

HB 1395 - S COMM AMD

By Committee on Higher Education & Workforce Development

ADOPTED 04/13/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 28B.50.030 and 2007 c 277 s 301 are each amended to
4 read as follows:

5 As used in this chapter, unless the context requires otherwise, the
6 term:

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

9 (2) "Board" shall mean the workforce training and education
10 coordinating board.

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

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

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

17 (6) "Board of trustees" shall mean the local community and
18 technical college board of trustees established for each college
19 district within the state.

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

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

26 (9) "Common school board" shall mean a public school district board
27 of directors.

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

1 (11) "Technical college" shall include those higher education
2 institutions with the sole mission of conducting occupational
3 education, basic skills, literacy programs, and offering on short
4 notice, when appropriate, programs that meet specific industry needs.
5 The programs of technical colleges shall include, but not be limited
6 to, continuous enrollment, competency-based instruction, industry-
7 experienced faculty, curriculum integrating vocational and basic skills
8 education, and curriculum approved by representatives of employers and
9 labor. For purposes of this chapter, technical colleges shall include
10 Lake Washington Vocational-Technical Institute, Renton Vocational-
11 Technical Institute, Bates Vocational-Technical Institute, Clover Park
12 Vocational Institute, and Bellingham Vocational-Technical Institute.

13 (12) "Adult education" shall mean all education or instruction,
14 including academic, vocational education or training, basic skills and
15 literacy training, and "occupational education" provided by public
16 educational institutions, including common school districts for persons
17 who are eighteen years of age and over or who hold a high school
18 diploma or certificate. However, "adult education" shall not include
19 academic education or instruction for persons under twenty-one years of
20 age who do not hold a high school degree or diploma and who are
21 attending a public high school for the sole purpose of obtaining a high
22 school diploma or certificate, nor shall "adult education" include
23 education or instruction provided by any four year public institution
24 of higher education.

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

35 (14) "Forest products worker" shall mean a worker in the forest
36 products industries affected by the reduction of forest fiber
37 enhancement, transportation, or production. The workers included
38 within this definition shall be determined by the employment security

1 department, but shall include workers employed in the industries
2 assigned the major group standard industrial classification codes "24"
3 and "26" and the industries involved in the harvesting and management
4 of logs, transportation of logs and wood products, processing of wood
5 products, and the manufacturing and distribution of wood processing and
6 logging equipment. The commissioner may adopt rules further
7 interpreting these definitions. For the purposes of this subsection,
8 "standard industrial classification code" means the code identified in
9 RCW 50.29.025(3).

10 (15) "Dislocated salmon fishing worker" means a finfish products
11 worker who: (a)(i) Has been terminated or received notice of
12 termination from employment and is unlikely to return to employment in
13 the individual's principal occupation or previous industry because of
14 a diminishing demand for his or her skills in that occupation or
15 industry; or (ii) is self-employed and has been displaced from his or
16 her business because of the diminishing demand for the business's
17 services or goods; and (b) at the time of last separation from
18 employment, resided in or was employed in a rural natural resources
19 impact area.

20 (16) "Salmon fishing worker" means a worker in the finfish industry
21 affected by 1994 or future salmon disasters. The workers included
22 within this definition shall be determined by the employment security
23 department, but shall include workers employed in the industries
24 involved in the commercial and recreational harvesting of finfish
25 including buying and processing finfish. The commissioner may adopt
26 rules further interpreting these definitions.

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

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

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

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

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

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

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

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

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

9 (e) An unemployment rate twenty percent or more above the state
10 average. The counties that meet these criteria shall be determined by
11 the employment security department for the most recent year for which
12 data is available. For the purposes of administration of programs
13 under this chapter, the United States post office five-digit zip code
14 delivery areas will be used to determine residence status for
15 eligibility purposes. For the purpose of this definition, a zip code
16 delivery area of which any part is ten miles or more from an urbanized
17 area is considered nonurbanized. A zip code totally surrounded by zip
18 codes qualifying as nonurbanized under this definition is also
19 considered nonurbanized. The office of financial management shall make
20 available a zip code listing of the areas to all agencies and
21 organizations providing services under this chapter.

