

To cooperate with the United States in any plan of land reclamation or land settlement or agricultural development which the Congress of the United States may provide and which may effect the development of agricultural resources within the State of Washington, or the settlement of soldiers, sailors, and other worthy persons, on the agricultural lands within this state, and the Director shall have full power to carry out the provisions of any cooperative land settlement act that may be enacted by the United States.

Cooperate
with U. S.

The Director shall prepare and report to the Legislature, at the commencement of each biennial session, a full statement of his operations and recommendations.

Biennial
report.

Passed the House February 27, 1943.

Passed the Senate March 10, 1943.

Approved by the Governor March 22, 1943.

CHAPTER 280.

[H. B. 341.]

EXTRA-HAZARDOUS EMPLOYMENT.

AN ACT relating to compensation of workmen in extra-hazardous employments and providing for a court review of orders of the Department of Labor and Industries; and amending section 20, chapter 74, Laws of 1911, as amended by section 8, chapter 310, Laws of 1927, as amended by section 6, chapter 132, Laws of 1929, as amended by section 1, chapter 90, Laws of 1931 (section 7697, Remington's Revised Statutes).

Be it enacted by the Legislature of the State of Washington:

SECTION 1. Section 20, chapter 74, Laws of 1911, as amended by section 8, chapter 310, Laws of 1927, as amended by section 6, chapter 132, Laws of 1929, as amended by section 1, chapter 90, Laws of

Amendments.

1931 (section 7697, Remington's Revised Statutes), is amended to read as follows:

Department of labor and Industries.

Service of decision.

Applicator for rehearing.

Joint board. Contents.

Objections waived.

Board may deny.

Section 20. Whenever the Department of Labor and Industries has made any order, decision or award, it shall promptly serve the claimant, employer or other person affected thereby, with a copy thereof by mail, which shall be addressed to such claimant, employer or person at his last known address as shown by the records of the department. Any claimant, employer or other person aggrieved by any such order, decision or award must, before he appeals to the courts, serve upon the Director of Labor and Industries, by mail or personally, within sixty days from the day on which such copy of such order, decision or award was communicated to the applicant, an application for rehearing before the Joint Board of said department, consisting of the Director of Labor and Industries, the Supervisor of Industrial Insurance and the Supervisor of Safety. Such application shall set forth in full detail the grounds upon which the applicant considers such order, decision or award is unjust or unlawful, and shall include every issue to be considered by the Joint Board, and it must contain a detailed statement of facts upon which such claimant, employer or other person relies in support thereof. The claimant, employer or other person shall be deemed to have waived all objections or irregularities concerning the matter on which such rehearing is sought other than those specifically set forth in such application for rehearing or appearing in the records of the Department. If the Joint Board, in its opinion, considers that the Department has previously considered fully all matters raised by such application it may, without further hearing, deny the same and confirm the previous decision or award, or if the evidence on file with the Joint Board sustains the applicant's contention, it may, without further hearing, allow the relief asked in such application;

otherwise, it shall order a rehearing to decide the issues raised. If a rehearing be granted it shall be heard in the county of the residence of the applicant, or in the county where the injury occurred, at a place designated by the Joint Board, but the hearing thereof may be adjourned from time to time and from place to place within said county, as the convenience of witnesses may require. Such rehearing shall be *de novo* and summary, but no witness' testimony shall be received unless he shall first have been sworn to testify the truth, the whole truth and nothing but the truth in the matter being heard, or unless his testimony shall have been taken by deposition according to the statutes relating to Superior Courts of this state. The Joint Board shall cause all oral testimony to be stenographically reported and thereafter transcribed, and when transcribed the same, with all depositions, shall be filed in, and remain a part of, the record on the rehearing. Such rehearing may be conducted by one or more of the members of the Joint Board, or by some person or persons in the regular employ of the Department, duly commissioned by said Board to conduct such hearing, but the record on rehearing shall be considered by all of the members of said Joint Board, and the decision of a majority of said Joint Board shall be the decision of said Joint Board, and upon such decision being rendered all parties to said rehearing shall be given written notice thereof by the Joint Board.

Rehearing if granted.

De novo.

Stenographic record.

Conduct of hearing.

