

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1395

Chapter 353, Laws of 2009

61st Legislature
2009 Regular Session

WORKFORCE AND ECONOMIC DEVELOPMENT--TERMS

EFFECTIVE DATE: 07/26/09

Passed by the House April 20, 2009
Yeas 91 Nays 0

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 13, 2009
Yeas 47 Nays 0

BRAD OWEN

President of the Senate

Approved May 6, 2009, 1:47 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1395** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 8, 2009

**Secretary of State
State of Washington**

HOUSE BILL 1395

AS AMENDED BY THE SENATE

Passed Legislature - 2009 Regular Session

State of Washington

61st Legislature

2009 Regular Session

By Representatives Wallace, Anderson, Hasegawa, Sells, Chase, and Kenney; by request of Workforce Training and Education Coordinating Board

Read first time 01/20/09. Referred to Committee on Higher Education.

1 AN ACT Relating to clarifying terms for workforce and economic
2 development; amending RCW 28B.50.030, 28B.50.273, 50.22.130, 50.22.150,
3 51.32.099, and 74.08A.250; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 28B.50.030 and 2007 c 277 s 301 are each amended to
6 read as follows:

7 As used in this chapter, unless the context requires otherwise, the
8 term:

9 (1) "System" shall mean the state system of community and technical
10 colleges, which shall be a system of higher education.

11 (2) "Board" shall mean the workforce training and education
12 coordinating board.

13 (3) "College board" shall mean the state board for community and
14 technical colleges created by this chapter.

15 (4) "Director" shall mean the administrative director for the state
16 system of community and technical colleges.

17 (5) "District" shall mean any one of the community and technical
18 college districts created by this chapter.

1 (6) "Board of trustees" shall mean the local community and
2 technical college board of trustees established for each college
3 district within the state.

4 (7) "Occupational education" shall mean that education or training
5 that will prepare a student for employment that does not require a
6 baccalaureate degree, and education and training leading to an applied
7 baccalaureate degree.

8 (8) "K-12 system" shall mean the public school program including
9 kindergarten through the twelfth grade.

10 (9) "Common school board" shall mean a public school district board
11 of directors.

12 (10) "Community college" shall include those higher education
13 institutions that conduct education programs under RCW 28B.50.020.

14 (11) "Technical college" shall include those higher education
15 institutions with the sole mission of conducting occupational
16 education, basic skills, literacy programs, and offering on short
17 notice, when appropriate, programs that meet specific industry needs.
18 The programs of technical colleges shall include, but not be limited
19 to, continuous enrollment, competency-based instruction, industry-
20 experienced faculty, curriculum integrating vocational and basic skills
21 education, and curriculum approved by representatives of employers and
22 labor. For purposes of this chapter, technical colleges shall include
23 Lake Washington Vocational-Technical Institute, Renton Vocational-
24 Technical Institute, Bates Vocational-Technical Institute, Clover Park
25 Vocational Institute, and Bellingham Vocational-Technical Institute.

26 (12) "Adult education" shall mean all education or instruction,
27 including academic, vocational education or training, basic skills and
28 literacy training, and "occupational education" provided by public
29 educational institutions, including common school districts for persons
30 who are eighteen years of age and over or who hold a high school
31 diploma or certificate. However, "adult education" shall not include
32 academic education or instruction for persons under twenty-one years of
33 age who do not hold a high school degree or diploma and who are
34 attending a public high school for the sole purpose of obtaining a high
35 school diploma or certificate, nor shall "adult education" include
36 education or instruction provided by any four year public institution
37 of higher education.

1 (13) "Dislocated forest product worker" shall mean a forest
2 products worker who: (a)(i) Has been terminated or received notice of
3 termination from employment and is unlikely to return to employment in
4 the individual's principal occupation or previous industry because of
5 a diminishing demand for his or her skills in that occupation or
6 industry; or (ii) is self-employed and has been displaced from his or
7 her business because of the diminishing demand for the business'
8 services or goods; and (b) at the time of last separation from
9 employment, resided in or was employed in a rural natural resources
10 impact area.