22 (19) "Applied baccalaureate degree" means a baccalaureate degree
23 awarded by a college under RCW 28B.50.810 for successful completion of
24 a program of study that is:

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

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

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

32 (a) Washington public community and technical colleges;

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

36 (c) Washington state apprenticeship and training council-approved
37 apprenticeship programs.

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

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

9 For the purposes of identifying opportunity grant-eligible programs
10 of study and other job training programs, the college board, in
11 partnership with business, labor, and the workforce training and
12 education coordinating board, shall:

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

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

23 ~~((+2))~~ (3) Gain recognition of the credentials, certificates, and
24 degrees by Washington's employers and labor organizations. The college
25 board shall designate these recognized credentials, certificates, and
26 degrees as "opportunity grant-eligible programs of study"; and

27 ~~((+3))~~ (4) Market the credentials, certificates, and degrees to
28 potential students, businesses, and apprenticeship programs as a way
29 for individuals to advance in their careers and to better meet the
30 needs of industry.

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

33 It is the intent of the legislature that a training benefits
34 program be established to provide unemployment insurance benefits to
35 unemployed individuals who participate in training programs necessary
36 for their reemployment.

1 The legislature further intends that this program serve the
2 following goals:

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

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

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

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

12 Individuals unemployed as a result of structural changes in the
13 economy and technological advances rendering their skills obsolete must
14 receive the highest priority for participation in this program. It is
15 the further intent of the legislature that individuals for whom
16 suitable employment is available are not eligible for additional
17 benefits while participating in training.

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

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

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

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

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

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

32 (c) Is, after assessment of demand for the individual's occupation
33 or skills in the individual's labor market, determined to need job-
34 related training to find suitable employment in his or her labor
35 market. Beginning July 1, 2001, the assessment of demand for the
36 individual's occupation or skill sets must be substantially based on
37 declining occupation or skill sets identified in local labor market

1 areas by the local workforce development councils, in cooperation with
2 the employment security department and its labor market information
3 division, under subsection (11) of this section;

4 (d) Develops an individual training program that is submitted to
5 the commissioner for approval within sixty days after the individual is
6 notified by the employment security department of the requirements of
7 this section;

8 (e) Enters the approved training program by ninety days after the
9 date of the notification, unless the employment security department
10 determines that the training is not available during the ninety-day
11 period, in which case the individual enters training as soon as it is
12 available; and

13 (f) Is enrolled in training approved under this section on a full-
14 time basis as determined by the educational institution, and is making
15 satisfactory progress in the training as certified by the educational
16 institution.

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

21 (a) An exhaustee who has base year employment in the aerospace
22 industry assigned the standard industrial classification code "372" or
23 the North American industry classification system code "336411";

24 (b) An exhaustee who has base year employment in the forest
25 products industry, determined by the department, but including the
26 industries assigned the major group standard industrial classification
27 codes "24" and "26" or any equivalent codes in the North American
28 industry classification system code, and the industries involved in the
29 harvesting and management of logs, transportation of logs and wood
30 products, processing of wood products, and the manufacturing and
31 distribution of wood processing and logging equipment; or

32 (c) An exhaustee who has base year employment in the fishing
33 industry assigned the standard industrial classification code "0912" or
34 any equivalent codes in the North American industry classification
35 system code.

