

revenues received in the state treasury and deposit in the 1977 state fire service training center bond retirement fund an amount equal to the amount certified by the state finance committee to be due on such payment date.

NEW SECTION. Sec. 6. The bonds authorized in this chapter shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 28C RCW.

NEW SECTION. Sec. 8. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 9. 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.

Passed the Senate June 9, 1977.

Passed the House June 21, 1977.

Approved by the Governor July 1, 1977.

Filed in Office of Secretary of State July 1, 1977.

CHAPTER 350

[House Bill No. 49]

INDUSTRIAL INSURANCE

AN ACT Relating to industrial insurance; amending section 51.04.010, chapter 23, Laws of 1961 as amended by section 1, chapter 43, Laws of 1972 ex. sess. and RCW 51.04.010; amending section 51.04.030, chapter 23, Laws of 1961 as amended by section 74, chapter 289, Laws of 1971 ex. sess. and RCW 51.04.030; amending section 51.04.060, chapter 23, Laws of 1961 and RCW 51.04.060; amending section 51.04.070, chapter 23, Laws of 1961 and RCW 51.04.070; amending section 51.04.090, chapter 23, Laws of 1961 and RCW 51.04.090; amending section 51.04.100, chapter 23, Laws of 1961 and RCW 51.04.100; amending section 67, chapter 289, Laws of 1971 ex. sess. as last amended by section 150, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 51.04.110; amending section 3, chapter 107, Laws of 1961 and RCW 51.08.013; amending section 51.08.015, chapter 23, Laws of 1961 as amended by section 3, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.015; amending section 51.08.020, chapter 23, Laws of 1961 as amended by section 91, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.08.020; amending section 51.08.050, chapter 23, Laws of 1961 and RCW 51.08.050; amending section 51.08.070, chapter 23, Laws of 1961 as amended by section 1, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.070; amending section 51.08.160, chapter 23, Laws of 1961 and RCW 51.08.160; amending section 14, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.178; amending section 51.08.180, chapter 23, Laws of 1961 and RCW 51.08.180; amending section 4, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.185; amending section 1, chapter 20, Laws of 1971 as last amended by section 1, chapter 79, Laws of 1975 1st ex. sess. and RCW 51.12.035; amending section 51.12.050, chapter 23, Laws of 1961 as amended by section 8, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.050; amending section 51.12.060, chapter 23, Laws of 1961 and RCW 51.12.060; amending section 51.12.090, chapter 23, Laws of 1961 as amended by section 10, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.090; amending section 51.12.100, chapter 23, Laws of 1961 as last amended by section 3, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.12.100; amending section 51.12.110, chapter 23, Laws of 1961 as amended by section 85, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.110; amending section 82, chapter 289, Laws of 1971 ex. sess. as amended by section 12, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.120; amending section 16, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.035; amending section 2, chapter 151, Laws of 1963 as amended by section 84, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.042; amending section 51.16.060, chapter 23, Laws of 1961 as last amended by section 1, chapter 32, Laws of 1973 1st ex. sess. and RCW 51.16.060; amending section 51.16.105, chapter 23, Laws of 1961 as last amended by section 8, chapter 52,

Laws of 1973 1st ex. sess. and RCW 51.16.105; amending section 51.16.120, chapter 23, Laws of 1961 as amended by section 13, chapter 43, Laws of 1972 ex. sess. and RCW 51.16.120; amending section 51.16.140, chapter 23, Laws of 1961 as last amended by section 2, chapter 110, Laws of 1973 and RCW 51.16.140; amending section 51.24.010, chapter 23, Laws of 1961 as last amended by section 93, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.24.010; amending section 51.24.020, chapter 23, Laws of 1961 as amended by section 94, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.24.020; amending section 51.28.010, chapter 23, Laws of 1961 as last amended by section 4, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.28.010; amending section 51.28.020, chapter 23, Laws of 1961 as amended by section 38, chapter 289, Laws of 1971 ex. sess. and RCW 51.28.020; amending section 51.28.055, chapter 23, Laws of 1961 and RCW 51.28.055; amending section 51.28.060, chapter 23, Laws of 1961 and RCW 51.28.060; amending section 51.28.070, chapter 23, Laws of 1961 as amended by section 6, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.28.070; amending section 51.32.010, chapter 23, Laws of 1961 as last amended by section 7, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.010; amending section 1, chapter 107, Laws of 1961 as amended by section 41, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.015; amending section 51.32.020, chapter 23, Laws of 1961 as amended by section 42, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.020; amending section 51.32.030, chapter 23, Laws of 1961 and RCW 51.32.030; amending section 1, chapter 30, Laws of 1974 ex. sess. as amended by section 8, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.040; amending section 51.32.050, chapter 23, Laws of 1961 as last amended by section 2, chapter 45, Laws of 1975-'76 2nd ex. sess. and RCW 51.32.050; amending section 46, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.055; amending section 51.32.060, chapter 23, Laws of 1961 as last amended by section 9, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.060; amending section 1, chapter 19, Laws of 1975-'76 2nd ex. sess. and RCW 51.32.073; amending section 51.32.080, chapter 23, Laws of 1961 as last amended by section 21, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.080; amending section 51.32.090, chapter 23, Laws of 1961 as last amended by section 1, chapter 235, Laws of 1975 1st ex. sess. and RCW 51.32.090; amending section 12, chapter 289, Laws of 1971 ex. sess. as amended by section 23, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.095; amending section 51.32.100, chapter 23, Laws of 1961 as amended by section 44, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.100; amending section 51.32.110, chapter 23, Laws of 1961 as amended by section 13, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.110; amending section 51.32.120, chapter 23, Laws of 1961 and RCW 51.32.120; amending section 51.32.135, chapter 23, Laws of 1961 as amended by section 98, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.32.135; amending section 51.32.180, chapter 23, Laws of 1961 as amended by section 49, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.180; amending section 47, chapter 289, Laws of 1971 ex. sess. as amended by section 25, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.190; amending section 26, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.210; amending section 51.36.010, chapter 23, Laws of 1961 as last amended by section 1, chapter 234, Laws of 1975 1st ex. sess. and RCW 51.36.010; amending section 51.36.020, chapter 23, Laws of 1961 as last amended by section 14, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.36.020; amending section 51.36.030, chapter 23, Laws of 1961 and RCW 51.36.030; amending section 2, chapter 107, Laws of 1961 and RCW 51.36.040; amending section 54, chapter 289, Laws of 1971 ex. sess. and RCW 51.36.070; amending section 51.40.010, chapter 23, Laws of 1961 and RCW 51.40.010; amending section 51.40.020, chapter 23, Laws of 1961 as last amended by section 2, chapter 80, Laws of 1965 ex. sess. and RCW 51.40.020; amending section 51.40.030, chapter 23, Laws of 1961 and RCW 51.40.030; amending section 51.40.040, chapter 23, Laws of 1961 as amended by section 29, chapter 106, Laws of 1973 and RCW 51.40.040; amending section 51.40.050, chapter 23, Laws of 1961 and RCW 51.40.050; amending section 51.40.060, chapter 23, Laws of 1961 and RCW 51.40.060; amending section 51.40.070, chapter 23, Laws of 1961 and RCW 51.40.070; amending section 51.44.110, chapter 23, Laws of 1961 as amended by section 30, chapter 106, Laws of 1973 and RCW 51.44.110; amending section 51.48.010, chapter 23, Laws of 1961 as amended by section 61, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.010; amending section 51.48.050, chapter 23, Laws of 1961 and RCW 51.48.050; amending section 51.48.060, chapter 23, Laws of 1961 as amended by section 20, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.060; amending section 51.48.070, chapter 23, Laws of 1961 and RCW 51.48.070; amending section 1, chapter 78, Laws of 1972 ex. sess. and RCW 51.48.105; amending section 51.52.010, chapter 23, Laws of 1961 as last amended by section 151, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 51.52.010; amending section 51.52.050, chapter 23, Laws of 1961 as amended by section 1, chapter 58, Laws of 1975 1st ex. sess. and RCW 51.52.050; amending section 51.52.060, chapter 23, Laws of 1961 as last amended by section 2, chapter 58, Laws of 1975 1st ex. sess. and RCW 51.52.060; amending section 51.52.070, chapter 23, Laws of 1961 as last amended by section 18, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.52.070; amending section 51.52.095, chapter 23, Laws of 1961 as last amended by section 3, chapter 148, Laws of 1963 and RCW 51.52.095; amending section 51.52.100, chapter 23, Laws of 1961 as amended by section 4, chapter 148, Laws of 1963 and RCW 51.52.100; amending section 1, chapter 40, Laws of 1973 and RCW 51.52.110; amending section

51.52.120, chapter 23, Laws of 1961 as amended by section 1, chapter 63, Laws of 1965 ex. sess. and RCW 51.52.120; and amending section 51.52.130, chapter 23, Laws of 1961 and RCW 51.52.130.

