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HOUSE BILL 1686

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State of Washington

62nd Legislature

2011 Regular Session

By Representative Sells; by request of Governor Gregoire

Read first time 01/28/11. Referred to Committee on Labor & Workforce Development.

1 AN ACT Relating to reducing long-term disability for injured  
2 workers and resulting costs to Washington's workers' compensation  
3 system; amending RCW 51.04.110, 51.32.060, 51.32.067, 51.32.080,  
4 51.32.160, and 51.36.010; reenacting and amending RCW 51.32.090; adding  
5 a new section to chapter 49.17 RCW; adding new sections to chapter  
6 51.32 RCW; providing an effective date; and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.17 RCW  
9 to read as follows:

10 (1) The director is authorized to provide funding from the medical  
11 aid fund established under RCW 51.44.020, by grant or contract, for  
12 safety and health investment projects for workplaces insured for  
13 workers' compensation through the department's state fund. This shall  
14 include projects to: Prevent workplace injuries, illnesses, and  
15 fatalities; create early return-to-work programs; and to reduce long-  
16 term disability through the cooperation of employers and employees or  
17 their representatives.

18 (2) Awards may be granted to organizations such as, but not limited  
19 to, trade associations, business associations, employers, employees,

1 labor unions, employee organizations, joint labor and management  
2 groups, and educational institutions in collaboration with state fund  
3 employer and employee representatives.

4 (3) Awards may not be used for lobbying or political activities;  
5 supporting, opposing, or developing legislative or regulatory  
6 initiatives; any activity not designed to reduce workplace injuries,  
7 illnesses, or fatalities; or reimbursing employers for the normal costs  
8 of complying with safety and health rules.

9 (4) Awards should foster the development and implementation of  
10 innovative and effective return-to-work programs that lead to improved  
11 outcomes for injured workers. Funds for awards shall be distributed as  
12 follows: Twenty-five percent for projects designed to develop and  
13 implement innovative and effective return-to-work programs for injured  
14 workers; twenty-five percent for projects that specifically address the  
15 needs of small businesses; and fifty percent for projects that foster  
16 workplace injury and illness prevention by addressing priorities  
17 identified by the department in cooperation with the Washington  
18 industrial safety and health act advisory committee and the workers'  
19 compensation advisory committee.

20 **Sec. 2.** RCW 51.04.110 and 2010 c 8 s 14001 are each amended to  
21 read as follows:

22 The director shall appoint a workers' compensation advisory  
23 committee composed of ten members: Three representing subject workers,  
24 three representing subject employers, one representing self-insurers,  
25 one representing workers of self-insurers, and two ex officio members,  
26 without a vote, one of whom shall be the chair of the board of  
27 industrial appeals and the other the representative of the department.  
28 The member representing the department shall be chair. This committee  
29 shall conduct a continuing study of any aspects of workers'  
30 compensation as the committee shall determine require their  
31 consideration and shall assist in the identification of priorities for  
32 safety and health investment projects as provided in chapter 49.17 RCW.  
33 The committee shall report its findings to the department or the board  
34 of industrial insurance appeals for such action as deemed appropriate.  
35 The members of the committee shall be appointed for a term of three  
36 years commencing on July 1, 1971 and the terms of the members  
37 representing the workers and employers shall be staggered so that the

1 director shall designate one member from each such group initially  
2 appointed whose term shall expire on June 30, 1972 and one member from  
3 each such group whose term shall expire on June 30, 1973. The members  
4 shall serve without compensation, but shall be entitled to travel  
5 expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or  
6 hereafter amended. The committee may hire such experts, if any, as it  
7 shall require to discharge its duties, and may utilize such personnel  
8 and facilities of the department and board of industrial insurance  
9 appeals as it shall need without charge. All expenses of this  
10 committee shall be paid by the department.

11 **Sec. 3.** RCW 51.32.060 and 2007 c 284 s 2 are each amended to read  
12 as follows:

13 (1) When the supervisor of industrial insurance shall determine  
14 that permanent total disability results from the injury, the worker  
15 shall receive monthly during the period of such disability:

16 (a) If married at the time of injury, sixty-five percent of his or  
17 her wages.

18 (b) If married with one child at the time of injury, sixty-seven  
19 percent of his or her wages.

20 (c) If married with two children at the time of injury, sixty-nine  
21 percent of his or her wages.

22 (d) If married with three children at the time of injury,  
23 seventy-one percent of his or her wages.

24 (e) If married with four children at the time of injury,  
25 seventy-three percent of his or her wages.

26 (f) If married with five or more children at the time of injury,  
27 seventy-five percent of his or her wages.

28 (g) If unmarried at the time of the injury, sixty percent of his or  
29 her wages.

30 (h) If unmarried with one child at the time of injury, sixty-two  
31 percent of his or her wages.

32 (i) If unmarried with two children at the time of injury,  
33 sixty-four percent of his or her wages.

34 (j) If unmarried with three children at the time of injury,  
35 sixty-six percent of his or her wages.

36 (k) If unmarried with four children at the time of injury,  
37 sixty-eight percent of his or her wages.

1 (1) If unmarried with five or more children at the time of injury,  
2 seventy percent of his or her wages.

3 (2) For any period of time where both husband and wife are entitled  
4 to compensation as temporarily or totally disabled workers, only that  
5 spouse having the higher wages of the two shall be entitled to claim  
6 their child or children for compensation purposes.

7 (3) In case of permanent total disability, if the character of the  
8 injury is such as to render the worker so physically helpless as to  
9 require the hiring of the services of an attendant, the department  
10 shall make monthly payments to such attendant for such services as long  
11 as such requirement continues, but such payments shall not obtain or be  
12 operative while the worker is receiving care under or pursuant to the  
13 provisions of chapter 51.36 RCW and RCW 51.04.105.

14 (4) Should any further accident result in the permanent total  
15 disability of an injured worker, he or she shall receive the pension to  
16 which he or she would be entitled, notwithstanding the payment of a  
17 lump sum for his or her prior injury.

18 (5)(a) In no event shall the monthly payments provided in this  
19 section:

20 ~~((+a))~~ (i) Exceed the applicable percentage of the average monthly  
21 wage in the state as computed under the provisions of RCW 51.08.018 as  
22 follows:

	AFTER	PERCENTAGE
	June 30, 1993	105%
	June 30, 1994	110%
	June 30, 1995	115%
	June 30, 1996	120%

23  
24  
25  
26  
27  
28 ~~((+b))~~ (ii) For dates of injury or disease manifestation after  
29 July 1, 2008, be less than fifteen percent of the average monthly wage  
30 in the state as computed under RCW 51.08.018 plus an additional ten  
31 dollars per month if a worker is married and an additional ten dollars  
32 per month for each child of the worker up to a maximum of five  
33 children. However, if the monthly payment computed under this  
34 subsection (5)~~((+b))~~ (a)(ii) is greater than one hundred percent of  
35 the wages of the worker as determined under RCW 51.08.178, the monthly

1 payment due to the worker shall be equal to the greater of the monthly  
2 wages of the worker or the minimum benefit set forth in this section on  
3 June 30, 2008.