An application for rehearing shall be deemed to have been denied by the Joint Board unless it shall have been acted upon within thirty days from the date of service: *Provided, however,* That the Joint Board may in its discretion, extend the time within which it may act upon such application, not exceeding thirty days.

Rehearing denied unless acted upon.

Proviso.

Each of the members of the Joint Board, and those commissioned by it as aforesaid, shall have

Powers of
joint board.

power to administer oaths; to preserve and enforce order during such rehearing; to issue subpoenas for, and to compel the attendance and testimony of, witnesses, or the production of books, papers, documents and other evidence, or the taking of depositions before any designated individual competent to administer oaths, and it shall be their duty so to do; to examine witnesses; and to do all things conformable to law which may be necessary to enable them, or any of them, effectively to discharge the duties of his office.

Resistance
to joint
board.

If any person in proceedings before the Joint Board disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglect to produce, after having been ordered so to do, any pertinent book, paper, or document, or refuses to appear after having been subpoenaed, or upon appearing refuses to take oath as a witness, or after having the oath refuses to be examined according to law, the Joint Board or any member thereof shall certify the facts to the Superior Court having jurisdiction in the place in which said Joint Board or member thereof is sitting; it shall thereupon, in a summary manner, hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the Court, or commit such person upon the same conditions as if the doing of the forbidden act had occurred with reference to the proceedings, or in the presence, of the Court.

Punishable
as for
contempt
of court.

Appeal from
decision of
joint board.

Within thirty days after the final order of the Joint Board upon such application for rehearing has been communicated to such applicant, or within thirty days after rehearing is deemed denied as herein provided, such applicant may appeal to the Superior Court of the county of his residence, or to the Superior Court of the county wherein the injury

occurred, but upon such appeal may raise only such issues of law or fact as were properly included in his application for rehearing, or in the complete record in the Department. On such appeal the hearing shall be *de novo*, but the appellant shall not be permitted to offer, and the Court shall not receive, in support of such appeal, evidence or testimony other than, or in addition to, that offered before the Joint Board or included in the record filed by the Department: *Provided*, That the right of cross examination shall not be limited by the testimony before the Joint Board. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. Such appeal shall be perfected by filing with the Clerk of the Court a notice of appeal and by serving a copy thereof by mail, or personally, on the Director of Labor and Industries. The Department of Labor and Industries shall, within twenty days after receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. No bond shall be required on such appeal or on appeals to the Supreme Court, except that an appeal by the employer from a decision of the Department under section 7683 of Remington's Compiled Statutes shall be ineffectual unless, within five days following the service of notice thereof, a bond, with surety satisfactory to the Court, shall be filed, conditioned to perform the judgment of the Court. Except in the case last named an appeal shall not be a stay. The calling of a jury shall rest in the discretion of the Court, except that in cases arising under section 7683 and 7690 of Remington's Compiled Statutes, either party shall be entitled to a jury trial upon demand.

Hearing on appeal
de novo.

Cross-examination.

Procedure on appeal.

No bond on appeal.

Exception.

Jury.

Record of department.

The Department of Labor and Industries shall serve upon the appellant and file with the Clerk of the Court before trial, a certified copy of its com-

plete record on the claim, which shall, upon being so filed, become a part of the record in such case.

Confirmation
of decision.

If the Court shall determine that the Department has acted within its power and has correctly construed the law and found the facts, the decision of the Department shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the Superior Court shall refer the same to the Department of Labor and Industries with an order directing it to proceed in accordance with the findings of the Court: *Provided*, That any award shall be in accordance with the schedule of compensation set forth in this act.

Modification
or reversal.

Attorney and
witness fees.

It shall be unlawful for any attorney engaged in any such appeal to charge or receive any fee therein in excess of a reasonable fee, to be fixed by the Court in the case, and if the decision of the Joint Board shall be reversed or modified, such fee and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund, if the accident fund is affected by the litigation. In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the Superior Court as in other civil cases. The Attorney General shall be the legal adviser of the Joint Board and shall represent it in all proceedings. In all Court proceedings under or pursuant to this act the decision of the Department shall be *prima facie* correct and the burden of proof shall be upon the party attacking the same.

Appeal to
supreme
court.

Passed the House March 5, 1943.

Passed the Senate March 10, 1943.

Approved by the Governor March 22, 1943.