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

- 1 (a) Is a standby claimant who expects recall to his or her regular
2 employer;
- 3 (b) Has a definite recall date that is within six months of the
4 date he or she is laid off; or
- 5 (c) Is unemployed due to a regular seasonal layoff which
6 demonstrates a pattern of unemployment consistent with the provisions
7 of RCW 50.20.015. Regular seasonal layoff does not include layoff due
8 to permanent structural downsizing or structural changes in the
9 individual's labor market.
- 10 (5) The definitions in this subsection apply throughout this
11 section unless the context clearly requires otherwise.
- 12 (a) "Educational institution" means an institution of higher
13 education as defined in RCW 28B.10.016 or an educational institution as
14 defined in RCW 28C.04.410, including equivalent educational
15 institutions in other states.
- 16 (b) "Sufficient tenure" means earning a plurality of wages in a
17 particular occupation or using a particular skill set during the base
18 year and at least two of the four twelve-month periods immediately
19 preceding the base year.
- 20 (c) "Training benefits" means additional benefits paid under this
21 section.
- 22 (d) "Training program" means:
- 23 (i) An education program determined to be necessary as a
24 prerequisite to vocational training after counseling at the educational
25 institution in which the individual enrolls under his or her approved
26 training program; or
- 27 (ii) A vocational training program at an educational institution:
- 28 (A) That is targeted to training for a high-demand occupation.
29 Beginning July 1, 2001, the assessment of high-demand occupations
30 authorized for training under this section must be substantially based
31 on labor market and employment information developed by local workforce
32 development councils, in cooperation with the employment security
33 department and its labor market information division, under subsection
34 (11) of this section;
- 35 (B) That is likely to enhance the individual's marketable skills
36 and earning power; and
- 37 (C) That meets the criteria for performance developed by the

1 workforce training and education coordinating board for the purpose of
2 determining those training programs eligible for funding under Title I
3 of P.L. 105-220.

4 "Training program" does not include any course of education
5 primarily intended to meet the requirements of a baccalaureate or
6 higher degree, unless the training meets specific requirements for
7 certification, licensing, or for specific skills necessary for the
8 occupation.

9 (6) Benefits shall be paid as follows:

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

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

22 (iii) For exhaustees eligible under subsection (2) of this section
23 from industries listed under subsection (3)(a) of this section, for
24 claims filed on or after June 30, 2002, but before January 5, 2003, the
25 total training benefit amount shall be seventy-four times the
26 individual's weekly benefit amount, reduced by the total amount of
27 regular benefits and extended benefits paid, or deemed paid, with
28 respect to the benefit year.

29 (b) The weekly benefit amount shall be the same as the regular
30 weekly amount payable during the applicable benefit year and shall be
31 paid under the same terms and conditions as regular benefits. The
32 training benefits shall be paid before any extended benefits but not
33 before any similar federally funded program.

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

36 (7) The requirement under RCW 50.22.010(10) relating to exhausting
37 regular benefits does not apply to an individual otherwise eligible for
38 training benefits under this section when the individual's benefit year

1 ends before his or her training benefits are exhausted and the
2 individual is eligible for a new benefit year. These individuals will
3 have the option of remaining on the original claim or filing a new
4 claim.

5 (8)(a) Except as provided in (b) of this subsection, individuals
6 who receive training benefits under this section or under any previous
7 additional benefits program for training are not eligible for training
8 benefits under this section for five years from the last receipt of
9 training benefits under this section or under any previous additional
10 benefits program for training.

11 (b) With respect to claims that are filed before January 5, 2003,
12 an individual in the aerospace industry assigned the standard
13 industrial code "372" or the North American industry classification
14 system code "336411" who received training benefits under this section,
15 and who had been making satisfactory progress in a training program but
16 did not complete the program, is eligible, without regard to the five-
17 year limitation of this section and without regard to the requirement
18 of subsection (2)(b) of this section, if applicable, to receive
19 training benefits under this section in order to complete that training
20 program. The total training benefit amount that applies to the
21 individual is seventy-four times the individual's weekly benefit
22 amount, reduced by the total amount of regular benefits paid, or deemed
23 paid, with respect to the benefit year in which the training program
24 resumed and, if applicable, reduced by the amount of training benefits
25 paid, or deemed paid, with respect to the benefit year in which the
26 training program commenced.

27 (9) An individual eligible to receive a trade readjustment
28 allowance under chapter 2 of Title II of the Trade Act of 1974, as
29 amended, shall not be eligible to receive benefits under this section
30 for each week the individual receives such trade readjustment
31 allowance. An individual eligible to receive emergency unemployment
32 compensation, so called, under any federal law, shall not be eligible
33 to receive benefits under this section for each week the individual
34 receives such compensation.