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

Section 1. Section 51.04.010, chapter 23, Laws of 1961 as amended by section 1, chapter 43, Laws of 1972 ex. sess. and RCW 51.04.010 are each amended to read as follows:

The common law system governing the remedy of ((workmen)) workers against employers for injuries received in employment is inconsistent with modern industrial conditions. In practice it proves to be economically unwise and unfair. Its administration has produced the result that little of the cost of the employer has reached the ((workman)) worker and that little only at large expense to the public. The remedy of the ((workman)) worker has been uncertain, slow and inadequate. Injuries in such works, formerly occasional, have become frequent and inevitable. The welfare of the state depends upon its industries, and even more upon the welfare of its wage worker. The state of Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for ((workmen)) workers, injured in their work, and their families and dependents is hereby provided regardless of questions of fault and to the exclusion of every other remedy, proceeding or compensation, except as otherwise provided in this title; and to that end all civil actions and civil causes of action for such personal injuries and all jurisdiction of the courts of the state over such causes are hereby abolished, except as in this title provided.

Sec. 2. Section 51.04.030, chapter 23, Laws of 1961 as amended by section 74, chapter 289, Laws of 1971 ex. sess. and RCW 51.04.030 are each amended to read as follows:

The director shall, through the division of industrial insurance, supervise the providing of prompt and efficient care and treatment to ((workmen)) workers injured in during the course of their employment at the least cost consistent with promptness and efficiency, without discrimination or favoritism, and with as great uniformity as the various and diverse surrounding circumstances and locations of industries will permit and to that end shall, from time to time, establish and promulgate and supervise the administration of printed forms, rules, regulations, and practices for the furnishing of such care and treatment.

The director shall make and, from time to time, change as may be, and promulgate a fee bill of the maximum charges to be made by any physician, surgeon, hospital, druggist, or other agency or person rendering services to injured ((workmen)) workers. No service covered under this title shall be charged or paid at a rate or rates exceeding those specified in such fee bill, and no contract providing for greater fees shall be valid as to the excess.

The director or self-insurer, as the case may be, shall make a record of the commencement of every disability and the termination thereof and, when bills are rendered for the care and treatment of injured ((workmen)) workers, shall approve and pay those which conform to the promulgated rules, regulations, and practices of the director and may reject any bill or item thereof incurred in violation of the

principles laid down in this section or the rules and regulations promulgated under it.

Sec. 3. Section 51.04.060, chapter 23, Laws of 1961 and RCW 51.04.060 are each amended to read as follows:

No employer or ~~((workman))~~ worker shall exempt himself or herself from the burden or waive the benefits of this title by any contract, agreement, rule or regulation, and any such contract, agreement, rule or regulation shall be pro tanto void.

Sec. 4. Section 51.04.070, chapter 23, Laws of 1961 and RCW 51.04.070 are each amended to read as follows:

A minor working at an age legally permitted under the laws of this state shall be deemed sui juris for the purpose of this title, and no other person shall have any cause of action or right to compensation for an injury to such minor ~~((workman))~~ worker, except as expressly provided in this title, but in the event of a lump sum payment becoming due under this title to such minor ~~((workman))~~ worker, the management of the sum shall be within the probate jurisdiction of the courts the same as other property of minors and, in the event it is necessary to procure the appointment of a guardian to receive the money to which any minor ~~((workman))~~ worker is entitled under the provisions of this title, the director may allow from the accident fund toward the expenses of such guardianship, not to exceed the sum of fifty dollars in any one case: PROVIDED, That in case any such minor is awarded a lump sum payment of not more than seven hundred fifty dollars, the director may make payment direct to such minor without the necessity of the appointment of a guardian.

Sec. 5. Section 51.04.090, chapter 23, Laws of 1961 and RCW 51.04.090 are each amended to read as follows:

If any employer shall be adjudicated to be outside the lawful scope of this title, the title shall not apply to him or ~~((his workman))~~ her or his or her worker, or if any ~~((workman))~~ worker shall be adjudicated to be outside the lawful scope of this title because of remoteness of his or her work from the hazard of his or her employer's work, any such adjudication shall not impair the validity of this title in other respects, and in every such case an accounting in accordance with the justice of the case shall be had of moneys received. If the provisions for the creation of the accident fund, or the provisions of this title making the compensation to the ~~((workman))~~ worker provided in it exclusive of any other remedy on the part of the ~~((workman))~~ worker shall be held invalid the entire title shall be thereby invalidated. In other respects an adjudication of invalidity of any part of this title shall not affect the validity of the title as a whole or any other part thereof.

Sec. 6. Section 51.04.100, chapter 23, Laws of 1961 and RCW 51.04.100 are each amended to read as follows:

If the provisions of this title relative to compensation for injuries to or death of ~~((workmen))~~ workers become invalid because of any adjudication, or be repealed, the period intervening between the occurrence of an injury or death, not previously compensated for under this title by lump payment or completed monthly payments, and such repeal or the rendition of the final adjudication of invalidity shall not be computed as a part of the time limited by law for the commencement of any action relating to such injury or death: PROVIDED, That such action be commenced

within one year after such repeal or adjudication; but in any such action any sum paid out of the accident fund to the ((workman)) worker on account of injury, to whom the action is prosecuted, shall be taken into account or disposed of as follows: If the defendant employer shall have paid without delinquency into the accident fund the payment provided by this title, such sums shall be credited upon the recovery as payment thereon, otherwise the sum shall not be so credited but shall be deducted from the sum collected and be paid into the said fund from which they had been previously disbursed.

Sec. 7. Section 67, chapter 289, Laws of 1971 ex. sess. as last amended by section 150, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 51.04.110 are each amended to read as follows:

The director shall appoint a ((workmen's)) workers' compensation advisory committee composed of nine members: Three representing subject ((workmen)) workers, three representing subject employers, one representing self-insurers, one representing ((workmen)) workers of self-insurers, and one ex officio member, without a vote, representing the department, who shall be chairman. This committee shall conduct a continuing study of any aspects of ((workmen's)) workers' compensation as the committee shall determine require their consideration. The committee shall report its findings to the department or the board of industrial insurance appeals for such action as deemed appropriate. The members of the committee shall be appointed for a term of three years commencing on July 1, 1971 and the terms of the members representing the ((workmen)) workers and employers shall be staggered so that the director shall designate one member from each such group initially appointed whose term shall expire on June 30, 1972 and one member from each such group whose term shall expire on June 30, 1973. The members shall serve without compensation, but shall be entitled to travel expenses as provided in RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. The committee may hire such experts, if any, as it shall require to discharge its duties, and may utilize such personnel and facilities of the department and board of industrial insurance appeals as it shall need without charge. All expenses of this committee shall be paid by the department.

