

House Bill 3589; LC 3082

Relating to vocational assistance in workers' compensation
Chief sponsors Representatives Garrard and Nolan (at the request of IWC)

Currently, Oregon injured workers are at a competitive disadvantage in the job market. Many times, pre-injury employers can't or won't rehire them. Yet workers' compensation law successfully provides reemployment benefits to fewer than 25 percent of workers severely disabled from injuries.

A major 2001 study conducted for the state of New Mexico by the RAND Institute for Civil Justice that compared Oregon to other states found that Oregon workers who received permanent partial disability (PPD) experienced significant and sustained earnings losses and received only 42.4 percent of pre-tax wage replacement for the ten years following injury.

In 1999, only 730 injured workers were found eligible for vocational assistance. This compares to 8,506 in 1987, a 91 percent decrease. While 1987 vocational cases represented 66 percent of that year's PPD cases, the corresponding proportion from 1997 through 2001 was 10 percent.

Every year, thousands of Oregon's workers face a future of disability that is further complicated by limited workers' compensation benefits and bleak job prospects. This is a tremendous waste, due in large part to overly restrictive return-to-work programs. The law promises injured workers a remedy that includes a productive life after injury but that's not a reality for many who want to adequately provide for themselves and their families.

The following are some ways to guarantee that remedy:

- Revise the objective of vocational assistance so it's based on worker's being returned to employment that pays as close as possible to their wage at the time of injury. The current standard is 80 percent but many workers are excluded or are forced to accept less.
- When vocational assistance is denied or inadequate, reconsideration should be allowed if the decision was based on inadequate findings of fact or is not supported by substantial evidence.
- Provide a timely vocational eligibility process.
- Guarantee income benefits for those eligible for vocational assistance. Current law permits a delay of a year or more (no benefits) between eligibility and the start of training.
- Expand the education period maximum from 16 months, or 21 months by order of the Director, to 24 months to assist the disabled. Increase the vocational retraining allowance accordingly.

Statistics:

DCBS. Monitoring the Key Components of Legislative Reform (web version of January 2003)

DCBS. Return to Work in the Oregon Workers' Compensation System (June 2001)

DCBS. RESEARCH ALERT: Employment and Wage Patterns for Workers with Denied Workers' Compensation Claims, Accident Years 1992 and 1993, Oregon (web version of March 8, 2002)

¹ www.injuredworker.org/IWC/2003_bills.htm