

the cancellation of warrants shall be transferred to the current expense fund.

SEC. 2. Section 36, page 314, Laws of 1890 and RCW 36.33.050 are each repealed. Repeal.

SEC. 3. This act is necessary for the immediate preservation of the public peace, health and safety, the support of the state government and its existing public institutions, and shall take effect immediately. Emergency.

Passed the House February 27, 1961.

Passed the Senate March 9, 1961.

Approved by the Governor March 20, 1961.

CHAPTER 274.

[H. B. 643.]

INDUSTRIAL INSURANCE.

AN ACT relating to industrial insurance; amending section 51.32.050, chapter 23, Laws of 1961, and RCW 51.32.050; amending section 51.32.060, chapter 23, Laws of 1961, and RCW 51.32.060; amending section 51.32.080, chapter 23, Laws of 1961, and RCW 51.32.080; amending section 51.32.090, chapter 23, Laws of 1961, and RCW 51.32.090; amending section 51.44.070, chapter 23, Laws of 1961, and RCW 51.44.070; amending section 51.16.020, chapter 23, Laws of 1961, and RCW 51.16.020; amending section 51.24.010, chapter 23, Laws of 1961, and RCW 51.24.010; and amending section 51.52.060, chapter 23, Laws of 1961, and RCW 51.52.060.

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

SECTION 1. Section 51.32.050, chapter 23, Laws of 1961 and RCW 51.32.050 are each amended to read as follows: RCW 51.32.050 amended.

(1) Where death results from the injury the expenses of burial not to exceed five hundred dollars shall be paid to the undertaker conducting the funeral. Workmen's compensation. Right to and amount. Death benefits.

(2) If the workman leaves a widow or invalid widower, a monthly payment of one hundred

twenty-five dollars shall be made throughout the life of the surviving spouse, to cease at the end of the month in which remarriage occurs, and the surviving spouse shall also receive per month for each child of the deceased at the time any monthly payment is due the following payments: For the youngest or only child, thirty-three dollars, for the next or second youngest child, twenty-seven dollars, and for each additional child, twenty dollars, but the total monthly payments shall not exceed two hundred forty-five dollars and any deficit shall be deducted proportionately among the beneficiaries. In addition to the monthly payments above provided for, a surviving widow, or invalid widower, or dependent parent or parents, if there is no surviving widow or invalid widower of any such deceased workman shall be forthwith paid the sum of five hundred dollars.

Upon remarriage of a widow she shall receive, once and for all, a lump sum of one thousand five hundred dollars, and the monthly payments to such widow shall cease at the end of the month in which remarriage occurs, but the monthly payments for the child or children shall continue as before.

(3) If the workman leaves no wife or husband, but an orphan child or children a monthly payment of sixty dollars shall be paid to each such child, but the total monthly payments shall not exceed three hundred dollars and any deficit shall be deducted proportionately among the beneficiaries.

(4) In the event a surviving spouse receiving monthly payments dies, leaving a child or children, each shall receive the sum of sixty dollars per month, but the total monthly payment shall not exceed three hundred dollars and any deficit shall be deducted proportionately among the beneficiaries.

(5) If the workman leaves no widow, widower or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty per cent of the average monthly sup-

port actually received by such dependent from the workman during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed one hundred dollars per month. If any dependent is under the age of eighteen years at the time of the occurrence of the injury, the payment to such dependent shall cease when such dependent reaches the age of eighteen years. The payment to any dependent shall cease if and when, under the same circumstances, the necessity creating the dependency would have ceased if the injury had not happened.

(6) If the injured workman dies during the period of permanent total disability, whatever the cause of death, leaving a widow, invalid widower, or child, or children, the surviving widow or invalid widower shall receive one hundred twenty-five dollars per month until death or remarriage, to be increased per month for each child of the deceased, as follows: For the youngest or only child, thirty-three dollars, for the next or second youngest child, twenty-seven dollars, and for each additional child, twenty dollars: *Provided*, That the total monthly payments shall not exceed two hundred forty-five dollars and any deficit shall be deducted proportionately among the beneficiaries; but if such child is or shall be without father or mother, such child shall receive sixty dollars per month, but the total monthly payment to such children shall not exceed three hundred dollars, and any deficit shall be deducted proportionately among the children. Upon remarriage the payments on account of the child or children shall continue as before to such child or children.

SEC. 2. Section 51.32.060, chapter 23, Laws of 1961 and RCW 51.32.060 are each amended to read as follows: .

RCW 51.32.060
amended.

When the supervisor of industrial insurance shall determine that permanent total disability results

Permanent
total disability
compensation
—Personal
attendant.

from the injury, the workman shall receive monthly during the period of such disability:

(1) If unmarried at the time of the injury, the sum of one hundred sixty-five dollars.