The ((workmen's)) workers' compensation advisory committee created by this section shall conduct a study of the advisability and necessity of deposits by self-insurers into the reserve fund to guarantee the payments of pensions established pursuant to this title, and shall report its findings and recommendations on this study to the department, and the department shall transmit said findings and recommendations to the next regular session of the legislature.

Sec. 8. Section 3, chapter 107, Laws of 1961 and RCW 51.08.013 are each amended to read as follows:

"Acting in the course of employment" means the ((workman)) worker acting at his or her employer's direction or in the furtherance of his or her employer's business which shall include time spent going to and from work on the jobsite, as defined in RCW 51.32.015 and 51.36.040, insofar as such time is immediate to the actual time that the ((workman)) worker is engaged in the work process in areas controlled by his or her employer, except parking areas, and it is not necessary that at the time an injury is sustained by a ((workman)) worker he or she be doing the work on which his or her compensation is based or that the event be within the

time limits on which industrial insurance or medical aid premiums or assessments are paid.

Sec. 9. Section 51.08.015, chapter 23, Laws of 1961 as amended by section 3, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.015 are each amended to read as follows:

Wherever and whenever in any of the provisions of this title relating to any payments by an employer or ((~~workman~~)) worker the words "amount" and/or "amounts," "payment" and/or "payments," "premium" and/or "premiums," "contribution" and/or "contributions", and "assessment" and/or "assessments" appear said words shall be construed to mean taxes, which are the money payments by an employer or ((~~workman~~)) worker which are required by this title to be made to the state treasury for the accident fund, the medical aid fund, the supplemental pension fund, or any other fund created by this title.

Sec. 10. Section 51.08.020, chapter 23, Laws of 1961 as amended by section 91, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.08.020 are each amended to read as follows:

"Beneficiary" means a husband, wife, child, or dependent of a ((~~workman~~)) worker in whom shall vest a right to receive payment under this title: PROVIDED, That a husband or wife of an injured ((~~workman~~)) worker, living separate and apart in a state of abandonment, regardless of the party responsible therefor, for more than one year at the time of the injury or subsequently, shall not be a beneficiary. A spouse who has lived separate and apart from the other spouse for the period of two years and who has not, during that time, received, or attempted by process of law to collect, funds for maintenance, shall be deemed living in a state of abandonment.

Sec. 11. Section 51.08.050, chapter 23, Laws of 1961 and RCW 51.08.050 are each amended to read as follows:

"Dependent" means any of the following named relatives of a ((~~workman~~)) worker whose death results from any injury and who leaves surviving no widow, widower, or child, viz: father, mother, grandfather, grandmother, stepfather, stepmother, grandson, granddaughter, brother, sister, half-sister, half-brother, niece, nephew, who at the time of the accident are actually and necessarily dependent in whole or in part for their support upon the earnings of the ((~~workman~~)) worker: PROVIDED, That unless otherwise provided by treaty, aliens other than father or mother, not residing within the United States at the time of the accident, are not included.

Sec. 12. Section 51.08.070, chapter 23, Laws of 1961 as amended by section 1, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.070 are each amended to read as follows:

"Employer" means any person, body of persons, corporate or otherwise, and the legal representatives of a deceased employer, all while engaged in this state in any work covered by the provisions of this title, by way of trade or business, or who contracts with one or more ((~~workmen~~)) workers, the essence of which is the personal labor of such ((~~workman or workmen~~)) worker or workers.

Sec. 13. Section 51.08.160, chapter 23, Laws of 1961 and RCW 51.08.160 are each amended to read as follows:

"Permanent total disability" means loss of both legs, or arms, or one leg and one arm, total loss of eyesight, paralysis or other condition permanently incapacitating the ((workman)) worker from performing any work at any gainful occupation.

Sec. 14. Section 14, chapter 289, Laws of 1971 ex. sess. and RCW 51.08.178 are each amended to read as follows:

(1) For the purposes of this title, the monthly wages the ((workman)) worker was receiving from all employment at the time of injury shall be the basis upon which compensation is computed unless otherwise provided specifically in the statute concerned. In cases where the ((workman's)) worker's wages are not fixed by the month, they shall be determined by multiplying the daily wage the ((workman)) worker was receiving at the time of the injury:

- (a) By five, if the ((workman)) worker was normally employed one day a week;
- (b) By nine, if the ((workman)) worker was normally employed two days a week;
- (c) By thirteen, if the ((workman)) worker was normally employed three days a week;
- (d) By eighteen, if the ((workman)) worker was normally employed four days a week;
- (e) By twenty-two, if the ((workman)) worker was normally employed five days a week;
- (f) By thirty, if the ((workman)) worker was normally employed seven days a week.

The term "wages" shall include the reasonable value of board, housing, fuel, or other consideration of like nature received from the employer, but shall not include overtime pay, tips, or gratuities. The daily wage shall be eight times the hourly wage unless the ((workman)) worker is normally employed for less than eight hours.

(2) In cases where a wage has not been fixed or cannot be reasonable and fairly be determined, the monthly wage shall be computed on the basis of the usual wage paid other employees engaged in like or similar occupations where the wages are fixed.

Sec. 15. Section 51.08.180, chapter 23, Laws of 1961 and RCW 51.08.180 are each amended to read as follows:

"((Workman)) Worker" means every person in this state who is engaged in the employment of an employer under this title, whether by way of manual labor or otherwise in the course of his or her employment; also every person in this state who is engaged in the employment of or who is working under an independent contract, the essence of which is his or her personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his or her employment.

Sec. 16. Section 4, chapter 43, Laws of 1972 ex. sess. and RCW 51.08.185 are each amended to read as follows:

"Employee" shall have the same meaning as "((workman)) worker" when the context would so indicate, and shall include all officers of the state, state agencies,

counties, municipal corporations, or other public corporations, or political subdivisions.

Sec. 17. Section 1, chapter 20, Laws of 1971 as last amended by section 1, chapter 79, Laws of 1975 1st ex. sess. and RCW 51.12.035 are each amended to read as follows:

(1) Volunteers shall be deemed employees and/or ((~~workmen~~)) workers, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW.

A "volunteer" shall mean a person who performs any assigned or authorized duties for the state or any agency thereof, except emergency services workers as described by chapter 38.52 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by the state or any agency thereof, prior to the occurrence of the injury or the contraction of an occupational disease, for the purpose of engaging in authorized volunteer service: PROVIDED, That such person shall be deemed to be a volunteer although he or she may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service shall be the obligation of and be paid by the state or any agency thereof which has registered and accepted the services of volunteers.

(2) Volunteers may be deemed employees and/or ((~~workmen~~)) workers, as the case may be, for all purposes relating to medical aid benefits under chapter 51.36 RCW at the option of any city, county, town, special district, municipal corporation, or political subdivision of any type, or any private nonprofit charitable organization, when any such unit of local government or any such nonprofit organization has given notice of covering all of its volunteers to the director prior to the occurrence of the injury or contraction of an occupational disease.

A "volunteer" shall mean a person who performs any assigned or authorized duties for any such unit of local government, or any such organization, except emergency services workers as described by chapter 38.52 RCW, or ((~~firemen~~)) fire fighters covered by chapter 41.24 RCW, brought about by one's own free choice, receives no wages, and is registered and accepted as a volunteer by any such unit of local government, or any such organization which has given such notice, for the purpose of engaging in authorized volunteer services: PROVIDED, That such person shall be deemed to be a volunteer although he or she may be granted maintenance and reimbursement for actual expenses necessarily incurred in performing his or her assigned or authorized duties.

Any and all premiums or assessments due under this title on account of such volunteer service for any such unit of local government, or any such organization shall be the obligation of and be paid by such organization which has registered and accepted the services of volunteers and exercised its option to secure the medical aid benefits under chapter 51.36 RCW for such volunteers.

