

JAN 24 2018

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# A BILL FOR AN ACT

RELATING TO WORKERS' COMPENSATION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1       SECTION 1. Section 386-25, Hawaii Revised Statutes, is  
2 amended by amending subsections (e) and (f) to read as follows:

3       "(e) A provider shall file the employee's plan with the  
4 approval of the employee. Upon receipt of the plan from the  
5 provider, an employee shall have ten days to review and sign the  
6 plan. The plan shall be submitted to the employer and the  
7 employee and be filed with the director within two days from the  
8 date of the employee's signature. A plan shall include a  
9 statement of the feasibility of the vocational goal, using the  
10 process of:

11       (1) First determining if the employee's usual and  
12       customary employment represents suitable gainful  
13       employment, and, should it not;

14       (2) Next determining if modified work or other work with  
15       the same employer represents suitable gainful  
16       employment, and, should it not;

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1       (3) Next determining if modified or other employment with  
2       a different employer represents suitable gainful  
3       employment, and finally, should it not;

4       (4) Then providing training to obtain employment in  
5       another occupational field. When training to obtain  
6       employment in another occupational field is required,  
7       the first appropriate option among the following must  
8       be selected for the worker:

9       (A) On-the-job training;

10       (B) Short-term retraining program (less than fifty-  
11       two weeks);

12       (C) Long-term retraining program (more than fifty-two  
13       weeks but not more than two years); and

14       (5) Lastly, if training under paragraph (4) is not  
15       feasible, then self-employment may be considered.

16       (f) A plan may be approved by the director; provided the  
17       plan includes:

18       (1) A physician's assessment of the employee's physical  
19       limitations, psychological limitations, and ability to  
20       return to work. If this information is not provided  
21       by the treating physician within a reasonable amount

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1 of time, information from another physician shall be  
2 accepted;

3 (2) A labor market survey indicating there are reasonable  
4 assurances that the proposed occupation for which the  
5 employee is to be placed or trained is readily  
6 available in the community when placement begins, or  
7 there are assurances of reemployment by the employer;

8 (3) A job analysis of the proposed occupation, setting  
9 forth its duties, responsibilities, physical demands,  
10 environmental working conditions, specific  
11 qualifications needed for entry-level employment,  
12 reasonable accommodations, expected estimated  
13 earnings, and other relevant information;

14 (4) The nature and extent of the vocational rehabilitation  
15 services to be provided, including:

16 (A) Specific services to be provided;

17 (B) Justification for the necessity of the services;

18 (C) Estimated time frames for delivery of services[+]  
19 not to exceed two years;

20 (D) The manner in which the effectiveness of these  
21 services is to be measured;

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(E) Criteria for determining successful completion of the vocational rehabilitation plan; and

(F) The employee's responsibilities;

(5) A report of tests and copies thereof that have been administered to the employee, including a statement regarding the need for and use of the tests to identify a vocational goal;

(6) If retraining, including on-the-job training, is found to be necessary, the estimated cost of retraining, a description of specific skills to be learned or knowledge acquired with specific time periods and clearly defined measurements of success, and the nature, amount, and duration of living expenses;

(7) The total cost of the plan; and

(8) The employee's approval of the plan."

SECTION 2. Section 386-71.5, Hawaii Revised Statutes, is amended to read as follows:

"[+] §386-71.5 [+] **Rehabilitation unit.** There is established within the department of labor and industrial relations a rehabilitation unit. All professional and clerical employees of this unit shall be appointed and administered by the director. The rehabilitation unit shall have the duties and

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1 responsibilities provided in section 386-25. Employees of the  
2 unit shall be subject to chapter 76."

3 SECTION 3. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 4. This Act shall take effect upon its approval.

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INTRODUCED BY:



8

BY REQUEST

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**Report Title:**

Workers' Compensation Vocational Rehabilitation; Department of Labor and Industrial Relations

**Description:**

Creates a hierarchy of options for injured workers who require retraining. Creates time limits (two years) for vocational rehabilitation plans.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Labor and Industrial Relations

TITLE: A BILL FOR AN ACT RELATING TO WORKERS' COMPENSATION.

PURPOSE: Encourages injured workers to return to work as soon as possible by creating time limits for vocational rehabilitation service plans and prioritizing on-the-job and short-term training over long-term training and self-employment.

MEANS: Amend sections 386-25(e), (f), and 386-71.5, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The bill creates time limits for vocational rehabilitation service plans (two years), with a hierarchy for job placement and training. These provisions will help return the injured worker to a job as quickly as possible pursuant to the intent of vocational rehabilitation in workers' compensation, as stated in section 386-25(a), HRS, "to restore an injured worker's earnings capacity as nearly as possible to that level that the worker was earning at the time of injury and to return the injured worker to suitable gainful employment in the active labor force as quickly as possible in a cost-effective manner."

Impact on the public: This measure will improve efficiency in the administration and oversight of vocational rehabilitation in workers' compensation.

Impact on the department and other agencies: By clarifying and updating provisions related to vocational rehabilitation, the department will be more timely and efficient in its administration of vocational rehabilitation for injured workers.

GENERAL FUND: None.

OTHER FUNDS: None.

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PPBS PROGRAM  
DESIGNATION:

LBR183.

OTHER AFFECTED  
AGENCIES:

None.

EFFECTIVE DATE:

Upon approval.