11 (14) "Forest products worker" shall mean a worker in the forest
12 products industries affected by the reduction of forest fiber
13 enhancement, transportation, or production. The workers included
14 within this definition shall be determined by the employment security
15 department, but shall include workers employed in the industries
16 assigned the major group standard industrial classification codes "24"
17 and "26" and the industries involved in the harvesting and management
18 of logs, transportation of logs and wood products, processing of wood
19 products, and the manufacturing and distribution of wood processing and
20 logging equipment. The commissioner may adopt rules further
21 interpreting these definitions. For the purposes of this subsection,
22 "standard industrial classification code" means the code identified in
23 RCW 50.29.025(3).

24 (15) "Dislocated salmon fishing worker" means a finfish products
25 worker who: (a)(i) Has been terminated or received notice of
26 termination from employment and is unlikely to return to employment in
27 the individual's principal occupation or previous industry because of
28 a diminishing demand for his or her skills in that occupation or
29 industry; or (ii) is self-employed and has been displaced from his or
30 her business because of the diminishing demand for the business's
31 services or goods; and (b) at the time of last separation from
32 employment, resided in or was employed in a rural natural resources
33 impact area.

34 (16) "Salmon fishing worker" means a worker in the finfish industry
35 affected by 1994 or future salmon disasters. The workers included
36 within this definition shall be determined by the employment security
37 department, but shall include workers employed in the industries

1 involved in the commercial and recreational harvesting of finfish
2 including buying and processing finfish. The commissioner may adopt
3 rules further interpreting these definitions.

4 (17) "Rural natural resources impact area" means:

5 (a) A nonmetropolitan county, as defined by the 1990 decennial
6 census, that meets three of the five criteria set forth in subsection
7 (18) of this section;

8 (b) A nonmetropolitan county with a population of less than forty
9 thousand in the 1990 decennial census, that meets two of the five
10 criteria as set forth in subsection (18) of this section; or

11 (c) A nonurbanized area, as defined by the 1990 decennial census,
12 that is located in a metropolitan county that meets three of the five
13 criteria set forth in subsection (18) of this section.

14 (18) For the purposes of designating rural natural resources impact
15 areas, the following criteria shall be considered:

16 (a) A lumber and wood products employment location quotient at or
17 above the state average;

18 (b) A commercial salmon fishing employment location quotient at or
19 above the state average;

20 (c) Projected or actual direct lumber and wood products job losses
21 of one hundred positions or more;

22 (d) Projected or actual direct commercial salmon fishing job losses
23 of one hundred positions or more; and

24 (e) An unemployment rate twenty percent or more above the state
25 average. The counties that meet these criteria shall be determined by
26 the employment security department for the most recent year for which
27 data is available. For the purposes of administration of programs
28 under this chapter, the United States post office five-digit zip code
29 delivery areas will be used to determine residence status for
30 eligibility purposes. For the purpose of this definition, a zip code
31 delivery area of which any part is ten miles or more from an urbanized
32 area is considered nonurbanized. A zip code totally surrounded by zip
33 codes qualifying as nonurbanized under this definition is also
34 considered nonurbanized. The office of financial management shall make
35 available a zip code listing of the areas to all agencies and
36 organizations providing services under this chapter.

37 (19) "Applied baccalaureate degree" means a baccalaureate degree

1 awarded by a college under RCW 28B.50.810 for successful completion of
2 a program of study that is:

3 (a) Specifically designed for individuals who hold an associate of
4 applied science degree, or its equivalent, in order to maximize
5 application of their technical course credits toward the baccalaureate
6 degree; and

7 (b) Based on a curriculum that incorporates both theoretical and
8 applied knowledge and skills in a specific technical field.

9 (20) "Qualified institutions of higher education" means:

10 (a) Washington public community and technical colleges;

11 (b) Private career schools that are members of an accrediting
12 association recognized by rule of the higher education coordinating
13 board for the purposes of chapter 28B.92 RCW; and

14 (c) Washington state apprenticeship and training council-approved
15 apprenticeship programs.

16 (21) "High employer demand program of study" means an
17 apprenticeship, or an undergraduate or graduate certificate or degree
18 program in which the number of students prepared for employment per
19 year from in-state institutions is substantially less than the number
20 of projected job openings per year in that field, statewide or in a
21 substate region.