Sec. 18. Section 51.12.050, chapter 23, Laws of 1961 as amended by section 8, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.050 are each amended to read as follows:

Whenever the state, county, any municipal corporation, or other taxing district shall engage in any work, or let a contract therefor, in which ((~~workmen~~)) workers

are employed for wages, this title shall be applicable thereto. The employer's payments into the accident fund shall be made from the treasury of the state, county, municipality, or other taxing district. If the work is being done by contract, the payroll of the contractor and the subcontractor shall be the basis of computation and, in the case of contract work consuming less than one year in performance, the required payment into the accident fund shall be based upon the total payroll. The contractor and any subcontractor shall be subject to the provisions of this title, and the state for its general fund, the county, municipal corporation, or other taxing district shall be entitled to collect from the contractor the full amount payable to the accident fund and the contractor, in turn, shall be entitled to collect from the subcontractor his or her proportionate amount of the payment.

Whenever and so long as, by state law, city charter, or municipal ordinance, provision is made for employees or peace officers injured in the course of employment, such employees shall not be entitled to the benefits of this title and shall not be included in the payroll of the municipality under this title: PROVIDED, That whenever any state law, city charter, or municipal ordinance only provides for payment to the employee of the difference between his or her actual wages and that received under this title such employees shall be entitled to the benefits of this title and may be included in the payroll of the municipality.

Sec. 19. Section 51.12.060, chapter 23, Laws of 1961 and RCW 51.12.060 are each amended to read as follows:

The application of this title and related safety laws is hereby extended to all lands and premises owned or held by the United States of America, by deed or act of cession, by purchase or otherwise, which are within the exterior boundaries of the state of Washington, and to all projects, buildings, constructions, improvements, and property belonging to the United States of America, which are within the exterior boundaries of the state, in the same way and to the same extent as if said premises were under the exclusive jurisdiction of the state, and as fully as is permitted under the provisions of that act of the congress of the United States approved June 25, 1936, granting to the several states jurisdiction and authority to apply their state (~~((workmen's))~~) workers' compensation laws on all property and premises belonging to the United States of America, being 49 United States Statutes at large 1938, title 40, section 290 United States code, 1958 edition: PROVIDED, That this title shall not apply to employees of the United States of America.

Sec. 20. Section 51.12.090, chapter 23, Laws of 1961 as amended by section 10, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.090 are each amended to read as follows:

The provisions of this title shall apply to employers and (~~((workmen))~~) workers (other than railways and their (~~((workmen))~~) workers) engaged in intrastate and also in interstate or foreign commerce, for whom a rule of liability or method of compensation now exists under or may hereafter be established by the congress of the United States, only to the extent that the payroll of such (~~((workmen))~~) workers may and shall be clearly separable and distinguishable from the payroll of (~~((workmen))~~) workers engaged in interstate or foreign commerce: PROVIDED, That as to (~~((workmen))~~) workers whose payroll is not so clearly separable and distinguishable the employer shall in all cases be liable in damages for injuries to the same extent

and under the same circumstances as is specified in the case of railroads in the first proviso of RCW 51.12.080: PROVIDED FURTHER, That nothing in this title shall be construed to exclude goods or materials and/or ~~((workmen))~~ workers brought into this state for the purpose of engaging in work.

Sec. 21. Section 51.12.100, chapter 23, Laws of 1961 as last amended by section 3, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.12.100 are each amended to read as follows:

The provisions of this title shall not apply to a master or member of a crew of any vessel, or to employers and ~~((workmen))~~ workers for whom a right or obligation exists under the maritime laws for personal injuries or death of such ~~((workmen))~~ workers.

If an accurate segregation of payrolls of ~~((workmen))~~ workers for whom such a right or obligation exists under the maritime laws cannot be made by the employer, the director is hereby authorized and directed to fix from time to time a basis for the approximate segregation of the payrolls of employees to cover the part of their work for which no right or obligation exists under the maritime laws for injuries or death occurring in such work, and the employer, if not a self-insurer, shall pay premiums on that basis for the time such ~~((workmen))~~ workers are engaged in their work.

Where two or more employers are simultaneously engaged in a common enterprise at one and the same site or place in maritime occupations under circumstances in which no right or obligation exists under the maritime laws for personal injuries or death of such ~~((workmen))~~ workers, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

In the event payments are made under this title prior to the final determination under the maritime laws, such benefits shall be repaid if recovery is subsequently made under the maritime laws.

Sec. 22. Section 51.12.110, chapter 23, Laws of 1961 as amended by section 85, chapter 289, Laws of 1971 ex. sess. and RCW 51.12.110 are each amended to read as follows:

Any employer who has in his or her employment any exempt person may file notice in writing with the director of his or her election to be subject to this title, and shall forthwith display in a conspicuous manner about his or her works and in a sufficient number of places to reasonably inform his ~~((workmen))~~ or her workers of the fact, printed notices furnished by the department stating that he or she has so elected and stating when said election will become effective. Any ~~((workman))~~ worker in the employ of such applicant shall be entitled at any time within five days after the posting of said notice by his or her employer, or within five days after he or she has been employed by an employer who has elected to become subject to this title as herein provided, to give a written notice to such employer and to the department of his or her election not to become subject to this title. At the expiration of the time fixed by the notice of the employer, the employer and such of his ~~((workmen))~~ or her workers as shall not have given such written notice of their election to the contrary shall be subject to all the provisions of this title and entitled to all of the benefits thereof: PROVIDED, That those who have heretofore complied with the foregoing conditions and are carried and considered by the department as within the purview of this title shall be deemed and considered as

having fully complied with its terms and shall be continued by the department as entitled to all of the benefits and subject to all of the liabilities without other or further action. Any employer who has complied with this section may withdraw his or her acceptance of liability under this title by filing written notice with the director of the withdrawal of his or her acceptance. Such withdrawal shall become effective thirty days after the filing of such notice or on the date of the termination of the security for payment of compensation, whichever last occurs. The employer shall, at least thirty days before the effective date of the withdrawal, post reasonable notice of such withdrawal where the affected (~~(workman or workmen)~~) worker or workers work and shall otherwise notify personally the affected workmen. Withdrawal of acceptance of this title shall not affect the liability of the department or self-insurer for compensation for any injury occurring during the period of acceptance.

Sec. 23. Section 82, chapter 289, Laws of 1971 ex. sess. as amended by section 12, chapter 43, Laws of 1972 ex. sess. and RCW 51.12.120 are each amended to read as follows:

(1) If a (~~(workman)~~) worker, while working outside the territorial limits of this state, suffers an injury on account of which he or she, or his or her beneficiaries, would have been entitled to compensation under this title had such injury occurred within this state, such (~~(workman)~~) worker, or his or her beneficiaries, shall be entitled to compensation under this title: PROVIDED, That if at the time of such injury:

(a) His or her employment is principally localized in this state; or

(b) He or she is working under a contract of hire made in this state for employment not principally localized in any state; or

(c) He or she is working under a contract of hire made in this state for employment principally localized in another state whose (~~(workmen's)~~) workers' compensation law is not applicable to his or her employer; or

(d) He or she is working under a contract of hire made in this state for employment outside the United States and Canada.

(2) The payment or award of compensation under the (~~(workmen's)~~) workers' compensation law of another state, territory, province, or foreign nation to a (~~(workman or his)~~) worker or his or her beneficiaries otherwise entitled on account of such injury to compensation under this title shall not be a bar to a claim for compensation under this title: PROVIDED, That claim under this title is timely filed. If compensation is paid or awarded under this title, the total amount of compensation paid or awarded the (~~(workman)~~) worker or beneficiary under such other (~~(workmen's)~~) workers' compensation law shall be credited against the compensation due the (~~(workman)~~) worker or beneficiary under this title.