4 (b) For a worker who has been awarded a permanent total disability  
5 pension, but retains a limited ability to work, the department may not  
6 reduce the worker's pension payments if the wages or money the worker  
7 receives from working equal ten percent or less of the average monthly  
8 wage in the state as computed under RCW 51.08.018. If the worker's  
9 wages are more than ten percent of the average monthly wage in the  
10 state, the department shall reduce the worker's monthly pension  
11 payments by one dollar for every two dollars earned in excess of this  
12 amount. Workers must report every year to the department any earnings,  
13 wages, or employment on a form prescribed by the department. The  
14 department may not reduce benefits for wages when a worker's total  
15 permanent disability pension is due to the loss of both legs, or arms,  
16 or one leg and one arm, total loss of eyesight, or paralysis.

17 (c) The limitations under this subsection (5) shall not apply to  
18 the payments provided for in subsection (3) of this section.

19 (6) In the case of new or reopened claims, if the supervisor of  
20 industrial insurance determines that, at the time of filing or  
21 reopening, the worker is voluntarily retired and is no longer attached  
22 to the workforce, benefits shall not be paid under this section.

23 (7) The benefits provided by this section are subject to  
24 modification under RCW 51.32.067.

25 (8)(a) When the medical residuals of the industrial injury or  
26 occupational disease are not the predominant factor causing the  
27 worker's inability to perform employment or be retrained, compensation  
28 must continue until the worker reaches full federal retirement age as  
29 defined by 42 U.S.C. Sec. 416(1).

30 (b) The medical residuals of the industrial injury or occupational  
31 disease are the predominant factor when, considering the worker's  
32 entire circumstances, the worker would be able to perform employment or  
33 be retrained but for the medical residuals.

34 (9) The department shall develop rules as necessary to implement  
35 this section.

36 (10) The provisions of subsection (8) of this section apply to all  
37 determinations of total permanent disability made by the department on  
38 or after July 1, 2011.

1       **Sec. 4.** RCW 51.32.067 and 2006 c 154 s 1 are each amended to read  
2 as follows:

3       (1) After a worker elects one of the options in (a), (b), or (c) of  
4 this subsection, that option shall apply only if the worker dies during  
5 a period of permanent total disability from a cause unrelated to the  
6 injury, leaving a surviving spouse, child, children, or other  
7 dependent. If, after making an election under this subsection, a  
8 worker dies from a cause related to the injury during a period of  
9 permanent total disability, his or her beneficiaries shall receive  
10 benefits under RCW 51.32.050 (2) through (5).

11       (a) **Option I.** An injured worker selecting this option shall  
12 receive the benefits provided by RCW 51.32.060, with no benefits being  
13 paid to the worker's surviving spouse, children, or others.

14       (b) **Option II.** An injured worker selecting this option shall  
15 receive an actuarially reduced benefit which upon death shall be  
16 (~~continued throughout the life of and~~) paid to the surviving spouse,  
17 child, or other dependent as the worker has nominated by written  
18 designation duly executed and filed with the department. The benefit  
19 is payable to the designated beneficiary through their life or through  
20 the period the injured worker would have been entitled to permanent  
21 total disability benefits, whichever ends first.

22       (c) **Option III.** An injured worker selecting this option shall  
23 receive an actuarially reduced benefit and, upon death, one-half of the  
24 reduced benefit shall be (~~continued throughout the life of and~~) paid  
25 to the surviving spouse, child, or other dependent as the worker has  
26 nominated by written designation duly executed and filed with the  
27 department. The benefit is payable to the designated beneficiary  
28 through their life or through the period the injured worker would have  
29 been entitled to permanent total disability benefits, whichever ends  
30 first.

31       (2) The worker shall make the election in writing and the worker's  
32 spouse, if any, shall consent in writing as a prerequisite to the  
33 election of Option I.

34       (3) If the worker's nominated beneficiary is the worker's spouse,  
35 and the worker and spouse enter into a dissolution of marriage after  
36 the nomination has been made, the worker may apply to receive benefits  
37 as calculated under Option I if the period of the worker's entitlement  
38 to permanent total disability benefits has not ended. This change is

1 effective the date of the decree of dissolution of marriage, but no  
2 more than one year prior to the date application for the change is  
3 received in the department, provided the worker submits legally  
4 certified documentation of the decree of dissolution of marriage.

5 (4) If the worker's nominated beneficiary dies, the worker may  
6 apply to receive benefits as calculated under Option I if the period of  
7 the worker's entitlement to permanent total disability benefits has not  
8 ended. This change is effective the date of death, but no more than  
9 one year prior to the date application for the change is received in  
10 the department, provided the worker submits a certified copy of the  
11 death certificate.

12 (5) The change in benefits authorized by subsections (3) and (4) of  
13 this section is a one-time adjustment and will be permanent for the  
14 ~~((life of the worker))~~ period of the worker's entitlement to permanent  
15 total disability benefits.

16 (6) The department shall adopt such rules as may be necessary to  
17 implement this section.

18 **Sec. 5.** RCW 51.32.080 and 2007 c 172 s 1 are each amended to read  
19 as follows:

20 (1)(a) Beginning with injuries on or after July 1, 2011, for the  
21 permanent partial disabilities here specifically described, the injured  
22 worker shall receive compensation as follows:

23 LOSS BY AMPUTATION

24	<u>Of leg above the knee joint with short thigh</u>	<u>\$140,533.00</u>
25	<u>stump (3" or less below the tuberosity</u>	
26	<u>of ischium).....</u>	
27	<u>Of leg at or above knee joint with functional</u>	<u>\$126,480.00</u>
28	<u>stump.....</u>	
29	<u>Of leg below knee joint.....</u>	<u>\$112,427.00</u>
30	<u>Of leg at ankle (Syme).....</u>	<u>\$98,373.00</u>
31	<u>Of foot at mid-metatarsals.....</u>	<u>\$49,187.00</u>
32	<u>Of great toe with resection of metatarsal</u>	<u>\$29,512.00</u>
33	<u>bone.....</u>	
34	<u>Of great toe at metatarsophalangeal</u>	<u>\$17,707.00</u>
35	<u>joint.....</u>	