22 **Sec. 2.** RCW 28B.50.273 and 2008 c 14 s 10 are each amended to read
23 as follows:

24 For the purposes of identifying opportunity grant-eligible programs
25 of study and other job training programs, the college board, in
26 partnership with business, labor, and the workforce training and
27 education coordinating board, shall:

28 (1) Identify high employer demand programs of study offered by
29 qualified postsecondary institutions that lead to a credential,
30 certificate, or degree;

31 (2) Identify job-specific training programs offered by qualified
32 postsecondary institutions that lead to a credential, certificate, or
33 degree in green industry occupations as established in chapter 14, Laws
34 of 2008 (~~and other high demand occupations, which are occupations~~
35 ~~where data show that employer demand for workers exceeds the supply of~~
36 ~~qualified job applicants throughout the state or in a specific region,~~
37 ~~and where training capacity is underutilized));~~

1 ~~((+2))~~ (3) Gain recognition of the credentials, certificates, and
2 degrees by Washington's employers and labor organizations. The college
3 board shall designate these recognized credentials, certificates, and
4 degrees as "opportunity grant-eligible programs of study"; and

5 ~~((+3))~~ (4) Market the credentials, certificates, and degrees to
6 potential students, businesses, and apprenticeship programs as a way
7 for individuals to advance in their careers and to better meet the
8 needs of industry.

9 **Sec. 3.** RCW 50.22.130 and 2000 c 2 s 6 are each amended to read as
10 follows:

11 It is the intent of the legislature that a training benefits
12 program be established to provide unemployment insurance benefits to
13 unemployed individuals who participate in training programs necessary
14 for their reemployment.

15 The legislature further intends that this program serve the
16 following goals:

17 (1) Retraining should be available for those unemployed individuals
18 whose skills are no longer in demand;

19 (2) To be eligible for retraining, an individual must have a long-
20 term attachment to the labor force;

21 (3) Training must enhance the individual's marketable skills and
22 earning power; and

23 (4) Retraining must be targeted to ~~((those industries or skills
24 that are in high demand within the labor market))~~ high-demand
25 occupations.

26 Individuals unemployed as a result of structural changes in the
27 economy and technological advances rendering their skills obsolete must
28 receive the highest priority for participation in this program. It is
29 the further intent of the legislature that individuals for whom
30 suitable employment is available are not eligible for additional
31 benefits while participating in training.

32 The legislature further intends that funding for this program be
33 limited by a specified maximum amount each fiscal year.

34 **Sec. 4.** RCW 50.22.150 and 2009 c 3 s 5 are each amended to read as
35 follows:

1 (1) This section applies to claims with an effective date before
2 April 5, 2009.

3 (2) Subject to availability of funds, training benefits are
4 available for an individual who is eligible for or has exhausted
5 entitlement to unemployment compensation benefits and who:

6 (a) Is a dislocated worker as defined in RCW 50.04.075;

7 (b) Except as provided under subsection (3) of this section, has
8 demonstrated, through a work history, sufficient tenure in an
9 occupation or in work with a particular skill set. This screening will
10 take place during the assessment process;

11 (c) Is, after assessment of demand for the individual's occupation
12 or skills in the individual's labor market, determined to need job-
13 related training to find suitable employment in his or her labor
14 market. Beginning July 1, 2001, the assessment of demand for the
15 individual's occupation or skill sets must be substantially based on
16 declining occupation or skill sets identified in local labor market
17 areas by the local workforce development councils, in cooperation with
18 the employment security department and its labor market information
19 division, under subsection (11) of this section;

20 (d) Develops an individual training program that is submitted to
21 the commissioner for approval within sixty days after the individual is
22 notified by the employment security department of the requirements of
23 this section;

24 (e) Enters the approved training program by ninety days after the
25 date of the notification, unless the employment security department
26 determines that the training is not available during the ninety-day
27 period, in which case the individual enters training as soon as it is
28 available; and

29 (f) Is enrolled in training approved under this section on a full-
30 time basis as determined by the educational institution, and is making
31 satisfactory progress in the training as certified by the educational
32 institution.

33 (3) Until June 30, 2002, the following individuals who meet the
34 requirements of subsection (2) of this section may, without regard to
35 the tenure requirements under subsection (2)(b) of this section,
36 receive training benefits as provided in this section:

37 (a) An exhaustee who has base year employment in the aerospace

1 industry assigned the standard industrial classification code "372" or
2 the North American industry classification system code "336411";

3 (b) An exhaustee who has base year employment in the forest
4 products industry, determined by the department, but including the
5 industries assigned the major group standard industrial classification
6 codes "24" and "26" or any equivalent codes in the North American
7 industry classification system code, and the industries involved in the
8 harvesting and management of logs, transportation of logs and wood
9 products, processing of wood products, and the manufacturing and
10 distribution of wood processing and logging equipment; or

11 (c) An exhaustee who has base year employment in the fishing
12 industry assigned the standard industrial classification code "0912" or
13 any equivalent codes in the North American industry classification
14 system code.

