

1 S.173

2 Introduced by Senator Ram Hinsdale

3 Referred to Committee on Econ. Dev., Housing and General Affairs

4 Date: January 6, 2026

5 Subject: Labor; workers' compensation; vocational rehabilitation; State

6 Employees Labor Relations Act; Vermont Labor Relations Board;

7 mediator

8 Statement of purpose of bill as introduced: This bill proposes to remove the
9 references to vocational rehabilitation screening, to allow injured workers to
10 initiate vocational rehabilitation services if the employer fails to do so, and to
11 ensure that injured workers are fully informed of their right to access
12 vocational rehabilitation services. This bill also proposes to provide free
13 mediation services to public and private sector employers and employees by
14 authorizing and funding the position of State Mediator within the office of the
15 Vermont Labor Relations Board.

~~An act relating to workers' compensation and the Vermont Labor Relations Board~~

An act relating to vocational rehabilitation

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 ~~Sec. 1. 21 V.S.A. § 641 is amended to read:~~

3 § 641. VOCATIONAL REHABILITATION

4 (a) When as a result of an injury covered by this chapter, an employee is
5 unable to perform work for which the employee has previous training or
6 experience, the employee shall be entitled to vocational rehabilitation services,
7 including retraining and job placement, as may be reasonably necessary to
8 restore the employee to suitable employment. Vocational rehabilitation
9 services shall be provided as follows:

10 (1) The employer shall designate a vocational rehabilitation provider
11 from a list provided by the Commissioner to initially provide services.
12 Thereafter, absent good cause, the employee may have only one opportunity to
13 select another vocational rehabilitation provider from a list provided by the
14 Commissioner upon giving the employer written notice of the employee's
15 reasons for dissatisfaction with the designated provider and the name and
16 address of the provider selected by the employee.

17 (2) The Department shall provide an injured worker with a form that
18 includes information and employee rights. The form shall clearly and simply
19 explain the worker's rights, including the choice of provider, the right to
20 challenge a determination, the right to request vocational rehabilitation

21 services in the future if the work injury affects the worker's ability to earn the

1 ~~worker's pre-injury wage and reimbursement for related expenses. The~~

2 worker shall sign the form and return it to the Department.

3 (5) The Commissioner shall adopt rules to ensure that a worker who
4 requests services or who has been out of work for more than 90 days is timely
5 ~~and cost-effectively screened for benefits under this section~~ referred to a
6 vocational rehabilitation counselor. The rules shall:

7 (A) Provide that all vocational rehabilitation work, ~~except for initial~~
8 ~~screenings,~~ be performed by a Vermont-certified vocational rehabilitation
9 counselor, including counselors currently certified pursuant to the rules of the
10 Department. ~~Initial screenings shall be performed by an individual with~~
11 ~~sufficient knowledge or experience to perform adequately the vocational~~
12 ~~rehabilitation screening functions.~~

13 (B) Provide for an initial screening to determine whether a full
14 assessment is appropriate. ~~An injured worker who is determined to be eligible~~
15 ~~for a full assessment shall be timely assessed and offered appropriate~~
16 ~~vocational rehabilitation services. [Repealed.]~~

17 (C) Provide a mechanism for a periodic and timely screening of
18 injured workers who are initially found not to be ready or eligible for a full
19 assessment to determine whether a full assessment has become appropriate.

20 ~~[Repealed.]~~

1 ~~(D) Protect against potential conflicts of interest in the assignment~~
2 ~~and performance of initial screenings. [Repealed.]~~

3 (E) Ensure the injured worker has a choice of a vocational
4 rehabilitation counselor.

5 (F) Ensure the injured worker may initiate vocational rehabilitation
6 services with the worker's chosen vocational rehabilitation provider if the
7 employer fails to assign a vocational rehabilitation provider within 90 days
8 following the worker being out of work.

9 * * *

10 Sec. 2. 3 V.S.A. § 922 is amended to read:

11 § 922. OFFICE SPACE; EMPLOYEES; MEDIATOR

12 (a) The Secretary of Administration shall, upon request by the State Labor
13 Relations Board, allow the Board the responsible use of public buildings under
14 his or her the Secretary's control and furnish heat, light, and furniture for any
15 meeting or hearing called by the Board.

16 (b) The Board may employ such employees and agents as it deems
17 necessary, and may employ a reporter for taking and transcribing testimony in
18 hearing before it.

19 (c) The Board may employ a mediator to provide free mediation services to
20 public and private sector collective bargaining units and employers upon
21 reaching impasse during collective bargaining.