1	<u>Of great toe at interphalangeal joint . . . . .</u>	<u>\$9,369.00</u>
2	<u>Of lesser toe (2nd to 5th) with resection of</u>	<u>\$10,774.00</u>
3	<u>metatarsal bone . . . . .</u>	
4	<u>Of lesser toe at metatarsophalangeal joint . .</u>	<u>\$5,247.00</u>
5	<u>Of lesser toe at proximal interphalangeal</u>	<u>\$3,888.00</u>
6	<u>joint . . . . .</u>	
7	<u>Of lesser toe at distal interphalangeal</u>	<u>\$984.00</u>
8	<u>joint . . . . .</u>	
9	<u>Of arm at or above the deltoid insertion or</u>	<u>\$140,533.00</u>
10	<u>by disarticulation at the shoulder . . . . .</u>	
11	<u>Of arm at any point from below the deltoid</u>	<u>\$133,507.00</u>
12	<u>insertion to below the elbow joint at the</u>	
13	<u>insertion of the biceps tendon . . . . .</u>	
14	<u>Of arm at any point from below the elbow</u>	<u>\$126,480.00</u>
15	<u>joint distal to the insertion of the biceps</u>	
16	<u>tendon to and including mid-metacarpal</u>	
17	<u>amputation of the hand . . . . .</u>	
18	<u>Of all fingers except the thumb at</u>	<u>\$75,888.00</u>
19	<u>metacarpophalangeal joints . . . . .</u>	
20	<u>Of thumb at metacarpophalangeal joint or</u>	<u>\$50,592.00</u>
21	<u>with resection of carpometacarpal bone . .</u>	
22	<u>Of thumb at interphalangeal joint . . . . .</u>	<u>\$25,296.00</u>
23	<u>Of index finger at metacarpophalangeal joint</u>	<u>\$31,620.00</u>
24	<u>or with resection of metacarpal bone . . . . .</u>	
25	<u>Of index finger at proximal interphalangeal</u>	<u>\$25,296.00</u>
26	<u>joint . . . . .</u>	
27	<u>Of index finger at distal interphalangeal</u>	<u>\$13,913.00</u>
28	<u>joint . . . . .</u>	
29	<u>Of middle finger at metacarpophalangeal</u>	<u>\$25,296.00</u>
30	<u>joint or with resection of metacarpal</u>	
31	<u>bone . . . . .</u>	
32	<u>Of middle finger at proximal interphalangeal</u>	<u>\$20,237.00</u>
33	<u>joint . . . . .</u>	
34	<u>Of middle finger at distal interphalangeal</u>	<u>\$11,383.00</u>
35	<u>joint . . . . .</u>	
36	<u>Of ring finger at metacarpophalangeal joint</u>	<u>\$12,648.00</u>
37	<u>or with resection of metacarpal bone . . . . .</u>	

1	<u>Of ring finger at proximal interphalangeal</u>	<u>\$10,118.00</u>
2	<u>joint.....</u>	
3	<u>Of ring finger at distal interphalangeal</u>	<u>\$6,324.00</u>
4	<u>joint.....</u>	
5	<u>Of little finger at metacarpophalangeal joint</u>	<u>\$6,324.00</u>
6	<u>or with resection of metacarpal</u>	
7	<u>bone.....</u>	
8	<u>Of little finger at proximal interphalangeal</u>	<u>\$5,059.00</u>
9	<u>joint.....</u>	
10	<u>Of little finger at distal interphalangeal</u>	<u>\$2,530.00</u>
11	<u>joint.....</u>	

MISCELLANEOUS

13	<u>Loss of one eye by enucleation.....</u>	<u>\$56,213.00</u>
14	<u>Loss of central visual acuity in one eye.....</u>	<u>\$46,844.00</u>
15	<u>Complete loss of hearing in both ears.....</u>	<u>\$86,482.00</u>
16	<u>Complete loss of hearing in one ear.....</u>	<u>\$14,414.00</u>

17       **(b)** Until July 1, 1993, for the permanent partial disabilities here  
18 specifically described, the injured worker shall receive compensation  
19 as follows:

LOSS BY AMPUTATION

22	Of leg above the knee joint with short	\$54,000.00
23	thigh stump (3" or less below the	
24	tuberosity of ischium).....	
25	Of leg at or above knee joint with	48,600.00
26	functional stump.....	
27	Of leg below knee joint.....	43,200.00
28	Of leg at ankle (Syme).....	37,800.00
29	Of foot at mid-metatarsals.....	18,900.00
30	Of great toe with resection of metatarsal	11,340.00
31	bone.....	
32	Of great toe at metatarsophalangeal	6,804.00
33	joint.....	

1	Of great toe at interphalangeal joint . . . . .	3,600.00
2	Of lesser toe (2nd to 5th) with resection of	4,140.00
3	metatarsal bone . . . . .	
4	Of lesser toe at metatarsophalangeal	2,016.00
5	joint . . . . .	
6	Of lesser toe at proximal interphalangeal	1,494.00
7	joint . . . . .	
8	Of lesser toe at distal interphalangeal	378.00
9	joint . . . . .	
10	Of arm at or above the deltoid insertion or	54,000.00
11	by disarticulation at the shoulder . . . . .	
12	Of arm at any point from below the deltoid	51,300.00
13	insertion to below the elbow joint at	
14	the insertion of the biceps tendon . . . . .	
15	Of arm at any point from below the elbow	48,600.00
16	joint distal to the insertion of the	
17	biceps tendon to and including	
18	mid-metacarpal amputation of the	
19	hand . . . . .	
20	Of all fingers except the thumb at	29,160.00
21	metacarpophalangeal joints . . . . .	
22	Of thumb at metacarpophalangeal joint or	19,440.00
23	with resection of carpometacarpal	
24	bone . . . . .	
25	Of thumb at interphalangeal joint . . . . .	9,720.00
26	Of index finger at metacarpophalangeal	12,150.00
27	joint or with resection of metacarpal	
28	bone . . . . .	
29	Of index finger at proximal	9,720.00
30	interphalangeal joint . . . . .	
31	Of index finger at distal interphalangeal	5,346.00
32	joint . . . . .	
33	Of middle finger at metacarpophalangeal	9,720.00
34	joint or with resection of metacarpal	
35	bone . . . . .	
36	Of middle finger at proximal	7,776.00
37	interphalangeal joint . . . . .	

1	Of middle finger at distal interphalangeal	4,374.00
2	joint.....	
3	Of ring finger at metacarpophalangeal	4,860.00
4	joint or with resection of metacarpal	
5	bone.....	
6	Of ring finger at proximal interphalangeal	3,888.00
7	joint.....	
8	Of ring finger at distal interphalangeal	2,430.00
9	joint.....	
10	Of little finger at metacarpophalangeal	2,430.00
11	joint or with resection of metacarpal	
12	bone.....	
13	Of little finger at proximal interphalangeal	1,944.00
14	joint.....	
15	Of little finger at distal interphalangeal	972.00
16	joint.....	

MISCELLANEOUS

18	Loss of one eye by enucleation.....	21,600.00
19	Loss of central visual acuity in one eye.....	18,000.00
20	Complete loss of hearing in both ears.....	43,200.00
21	Complete loss of hearing in one ear.....	7,200.00

22        ~~((b))~~ (c) Beginning on July 1, 1993, compensation under this  
23 subsection shall be computed as follows:

24        (i) Beginning on July 1, 1993, the compensation amounts for the  
25 specified disabilities listed in ~~((a))~~ (b) of this subsection shall  
26 be increased by thirty-two percent; ~~(and)~~

27        (ii) Beginning on July 1, 1994, and each July 1<sup>st</sup> thereafter until  
28 July 1, 2011, the compensation amounts for the specified disabilities  
29 listed in ~~((a))~~ (b) of this subsection, as adjusted under ~~((b))~~  
30 (c)(i) of this subsection, shall be readjusted to reflect the  
31 percentage change in the consumer price index, calculated as follows:  
32 The index for the calendar year preceding the year in which the July  
33 calculation is made, to be known as "calendar year A," is divided by  
34 the index for the calendar year preceding calendar year A, and the  
35 resulting ratio is multiplied by the compensation amount in effect on

1 June 30 immediately preceding the July 1st on which the respective  
2 calculation is made. For the purposes of this subsection, "index"  
3 means the same as the definition in RCW 2.12.037(1); and

4 (iii) Beginning with injuries on July 1, 2012, and for those  
5 occurring each July 1st thereafter, the compensation amounts for the  
6 specified disabilities listed in (a) of this subsection shall be  
7 readjusted to reflect the percentage change in the consumer price  
8 index, calculated under the formula provided in (c)(ii) of this  
9 subsection.