15 (4) An individual is not eligible for training benefits under this
16 section if he or she:

17 (a) Is a standby claimant who expects recall to his or her regular
18 employer;

19 (b) Has a definite recall date that is within six months of the
20 date he or she is laid off; or

21 (c) Is unemployed due to a regular seasonal layoff which
22 demonstrates a pattern of unemployment consistent with the provisions
23 of RCW 50.20.015. Regular seasonal layoff does not include layoff due
24 to permanent structural downsizing or structural changes in the
25 individual's labor market.

26 (5) The definitions in this subsection apply throughout this
27 section unless the context clearly requires otherwise.

28 (a) "Educational institution" means an institution of higher
29 education as defined in RCW 28B.10.016 or an educational institution as
30 defined in RCW 28C.04.410, including equivalent educational
31 institutions in other states.

32 (b) "Sufficient tenure" means earning a plurality of wages in a
33 particular occupation or using a particular skill set during the base
34 year and at least two of the four twelve-month periods immediately
35 preceding the base year.

36 (c) "Training benefits" means additional benefits paid under this
37 section.

38 (d) "Training program" means:

1 (i) An education program determined to be necessary as a
2 prerequisite to vocational training after counseling at the educational
3 institution in which the individual enrolls under his or her approved
4 training program; or

5 (ii) A vocational training program at an educational institution:

6 (A) That is targeted to training for a high-demand occupation.
7 Beginning July 1, 2001, the assessment of high-demand occupations
8 authorized for training under this section must be substantially based
9 on labor market and employment information developed by local workforce
10 development councils, in cooperation with the employment security
11 department and its labor market information division, under subsection
12 (11) of this section;

13 (B) That is likely to enhance the individual's marketable skills
14 and earning power; and

15 (C) That meets the criteria for performance developed by the
16 workforce training and education coordinating board for the purpose of
17 determining those training programs eligible for funding under Title I
18 of P.L. 105-220.

19 "Training program" does not include any course of education
20 primarily intended to meet the requirements of a baccalaureate or
21 higher degree, unless the training meets specific requirements for
22 certification, licensing, or for specific skills necessary for the
23 occupation.

24 (6) Benefits shall be paid as follows:

25 (a)(i) Except as provided in (a)(iii) of this subsection, for
26 exhaustees who are eligible under subsection (2) of this section, the
27 total training benefit amount shall be fifty-two times the individual's
28 weekly benefit amount, reduced by the total amount of regular benefits
29 and extended benefits paid, or deemed paid, with respect to the benefit
30 year; or

31 (ii) For exhaustees who are eligible under subsection (3) of this
32 section, for claims filed before June 30, 2002, the total training
33 benefit amount shall be seventy-four times the individual's weekly
34 benefit amount, reduced by the total amount of regular benefits and
35 extended benefits paid, or deemed paid, with respect to the benefit
36 year; or

37 (iii) For exhaustees eligible under subsection (2) of this section
38 from industries listed under subsection (3)(a) of this section, for

1 claims filed on or after June 30, 2002, but before January 5, 2003, the
2 total training benefit amount shall be seventy-four times the
3 individual's weekly benefit amount, reduced by the total amount of
4 regular benefits and extended benefits paid, or deemed paid, with
5 respect to the benefit year.

6 (b) The weekly benefit amount shall be the same as the regular
7 weekly amount payable during the applicable benefit year and shall be
8 paid under the same terms and conditions as regular benefits. The
9 training benefits shall be paid before any extended benefits but not
10 before any similar federally funded program.

11 (c) Training benefits are not payable for weeks more than two years
12 beyond the end of the benefit year of the regular claim.

13 (7) The requirement under RCW 50.22.010(10) relating to exhausting
14 regular benefits does not apply to an individual otherwise eligible for
15 training benefits under this section when the individual's benefit year
16 ends before his or her training benefits are exhausted and the
17 individual is eligible for a new benefit year. These individuals will
18 have the option of remaining on the original claim or filing a new
19 claim.

20 (8)(a) Except as provided in (b) of this subsection, individuals
21 who receive training benefits under this section or under any previous
22 additional benefits program for training are not eligible for training
23 benefits under this section for five years from the last receipt of
24 training benefits under this section or under any previous additional
25 benefits program for training.