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

37 (11) By July 1, 2001, each local workforce development council, in
38 cooperation with the employment security department and its labor

1 market information division, must identify (~~occupations and skill sets~~
2 ~~that are declining and occupations and skill sets that are in~~) high-
3 demand occupations and occupations in declining employer demand. For
4 the purposes of RCW 50.22.130 through 50.22.150 and section 9, chapter
5 2, Laws of 2000, "high-demand occupation" means (~~demand for employment~~
6 ~~that exceeds the supply of qualified workers for occupations or skill~~
7 ~~sets in a labor market area~~) an occupation with a substantial number
8 of current or projected employment opportunities. Local workforce
9 development councils must use state and locally developed labor market
10 information. Thereafter, each local workforce development council
11 shall update this information annually or more frequently if needed.

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

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

16 (1)(a) The legislature intends to create improved vocational
17 outcomes for Washington state injured workers and employers through
18 legislative and regulatory change under a pilot program for the period
19 of January 1, 2008, through June 30, 2013. This pilot vocational
20 system is intended to allow opportunities for eligible workers to
21 participate in meaningful retraining in high-demand occupations,
22 improve successful return to work and achieve positive outcomes for
23 workers, reduce the incidence of repeat vocational services, increase
24 accountability and responsibility, and improve cost predictability. To
25 facilitate the study and evaluation of the results of the proposed
26 changes, the department shall establish the temporary funding of
27 certain state fund vocational costs through the medical aid account to
28 ensure the appropriate assessments to employers for the costs of their
29 claims for vocational services in accordance with RCW 51.32.0991.

30 (b) An independent review and study of the effects of the pilot
31 program shall be conducted to determine whether it has achieved the
32 appropriate outcomes at reasonable cost to the system. The review
33 shall include, at a minimum, a report on the department's performance
34 with regard to the provision of vocational services, the skills
35 acquired by workers who receive retraining services, the types of
36 training programs approved, whether the workers are employed, at what
37 jobs and wages after completion of the training program and at various

1 times subsequent to their claim closure, the number and demographics of
2 workers who choose the option provided in subsection (4)(b) of this
3 section, and their employment and earnings status at various times
4 subsequent to claim closure. The department may adopt rules, in
5 collaboration with the subcommittee created under (c)(iii) of this
6 subsection, to further define the scope and elements of the required
7 study. Reports of the independent researcher are due on December 1,
8 2010, December 1, 2011, and December 1, 2012.

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

10 (i) Establish a vocational initiative project that includes
11 participation by the department as a partner with WorkSource, the
12 established state system that administers the federal workforce
13 investment act of 1998. As a partner, the department shall place
14 vocational professional full-time employees at pilot WorkSource
15 locations; refer some workers for vocational services to these
16 vocational professionals; and work with employers in work source pilot
17 areas to market the benefits of on-the-job training programs and with
18 community colleges to reserve slots in high employer demand programs of
19 study as defined in RCW 28B.50.030. These on-the-job training programs
20 and community college slots may be considered by both department and
21 private sector vocational professionals for vocational plan
22 development. The department will also assist stakeholders in
23 developing additional vocational training programs in various
24 industries, including but not limited to agriculture and construction.
25 These programs will expand the choices available to injured workers in
26 developing their vocational training plans with the assistance of
27 vocational professionals.

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

32 (iii) Create a vocational rehabilitation subcommittee made up of
33 members appointed by the director for at least the duration of the
34 pilot program. This subcommittee shall provide the business and labor
35 partnership needed to maintain focus on the intent of the pilot
36 program, as described in this section, and provide consistency and
37 transparency to the development of rules and policies. The
38 subcommittee shall report to the director at least annually and

1 recommend to the director and the legislature any additional statutory
2 changes needed, which may include extension of the pilot period. The
3 subcommittee shall provide input and oversight with the department
4 concerning the study required under (b) of this subsection. The
5 subcommittee shall provide recommendations for additional changes or
6 incentives for injured workers to return to work with their employer of
7 injury.