(2) If the workman has a wife or invalid husband, but no child, the sum of one hundred ninety dollars.

(3) If the workman has an able-bodied husband, but no child, the sum of one hundred fifty-five dollars.

(4) If the workman has a wife or husband and a child or children, or, being a widow or widower having any such child or children, the monthly payment in subdivisions (2) and (3) shall be increased by thirty-three dollars for the youngest or only child, twenty-seven dollars for the next or second youngest child, and twenty dollars for each additional child, but the total monthly payments shall not exceed three hundred ten dollars to a workman with a wife, or invalid husband, or being a widow or widower, and having children, and shall not exceed two hundred seventy-five dollars to a married workman with children and having an able-bodied husband, and any deficit shall be deducted proportionately among the beneficiaries.

(5) In case of permanent total disability, if the character of the injury is such as to render the workman so physically helpless as to require the services of an attendant, the monthly payment to such workman shall be increased one hundred dollars per month as long as such requirement continues, but such increases shall not obtain or be operative while the workman is receiving care under or pursuant to the provisions of chapters 51.36 and 51.40.

(6) Should any further accident result in the permanent total disability of an injured workman, he shall receive the pension to which he would be entitled, notwithstanding the payment of a lump sum for his prior injury.

SEC. 3. Section 51.32.080, chapter 23, Laws of 1961 and RCW 51.32.080 are each amended to read as follows:

RCW 51.32.080 amended.

(1) For the permanent partial disabilities here specifically described, the injured workman shall receive compensation as follows:

Permanent partial disability—Specified—Unspecified—Injury after permanent partial disability.

LOSS BY AMPUTATION

Of one leg at the hip or the upper half of the thigh	\$9750.00
Of one leg at the knee or the lower half of the thigh	8250.00
Of one leg below the knee	5200.00
Of great toe with metatarsal bone thereof	1450.00
Of great toe at the proximal joint	975.00
Of great toe at the second joint	350.00
Of one other toe other than the great toe with the metatarsal bone thereof ..	975.00
Of second toe at proximal joint	350.00
Of third toe at proximal joint	350.00
Of fourth toe at proximal joint	350.00
Of fifth toe at proximal joint	225.00
Of one metatarsal bone on toe other than great toe	475.00
Of one arm so near the shoulder that an artificial arm cannot be worn	9750.00
Of the major arm at or above the elbow ..	8250.00
Of forearm at upper third	6825.00
Of the major hand at wrist	6350.00
Of thumb with metacarpal bone thereof ..	2425.00
Of thumb with proximal joint	1950.00
Of thumb at second joint	510.00
Of index or first finger at proximal joint ..	1400.00
Of index or first finger at second joint	975.00
Of index or first finger at distal joint	450.00
Of middle or second finger at proximal joint	810.00
Of middle or second finger at second joint	720.00
Of middle or second finger at distal joint ..	360.00
Of ring or third finger at proximal joint ..	720.00

Of ring or third finger at second joint	540.00
Of ring or third finger at distal joint	360.00
Of little or fourth finger at proximal joint	450.00
Of little or fourth finger at second joint ..	270.00
Of little or fourth finger at distal joint ..	180.00
Of metacarpal bone in finger except thumb	270.00

MISCELLANEOUS

Loss of one eye by enucleation	4875.00
Loss of sight of one eye	3900.00
Complete loss of hearing in both ears	6825.00
Complete loss of hearing in one ear	1950.00
Complete broken arch in foot	1950.00

(2) Compensation for any other permanent partial disability shall be in the proportion which the extent of such other disability, called unspecified disability, shall bear to that above specified, which most closely resembles and approximates in degree of disability such other disability, but not in any case to exceed the sum of eight thousand seven hundred and fifty dollars: *Provided*, That the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of eight thousand seven hundred and fifty dollars. For disability to a member not involving amputation, not more than nine-tenths of the foregoing respective specified sums shall be paid: *Provided further*, That payment for any injury to minor hand or arm or any part thereof, shall not exceed ninety-five percent of the amounts hereinbefore enumerated: *Provided further*, That in case permanent partial disability compensation is followed by permanent total disability compensation, any portion of the permanent partial disability compensation which exceeds the amount that would have been paid the injured workman if permanent total disability compensation had been paid in the first instance, shall be deducted from the pension reserve of such injured workman and his monthly

compensation payments shall be reduced accordingly.

(3) If the injured workman is under the age of twenty-one years and unmarried, the parents or parent shall also receive a lump sum payment equal to the ten percent of the amount awarded to the minor workman.