26 (b) With respect to claims that are filed before January 5, 2003,
27 an individual in the aerospace industry assigned the standard
28 industrial code "372" or the North American industry classification
29 system code "336411" who received training benefits under this section,
30 and who had been making satisfactory progress in a training program but
31 did not complete the program, is eligible, without regard to the five-
32 year limitation of this section and without regard to the requirement
33 of subsection (2)(b) of this section, if applicable, to receive
34 training benefits under this section in order to complete that training
35 program. The total training benefit amount that applies to the
36 individual is seventy-four times the individual's weekly benefit
37 amount, reduced by the total amount of regular benefits paid, or deemed
38 paid, with respect to the benefit year in which the training program

1 resumed and, if applicable, reduced by the amount of training benefits
2 paid, or deemed paid, with respect to the benefit year in which the
3 training program commenced.

4 (9) An individual eligible to receive a trade readjustment
5 allowance under chapter 2 of Title II of the Trade Act of 1974, as
6 amended, shall not be eligible to receive benefits under this section
7 for each week the individual receives such trade readjustment
8 allowance. An individual eligible to receive emergency unemployment
9 compensation, so called, under any federal law, shall not be eligible
10 to receive benefits under this section for each week the individual
11 receives such compensation.

12 (10) All base year employers are interested parties to the approval
13 of training and the granting of training benefits.

14 (11) By July 1, 2001, each local workforce development council, in
15 cooperation with the employment security department and its labor
16 market information division, must identify (~~occupations and skill sets~~
17 ~~that are declining and occupations and skill sets that are in~~) high-
18 demand occupations and occupations in declining employer demand. For
19 the purposes of RCW 50.22.130 through 50.22.150 and section 9, chapter
20 2, Laws of 2000, "high-demand occupation" means (~~demand for employment~~
21 ~~that exceeds the supply of qualified workers for occupations or skill~~
22 ~~sets in a labor market area~~) an occupation with a substantial number
23 of current or projected employment opportunities. Local workforce
24 development councils must use state and locally developed labor market
25 information. Thereafter, each local workforce development council
26 shall update this information annually or more frequently if needed.

27 (12) The commissioner shall adopt rules as necessary to implement
28 this section.

29 **Sec. 5.** RCW 51.32.099 and 2007 c 72 s 2 are each amended to read
30 as follows:

31 (1)(a) The legislature intends to create improved vocational
32 outcomes for Washington state injured workers and employers through
33 legislative and regulatory change under a pilot program for the period
34 of January 1, 2008, through June 30, 2013. This pilot vocational
35 system is intended to allow opportunities for eligible workers to
36 participate in meaningful retraining in high-demand occupations,
37 improve successful return to work and achieve positive outcomes for

1 workers, reduce the incidence of repeat vocational services, increase
2 accountability and responsibility, and improve cost predictability. To
3 facilitate the study and evaluation of the results of the proposed
4 changes, the department shall establish the temporary funding of
5 certain state fund vocational costs through the medical aid account to
6 ensure the appropriate assessments to employers for the costs of their
7 claims for vocational services in accordance with RCW 51.32.0991.

8 (b) An independent review and study of the effects of the pilot
9 program shall be conducted to determine whether it has achieved the
10 appropriate outcomes at reasonable cost to the system. The review
11 shall include, at a minimum, a report on the department's performance
12 with regard to the provision of vocational services, the skills
13 acquired by workers who receive retraining services, the types of
14 training programs approved, whether the workers are employed, at what
15 jobs and wages after completion of the training program and at various
16 times subsequent to their claim closure, the number and demographics of
17 workers who choose the option provided in subsection (4)(b) of this
18 section, and their employment and earnings status at various times
19 subsequent to claim closure. The department may adopt rules, in
20 collaboration with the subcommittee created under (c)(iii) of this
21 subsection, to further define the scope and elements of the required
22 study. Reports of the independent researcher are due on December 1,
23 2010, December 1, 2011, and December 1, 2012.