8 (iv) The department shall develop an annual report concerning
9 Washington's workers' compensation vocational rehabilitation system to
10 the legislature and to the subcommittee by December 1, 2009, and
11 annually thereafter with the final report due by December 1, 2012. The
12 annual report shall include the number of workers who have participated
13 in more than one vocational training plan beginning with plans approved
14 on January 1, 2008, and in which industries those workers were
15 employed. The final report shall include the department's assessment
16 and recommendations for further legislative action, in collaboration
17 with the subcommittee.

18 (2)(a) For the purposes of this section, the day the worker
19 commences vocational plan development means the date the department or
20 self-insurer notifies the worker of his or her eligibility for plan
21 development services.

22 (b) When vocational rehabilitation is both necessary and likely to
23 make the worker employable at gainful employment, he or she shall be
24 provided with services necessary to develop a vocational plan that, if
25 completed, would render the worker employable. The vocational
26 professional assigned to the claim shall, at the initial meeting with
27 the worker, fully inform the worker of the return-to-work priorities
28 set forth in RCW 51.32.095(2) and of his or her rights and
29 responsibilities under the workers' compensation vocational system.
30 The department shall provide tools to the vocational professional for
31 communicating this and other information required by RCW 51.32.095 and
32 this section to the worker.

33 (c) On the date the worker commences vocational plan development,
34 the department shall also inform the employer in writing of the
35 employer's right to make a valid return-to-work offer during the first
36 fifteen days following the commencement of vocational plan development.
37 To be valid, the offer must be for bona fide employment with the
38 employer of injury, consistent with the worker's documented physical

1 and mental restrictions as provided by the worker's health care
2 provider. When the employer makes a valid return-to-work offer, the
3 vocational plan development services and temporary total disability
4 compensation shall be terminated effective (~~(+on+)~~) on the starting
5 date for the job without regard to whether the worker accepts the
6 return-to-work offer. Following the fifteen-day period, the employer
7 may still provide, and the worker may accept, any valid return-to-work
8 offer. The worker's acceptance of such an offer shall result in the
9 termination of vocational plan development or implementation services
10 and temporary total disability compensation effective the day the
11 employment begins.

12 (3)(a) All vocational plans must contain an accountability
13 agreement signed by the worker detailing expectations regarding
14 progress, attendance, and other factors influencing successful
15 participation in the plan. Failure to abide by the agreed expectations
16 shall result in suspension of vocational benefits pursuant to RCW
17 51.32.110.

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

22 (c) The vocational plan for an individual worker must be completed
23 and submitted to the department within ninety days of the day the
24 worker commences vocational plan development. The department may
25 extend the ninety days for good cause. Criteria for good cause shall
26 be provided in rule. The frequency and reasons for good cause
27 extensions shall be reported to the subcommittee created under
28 subsection (1)(c)(iii) of this section.

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

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

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

9 (4) Vocational plan development services shall be completed within
10 ninety days of commencing. During vocational plan development the
11 worker shall, with the assistance of a vocational professional,
12 participate in vocational counseling and occupational exploration to
13 include, but not be limited to, identifying possible job goals,
14 training needs, resources, and expenses, consistent with the worker's
15 physical and mental status. A vocational rehabilitation plan shall be
16 developed by the worker and the vocational professional and submitted
17 to the department or self-insurer. Following this submission, the
18 worker shall elect one of the following options:

19 (a) Option 1: The department or self-insurer implements and the
20 worker participates in the vocational plan developed by the vocational
21 professional and approved by the worker and the department or
22 self-insurer. For state fund claims, the department must review and
23 approve the vocational plan before implementation may begin. If the
24 department takes no action within fifteen days, the plan is deemed
25 approved. The worker may, within fifteen days of approval of the plan
26 by the department, elect option 2.

