

**CONFIDENTIAL**  
**LEGISLATIVE BILL REVIEW FORM: 2014**

Bill Number:   S. 220   Name of Bill:   AN ACT RELATING TO FURTHERING ECONOMIC DEVELOPMENT  

Agency/ Dept:   Labor   Author of Bill Review:   Annie Noonan  

Date of Bill Review:   5/12/14  

Status of Bill: (check one):

       Upon Introduction

       As passed by 1<sup>st</sup> body

  x   As passed by both bodies

Recommended Position:

  x   Support

       Oppose

       Remain Neutral

       Support with modifications identified in #8 below

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**Analysis of Bill – VDOL’s review is limited to those sections under our jurisdiction;**

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**1. Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.*

(Note: 10 VSA -- current statutory language already grants authority to VDOL and Commissioner, but the new bill restates, rearranges and does rewrite some of the language and intent).

**Section 41**

(1): Workforce Education and Training leader. This section designates the Commissioner of Labor as workforce education and training leader for the State – to coordinate among the education and training providers and help direct efforts to align with workforce and strategic sector needs.

(2) Outlines the information to be collected by a business, training provider or program that receives state funds, so VDOL will be able to measure the effectiveness of the training being provided.

(3) Reorganizes the State Workforce Investment Board – for efficiency; still meets federal WIA requirements for membership. Requires more public engagement activities; alignment with CEDS; greater focus on full council involvement;

(4) Workforce Education and Training: VDOL, ACCD and the WIB may request data submission from each agency and department, and from grant awardees, to support data collection/analysis. ACCD shall coordinate its economic development plan with the WIB and Labor Commissioner.

(5) VDOL to coordinate with ACCD and WIB on grants.

(6): WET Fund: allows training support for apprenticeship related instruction; engages high schools; VDOL Commissioner to work with WIB for award criteria;

(7): Internship: Requires VDOL to coordinate other state agencies and departments on internships.

**Section 42:** Vermont Training Program (ACCD’s – see their write up)

Section 43: repealed.

**Section 44:** Reports by VDOL Commissioner on WETF; Reports by ACCD Secretary on VTP.

**Section 45:** Commissioner of Labor to submit a report on Internship opportunities available to Vermonters between 15 and 18 years of age and recommendations for expansion.

**Section 46/47:** Vermont Strong Scholars – (see ACCD’s write up) VDOL, ACCD, VSC, UVM, and VSAC will identify the economic sectors critical to the Vermont economy. Associate’s degree student can receive loan forgiveness equaling 15 credits; Bachelor’s degree, 30 credits.

**Section 47:** VDOL Commissioner and ACCD Secretary jointly develop and implement organizational details of the internship program, and issue RFP for Internship Program Intermediary, to develop post -secondary internships that are “rigorous, productive, well-managed and mentored”, and build relationships with educational institutions to facilitate recruitment of students, and maintain registry of participating employers and opportunities”. Interns must be paid.

*Please return this bill review as a Microsoft Word document to [laura.gray@state.vt.us](mailto:laura.gray@state.vt.us) and [jessica.mishaan@state.vt.us](mailto:jessica.mishaan@state.vt.us)*

## **S. 220: Worker Compensation Provisions**

### **§632 COMPENSATION TO DEPENDENTS; BURIAL AND FUNERAL EXPENSES**

The person entitled to the benefit can receive the actual funeral expenses up to \$10,000. If the remains must be transported, the person can receive the actual expenses for out-of-state transportation for up to \$5,000. The Commissioner of Labor “shall evaluate the average burial and funeral expenses in the State and make a recommendation.”

§ 639. DEATH, PAYMENT TO DEPENDENTS: This section deals with circumstances where the person is receiving benefits for workers’ comp and dies from an incident outside of work. The updated language mirrors the previous section with actual funeral costs up to \$10,000 and up to \$5,000 for out-of-state transportation. Again, every 2 years the commissioner shall make a recommendation for updating the funeral expenses.

§ 640c. OPIOID USAGE DETERRENCE: The Commissioner shall adopt rules consistent with the best practices governing the prescription of opioids, including patient screening, drug screening, and claim adjudication for patients prescribed opioids for chronic pain. The rules shall be consistent with the standards and guidelines under 18 V.S.A. § 4289 and rules adopted by the Department of Health.

§ 641. VOCATIONAL REHABILITATION: The Commissioner shall adopt rules promoting development and implementation of cost-effective, early return-to-work programs.

§ 643a. DISCONTINUANCE OF BENEFITS: Claimant is entitled to 7 days’ notice of insurer’s intent to discontinue benefit payments. If a claimant disputes the discontinuance, the claimant is granted an extension of 14 days by the Commissioner, and the Commissioner shall inform the employer. This section is repealed on July 1, 2018.

Any payment shall be made without prejudice to the employer and may be deducted from any amounts due pursuant to this title if the Commissioner determines that the discontinuance is warranted or if otherwise ordered by the Commissioner. When the Commissioner reviews the discontinuance, and finds the discontinuance is not warranted, the Commissioner may order that payments continue. If it is found that the discontinuance was warranted, after the hearing, the employee must repay all benefits the employee was not entitled to. The employer may enforce the repayment in any court having jurisdiction.

