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ENGROSSED SENATE BILL 5631

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State of Washington

56th Legislature

1999 Regular Session

By Senators Wojahn, Winsley, Fairley and Costa

Read first time 02/01/1999. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to vocational rehabilitation compensation; and  
2 reenacting and amending RCW 51.32.095.

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

4 **Sec. 1.** RCW 51.32.095 and 1996 c 151 s 1 and 1996 c 59 s 1 are  
5 each reenacted and amended to read as follows:

6 (1) One of the primary purposes of this title is to enable the  
7 injured worker to become employable at gainful employment. To this  
8 end, the department or self-insurers shall utilize the services of  
9 individuals and organizations, public or private, whose experience,  
10 training, and interests in vocational rehabilitation and retraining  
11 qualify them to lend expert assistance to the supervisor of industrial  
12 insurance in such programs of vocational rehabilitation as may be  
13 reasonable to make the worker employable consistent with his or her  
14 physical and mental status. Where, after evaluation and recommendation  
15 by such individuals or organizations and prior to final evaluation of  
16 the worker's permanent disability and in the sole opinion of the  
17 supervisor or supervisor's designee, whether or not medical treatment  
18 has been concluded, vocational rehabilitation is both necessary and  
19 likely to enable the injured worker to become employable at gainful

1 employment, the supervisor or supervisor's designee may, in his or her  
2 sole discretion, pay or, if the employer is a self-insurer, direct the  
3 self-insurer to pay the cost as provided in subsection (3) of this  
4 section.

5 (2) When in the sole discretion of the supervisor or the  
6 supervisor's designee vocational rehabilitation is both necessary and  
7 likely to make the worker employable at gainful employment, then the  
8 following order of priorities shall be used:

9 (a) Return to the previous job with the same employer;

10 (b) Modification of the previous job with the same employer  
11 including transitional return to work;

12 (c) A new job with the same employer in keeping with any  
13 limitations or restrictions;

14 (d) Modification of a new job with the same employer including  
15 transitional return to work;

16 (e) Modification of the previous job with a new employer;

17 (f) A new job with a new employer or self-employment based upon  
18 transferable skills;

19 (g) Modification of a new job with a new employer;

20 (h) A new job with a new employer or self-employment involving on-  
21 the-job training;

22 (i) Short-term retraining and job placement.

23 (3) Costs for vocational rehabilitation benefits allowed by the  
24 supervisor or supervisor's designee under subsection (1) of this  
25 section may include the cost of books, tuition, fees, supplies,  
26 equipment, (~~transportation,~~) child or dependent care, and other  
27 necessary expenses for any such worker in an amount not to exceed  
28 (~~three~~) four thousand dollars in any fifty-two week period except as  
29 authorized by RCW 51.60.060, and the cost of transportation and  
30 continuing the temporary total disability compensation under RCW  
31 51.32.090 while the worker is actively and successfully undergoing a  
32 formal program of vocational rehabilitation. Such expenses may include  
33 training fees for on-the-job training and the cost of furnishing tools  
34 and other equipment necessary for self-employment or reemployment:  
35 PROVIDED, That such compensation or payment of retraining with job  
36 placement expenses may not be authorized for a period of more than  
37 fifty-two weeks: PROVIDED FURTHER, That such period may, in the sole  
38 discretion of the supervisor after his or her review, be extended for

1 an additional fifty-two weeks or portion thereof by written order of  
2 the supervisor.

3 In cases where the worker is required to reside away from his or  
4 her customary residence, the reasonable cost of board and lodging shall  
5 also be paid. Said costs shall be chargeable to the employer's cost  
6 experience or shall be paid by the self-insurer as the case may be.

7 (4) In addition to the vocational rehabilitation expenditures  
8 provided for under subsection (3) of this section, an additional five  
9 thousand dollars may, upon authorization of the supervisor or the  
10 supervisor's designee, be expended for: (a) Accommodations for an  
11 injured worker that are medically necessary for the worker to  
12 participate in an approved retraining plan; and (b) accommodations  
13 necessary to perform the essential functions of an occupation in which  
14 an injured worker is seeking employment, consistent with the retraining  
15 plan or the recommendations of a vocational evaluation. The injured  
16 worker's attending physician must verify the necessity of the  
17 modifications or accommodations. The total expenditures authorized in  
18 this subsection and the expenditures authorized under RCW 51.32.250  
19 shall not exceed five thousand dollars.

20 (5) The department shall establish criteria to monitor the quality  
21 and effectiveness of rehabilitation services provided by the  
22 individuals and organizations used under subsection (1) of this  
23 section. The state fund shall make referrals for vocational  
24 rehabilitation services based on these performance criteria.

25 (6) The department shall engage in, where feasible and cost-  
26 effective, a cooperative program with the state employment security  
27 department to provide job placement services under this section.

28 (7) The benefits in this section shall be provided for the injured  
29 workers of self-insured employers. Self-insurers shall report both  
30 benefits provided and benefits denied under this section in the manner  
31 prescribed by the department by rule adopted under chapter 34.05 RCW.  
32 The director may, in his or her sole discretion and upon his or her own  
33 initiative or at any time that a dispute arises under this section,  
34 promptly make such inquiries as circumstances require and take such  
35 other action as he or she considers will properly determine the matter  
36 and protect the rights of the parties.

37 (8) The benefits provided for in this section are available to any  
38 otherwise eligible worker regardless of the date of industrial injury.

1 However, claims shall not be reopened solely for vocational  
2 rehabilitation purposes.

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