24 (c) In implementing the pilot program, the department shall:

25 (i) Establish a vocational initiative project that includes
26 participation by the department as a partner with WorkSource, the
27 established state system that administers the federal workforce
28 investment act of 1998. As a partner, the department shall place
29 vocational professional full-time employees at pilot WorkSource
30 locations; refer some workers for vocational services to these
31 vocational professionals; and work with employers in work source pilot
32 areas to market the benefits of on-the-job training programs and with
33 community colleges to reserve slots in high employer demand programs of
34 study as defined in RCW 28B.50.030. These on-the-job training programs
35 and community college slots may be considered by both department and
36 private sector vocational professionals for vocational plan
37 development. The department will also assist stakeholders in
38 developing additional vocational training programs in various

1 industries, including but not limited to agriculture and construction.
2 These programs will expand the choices available to injured workers in
3 developing their vocational training plans with the assistance of
4 vocational professionals.

5 (ii) Develop and maintain a register of state fund and self-insured
6 workers who have been retrained or have selected any of the vocational
7 options described in this section for at least the duration of the
8 pilot program.

9 (iii) Create a vocational rehabilitation subcommittee made up of
10 members appointed by the director for at least the duration of the
11 pilot program. This subcommittee shall provide the business and labor
12 partnership needed to maintain focus on the intent of the pilot
13 program, as described in this section, and provide consistency and
14 transparency to the development of rules and policies. The
15 subcommittee shall report to the director at least annually and
16 recommend to the director and the legislature any additional statutory
17 changes needed, which may include extension of the pilot period. The
18 subcommittee shall provide input and oversight with the department
19 concerning the study required under (b) of this subsection. The
20 subcommittee shall provide recommendations for additional changes or
21 incentives for injured workers to return to work with their employer of
22 injury.

23 (iv) The department shall develop an annual report concerning
24 Washington's workers' compensation vocational rehabilitation system to
25 the legislature and to the subcommittee by December 1, 2009, and
26 annually thereafter with the final report due by December 1, 2012. The
27 annual report shall include the number of workers who have participated
28 in more than one vocational training plan beginning with plans approved
29 on January 1, 2008, and in which industries those workers were
30 employed. The final report shall include the department's assessment
31 and recommendations for further legislative action, in collaboration
32 with the subcommittee.

33 (2)(a) For the purposes of this section, the day the worker
34 commences vocational plan development means the date the department or
35 self-insurer notifies the worker of his or her eligibility for plan
36 development services.

37 (b) When vocational rehabilitation is both necessary and likely to
38 make the worker employable at gainful employment, he or she shall be

1 provided with services necessary to develop a vocational plan that, if
2 completed, would render the worker employable. The vocational
3 professional assigned to the claim shall, at the initial meeting with
4 the worker, fully inform the worker of the return-to-work priorities
5 set forth in RCW 51.32.095(2) and of his or her rights and
6 responsibilities under the workers' compensation vocational system.
7 The department shall provide tools to the vocational professional for
8 communicating this and other information required by RCW 51.32.095 and
9 this section to the worker.

10 (c) On the date the worker commences vocational plan development,
11 the department shall also inform the employer in writing of the
12 employer's right to make a valid return-to-work offer during the first
13 fifteen days following the commencement of vocational plan development.
14 To be valid, the offer must be for bona fide employment with the
15 employer of injury, consistent with the worker's documented physical
16 and mental restrictions as provided by the worker's health care
17 provider. When the employer makes a valid return-to-work offer, the
18 vocational plan development services and temporary total disability
19 compensation shall be terminated effective (~~{on}~~) on the starting
20 date for the job without regard to whether the worker accepts the
21 return-to-work offer. Following the fifteen-day period, the employer
22 may still provide, and the worker may accept, any valid return-to-work
23 offer. The worker's acceptance of such an offer shall result in the
24 termination of vocational plan development or implementation services
25 and temporary total disability compensation effective the day the
26 employment begins.

27 (3)(a) All vocational plans must contain an accountability
28 agreement signed by the worker detailing expectations regarding
29 progress, attendance, and other factors influencing successful
30 participation in the plan. Failure to abide by the agreed expectations
31 shall result in suspension of vocational benefits pursuant to RCW
32 51.32.110.

33 (b) Any formal education included as part of the vocational plan
34 must be for an accredited or licensed program or other program approved
35 by the department. The department shall develop rules that provide
36 criteria for the approval of nonaccredited or unlicensed programs.

37 (c) The vocational plan for an individual worker must be completed
38 and submitted to the department within ninety days of the day the

1 worker commences vocational plan development. The department may
2 extend the ninety days for good cause. Criteria for good cause shall
3 be provided in rule. The frequency and reasons for good cause
4 extensions shall be reported to the subcommittee created under
5 subsection (1)(c)(iii) of this section.