10 (2) Compensation for amputation of a member or part thereof at a  
11 site other than those specified in subsection (1) of this section, and  
12 for loss of central visual acuity and loss of hearing other than  
13 complete, shall be in proportion to that which such other amputation or  
14 partial loss of visual acuity or hearing most closely resembles and  
15 approximates. Compensation shall be calculated based on the adjusted  
16 schedule of compensation in effect for the respective time period as  
17 prescribed in subsection (1) of this section.

18 (3)(a) Compensation for any other permanent partial disability not  
19 involving amputation shall be in the proportion which the extent of  
20 such other disability, called unspecified disability, shall bear to the  
21 disabilities specified in subsection (1) of this section, which most  
22 closely resembles and approximates in degree of disability such other  
23 disability, and compensation for any other unspecified permanent  
24 partial disability shall be in an amount as measured and compared to  
25 total bodily impairment. To reduce litigation and establish more  
26 certainty and uniformity in the rating of unspecified permanent partial  
27 disabilities, the department shall enact rules having the force of law  
28 classifying such disabilities in the proportion which the department  
29 shall determine such disabilities reasonably bear to total bodily  
30 impairment. In enacting such rules, the department shall give  
31 consideration to, but need not necessarily adopt, any nationally  
32 recognized medical standards or guides for determining various bodily  
33 impairments.

34 (b) Beginning with injuries on July 1, 2011, for purposes of  
35 calculating monetary benefits under (a) of this subsection, the amount  
36 payable for total bodily impairment shall be deemed to be two hundred  
37 thirty-four thousand two hundred twenty-two dollars. Beginning with  
38 injuries on July 1, 2012, for purposes of calculating monetary benefits

1 under (a) of this subsection, the amount payable for total bodily  
2 impairment shall be adjusted as provided in subsection (1)(c)(iii) of  
3 this section.

4 (c) Until July 1, 1993, for purposes of calculating monetary  
5 benefits under (a) of this subsection, the amount payable for total  
6 bodily impairment shall be deemed to be ninety thousand dollars.  
7 Beginning on July 1, 1993, for purposes of calculating monetary  
8 benefits under (a) of this subsection, the amount payable for total  
9 bodily impairment shall be adjusted as follows:

10 (i) Beginning on July 1, 1993, the amount payable for total bodily  
11 impairment under this section shall be increased to one hundred  
12 eighteen thousand eight hundred dollars; and

13 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the  
14 amount payable for total bodily impairment prescribed in ~~((b))~~ (c)(i)  
15 of this subsection shall be adjusted as provided in subsection  
16 (1)~~((b))~~ (c)(ii) of this section.

17 ~~((e))~~ (d) Until July 1, 1993, the total compensation for all  
18 unspecified permanent partial disabilities resulting from the same  
19 injury shall not exceed the sum of ninety thousand dollars. Beginning  
20 on July 1, 1993, total compensation for all unspecified permanent  
21 partial disabilities resulting from the same injury shall not exceed a  
22 sum calculated as follows:

23 (i) Beginning on July 1, 1993, the sum shall be increased to one  
24 hundred eighteen thousand eight hundred dollars; and

25 (ii) Beginning on July 1, 1994, and each July 1 thereafter, the sum  
26 prescribed in ~~((b))~~ (c)(i) of this subsection shall be adjusted as  
27 provided in subsection (1)~~((b))~~ (c)(ii) of this section.

28 (4) If permanent partial disability compensation is followed by  
29 permanent total disability compensation, ~~((any portion of the permanent  
30 partial disability compensation which exceeds the amount that would  
31 have been paid the injured worker if permanent total disability  
32 compensation had been paid in the first instance))~~ all permanent  
33 partial disability compensation paid to the worker under the claim or  
34 claims for which total permanent disability compensation is awarded  
35 shall be, at the choosing of the injured worker, either: (a) Deducted  
36 from the worker's monthly pension benefits ~~((in an amount not to exceed  
37 twenty five percent of the monthly amount due from the department or  
38 self-insurer or one sixth of the total overpayment, whichever is less))~~

1 until the total award or awards paid are recovered; or (b) deducted  
2 from the pension reserve of such injured worker and his or her monthly  
3 compensation payments shall be reduced accordingly. Any interest paid  
4 on any permanent partial disability compensation may not be deducted  
5 from the pension benefits or pension reserve. The provisions of this  
6 subsection apply to all permanent total disability determinations  
7 issued on or after July 1, 2011.

8 (5) Should a worker receive an injury to a member or part of his or  
9 her body already, from whatever cause, permanently partially disabled,  
10 resulting in the amputation thereof or in an aggravation or increase in  
11 such permanent partial disability but not resulting in the permanent  
12 total disability of such worker, his or her compensation for such  
13 partial disability shall be adjudged with regard to the previous  
14 disability of the injured member or part and the degree or extent of  
15 the aggravation or increase of disability thereof.

16 (6) When the compensation provided for in subsections (1) through  
17 (3) of this section exceeds three times the average monthly wage in the  
18 state as computed under the provisions of RCW 51.08.018, payment shall  
19 be made in monthly payments in accordance with the schedule of  
20 temporary total disability payments set forth in RCW 51.32.090 until  
21 such compensation is paid to the injured worker in full, except that  
22 the first monthly payment shall be in an amount equal to three times  
23 the average monthly wage in the state as computed under the provisions  
24 of RCW 51.08.018(~~(, and interest shall be paid at the rate of eight~~  
25 ~~percent on the unpaid balance of such compensation commencing with the~~  
26 ~~second monthly payment. However,)~~). Upon application of the injured  
27 worker or survivor the monthly payment may be converted, in whole or in  
28 part, into a lump sum payment, in which event the monthly payment shall  
29 cease in whole or in part. Such conversion may be made only upon  
30 written application of the injured worker or survivor to the department  
31 ((and)) or self-insurer. A decision to deny the application to the  
32 worker of a self-insurer, or to either grant or deny the application to  
33 the worker of an employer insured by the department, shall rest in the  
34 discretion of the department depending upon the merits of each  
35 individual application. Upon the death of a worker all unpaid  
36 installments accrued shall be paid according to the payment schedule  
37 established prior to the death of the worker to the widow or widower,

1 or if there is no widow or widower surviving, to the dependent children  
2 of such claimant, and if there are no such dependent children, then to  
3 such other dependents as defined by this title.

4 (7) Awards payable under this section are governed by the schedule  
5 in effect on the date of injury.

6 **Sec. 6.** RCW 51.32.090 and 2007 c 284 s 3 and 2007 c 190 s 1 are  
7 each reenacted and amended to read as follows:

8 (1) When the total disability is only temporary, the schedule of  
9 payments contained in RCW 51.32.060 (1) and (2) shall apply, so long as  
10 the total disability continues.