(4) Should a workman receive an injury to a member or part of his body already, from whatever cause, permanently partially disabled, resulting in the amputation thereof or in an aggravation or increase in such permanent partial disability but not resulting in the permanent total disability of such workman, his compensation for such partial disability shall be adjudged with regard to the previous disability of the injured member or part and the degree or extent of the aggravation or increase of disability thereof.

(5) When the compensation provided for in subsections (1) and (2) exceeds one thousand dollars, payment shall be made in monthly payments in accordance with the schedule of temporary total disability payments set forth in RCW 51.32.090 until such compensation is paid to the injured workman in full, except that the first monthly payment shall be in the amount of one thousand dollars and interest shall be paid at the rate of five percent on the unpaid balance of such compensation commencing with the second monthly payment: *Provided*, That interest so paid shall not be charged to the cost experience of any employer but shall be borne wholly by the applicable class account: *Provided further*, That upon application of the injured workman the monthly payment may be converted, in whole or in part, into a lump sum payment, in which event the monthly payment shall cease in whole or in part. Such conversion may be made only upon written application of the injured workman to the department and shall rest in the discretion of the department depending

upon the merits of each individual application: *Provided further*, That upon death of a workman all unpaid installments accrued, less interest, shall be paid in a lump sum amount to the widow or widower, or if there is no widow or widower surviving, to the dependent children of such claimant, and if there are no such dependent children, then to such other dependents as defined by this title.

RCW 51.32.090
amended.

SEC. 4. Section 51.32.090, chapter 23, Laws of 1961 and RCW 51.32.090 are each amended to read as follows:

Temporary
total disability
—Partial res-
toration of
earning power
—When em-
ployer con-
tinues wages.

(1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1), (2), (3) and (4) of RCW 51.32.060 shall apply, so long as the total disability continues.

(2) But if the injured workman has a wife or husband and has no child or, being a widow or widower, with one or more children, the compensation for the case during such period of time as the total temporary disability continues, shall be per month as follows, to wit: (a) Injured workman with wife or invalid husband and no child, one hundred ninety dollars; injured workman with able-bodied husband, but no child, one hundred fifty-five dollars; injured workman with wife or invalid husband and one child, or being a widow or widower and having one child, two hundred twenty-three dollars; (b) injured workman with able-bodied husband and one child, one hundred eighty-eight dollars; (c) injured workman with wife or invalid husband and two children, or being a widow or widower and having two children, two hundred fifty dollars; (d) injured workman with able-bodied husband and two children, two hundred fifteen dollars; and twenty dollars for each additional child, but the total monthly payments shall not exceed three hundred ten dollars to an injured workman with a wife or invalid husband, or being a widow or widower, and

having children, and shall not exceed two hundred seventy-five dollars to an injured workman with children and having an able-bodied husband and any deficit shall be deducted proportionately among the beneficiaries.

Any compensation payable under this section for children not in the custody of the injured workman as of the date of injury shall be payable only to such person as actually is providing the support for such child or children pursuant to the order of a court of record providing for support of such child or children.

(3) As soon as recovery is so complete that the present earning power of the workman, at any kind of work, is restored to that existing at the time of the occurrence of the injury, the payments shall cease. If and so long as the present earning power is only partially restored, the payments shall continue in the proportion which the new earning power shall bear to the old. No compensation shall be payable out of the accident fund unless the loss of earning power shall exceed five percent.

(4) No workman shall receive compensation out of the accident fund for or during the day on which injury was received or the three days following the same, unless his disability shall continue for a period of thirty consecutive calendar days from date of injury.

(5) Should a workman suffer a temporary total disability and should his employer at the time of the injury continue to pay him the wages which he was earning at the time of such injury, such injured workman shall not receive any payment provided in subsection (1) of this section from the accident fund during the period his employer shall so pay such wages.

SEC. 5. Section 51.44.070, chapter 23, Laws of 1961 and RCW 51.44.070 are each amended to read as follows:

RCW 51.44.070
amended.

Funds. Trans-
fer from acci-
dent fund
accounts to
reserve fund—
Annuity table.

For every case resulting in death or permanent total disability the department shall transfer on its books from the accident fund of the proper class and/or appropriate account to the "reserve fund" a sum of money for that case equal to the estimated present cash value of the monthly payments provided for it, to be calculated upon the basis of an annuity covering the payments in this title provided to be made for the case. Such annuities shall be based upon tables to be prepared for that purpose by the state insurance commissioner and by him furnished to the state treasurer, calculated upon standard mortality tables with an interest assumption of three percent per annum.

RCW 51.16.020
amended.