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

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

37 (b) Option 2: The worker declines further vocational services
38 under the claim and receives an amount equal to six months of temporary

1 total disability compensation under RCW 51.32.090. The award is
2 payable in biweekly payments in accordance with the schedule of
3 temporary total disability payments, until such award is paid in full.
4 These payments shall not include interest on the unpaid balance.
5 However, upon application by the worker, and at the discretion of the
6 department, the compensation may be converted to a lump sum payment.
7 The vocational costs defined in subsection (3)(d) of this section shall
8 remain available to the worker, upon application to the department or
9 self-insurer, for a period of five years. The vocational costs shall,
10 if expended, be available for programs or courses at any accredited or
11 licensed institution or program from a list of those approved by the
12 department for tuition, books, fees, supplies, equipment, and tools,
13 without department or self-insurer oversight. The department shall
14 issue an order as provided in RCW 51.52.050 confirming the option 2
15 election, setting a payment schedule, and terminating temporary total
16 disability benefits. The department shall thereafter close the claim.

17 (i) If within five years from the date the option 2 order becomes
18 final, the worker is subsequently injured or suffers an occupational
19 disease or reopens the claim as provided in RCW 51.32.160, and
20 vocational rehabilitation is found both necessary and likely to enable
21 the injured worker to become employable at gainful employment under RCW
22 51.32.095(1), the duration of any vocational plan under subsection
23 (3)(e) of this section shall not exceed eighteen months.

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

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

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

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

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

9 (b) When a vocational plan interruption is beyond the control of
10 the worker, the department or self-insurer shall recommence plan
11 development. If necessary to complete vocational services, the cost
12 and duration of the plan may include credit for that expended prior to
13 the interruption. A vocational plan interruption is considered outside
14 the control of the worker when it is due to the closure of the
15 accredited institution, when it is due to a death in the worker's
16 immediate family, or when documented changes in the worker's accepted
17 medical conditions prevent further participation in the vocational
18 plan.

19 (c) When a vocational plan interruption is the result of the
20 worker's actions, the worker's entitlement to benefits shall be
21 suspended in accordance with RCW 51.32.110. If plan development or
22 implementation is recommenced, the cost and duration of the plan shall
23 not include credit for that expended prior to the interruption. A
24 vocational plan interruption is considered a result of the worker's
25 actions when it is due to the failure to meet attendance expectations
26 set by the training or educational institution, failure to achieve
27 passing grades or acceptable performance review, unaccepted or
28 postinjury conditions that prevent further participation in the
29 vocational plan, or the worker's failure to abide by the accountability
30 agreement per subsection (3)(a) of this section.

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

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

- 35 (1) Unsubsidized paid employment in the private or public sector;
- 36 (2) Subsidized paid employment in the private or public sector,

1 including employment through the state or federal work-study program
2 for a period not to exceed twenty-four months;

3 (3) Work experience, including:

4 (a) An internship or practicum, that is paid or unpaid and is
5 required to complete a course of vocational training or to obtain a
6 license or certificate in a high-demand (~~field~~) occupation, as
7 determined by the employment security department. No internship or
8 practicum shall exceed twelve months; or

9 (b) Work associated with the refurbishing of publicly assisted
10 housing, if sufficient paid employment is not available;

11 (4) On-the-job training;

12 (5) Job search and job readiness assistance;

13 (6) Community service programs;

14 (7) Vocational educational training, not to exceed twelve months
15 with respect to any individual;

16 (8) Job skills training directly related to employment;

17 (9) Education directly related to employment, in the case of a
18 recipient who has not received a high school diploma or a GED;

19 (10) Satisfactory attendance at secondary school or in a course of
20 study leading to a GED, in the case of a recipient who has not
21 completed secondary school or received such a certificate;

22 (11) The provision of child care services to an individual who is
23 participating in a community service program;

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

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

31 (14) Services required by the recipient under RCW 74.08.025(3) and
32 74.08A.010(3) to become employable; and

33 (15) Financial literacy activities designed to be effective in
34 assisting a recipient in becoming self-sufficient and financially
35 stable.

36 NEW SECTION. **Sec. 7.** Section 5 of this act expires June 30,
37 2013."

HB 1395 - S COMM AMD

By Committee on Higher Education & Workforce Development

ADOPTED 04/13/2009

1 On page 1, line 2 of the title, after "development;" strike the
2 remainder of the title and insert "amending RCW 28B.50.030, 28B.50.273,
3 50.22.130, 50.22.150, 51.32.099, and 74.08A.250; and providing an
4 expiration date."

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