(3) If a (~~(workman)~~) worker or beneficiary is entitled to compensation under this title by reason of an injury sustained in this state while in the employ of an employer who is domiciled in another state and who has neither opened an account with the department nor qualified as a self-insurer under this title, such an employer or his or her insurance carrier shall file with the director a certificate issued by the agency which administers the (~~(workmen's)~~) workers' compensation law in the state of the employer's domicile, certifying that such employer has secured the payment of compensation under the (~~(workmen's)~~) workers' compensation law of

such other state and that with respect to said injury such ((workman)) worker or beneficiary is entitled to the benefits provided under such law. In such event:

(a) The filing of such certificate shall constitute appointment by the employer or his or her insurance carrier of the director as its agent for acceptance of the service of process in any proceeding brought by any claimant to enforce rights under this title;

(b) The director shall send to such employer or his or her insurance carrier, by registered or certified mail to the address shown on such certificate, a true copy of any notice of claim or other process served on the director by the claimant in any proceeding brought to enforce rights under this title;

(c) (i) If such employer is a self-insurer under the ((workmen's)) workers' compensation law of such other state, such employer shall, upon submission of evidence or security, satisfactory to the director, of his or her ability to meet his or her liability to such claimant under this title, be deemed to be a qualified self-insurer under this title;

(ii) If such employer's liability under the ((workmen's)) workers' compensation law of such other state is insured, such employer's carrier, as to such claimant only, shall be deemed to be subject to this title: PROVIDED, That unless its contract with said employer requires it to pay an amount equivalent to the compensation benefits provided by this title, the insurer's liability for compensation shall not exceed its liability under the ((workmen's)) workers' compensation law of such other state;

(d) If the total amount for which such employer's insurer is liable under (c)(ii) above is less than the total of the compensation to which such claimant is entitled under this title, the director may require the employer to file security satisfactory to the director to secure the payment of compensation under this title; and

(e) If such employer has neither qualified as a self-insurer nor secured insurance coverage under the ((workmen's)) workers' compensation law of another state, such claimant shall be paid compensation by the department;

(f) Any such employer shall have the same rights and obligations as other employers subject to this title and where he or she has not provided coverage or sufficient coverage to secure the compensation provided by this title to such claimant, the director may impose a penalty payable to the department of a sum not to exceed fifty percent of the cost to the department of any deficiency between the compensation provided by this title and that afforded such claimant by such employer or his or her insurance carrier if any.

(4) As used in this section:

(a) A person's employment is principally localized in this or another state when (i) his or her employer has a place of business in this or such other state and he or she regularly works at or from such place of business, or (ii) if clause (i) foregoing is not applicable, he or she is domiciled in and spends a substantial part of his or her working time in the service of his or her employer in this or such other state;

(b) "~~((Workmen's))~~ Workers' compensation law" includes "occupational disease law" for the purposes of this section.

(5) A ((workman)) worker whose duties require him or her to travel regularly in the service of his or her employer in this and one or more other states may agree

in writing with his or her employer that his or her employment is principally localized in this or another state, and, unless such other state refuses jurisdiction, such agreement shall govern as to any injury occurring after the effective date of the agreement.

(6) The director shall be authorized to enter into agreements with the appropriate agencies of other states and provinces of Canada which administer their ~~((workmen's))~~ workers' compensation law with respect to conflicts of jurisdiction and the assumption of jurisdiction in cases where the contract of employment arises in one state or province and the injury occurs in another, and when any such agreement has been executed and promulgated as a regulation of the department under chapter 34.04 RCW, it shall bind all employers and ~~((workmen))~~ workers subject to this title and the jurisdiction of this title shall be governed by this regulation.

Sec. 24. Section 16, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.035 are each amended to read as follows:

The department shall classify all occupations or industries in accordance with their degree of hazard and fix therefor basic rates of premium which shall be the lowest necessary to maintain actuarial solvency of the accident and medical aid funds in accordance with recognized insurance principles. The department shall formulate and adopt rules and regulations governing the method of premium calculation and collection and providing for a rating system consistent with recognized principles of ~~((workmen's))~~ workers' compensation insurance which shall be designed to stimulate and encourage accident prevention and to facilitate collection. The department may annually, or at such other times as it deems necessary to maintain solvency of the funds, readjust rates in accordance with the rating system to become effective on such dates as the department may designate.

Sec. 25. Section 2, chapter 151, Laws of 1963 as amended by section 84, chapter 289, Laws of 1971 ex. sess. and RCW 51.16.042 are each amended to read as follows:

Inasmuch as business, industry and labor desire to provide for testing, research, training and teaching facilities and consulting services at the University of Washington for industrial and occupational health for ~~((workmen))~~ workers in the environmental research facility thereat, all employers shall bear their proportionate share of the cost therefor. The director may require payments to the department from all employers under this title and may make rules and regulations in connection therewith, which costs shall be paid from the department, in lieu of the previous provisions of RCW 28B.20.458.

Sec. 26. Section 51.16.060, chapter 23, Laws of 1961 as last amended by section 1, chapter 32, Laws of 1973 1st ex. sess. and RCW 51.16.060 are each amended to read as follows:

Every employer not qualifying as a self-insurer shall insure with the state and shall, on or before the last day of January, April, July and October of each year thereafter, furnish the department with a true and accurate payroll for the period in which ~~((workmen))~~ workers were employed by him or her during the preceding calendar quarter, the total amount paid to such ~~((workmen))~~ workers during such preceding calendar quarter, and a segregation of employment in the different

classes established pursuant to this title, and shall pay his or her premium thereon to the appropriate fund. The sufficiency of such statement shall be subject to the approval of the director: **PROVIDED**, That the director may in his or her discretion and for the effective administration of this title require an employer in individual instances to furnish a supplementary report containing the name of each individual (~~((workman))~~) worker, his or her hours worked, his or her rate of pay and the class or classes in which such work was performed: **PROVIDED, FURTHER**, That in the event an employer shall furnish the department with four consecutive quarterly reports wherein each such quarterly report indicates that no premium is due the department may close the account: **AND, PROVIDED FURTHER**, That the department may promulgate rules and regulations in accordance with chapter 34.04 RCW to establish other reporting periods and payment due dates in lieu of reports and payments following each calendar quarter, and may also establish terms and conditions for payment of premiums and assessments based on estimated payrolls, with such payments being subject to approval as to sufficiency of the estimated payroll by the department, and also subject to appropriate periodic adjustments made by the department based on actual payroll.

Sec. 27. Section 51.16.105, chapter 23, Laws of 1961 as last amended by section 8, chapter 52, Laws of 1973 1st ex. sess. and RCW 51.16.105 are each amended to read as follows:

All expenses of the industrial safety and health division of the department pertaining to (~~((workmen's))~~) workers' compensation shall be paid by the department and financed by premiums and by assessments collected from a self-insurer as provided in this title.

Sec. 28. Section 51.16.120, chapter 23, Laws of 1961 as amended by section 13, chapter 43, Laws of 1972 ex. sess. and RCW 51.16.120 are each amended to read as follows:

Whenever a (~~((workman))~~) worker has sustained a previous bodily infirmity or disability from any previous injury or disease and shall suffer a further injury or disease in employment covered by this title and become totally and permanently disabled from the combined effects thereof, then the experience record of the employer at the time of said further injury or disease shall be charged only with the accident cost which would have resulted solely from said further injury or disease, had there been no preexisting disability, and which accident cost shall be based upon an evaluation of the disability by medical experts. The difference between the charge thus assessed to the employer at the time of said further injury or disease and the total cost of the pension reserve shall be assessed against the second injury fund.