SEC. 6. Section 51.16.020, chapter 23, Laws of 1961 and RCW 51.16.020 are each amended to read as follows:

Assessment
and collection
of premiums.
Basis for de-
termining
accident fund
premiums
—Cost
experience.

The amounts to be paid into the accident fund shall be determined as follows: The department shall, prior to the first day of January of each year, determine for each class and subclass, a basic premium rate for the ensuing calendar year and, in so doing, shall take into consideration: First, that no class shall be liable for the depletion of the accident fund for accidents happening in any other class; second, that each class shall meet and be liable for its own accidents; third, the cost experience of each class and subclass over the two year period immediately preceding July 1st of the year in which the basic rate is being fixed; fourth, the then condition of each class and subclass account.

The department shall also, prior to the first day of January of each year, determine the premium rate to be paid into said accident fund during the ensuing year by each employer to be credited to each class and subclass account, applicable to the employer's operations or business and, in so doing, shall take into consideration the average cost experience of

each employer for each workman hour reported by him during each fiscal year in each such class or subclass over the five year period immediately preceding July 1st of the year in which the rate is being determined, and in so computing the cost experience of any employer, seventy-five percent of the average cost of pension claims shall be charged against his experience for each injury resulting in death or total permanent disability of a workman instead of the actual cost to the accident fund of such injury. The actual premium rate which any employer shall be required to pay for the accident fund shall be thirty percent of the basic rate, plus seventy percent of the employer's cost rate for each workman hour reported by him during each fiscal year over the five year period next preceding the then last July 1st, but in no case shall the total rate exceed one hundred sixty percent of the basic rate.

SEC. 7. Section 51.24.010, chapter 23, Laws of 1961 and RCW 51.24.010 are each amended to read as follows:

RCW 51.24.010 amended.

If the injury to a workman is due to negligence or wrong of another not in the same employ, the injured workman or, if death results from the injury, his widow, children, or dependents, as the case may be, shall elect whether to take under this title or seek a remedy against such other, such election to be in advance of any suit under this section and, if he takes under this title, the cause of action against such other shall be assigned to the state for the benefit of the accident fund and the medical aid fund; if the other choice is made, the accident fund and the medical aid fund shall contribute only the deficiency, if any, between the amount of recovery against such third person actually collected and the compensation provided or estimated by this title for such case: *Provided*, That the injured workman or if death results from his injury, his widow, children or de-

Actions at law for injury or death. Right of action against third party.

pendents as the case may be, electing to seek a remedy against such other person, shall receive benefits payable under this title as if such election had not been made, and the department for the benefit of the accident fund and the medical aid fund to the extent of such payments having been made by the department to the injured workman or if death results from his injury, his widow, children or dependents as the case may be shall be subrogated to the rights of such person or persons against the recovery had from such third party and shall have a lien thereupon. Any such cause of action assigned to the state may be prosecuted or compromised by the department in its discretion in the name of the workman, beneficiaries, or legal representative. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund or the medical aid fund may be made only with the written approval of the department. If such approval is not obtained, claim for the deficiency will be deemed to have been waived.

In any action brought under this section wherein recovery is made by compromise and settlement or otherwise, the amount to be repaid to the state of Washington as a result of said action shall bear its proportionate share of attorney's fees and costs incurred by the injured workman or his widow, children, or dependents, as the case may be, and the court shall approve the amount of attorney's fees.

RCW 51.52.060
amended.

SEC. 8. Section 51.52.060, chapter 23, Laws of 1961 and RCW 51.52.060 are each amended to read as follows:

Appeals.
Notice of ap-
peal—Time—
Withdrawal.

Any workman, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or award was

communicated to such person, a notice of appeal to the board. Within ten days of the date on which an appeal has been granted by the board, the board shall notify the other interested parties thereto of the receipt thereof and shall forward a copy of said notice of appeal to such other interested parties. Within twenty days of the receipt of such notice of the board, the workman or the employer may file with the board a cross-appeal from the order of the department from which the original appeal was taken: *Provided*, That nothing contained in this section shall be deemed to change, alter or modify the practice or procedure of the department for the payment of awards pending appeal: *And Provided*, That failure to file notice of appeal with both the board and the department shall not be ground for denying the appeal if the notice of appeal is filed with either the board or the department: *And Provided*, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: *Provided, further*, That the department, either before receiving a notice of appeal, or within thirty days thereafter, may modify, reverse or change any order, decision, or award, and the board shall thereupon deny the appeal.

SEC. 9. Section 6 of this amendatory act shall become effective January 1, 1962. Effective date of section 6.

Passed the House March 9, 1961.

Passed the Senate March 8, 1961.

Approved by the Governor March 20, 1961.