11 (2) Any compensation payable under this section for children not in  
12 the custody of the injured worker as of the date of injury shall be  
13 payable only to such person as actually is providing the support for  
14 such child or children pursuant to the order of a court of record  
15 providing for support of such child or children.

16 (3)(a) As soon as recovery is so complete that the present earning  
17 power of the worker, at any kind of work, is restored to that existing  
18 at the time of the occurrence of the injury, the payments shall cease.  
19 If and so long as the present earning power is only partially restored,  
20 the payments shall:

21 (i) For claims for injuries that occurred before May 7, 1993,  
22 continue in the proportion which the new earning power shall bear to  
23 the old; or

24 (ii) For claims for injuries occurring on or after May 7, 1993,  
25 equal eighty percent of the actual difference between the worker's  
26 present wages and earning power at the time of injury, but: (A) The  
27 total of these payments and the worker's present wages may not exceed  
28 one hundred fifty percent of the average monthly wage in the state as  
29 computed under RCW 51.08.018; (B) the payments may not exceed one  
30 hundred percent of the entitlement as computed under subsection (1) of  
31 this section; and (C) the payments may not be less than the worker  
32 would have received if (a)(i) of this subsection had been applicable to  
33 the worker's claim.

34 (b) No compensation shall be payable under this subsection (3)  
35 unless the loss of earning power shall exceed five percent.

36 (c) The prior closure of the claim or the receipt of permanent

1 partial disability benefits shall not affect the rate at which loss of  
2 earning power benefits are calculated upon reopening the claim.

3 (4)(a) (~~Whenever~~) The legislature finds that long-term disability  
4 and the cost of injuries is significantly reduced when injured workers  
5 remain at work following their injury. To encourage employers at the  
6 time of injury to provide light duty or transitional work for their  
7 workers, wage subsidies and other incentives are made available to  
8 employers insured with the department.

9 (b) The employer of injury (~~requests that~~) may provide light duty  
10 or transitional work to a worker who is entitled to temporary total  
11 disability under this chapter (~~be certified by a physician or licensed~~  
12 advanced registered nurse practitioner as able to perform available  
13 work other than his or her usual work,)). The employer or the  
14 department shall obtain from the physician or licensed advanced  
15 registered nurse practitioner a statement confirming the light duty or  
16 transitional work is consistent with the worker's medical restrictions  
17 related to the injury. This statement should be obtained before the  
18 start of the light duty or transitional work unless the worker has  
19 already returned to work with the employer of injury in which case the  
20 statement may be obtained following the start date of the job. The  
21 employer shall furnish to the physician or licensed advanced registered  
22 nurse practitioner, with a copy to the worker, a statement describing  
23 the work (~~available~~) with the employer of injury in terms that will  
24 enable the physician or licensed advanced registered nurse practitioner  
25 to relate the physical activities of the job to the worker's  
26 disability. The physician or licensed advanced registered nurse  
27 practitioner shall (~~then determine~~) confirm whether the worker is  
28 physically able to perform the work described. The worker's temporary  
29 total disability payments shall (~~continue until the worker is released~~  
30 by his or her physician or licensed advanced registered nurse  
31 practitioner for the work, and begins the work with the employer of  
32 injury. If)) stop effective the date the light duty or transitional  
33 job starts. Temporary total disability payments shall resume if  
34 work (~~thereafter~~) comes to an end before the worker's recovery is  
35 sufficient in the judgment of his or her physician or licensed advanced  
36 registered nurse practitioner to permit him or her to return to his or  
37 her usual job, or to perform other available work offered by the  
38 employer of injury(~~, the worker's temporary total disability payments~~

1 ~~shall be resumed~~). Should the available work described, once  
2 undertaken by the worker, impede his or her recovery to the extent that  
3 in the judgment of his or her physician or licensed advanced registered  
4 nurse practitioner he or she should not continue to work, the worker's  
5 temporary total disability payments shall be resumed when the worker  
6 ceases such work at the direction of the physician or licensed advanced  
7 registered nurse practitioner.

8 ~~((b))~~ (c) To further encourage employers to maintain the  
9 employment of their injured workers, an employer insured with the  
10 department and that offers work to a worker pursuant to this subsection  
11 (4) shall be eligible for reimbursement of the injured worker's wages  
12 for light duty or transitional work equal to fifty percent of the  
13 basic, gross wages paid for that work, for a maximum of sixty-six work  
14 days within a consecutive twenty-four month period. In no event may  
15 the wage subsidies paid to an employer on a claim exceed ten thousand  
16 dollars. Wage subsidies shall be calculated using the worker's basic  
17 hourly wages or basic salary, and no subsidy shall be paid for any  
18 other form of compensation or payment to the worker such as tips,  
19 commissions, bonuses, board, housing, fuel, health care, dental care,  
20 vision care, per diem, reimbursements for work-related expenses, or any  
21 other payments. An employer may not, under any circumstances, receive  
22 a wage subsidy for a day in which the worker did not actually perform  
23 any work, regardless of whether or not the employer paid the worker  
24 wages for that day.

25 (d) If an employer offers a worker work pursuant to this subsection  
26 (4) and the worker must be provided with training or instruction to be  
27 qualified to perform the offered work, the employer shall be eligible  
28 for a reimbursement from the department for any tuition, books, fees,  
29 and materials required for that training or instruction, up to a  
30 maximum of one thousand dollars. Reimbursing an employer for the costs  
31 of such training or instruction does not constitute a determination by  
32 the department that the worker is eligible for vocational services  
33 authorized by RCW 51.32.095 and 51.32.099.

34 (e) If an employer offers a worker work pursuant to this subsection  
35 (4), and the employer provides the worker with clothing that is  
36 necessary to allow the worker to perform the offered work, the employer  
37 shall be eligible for reimbursement for such clothing from the  
38 department, up to a maximum of four hundred dollars: PROVIDED,

1 HOWEVER, That an employer shall not receive reimbursement for any  
2 clothing it provided to the worker that it normally provides to its  
3 workers. The clothing purchased for the worker shall become the  
4 worker's property once the work comes to an end.

5 (f) If an employer offers a worker work pursuant to this subsection  
6 (4) and the worker must be provided with tools or equipment to perform  
7 the offered work, the employer shall be eligible for a reimbursement  
8 from the department for such tools and equipment and related costs as  
9 determined by department rule, up to a maximum of two thousand five  
10 hundred dollars. An employer shall not be reimbursed for any tools or  
11 equipment purchased prior to offering the work to the worker pursuant  
12 to this subsection (4). An employer shall not be reimbursed for any  
13 tools or equipment that it normally provides to its workers. The tools  
14 and equipment shall be the property of the employer.

15 (g) An employer may offer work to a worker pursuant to this  
16 subsection (4) more than once, but in no event may the employer receive  
17 wage subsidies for more than sixty-six days of work in a consecutive  
18 twenty-four month period under one claim. An employer may continue to  
19 offer work pursuant to this subsection (4) after the worker has  
20 performed sixty-six days of work, but the employer shall not be  
21 eligible to receive wage subsidies for such work.