Sec. 29. Section 51.16.140, chapter 23, Laws of 1961 as last amended by section 2, chapter 110, Laws of 1973 and RCW 51.16.140 are each amended to read as follows:

Every employer who is not a self-insurer shall deduct from the pay of each of his (~~((workmen))~~) or her workers one-half of the amount he or she is required to pay, for medical benefits within each risk classification. Such amount shall be periodically determined by the director and reported by him or her to all employers under this title: **PROVIDED**, That the state governmental unit shall pay the entire

amount into the medical aid fund for volunteers, as defined in RCW 51.12.035, and the state apprenticeship council shall pay the entire amount into the medical aid fund for registered apprentices or trainees, for the purposes of RCW 51.12.130. It shall be unlawful for the employer, unless specifically authorized by this title, to deduct or obtain any part of the premium or other costs required to be by him or her paid from the wages or earnings of any of his ((workmen)) or her workers, and the making of or attempt to make any such deduction shall be a gross misdemeanor.

***Sec. 30. Section 51.24.010, chapter 23, Laws of 1961 as last amended by section 93, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.24.010 are each amended to read as follows:**

If the injury to a ((workman)) worker is due to negligence or wrong of another not in the same employ, the injured ((workman)) worker or, if death results from the injury, the surviving spouse, 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 or she takes under this title, the cause of action against such other shall be assigned to the department or self-insurer; if the other choice is made, the department or self-insurer 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)) worker or if death results from the injury, the surviving spouse, children or dependents 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 or self-insurer to the extent of such payments having been made by the department or self-insurer to the injured ((workman)) worker or if death results from the injury, the surviving spouse, 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 department or self-insurer may be prosecuted or compromised by the department or self-insurer in its discretion in the name of the ((workman)) worker, beneficiaries, or legal representative. Any compromise by the ((workman)) worker of any such suit, which would leave a deficiency to be made good by the department or self-insurer may be made only with the written approval of the department or self-insurer. If such approval is not obtained, claim for the deficiency will be deemed to have been waived.

Any third party action brought under this title by such ((workman)) worker or beneficiary must be duly prosecuted; if the action is not filed or settled within one year of the notice of election, the cause of action shall be deemed assigned to the department or self-insurer if after thirty days notice the action is neither filed nor settled. If a cause of action which has been filed is not diligently prosecuted, the department or self-insurer shall have the right to petition the court in which the action is pending for an order assigning the cause of action to the department or self-insurer. Upon sufficient showing in the court's discretion of a lack of diligent prosecution, such an order shall issue.

In any action brought under this section wherein recovery is made by compromise and settlement or otherwise, the department or self-insurer, to the extent of the

benefits paid or payable under this title, shall bear its proportionate share of attorney's fees and costs incurred by the injured ((workman)) worker or surviving spouse, children, or dependents, as the case may be, and the court shall approve the amount of attorney's fees.

***Sec. 30. was vetoed, see message at end of chapter.**

Sec. 31. Section 51.24.020, chapter 23, Laws of 1961 as amended by section 94, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.24.020 are each amended to read as follows:

If injury or death results to a ((workman)) worker from the deliberate intention of his or her employer to produce such injury or death, the ((workman)) worker, surviving spouse, child, or dependent of the ((workman)) worker shall have the privilege to take under this title and also have cause of action against the employer as if this title had not been enacted, for any excess of damages over the amount received or receivable under this title.

Sec. 32. Section 51.28.010, chapter 23, Laws of 1961 as last amended by section 4, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.28.010 are each amended to read as follows:

Whenever any accident occurs to any ((workman)) worker it shall be the duty of such ((workman)) worker or someone in his or her behalf to forthwith report such accident to his or her employer, superintendent or foreman or forewoman in charge of the work, and of the employer to at once report such accident and the injury resulting therefrom to the department pursuant to RCW 51.28.025, as now or hereafter amended, where the ((workman)) worker has received treatment from a physician, has been hospitalized, disabled from work, or has died as the apparent result of such accident and injury.

Upon receipt of such notice of accident, the department shall immediately forward to the ((workman)) worker or his or her beneficiaries or dependents notification, in nontechnical language, of their rights under this title.

Sec. 33. Section 51.28.020, chapter 23, Laws of 1961 as amended by section 38, chapter 289, Laws of 1971 ex. sess. and RCW 51.28.020 are each amended to read as follows:

Where a ((workman)) worker is entitled to compensation under this title he or she shall file with the department or his or her self-insuring employer, as the case may be, his or her application for such, together with the certificate of the physician who attended him or her, and it shall be the duty of the physician to inform the injured ((workman)) worker of his or her rights under this title and to lend all necessary assistance in making this application for compensation and such proof of other matters as required by the rules of the department without charge to the ((workman)) worker. If application for compensation is made to a self-insuring employer, he or she shall forthwith send a copy thereof to the department.

Sec. 34. Section 51.28.055, chapter 23, Laws of 1961 and RCW 51.28.055 are each amended to read as follows:

Claims for occupational disease or infection to be valid and compensable must be filed within one year following the date the ((workman)) worker had notice from a physician of the existence of his or her occupational disease, without reference to its date of origin.

Sec. 35. Section 51.28.060, chapter 23, Laws of 1961 and RCW 51.28.060 are each amended to read as follows:

A dependent shall at all times furnish the department with proof satisfactory to the director of the nature, amount and extent of the contribution made by the deceased (~~(workman)~~) worker.

Proof of dependency by any beneficiary residing without the United States shall be made before the nearest United States consul or consular agency, under the seal of such consul or consular agent, and the department may cause any warrant or warrants to which such beneficiary is entitled to be transmitted to the beneficiary through the nearest United States consul or consular agent.

Sec. 36. Section 51.28.070, chapter 23, Laws of 1961 as amended by section 6, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.28.070 are each amended to read as follows:

Information contained in the claim files and records of injured (~~(workmen)~~) workers, under the provisions of this title, shall be deemed confidential and shall not be open to public inspection (other than to public employees in the performance of their official duties), but representatives of a claimant, be it an individual or an organization, may review a claim file or receive specific information therefrom upon the presentation of the signed authorization of the claimant. Employers or their duly authorized representatives may review any files of their own injured (~~(workmen)~~) workers in connection with any pending claims. Physicians treating or examining (~~(workmen)~~) workers claiming benefits under this title, or physicians giving medical advice to the department regarding any claim may, at the discretion of the department, inspect the claim files and records of injured (~~(workmen)~~) workers, and other persons may make such inspection, at the departments discretion, when such persons are rendering assistance to the department at any stage of the proceedings on any matter pertaining to the administration of this title.

Sec. 37. Section 51.32.010, chapter 23, Laws of 1961 as last amended by section 7, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.010 are each amended to read as follows:

Each (~~(workman)~~) worker injured in the course of his or her employment, or his or her family or dependents in case of death of the (~~(workman)~~) worker, shall receive compensation in accordance with this chapter, and, except as in this title otherwise provided, such payment shall be in lieu of any and all rights of action whatsoever against any person whomsoever: PROVIDED, That if an injured (~~(workman)~~) worker, or the surviving spouse of an injured (~~(workman)~~) worker shall not have the legal custody of a child for, or on account of whom payments are required to be made under this title, such payment or payments shall be made to the person or persons having the legal custody of such child but only for the periods of time after the department has been notified of the fact of such legal custody, and it shall be the duty of any such person or persons receiving payments because of legal custody of any child immediately to notify the department of any change in such legal custody.

Sec. 38. Section 1, chapter 107, Laws of 1961 as amended by section 41, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.015 are each amended to read as follows:

The benefits of Title 51 RCW shall be provided to each ((workman)) worker receiving an injury, as defined therein, during the course of his or her employment and also during his or her lunch period as established by the employer while on the jobsite. The jobsite shall consist of the premises as are occupied, used or contracted for by the employer for the business or work process in which the employer is then engaged: PROVIDED, That if a ((workman)) worker by reason of his or her employment leaves such jobsite under the direction, control or request of the employer: and if such ((workman)) worker is injured during his or her lunch period while so away from the jobsite, the ((workman)) worker shall receive the benefits as provided herein: AND PROVIDED FURTHER, That the employer need not consider the lunch period in his or her payroll for the purpose of reporting to the department unless the ((workman)) worker is actually paid for such period of time.