6 (d) Costs for the vocational plan may include books, tuition, fees,
7 supplies, equipment, child or dependent care, training fees for on-the-
8 job training, the cost of furnishing tools and other equipment
9 necessary for self-employment or reemployment, and other necessary
10 expenses in an amount not to exceed twelve thousand dollars. This
11 amount shall be adjusted effective July 1 of each year for vocational
12 plans or retraining benefits available under subsection (4)(b) of this
13 section approved on or after this date but before June 30 of the next
14 year based on the average percentage change in tuition for the next
15 fall quarter for all Washington state community colleges.

16 (e) The duration of the vocational plan shall not exceed two years
17 from the date the plan is implemented. The worker shall receive
18 temporary total disability compensation under RCW 51.32.090 and the
19 cost of transportation while he or she is actively and successfully
20 participating in a vocational plan.

21 (f) If the worker is required to reside away from his or her
22 customary residence, the reasonable cost of board and lodging shall
23 also be paid.

24 (4) Vocational plan development services shall be completed within
25 ninety days of commencing. During vocational plan development the
26 worker shall, with the assistance of a vocational professional,
27 participate in vocational counseling and occupational exploration to
28 include, but not be limited to, identifying possible job goals,
29 training needs, resources, and expenses, consistent with the worker's
30 physical and mental status. A vocational rehabilitation plan shall be
31 developed by the worker and the vocational professional and submitted
32 to the department or self-insurer. Following this submission, the
33 worker shall elect one of the following options:

34 (a) Option 1: The department or self-insurer implements and the
35 worker participates in the vocational plan developed by the vocational
36 professional and approved by the worker and the department or
37 self-insurer. For state fund claims, the department must review and
38 approve the vocational plan before implementation may begin. If the

1 department takes no action within fifteen days, the plan is deemed
2 approved. The worker may, within fifteen days of approval of the plan
3 by the department, elect option 2.

4 (i) Following successful completion of the vocational plan, any
5 subsequent assessment of whether vocational rehabilitation is both
6 necessary and likely to enable the injured worker to become employable
7 at gainful employment under RCW 51.32.095(1) shall include
8 consideration of transferable skills obtained in the vocational plan.

9 (ii) If a vocational plan is successfully completed on a claim
10 which is thereafter reopened as provided in RCW 51.32.160, the cost and
11 duration available for any subsequent vocational plan is limited to
12 that in subsection (3)(d) and (e) of this section, less that previously
13 expended.

14 (b) Option 2: The worker declines further vocational services
15 under the claim and receives an amount equal to six months of temporary
16 total disability compensation under RCW 51.32.090. The award is
17 payable in biweekly payments in accordance with the schedule of
18 temporary total disability payments, until such award is paid in full.
19 These payments shall not include interest on the unpaid balance.
20 However, upon application by the worker, and at the discretion of the
21 department, the compensation may be converted to a lump sum payment.
22 The vocational costs defined in subsection (3)(d) of this section shall
23 remain available to the worker, upon application to the department or
24 self-insurer, for a period of five years. The vocational costs shall,
25 if expended, be available for programs or courses at any accredited or
26 licensed institution or program from a list of those approved by the
27 department for tuition, books, fees, supplies, equipment, and tools,
28 without department or self-insurer oversight. The department shall
29 issue an order as provided in RCW 51.52.050 confirming the option 2
30 election, setting a payment schedule, and terminating temporary total
31 disability benefits. The department shall thereafter close the claim.

32 (i) If within five years from the date the option 2 order becomes
33 final, the worker is subsequently injured or suffers an occupational
34 disease or reopens the claim as provided in RCW 51.32.160, and
35 vocational rehabilitation is found both necessary and likely to enable
36 the injured worker to become employable at gainful employment under RCW
37 51.32.095(1), the duration of any vocational plan under subsection
38 (3)(e) of this section shall not exceed eighteen months.

1 (ii) If the available vocational costs are utilized by the worker,
2 any subsequent assessment of whether vocational rehabilitation is both
3 necessary and likely to enable the injured worker to become employable
4 at gainful employment under RCW 51.32.095(1) shall include
5 consideration of the transferable skills obtained.