22 (h) An employer shall not receive any wage subsidies or  
23 reimbursement of any expenses pursuant to this subsection (4) unless  
24 the employer has completed and submitted the reimbursement request on  
25 forms developed by the department, along with all related information  
26 required by department rules. No wage subsidy or reimbursement shall  
27 be paid to an employer who fails to submit a form for such payment  
28 within one year of the date the work was performed. In no event shall  
29 an employer receive wage subsidy payments or reimbursements of any  
30 expenses pursuant to this subsection (4) unless the worker's physician  
31 or licensed advanced registered nurse practitioner has restricted him  
32 or her from performing his or her usual work and the worker's physician  
33 or licensed advanced registered nurse practitioner has released him or  
34 her to perform the work offered.

35 (i) Payments made under (b) through (g) of this subsection are  
36 subject to penalties under RCW 51.32.240(5) in cases where the funds  
37 were obtained through willful misrepresentation.

1       (j) Once the worker returns to work under the terms of this  
2 subsection (4), he or she shall not be assigned by the employer to work  
3 other than the available work described without the (~~worker's written~~  
4 ~~consent, or without prior review and~~) approval (~~by~~) of the worker's  
5 physician or licensed advanced registered nurse practitioner. An  
6 employer who directs a claimant to perform work other than that  
7 approved by the attending physician and without the approval of the  
8 worker's physician or licensed advanced registered nurse practitioner  
9 shall not receive any wage subsidy or other reimbursements for such  
10 work.

11       (~~(e)~~) (k) If the worker returns to work under this subsection  
12 (4), any employee health and welfare benefits that the worker was  
13 receiving at the time of injury shall continue or be resumed at the  
14 level provided at the time of injury. Such benefits shall not be  
15 continued or resumed if to do so is inconsistent with the terms of the  
16 benefit program, or with the terms of the collective bargaining  
17 agreement currently in force.

18       (~~(d)~~) (l) In the event of any dispute as to the validity of the  
19 work offered or as to the worker's ability to perform the available  
20 work offered by the employer, the department shall make the final  
21 determination pursuant to an order that contains the notice required by  
22 RCW 51.52.060 and that is subject to appeal subject to RCW 51.52.050.

23       (5) An employer's experience rating shall not be affected by the  
24 employer's request for or receipt of wage subsidies.

25       (6) The department shall create a Washington stay-at-work account  
26 which shall be funded by assessments of employers insured through the  
27 state fund for the costs of the payments authorized by subsection (4)  
28 of this section and for the cost of creating a reserve for anticipated  
29 liabilities. Employers may collect up to one-half the fund assessment  
30 from workers.

31       (7) No worker shall receive compensation for or during the day on  
32 which injury was received or the three days following the same, unless  
33 his or her disability shall continue for a period of fourteen  
34 consecutive calendar days from date of injury: PROVIDED, That attempts  
35 to return to work in the first fourteen days following the injury shall  
36 not serve to break the continuity of the period of disability if the  
37 disability continues fourteen days after the injury occurs.

1        ~~((+6))~~ (8) Should a worker suffer a temporary total disability and  
2 should his or her employer at the time of the injury continue to pay  
3 him or her the wages which he or she was earning at the time of such  
4 injury, such injured worker shall not receive any payment provided in  
5 subsection (1) of this section during the period his or her employer  
6 shall so pay such wages: PROVIDED, That holiday pay, vacation pay,  
7 sick leave, or other similar benefits shall not be deemed to be  
8 payments by the employer for the purposes of this subsection.

9        ~~((+7))~~ (9) In no event shall the monthly payments provided in this  
10 section:

11        (a) Exceed the applicable percentage of the average monthly wage in  
12 the state as computed under the provisions of RCW 51.08.018 as follows:

	AFTER	PERCENTAGE
13		
14	June 30, 1993	105%
15	June 30, 1994	110%
16	June 30, 1995	115%
17	June 30, 1996	120%

18        (b) For dates of injury or disease manifestation after July 1,  
19 2008, be less than fifteen percent of the average monthly wage in the  
20 state as computed under RCW 51.08.018 plus an additional ten dollars  
21 per month if the worker is married and an additional ten dollars per  
22 month for each child of the worker up to a maximum of five children.  
23 However, if the monthly payment computed under this subsection ~~((+7))~~  
24 (9)(b) is greater than one hundred percent of the wages of the worker  
25 as determined under RCW 51.08.178, the monthly payment due to the  
26 worker shall be equal to the greater of the monthly wages of the worker  
27 or the minimum benefit set forth in this section on June 30, 2008.

28        ~~((+8))~~ (10) If the supervisor of industrial insurance determines  
29 that the worker is voluntarily retired and is no longer attached to the  
30 workforce, benefits shall not be paid under this section.

31        NEW SECTION. **Sec. 7.** A new section is added to chapter 51.32 RCW  
32 to read as follows:

33        (1)(a) In addition to the options listed in RCW 51.32.099(4), a  
34 worker who is found eligible for vocational plan development and who is

1 age fifty-five or older on the date the vocational rehabilitation plan  
2 is submitted to the department or self-insurer, can select a disability  
3 settlement option. Under this option, the worker declines further  
4 vocational services under the claim and elects to receive a disability  
5 settlement in an amount equal to one-third of the value of the pension  
6 annuity. The pension annuity shall be calculated as if the worker had  
7 been found totally and permanently disabled effective the date the  
8 worker was found eligible for vocational plan development services.  
9 All prior permanent partial disability awards and any permanent partial  
10 disability award to be paid at claim closure shall be deducted from the  
11 pension annuity forming the basis of the disability settlement. For  
12 purposes of communicating this option to a worker, the department may  
13 estimate the amount of the permanent partial disability award. This  
14 estimate is not binding on any party.

15 (b) The disability settlement selection can be made by an eligible  
16 worker at any time during plan development services until the plan is  
17 submitted to the department. The worker will have a minimum of sixty  
18 days to make this selection. The worker's selection and award amount  
19 will be established by order of the department pursuant to RCW  
20 51.52.050. The department shall thereafter close the claim or claims  
21 including any permanent partial disability award to which the worker is  
22 entitled.

23 (c) The worker will continue to receive temporary total disability  
24 benefits until this order and the order closing the claim become final  
25 and binding on all parties. The disability settlement award will be  
26 paid in a lump sum within ten days of these orders becoming final, less  
27 the amount paid in temporary total disability benefits after the date  
28 the disability settlement order was issued.

29 (i) A worker who has received disability settlement benefits can  
30 reopen the claim or claims for which the disability settlement was paid  
31 upon a showing of worsening of the related medical conditions under RCW  
32 51.32.160 for medical treatment only. Further temporary total,  
33 temporary partial, permanent partial, or permanent total benefits are  
34 not payable under the same claim or claims for which a disability  
35 settlement was selected and paid.

36 (ii) If a worker who has received disability settlement benefits is  
37 subsequently injured or suffers an occupational disease, and vocational  
38 rehabilitation is found both necessary and likely to enable the injured

1 worker to become employable at gainful employment under RCW  
2 51.32.095(1), vocational rehabilitation will only be provided at the  
3 discretion of the director or the director's designee.

4 (iii) If a worker who has received disability settlement benefits  
5 becomes entitled to total permanent disability benefits under another  
6 claim, the disability settlement benefits will be deducted from the  
7 pension annuity calculated under the subsequent claim and pension  
8 benefits reduced accordingly.

