workers back to work. There is increased accountability in the vocation program and more choice for workers.

Persons Testifying: PRO: Joe Kendo, WA State Labor Council; Jerry VanderWood, Associated General Contractors; Bob Battles, Assn. of WA Business; Vickie Kennedy, L&I; Terri Herring, Trial Lawyers; Terry Peterson, citizen.