6 (iii) If the available vocational costs are utilized by the worker
7 and the claim is thereafter reopened as provided in RCW 51.32.160, the
8 cost available for any vocational plan is limited to that in subsection
9 (3)(d) of this section less that previously expended.

10 (iv) Option 2 may only be elected once per worker.

11 (c) The director, in his or her sole discretion, may provide the
12 worker vocational assistance not to exceed that in subsection (3) of
13 this section, without regard to the worker's prior option selection or
14 benefits expended, where vocational assistance would prevent permanent
15 total disability under RCW 51.32.060.

16 (5)(a) As used in this section, "vocational plan interruption"
17 means an occurrence which disrupts the plan to the extent the
18 employability goal is no longer attainable. "Vocational plan
19 interruption" does not include institutionally scheduled breaks in
20 educational programs, occasional absence due to illness, or
21 modifications to the plan which will allow it to be completed within
22 the cost and time provisions of subsection (3)(d) and (e) of this
23 section.

24 (b) When a vocational plan interruption is beyond the control of
25 the worker, the department or self-insurer shall recommence plan
26 development. If necessary to complete vocational services, the cost
27 and duration of the plan may include credit for that expended prior to
28 the interruption. A vocational plan interruption is considered outside
29 the control of the worker when it is due to the closure of the
30 accredited institution, when it is due to a death in the worker's
31 immediate family, or when documented changes in the worker's accepted
32 medical conditions prevent further participation in the vocational
33 plan.

34 (c) When a vocational plan interruption is the result of the
35 worker's actions, the worker's entitlement to benefits shall be
36 suspended in accordance with RCW 51.32.110. If plan development or
37 implementation is recommenced, the cost and duration of the plan shall
38 not include credit for that expended prior to the interruption. A

1 vocational plan interruption is considered a result of the worker's
2 actions when it is due to the failure to meet attendance expectations
3 set by the training or educational institution, failure to achieve
4 passing grades or acceptable performance review, unaccepted or
5 postinjury conditions that prevent further participation in the
6 vocational plan, or the worker's failure to abide by the accountability
7 agreement per subsection (3)(a) of this section.

8 **Sec. 6.** RCW 74.08A.250 and 2006 c 107 s 2 are each amended to read
9 as follows:

10 Unless the context clearly requires otherwise, as used in this
11 chapter, "work activity" means:

- 12 (1) Unsubsidized paid employment in the private or public sector;
- 13 (2) Subsidized paid employment in the private or public sector,
14 including employment through the state or federal work-study program
15 for a period not to exceed twenty-four months;
- 16 (3) Work experience, including:
 - 17 (a) An internship or practicum, that is paid or unpaid and is
18 required to complete a course of vocational training or to obtain a
19 license or certificate in a high-demand (~~field~~) occupation, as
20 determined by the employment security department. No internship or
21 practicum shall exceed twelve months; or
 - 22 (b) Work associated with the refurbishing of publicly assisted
23 housing, if sufficient paid employment is not available;
- 24 (4) On-the-job training;
- 25 (5) Job search and job readiness assistance;
- 26 (6) Community service programs;
- 27 (7) Vocational educational training, not to exceed twelve months
28 with respect to any individual;
- 29 (8) Job skills training directly related to employment;
- 30 (9) Education directly related to employment, in the case of a
31 recipient who has not received a high school diploma or a GED;
- 32 (10) Satisfactory attendance at secondary school or in a course of
33 study leading to a GED, in the case of a recipient who has not
34 completed secondary school or received such a certificate;
- 35 (11) The provision of child care services to an individual who is
36 participating in a community service program;

1 (12) Internships, that shall be paid or unpaid work experience
2 performed by an intern in a business, industry, or government or
3 nongovernmental agency setting;

4 (13) Practicums, which include any educational program in which a
5 student is working under the close supervision of a professional in an
6 agency, clinic, or other professional practice setting for purposes of
7 advancing their skills and knowledge;

8 (14) Services required by the recipient under RCW 74.08.025(3) and
9 74.08A.010(3) to become employable; and

10 (15) Financial literacy activities designed to be effective in
11 assisting a recipient in becoming self-sufficient and financially
12 stable.

13 NEW SECTION. **Sec. 7.** Section 5 of this act expires June 30, 2013.
Passed by the House April 20, 2009.
Passed by the Senate April 13, 2009.
Approved by the Governor May 6, 2009.
Filed in Office of Secretary of State May 8, 2009.