1 ~~Sec. 3. VERMONT LABOR RELATIONS BOARD; POSITION;~~

2 ~~APPROPRIATION~~

3 ~~(a) The position of a full-time, permanent, classified mediator is created in~~
4 ~~the office of the Vermont Labor Relations Board.~~

5 ~~(b) In fiscal year 2027, the amount of \$115,000.00 is appropriated from the~~
6 ~~General Fund to the Vermont Labor Relations Board for salary and benefits for~~
7 ~~the position of mediator.~~

8 Sec. 4. EFFECTIVE DATE

9 ~~This act shall take effect on July 1, 2026.~~

Sec. 1. 21 V.S.A. § 641 is amended to read:

§ 641. VOCATIONAL REHABILITATION

(a) When as a result of an injury covered by this chapter, an employee is unable to perform work for which the employee has previous training or experience, the employee shall be entitled to vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore the employee to suitable employment. Vocational rehabilitation services shall be provided as follows:

(1) The employer shall designate a vocational rehabilitation provider from a list provided by the Commissioner to initially provide services. Thereafter, absent good cause, the employee may have only one opportunity to select another vocational rehabilitation provider from a list provided by the Commissioner upon giving the employer written notice of the employee's reasons for dissatisfaction with the designated provider and the name and address of the provider selected by the employee.

(2) The Department shall provide an injured worker with a form that includes information and employee rights. The form shall clearly and simply explain the worker's rights, including the choice of provider, the right to challenge a determination, the right to request vocational rehabilitation services in the future if the work injury affects the worker's ability to earn the worker's preinjury wage, and reimbursement for related expenses. The worker shall sign the form and return it to the Department.

~~(3) The Commissioner shall adopt rules to ensure that a worker who requests services or who has been out of work for more than 90 days is timely and cost-effectively screened for benefits under this section referred to a vocational rehabilitation counselor. The rules shall:~~

~~(A) Provide that all vocational rehabilitation work, except for initial screenings, be performed by a Vermont-certified vocational rehabilitation counselor; including counselors currently certified pursuant to the rules of the Department. Initial screenings shall be performed by an individual with sufficient knowledge or experience to perform adequately the vocational rehabilitation screening functions.~~

~~(B) Provide for an initial screening to determine whether a full assessment is appropriate. An injured worker who is determined to be eligible for a full assessment shall be timely assessed and offered appropriate vocational rehabilitation services. [Repealed.]~~

~~(C) Provide a mechanism for a periodic and timely screening of injured workers who are initially found not to be ready or eligible for a full assessment to determine whether a full assessment has become appropriate. [Repealed.]~~

~~(D) Protect against potential conflicts of interest in the assignment and performance of initial screenings. [Repealed.]~~

~~(E) Ensure the injured worker has a choice of a vocational rehabilitation counselor.~~

~~(F) Ensure the injured worker may initiate vocational rehabilitation services with the worker's chosen vocational rehabilitation provider if the employer fails to assign a vocational rehabilitation provider within 90 days following the worker being out of work.~~

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Sec. 2. VOCATIONAL REHABILITATION WORKING GROUP; REPORT

~~(a) Creation. There is created the Vocational Rehabilitation Working Group to provide recommendations to the General Assembly on how to improve the current vocational rehabilitation system to ensure that it meets the needs of eligible injured workers in a timely and cost-effective manner.~~

~~(b) Membership. The Working Group shall be composed of the following members:~~

~~(1) the Director of Workers' Compensation and Safety or designee;~~

(2) two representatives on behalf of workers' compensation claimants, one of whom shall be appointed by the Speaker of the House and one of whom shall be appointed by the Committee on Committees;

(3) two representatives on behalf of employers and workers' compensation insurance carriers, one of whom shall be appointed by the Speaker of the House and one of whom shall be appointed by the Committee on Committees; and

(4) two vocational rehabilitation counselors currently certified in Vermont, one of whom shall be appointed by the Speaker of the House and one of whom shall be appointed by the Committee on Committees.

(c) Powers and Duties. The Working Group shall meet over the summer and fall to discuss and develop recommendations on how to improve the current vocational rehabilitation system and prepare recommendations for consideration by the General Assembly. The Working Group shall consider the following questions:

(1) What mechanisms could better identify which claimants are likely to require vocational rehabilitation services?

(2) Could utilization of vocational services be improved by enabling claimants to access vocational rehabilitation benefits while receiving wage replacement benefits?

(3) Could the workers' compensation system take into account the diminished earning capacity of those claimants who are unable to earn a preinjury wage but are not eligible to receive permanent total disability benefits?

(4) Should the average weekly wage be indexed to the cost of living for vocational rehabilitation purposes?

(5) What improvements could be made to ensure that vocational rehabilitation providers who provide services to workers' compensation claimants are familiar with Vermont's workers' compensation system?

(6) Are some of the current requirements for providing vocational rehabilitation services too onerous and administratively unnecessary?

(7) How could the Department of Labor's oversight of vocational rehabilitation be improved?

(8) How could vocational rehabilitation services be provided in a way that is more cost-effective for the workers' compensation system?

(d) Meetings. The Director of Workers' Compensation and Safety shall call the first meeting of the Working Group to occur on or before August 14, 2026.

(e) Assistance. The Working Group shall have the administrative, technical, and legal assistance of the Department of Labor.

(f) Report. On or before December 15, 2026, the Working Group shall submit a written report to the House Committee on Commerce and Economic Development and the Senate Committee on Economic Development, Housing and General Affairs with its findings and any recommendations for legislative action. The Working Group shall cease to exist upon submission of the report.

(g) Compensation and reimbursement. Except for those members regularly employed by the State, members of the Working Group shall be entitled to reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than five meetings. These payments shall be made from monies appropriated to the Department of Labor.