Sec. 39. Section 51.32.020, chapter 23, Laws of 1961 as amended by section 42, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.020 are each amended to read as follows:

If injury or death results to a ((workman)) worker from the deliberate intention of the ((workman)) worker himself or herself to produce such injury or death, or while the ((workman)) worker is engaged in the attempt to commit, or the commission of, a felony, neither the ((workman)) worker nor the widow, widower, child, or dependent of the ((workman)) worker shall receive any payment under this title.

An invalid child, while being supported and cared for in a state institution, shall not receive compensation under this chapter.

No payment shall be made to or for a natural child of a deceased ((workman)) worker and, at the same time, as the stepchild of a deceased ((workman)) worker.

Sec. 40. Section 51.32.030, chapter 23, Laws of 1961 and RCW 51.32.030 are each amended to read as follows:

Any individual employer or any member or officer of any corporate employer who is carried upon the payroll at a salary or wage not less than the average salary or wage named in such payroll and who shall be injured, shall be entitled to the benefit of this title, as and under the same circumstances and subject to the same obligations as a ((workman)) worker: PROVIDED, That no such employer or the beneficiaries of such employer shall be entitled to benefits under this title unless the director, prior to the date of the injury, has received notice in writing of the fact that such employer is being carried upon the payroll prior to the date of the injury as the result of which claims for a compensation are made.

Sec. 41. Section 1, chapter 30, Laws of 1974 ex. sess. as amended by section 8, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.040 are each amended to read as follows:

No money paid or payable under this title shall, except as provided for in RCW 74.20A.090 and 74.20A.100, prior to the issuance and delivery of the check or warrant therefor, be capable of being assigned, charged, or ever be taken in execution or attached or garnished, nor shall the same pass, or be paid, to any other person by operation of law, or by any form of voluntary assignment, or power of attorney. Any such assignment or charge shall be void: PROVIDED, That if any ((workman)) worker suffers a permanent partial injury, and dies from some other

cause than the accident which produced such injury before he or she shall have received payment of his or her award for such permanent partial injury, or if any ((workman)) worker suffers any other injury before he or she shall have received payment of any monthly installment covering any period of time prior to his or her death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That, if any ((workman)) worker suffers an injury and dies therefrom before he or she shall have received payment of any monthly installment covering time loss for any period of time prior to his or her death, the amount of such monthly payment shall be paid to the surviving spouse, or to the child or children if there is no surviving spouse: PROVIDED FURTHER, That any application for compensation under the foregoing provisos of this section shall be filed with the department or self-insuring employer within one year of the date of death: PROVIDED FURTHER, That if the injured ((workman)) worker resided in the United States as long as three years prior to the date of injury, such payment shall not be made to any surviving spouse or child who was at the time of the injury a nonresident of the United States: PROVIDED FURTHER, That any ((workman)) worker receiving benefits under this title who is subsequently confined in, or who subsequently becomes eligible therefor while confined in any institution under conviction and sentence shall have all payments of such compensation canceled during the period of confinement but after discharge from the institution payment of benefits thereafter due shall be paid if such ((workman)) worker would, but for the provisions of this proviso, otherwise be entitled thereto: PROVIDED FURTHER, That if any prisoner is injured in the course of his or her employment while participating in a work or training release program authorized by chapter 72.65 RCW and is subject to the provisions of this title, he or she shall be entitled to payments under this title subject to the requirements of chapter 72.65 RCW unless his or her participation in such program has been canceled, or unless he or she is returned to a state correctional institution, as defined in RCW 72.65.010(3), as a result of revocation of parole or new sentence: PROVIDED FURTHER, That if such incarcerated ((workman)) worker has during such confinement period, any beneficiaries, they shall be paid directly the monthly benefits which would have been paid to him or her for himself or herself and his or her beneficiaries had he or she not been so confined. Any lump sum benefits to which the ((workman)) worker would otherwise be entitled but for the provisions of these provisos shall be paid on a monthly basis to his or her beneficiaries.

Sec. 42. Section 51.32.050, chapter 23, Laws of 1961 as last amended by section 2, chapter 45, Laws of 1975-'76 2nd ex. sess. and RCW 51.32.050 are each amended to read as follows:

(1) Where death results from the injury the expenses of burial not to exceed one thousand dollars shall be paid.

(2) Where death results from the injury, a surviving spouse of a deceased ((workman)) worker eligible for benefits under this title shall receive monthly for life or until remarriage the following sums: (a) If there are no children of the deceased ((workman)) worker, sixty percent of the wages of the deceased ((workman)) worker but not less than one hundred eighty-five dollars. (b) If there is one

child of the deceased ((workman)) worker and in the legal custody of such spouse, sixty-two percent of the wages of the deceased ((workman)) worker but not less than two hundred twenty-two dollars. (c) If there are two children of the deceased ((workman)) worker and in the legal custody of such spouse, sixty-four percent of the wages of the deceased ((workman)) worker but not less than two hundred fifty-three dollars. (d) If there are three children of the deceased ((workman)) worker and in the legal custody of such spouse, sixty-six percent of the wages of the deceased ((workman)) worker but not less than two hundred seventy-six dollars. (e) If there are four children of the deceased ((workman)) worker and in the legal custody of such spouse, sixty-eight percent of the wages of the deceased ((workman)) worker but not less than two hundred ninety-nine dollars. (f) If there are five or more children of the deceased ((workman)) worker and in the legal custody of such spouse, seventy percent of the wages of the deceased ((workman)) worker but not less than three hundred twenty-two dollars. (g) Where the surviving spouse does not have legal custody of any child or children of the deceased ((workman)) worker or where after the death of the ((workman)) worker legal custody of such child or children passes from such surviving spouse to another, any payment on account of such child or children not in the legal custody of the surviving spouse shall be made to the person or persons having legal custody of such child or children. The amount of such payments shall be five percent of the wages of the deceased ((workman)) worker for each such child but such payments shall not exceed twenty-five percent. Such payments on account of such child or children shall be subtracted from the amount to which such surviving spouse would have been entitled had such surviving spouse had legal custody of all of the children and the surviving spouse shall receive the remainder after such payments on account of such child or children have been subtracted. Such payments on account of a child or children not in the legal custody of such surviving spouse shall be apportioned equally among such children.

Payments to the surviving spouse of the deceased ((workman)) worker shall cease at the end of the month in which remarriage occurs: PROVIDED, That the monthly payment made to the child or children of the deceased ((workman)) worker shall from the month following such remarriage be a sum equal to five percent of the wages of the deceased ((workman)) worker for one child and a sum equal to five percent for each additional child up to a maximum of five such children. Payments to such child or children shall be apportioned equally among such children. Such sum shall be in place of any payments theretofore made for the benefit of or on account of any such child or children. In no event shall the monthly payments provided in subsection (2) of this section exceed seventy-five percent of the average monthly wage in the state as computed under RCW 51.08.018.

In addition to the monthly payments above provided for, a surviving spouse or child or children of such ((workman)) worker if there is no surviving spouse, or dependent parent or parents, if there is no surviving spouse or child or children of any such deceased ((workman)) worker shall be forthwith paid the sum of eight hundred dollars, any such children, or parents to share and share alike in said sum.

Upon remarriage of a surviving spouse the monthly payments for the child or children shall continue as provided in this section, but the monthly payments to such surviving spouse shall cease at the end of the month during which remarriage

occurs, and, after September 8, 1975, an otherwise eligible surviving spouse of a ((workman)) worker who died at any time prior to or after September 8, 1975, shall have an option of:

(i) He or she shall receive, once and for all, a lump sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension, whichever is the lesser: PROVIDED, That if the injury occurred prior to July 1, 1971, the remarriage benefit lump sum available shall be as provided in the remarriage benefit schedules then in effect.