Sec. 54c. STUDY; REPORT; DISCONTINUANCE OF BENEFITS: The Commissioner of Labor shall assess the financial and administrative impacts of the statutory revisions of this act.

§ 691a. POSTING OF SAFETY RECORDS: An employer must post safety records of the business or make available a contact person for employees to view safety records.

§ 696. CANCELLATION OF INSURANCE CONTRACTS: The notice of cancelation shall be filed with the Commissioner and provided to the employer by certified mail.

§ 697. NOTICE OF INTENT NOT TO RENEW POLICY: An insurance carrier who intends to not renew a workers’ compensation policy shall notify the Commissioner and the employer at least 45 days prior to the expiration date. The notice shall be given to the employer by certified mail. If a provider fails to notify the Commissioner the coverage will continue for 45 days from the date when the notice was received.

Sec. 58. CRIMINAL JUSTICE AND FIRE SERVICE TRAINING CENTER STUDY: The Department of Labor and the Office of Risk Management shall conduct a study to analyze existing and frequently occurring injuries suffered by individuals while attending the Criminal Justice and Fire Service Training Center. The Department shall analyze preventive measures to avoid injuries, recommend who should bear the financial burden of the workers’ compensation premiums, and recommend preventive measures necessary to reduce injuries.

Sec. 59. WORKPLACE SAFETY RANKING STUDY: The Department of Labor shall study whether information may be made available to employers to allow an employer to compare its workplace safety and WC experience with employers in similar industries.

Sec. 14. UNIFIED PAIN MANAGEMENT SYSTEM ADVISORY COUNCIL: This adds the Commissioner of Labor, an occupational medicine clinician, a physical medicine and rehabilitation clinician and a consumer representative who is or has been an injured worker and has been prescribed opioids to the Unified Pain Management System Advisory Council.

§ 602. PROCESS AND PROCEDURE: When an employer or an insurer contacts a claimant, the statement must include that the claimant should contact the Department of Labor Workers' Compensation Division so the individual can be informed of their rights.

§ 655. PROCEDURE IN OBTAINING COMPENSATION; MEDICAL EXAMINATION; VIDEO AND AUDIO RECORDING: When an employee is requested to see a doctor to determine the extent of injury, the examination must occur within a 2-hour driving radius from the employee's residence. The Commissioner may make an exception if the employee must see a specialist and there is not a specialist inside that 2 hour radius.

§ 663b. FRAUD: Upon a fraud claim made to VDOL, the Commissioner shall determine if further investigation is required, and if so, order the insurer to investigate and findings to the Commissioner who shall decide if reimbursement or penalties are needed. If fraud has been determined, the employee must repay all money fraudulently received in addition to other administrative penalties. The party may appeal under 3 V.S.A. chapter 25.

Sec. 64. FRAUD STUDY AND REPORT: The Department shall initiate a study of the best practices to detect and deter workers' compensation fraud by employees, employers, and other persons involved with the workers' compensation system.

Sec. 65. 21 V.S.A. § 624(e): The recovery against the third party for damages resulting from personal injuries or death only, after deducting expenses of recovery, be less than the full value of the claim for personal injuries or death the reimbursement to the employer or workers' compensation insurance carrier shall be limited to that portion of the recovery allocated for damages covered by the Workers' Compensation Act. The Commissioner may order a mediator to mediate the hearing. If an agreement cannot be made the Commissioner may adjudicate the dispute or refer to an arbitrator. The determination from the arbitration shall be final and the cost of mediation shall be split between the parties.

§ 678. COSTS; ATTORNEY'S FEES: Adds, "Deposition expenses, subpoena fees, and expert witness fees" for compensation when the claimant prevails in court.

Regarding Workforce Development only:

**2. Is there a need for this bill?** *Please explain why or why not.*

The Internship opportunities and loan forgiveness programs of this bill will be important to Vermont's economy - help young Vermonters stay in Vermont after college. The language in the bill can also help Vermont employers grow their business with support for training and internship development.

**What are likely to be the fiscal and programmatic implications of this bill for this Department?**

VDOL will have significant work under this bill, with restructured WIB; reports; coordination of workforce education and training and internship programs statewide; engaging more stakeholders, etc.

**3. What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?:** ACCD will have a lot of work under this bill.

**4. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it?** *(for example, public, municipalities, organizations, business, regulated entities, etc)*

Working people in the state have a better chance at employment and the bill may help retain college graduates which will help develop a ready workforce for the State's economy.

Regarding Workers Comp only:

Need for the bill: Discontinuance and 3<sup>rd</sup> Party Lien Issue: Hotly debated; more time for injured worker to get doctors' notes and evaluation; Lien – allows fairer distribution of settlement monies when 3<sup>rd</sup> party is at fault. Opiate deterrence is important to ensure chronic pain prescriptions for from workplace injuries don't create drug addiction.

Secretary/Commissioner has reviewed this document: Annie Noonan \_\_\_\_\_ Date: \_\_\_\_\_

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