9 (iv) A disability settlement is not available to a worker who has  
10 suffered the loss of both legs, or arms, or one leg and one arm, total  
11 loss of eyesight, or paralysis.

12 (2) The provisions of subsection (1) of this section apply to all  
13 claims where the worker is age fifty-five or older and is found  
14 eligible for vocational plan development on or after July 1, 2011.

15 **Sec. 8.** RCW 51.32.160 and 1995 c 253 s 2 are each amended to read  
16 as follows:

17 (1)(a) If aggravation, diminution, or termination of disability  
18 takes place, the director may, upon the application of the beneficiary,  
19 made within seven years from the date the first closing order becomes  
20 final, or at any time upon his or her own motion, readjust the rate of  
21 compensation in accordance with the rules in this section provided for  
22 the same, or in a proper case terminate the payment: PROVIDED, That  
23 the director may, upon application of the worker made at any time,  
24 provide proper and necessary medical and surgical services as  
25 authorized under RCW 51.36.010. The department shall promptly mail a  
26 copy of the application to the employer at the employer's last known  
27 address as shown by the records of the department.

28 (b) "Closing order" as used in this section means an order based on  
29 factors which include medical recommendation, advice, or examination.

30 (c) Applications for benefits where the claim has been closed  
31 without medical recommendation, advice, or examination are not subject  
32 to the seven year limitation of this section. The preceding sentence  
33 shall not apply to any closing order issued prior to July 1, 1981.  
34 First closing orders issued between July 1, 1981, and July 1, 1985,  
35 shall, for the purposes of this section only, be deemed issued on July  
36 1, 1985. The time limitation of this section shall be ten years in  
37 claims involving loss of vision or function of the eyes.

1 (d) If an order denying an application to reopen filed on or after  
2 July 1, 1988, is not issued within ninety days of receipt of such  
3 application by the self-insured employer or the department, such  
4 application shall be deemed granted. However, for good cause, the  
5 department may extend the time for making the final determination on  
6 the application for an additional sixty days.

7 (2) If a worker receiving ~~((a pension for))~~ permanent total  
8 disability benefits returns to ~~((gainful))~~ any employment for wages or  
9 earnings, the director ~~((may))~~ shall suspend ~~((or))~~, terminate ~~((the~~  
10 ~~rate of compensation established for the disability))~~, or reduce the  
11 amount of compensation without producing medical evidence that shows  
12 that a diminution of the disability has occurred. A reduction in the  
13 amount of compensation must be in accordance with RCW 51.32.060(5)(b).

14 (3) No act done or ordered to be done by the director, or the  
15 department prior to the signing and filing in the matter of a written  
16 order for such readjustment shall be grounds for such readjustment.

17 **Sec. 9.** RCW 51.36.010 and 2007 c 134 s 1 are each amended to read  
18 as follows:

19 (1) The legislature finds that high quality medical treatment and  
20 adherence to occupational health best practices can prevent disability  
21 and reduce loss of family income for workers, and lower labor and  
22 insurance costs for employers. Injured workers deserve high quality  
23 medical care in accordance with current health care best practices. To  
24 this end, the department shall establish minimum standards for  
25 providers who treat workers from both state fund and self-insured  
26 employers. The department shall establish a health care provider  
27 network to treat injured workers, and shall accept providers into the  
28 network who meet those minimum standards. The department shall  
29 convene an advisory group made up of representatives from or designees  
30 of the workers' compensation advisory committee and the industrial  
31 insurance medical and chiropractic advisory committees to consider and  
32 advise the department related to implementation of this section,  
33 including development of best practices treatment guidelines for  
34 providers in the network. Network providers must be required to follow  
35 department coverage decisions, policies, treatment guidelines, and to  
36 consider other industry treatment guidelines appropriate for their  
37 patient. The department shall also establish additional best practice

1 standards for providers to qualify for a second tier within the  
2 network, based on demonstrated use of occupational health best  
3 practices. This second tier is separate from and in addition to the  
4 centers for occupational health and education established under  
5 subsection (5) of this section.

6 (2)(a) Upon the occurrence of any injury to a worker entitled to  
7 compensation under the provisions of this title, he or she shall  
8 receive proper and necessary medical and surgical services at the hands  
9 of a physician or licensed advanced registered nurse practitioner of  
10 his or her own choice, if conveniently located, in the health care  
11 provider network established under this section, and proper and  
12 necessary hospital care and services during the period of his or her  
13 disability from such injury.

14 (b) Once the provider network is established in the worker's  
15 geographic area, an injured worker may receive care from a nonnetwork  
16 provider only for an initial office or emergency room visit. However,  
17 the department or self-insurer may limit reimbursement to the  
18 department's standard fee for the services. The provider must comply  
19 with all applicable billing policies and must accept the department's  
20 fee schedule as payment in full.

21 (c) The department, in collaboration with the advisory group, shall  
22 adopt policies for the development, credentialing, accreditation, and  
23 continued oversight of a network of health care providers approved to  
24 treat injured workers. Health care providers shall apply to the  
25 network by completing the department's provider application which shall  
26 have the force of a contract with the department to treat injured  
27 workers. The advisory group shall recommend minimum network standards  
28 for the department to approve a provider's application or to remove a  
29 provider from the network including, but not limited to:

30 (i) Current malpractice insurance coverage;

31 (ii) Previous malpractice judgments or settlements that do not  
32 exceed a dollar amount threshold recommended by the advisory group, or  
33 a specific number or seriousness of malpractice suits over a specific  
34 time frame;

35 (iii) No licensing or disciplinary action in any jurisdiction or  
36 loss of treating or admitting privileges by any board, commission,  
37 agency, public or private health care payer, or hospital;

1 (iv) For some specialties such as surgeons, privileges in at least  
2 one hospital;

3 (v) Whether the provider has been credentialed by another health  
4 plan that follows national quality assurance guidelines; and

5 (vi) Alternative criteria for providers that are not credentialed  
6 by another health plan.

7 The department shall develop alternative criteria for providers  
8 that are not credentialed by another health plan or as needed to  
9 address access to care concerns in certain regions.

10 (d) In order to monitor quality of care and assure efficient  
11 management of the provider network, the department may establish  
12 additional criteria and terms for network participation including, but  
13 not limited to, requiring compliance with administrative and billing  
14 policies.

15 (e) The advisory group shall recommend best practices standards to  
16 the department to use in determining second tier network providers.  
17 The department shall develop and implement financial and nonfinancial  
18 incentives for network providers who qualify for the second tier. The  
19 department is authorized to certify and decertify second tier  
20 providers.

21 (3) The department shall work with self-insurers and the department  
22 utilization review provider to implement utilization review for the  
23 self-insured community to ensure consistent quality, cost-effective  
24 care for all injured workers and employers, and to reduce  
25 administrative burden for providers.

26 (4) The department for state fund claims shall pay, in accordance  
27 with the department's fee schedule, for any alleged injury for which a  
28 worker files a claim, any initial prescription drugs provided in  
29 relation to that initial visit, without regard to whether the worker's  
30 claim for benefits is allowed. In all accepted claims, treatment shall  
31 be limited in point of duration as follows:

32 In the case of permanent partial disability, not to extend beyond  
33 the date when compensation shall be awarded him or her, except when the  
34 worker returned to work before permanent partial disability award is  
35 made, in such case not to extend beyond the time when monthly  
36 allowances to him or her shall cease; in case of temporary disability  
37 not to extend beyond the time when monthly allowances to him or her  
38 shall cease: PROVIDED, That after any injured worker has returned to

1 his or her work his or her medical and surgical treatment may be  
2 continued if, and so long as, such continuation is deemed necessary by  
3 the supervisor of industrial insurance to be necessary to his or her  
4 more complete recovery; in case of a permanent total disability not to  
5 extend beyond the date on which a lump sum settlement is made with him  
6 or her or he or she is placed upon the permanent pension roll:  
7 PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely  
8 in his or her discretion, may authorize continued medical and surgical  
9 treatment for conditions previously accepted by the department when  
10 such medical and surgical treatment is deemed necessary by the  
11 supervisor of industrial insurance to protect such worker's life or  
12 provide for the administration of medical and therapeutic measures  
13 including payment of prescription medications, but not including those  
14 controlled substances currently scheduled by the state board of  
15 pharmacy as Schedule I, II, III, or IV substances under chapter 69.50  
16 RCW, which are necessary to alleviate continuing pain which results  
17 from the industrial injury. In order to authorize such continued  
18 treatment the written order of the supervisor of industrial insurance  
19 issued in advance of the continuation shall be necessary.

20 The supervisor of industrial insurance, the supervisor's designee,  
21 or a self-insurer, in his or her sole discretion, may authorize  
22 inoculation or other immunological treatment in cases in which a work-  
23 related activity has resulted in probable exposure of the worker to a  
24 potential infectious occupational disease. Authorization of such  
25 treatment does not bind the department or self-insurer in any  
26 adjudication of a claim by the same worker or the worker's beneficiary  
27 for an occupational disease.

28 (5)(a) The legislature finds that the department and its business  
29 and labor partners have collaborated in establishing centers for  
30 occupational health and education to promote best practices and prevent  
31 preventable disability by focusing additional provider-based resources  
32 during the first twelve weeks following an injury. The centers for  
33 occupational health and education represent innovative accountable care  
34 systems in an early stage of development consistent with national  
35 health care reform efforts. Many Washington workers do not yet have  
36 access to these innovative health care delivery models.

37 (b) To expand evidence-based occupational health best practices,  
38 the department shall establish additional centers for occupational

1 health and education, with the goal of extending access to at least  
2 fifty percent of injured and ill workers by December 2013 and to all  
3 injured workers by December 2015. The department shall also develop  
4 additional best practices and incentives that span the entire period of  
5 recovery, not only the first twelve weeks.

6 (c) The department shall certify and decertify centers for  
7 occupational health and education based on criteria including  
8 institutional leadership and geographic areas covered by the center for  
9 occupational health and education, occupational health leadership and  
10 education, mix of participating health care providers necessary to  
11 address the anticipated needs of injured workers, health services  
12 coordination to deliver occupational health best practices, indicators  
13 to measure the success of the center for occupational health and  
14 education, and agreement that the center's providers shall, if  
15 feasible, treat certain injured workers if referred by the department  
16 or a self-insurer.

17 (d) Health care delivery organizations may apply to the department  
18 for certification as a center for occupational health and education.  
19 These may include, but are not limited to, hospitals and affiliated  
20 clinics and providers, multispecialty clinics, health maintenance  
21 organizations, and organized systems of network physicians.

22 (e) The centers for occupational health and education shall  
23 implement benchmark quality indicators of occupational health best  
24 practices for individual providers, developed in collaboration with the  
25 department. A center for occupational health and education shall  
26 remove individual providers who do not consistently meet these quality  
27 benchmarks.

28 (f) The department shall develop and implement financial and  
29 nonfinancial incentives for center for occupational health and  
30 education providers that are based on progressive and measurable gains  
31 in occupational health best practices, and that are applicable  
32 throughout the duration of an injured or ill worker's episode of care.

33 (g) The department shall develop electronic methods of tracking  
34 evidence-based quality measures to identify and improve outcomes for  
35 injured workers at risk of developing prolonged disability. In  
36 addition, these methods must be used to provide systematic feedback to  
37 physicians regarding quality of care, to conduct appropriate objective

1 evaluation of progress in the centers for occupational health and  
2 education, and to allow efficient coordination of services.

3 (6) If a provider fails to meet the minimum network standards  
4 established in subsection (2) of this section, the department is  
5 authorized to remove the provider from the network or take other  
6 appropriate action regarding a provider's participation. The  
7 department may also require remedial steps as a condition for a  
8 provider to participate in the network. The department shall establish  
9 waiting periods that may be imposed in the department's discretion  
10 before a provider who has been denied or removed from the network may  
11 reapply.

12 (7) The department may permanently remove a provider from the  
13 network or take other appropriate action when the provider exhibits a  
14 pattern of conduct of low quality care that exposes patients to risk of  
15 physical or psychiatric harm or death. Patterns that qualify as risk  
16 of harm include, but are not limited to, poor health care outcomes  
17 evidenced by increased, chronic, or prolonged pain or decreased  
18 function due to treatments that have not been shown to be curative,  
19 safe, or effective or for which it has been shown that the risks of  
20 harm exceed the benefits that can be reasonably expected based on peer-  
21 reviewed opinion.

22 (8) The department may not remove a health care provider from the  
23 network for an isolated instance of poor health and recovery outcomes  
24 due to treatment by the provider.

25 (9) When the department terminates a provider from the network, the  
26 department or self-insurer shall assist an injured worker currently  
27 under the provider's care in identifying a new network provider or  
28 providers from whom the worker can select an attending or treating  
29 provider. In such a case, the department or self-insurer shall notify  
30 the injured worker that he or she must choose a new attending or  
31 treating provider.

32 (10) The department may adopt rules related to this section.

33 (11) The department shall report to the workers' compensation  
34 advisory committee and to the appropriate committees of the legislature  
35 on each December 1st, beginning in 2012 and ending in 2016, on the  
36 implementation of the provider network and expansion of the centers for  
37 occupational health and education. The reports must include a summary  
38 of actions taken, progress toward long-term goals, outcomes of key

1 initiatives, access to care issues, results of disputes or  
2 controversies related to new provisions, and whether any changes are  
3 needed to further improve the occupational health best practices care  
4 of injured workers.

5 NEW SECTION. **Sec. 10.** A new section is added to chapter 51.32 RCW  
6 to read as follows:

7 Utilization, worker satisfaction and outcomes, and system and  
8 employer costs related to RCW 51.32.060, 51.32.080, and section 7 of  
9 this act will be studied and a report issued to the appropriate  
10 legislative committees, the department, and the workers' compensation  
11 advisory committee by December 1, 2014. The workers' compensation  
12 advisory committee shall recommend to the department any legislation  
13 needed to ensure the appropriate utilization of disability benefits at  
14 reasonable cost to the system.

15 NEW SECTION. **Sec. 11.** This act is necessary for the immediate  
16 preservation of the public peace, health, or safety, or support of the  
17 state government and its existing public institutions, and takes effect  
18 July 1, 2011.

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