(ii) If a surviving spouse does not choose the option specified in subsection (2)(i) of this section, to accept the lump sum payment, the remarriage of the surviving spouse of a ((workman)) worker shall not bar him or her from exercising the option granted in subsection (2)(i) of this section during the life of the remarriage and shall not prevent subsequent monthly payments to him or to her if the remarriage has been terminated by death or has been dissolved or annulled by valid court decree provided he or she has not previously accepted the lump sum payment provided in this section: PROVIDED, HOWEVER, That if the surviving spouse during the remarriage should die without having previously received the lump sum payment provided herein his or her estate shall be entitled to receive the sum of seventy-five hundred dollars or fifty percent of the then remaining annuity value of his or her pension whichever is the lesser: PROVIDED FURTHER, That if it should be necessary to increase the reserves in the reserve fund or to create a new pension reserve fund as a result of this 1976 amendatory act the amount of such increase in pension reserve in any such case shall be transferred to the reserve fund from the supplemental pension fund.

The effective date of an award of payments to a surviving spouse based upon termination of a remarriage by death, annulment, or dissolution shall be the date of the death, or the date the judicial decree of annulment or dissolution becomes final and when application for the payments has been received.

(3) If there is a child or children and no surviving spouse of the deceased ((workman)) worker or the surviving spouse is not eligible for benefits under this title, a sum equal to thirty-five percent of the wages of the deceased ((workman)) worker shall be paid monthly for one child and a sum equivalent to fifteen percent of such wage shall be paid monthly for each additional child, the total of such sum to be divided among such children, share and share alike: PROVIDED, That benefits under this subsection or subsection (4) shall not exceed sixty-five percent of the wages of the deceased ((workman)) worker at the time of his or her death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums.

(4) In the event a surviving spouse receiving monthly payments dies, the child or children of the deceased ((workman)) worker shall receive the same payment as provided in subsection (3) of this section.

(5) If the ((workman)) worker leaves no surviving spouse or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the ((workman)) worker during the twelve months next preceding the occurrence of the injury, but the total payment to all dependents in any case shall not exceed sixty-five percent of the wages of the deceased ((workman)) worker at

the time of the death or seventy-five percent of the average monthly wage in the state as defined in RCW 51.08.018, whichever is the lesser of the two sums. 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 except such payments shall continue until the dependent reaches age twenty-three while permanently enrolled at a full time course in an accredited school. 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)) worker dies during the period of permanent total disability, whatever the cause of death, leaving a surviving spouse, or child, or children, the surviving spouse or child or children shall receive benefits as if death resulted from the injury as provided in subsections (2) through (4) of this section. Upon remarriage or death of such surviving spouse the payments to such child or children shall be made as provided in subsection (2) of this section when the surviving spouse of a deceased ((workman)) worker remarries.

Sec. 43. Section 46, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.055 are each amended to read as follows:

(1) One purpose of this title is to restore the injured ((workman)) worker as near as possible to the condition of self-support as an able-bodied ((workman)) worker. Benefits for permanent disability shall be determined under the director's supervision only after the injured ((workman's)) worker's condition becomes fixed.

(2) All determinations of permanent disabilities shall be made by the department. Either the ((workman)) worker, employer, or self-insurer may make a request or such inquiry may be initiated by the director on his or her own motion. Such determinations shall be required in every instance where permanent disability is likely to be present. All medical reports and other pertinent information in the possession of or under the control of the employer or self-insurer shall be forwarded to the director with such requests.

(3) A request for determination of permanent disability shall be examined by the department and an order shall issue in accordance with RCW 51.52.050.

(4) The department may require that the ((workman)) worker present himself or herself for a special medical examination by a physician, or physicians, selected by the department, and the department may require that the ((workman)) worker present himself or herself for a personal interview. In such event the costs of such examination or interview, including payment of any reasonable travel expenses, shall be paid by the department or self-insurer as the case may be.

(5) The director may establish a medical bureau within the department to perform medical examinations under this section. Physicians hired or retained for this purpose shall be grounded in industrial medicine and in the assessment of industrial physical impairment. Self-insurers shall bear a proportionate share of the cost of such medical bureau in a manner to be determined by the department.

(6) Where dispute arises from the handling of any claims prior to the condition of the injured ((workman)) worker becoming fixed, the ((workman)) worker, employer, or self-insurer may request the department to resolve the dispute or the director may initiate an inquiry on his or her own motion. In such cases the

department shall proceed as provided in this section and an order shall issue in accordance with RCW 51.52.050.

Sec. 44. Section 51.32.060, chapter 23, Laws of 1961 as last amended by section 9, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.32.060 are each amended to read as follows:

When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the ((~~workman~~)) worker shall receive monthly during the period of such disability:

(1) If married at the time of injury, sixty-five percent of his or her wages but not less than two hundred fifteen dollars per month.

(2) If married with one child at the time of injury, sixty-seven percent of his or her wages but not less than two hundred fifty-two dollars per month.

(3) If married with two children at the time of injury, sixty-nine percent of his or her wages but not less than two hundred eighty-three dollars.

(4) If married with three children at the time of injury, seventy-one percent of his or her wages but not less than three hundred six dollars per month.

(5) If married with four children at the time of injury, seventy-three percent of his or her wages but not less than three hundred twenty-nine dollars per month.

(6) If married with five or more children at the time of injury, seventy-five percent of his or her wages but not less than three hundred fifty-two dollars per month.

(7) If unmarried at the time of the injury, sixty percent of his or her wages but not less than one hundred eighty-five dollars per month.

(8) If unmarried with one child at the time of injury, sixty-two percent of his or her wages but not less than two hundred twenty-two dollars per month.

(9) If unmarried with two children at the time of injury, sixty-four percent of his or her wages but not less than two hundred fifty-three dollars per month.

(10) If unmarried with three children at the time of injury, sixty-six percent of his or her wages but not less than two hundred seventy-six dollars per month.

(11) If unmarried with four children at the time of injury, sixty-eight percent of his or her wages but not less than two hundred ninety-nine dollars per month.

(12) If unmarried with five or more children at the time of injury, seventy percent of his or her wages but not less than three hundred twenty-two dollars per month.

(13) For any period of time where both husband and wife are entitled to compensation as temporarily or totally disabled ((~~workmen~~)) workers, only that spouse having the higher wages of the two shall be entitled to claim their child or children for compensation purposes.

(14) In case of permanent total disability, if the character of the injury is such as to render the ((~~workman~~)) worker so physically helpless as to require the hiring of the services of an attendant, the department shall make monthly payments to such attendant for such services as long as such requirement continues, but such payments shall not obtain or be operative while the ((~~workman~~)) worker is receiving care under or pursuant to the provisions of chapters 51.36 and 51.40 RCW.

(15) Should any further accident result in the permanent total disability of an injured ((~~workman~~)) worker, he or she shall receive the pension to which he or she

would be entitled, notwithstanding the payment of a lump sum for his or her prior injury.

(16) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018, except that this limitation shall not apply to the payments provided for in subsection (14) of this section.

Sec. 45. Section 1, chapter 19, Laws of 1975-'76 2nd ex. sess. and RCW 51-.32.073 are each amended to read as follows:

Each employer shall retain from the earnings of each ((~~workman~~)) worker that amount as shall be fixed from time to time by the director, the basis for measuring said amount to be determined by the director. The money so retained shall be matched in an equal amount by each employer, and all such moneys shall be remitted to the department in such manner and at such intervals as the department directs and shall be placed in the supplemental pension fund: PROVIDED, That the state apprenticeship council shall pay the entire amount into the supplemental pension fund for registered apprentices or trainees during their participation in supplemental and related instruction classes. The moneys so collected shall be used exclusively for the additional payments from the supplemental pension fund prescribed in this title and for the amount of any increase payable under the provisions of RCW 51.32.075 and shall be no more than necessary to make such payments on a current basis.

Sec. 46. Section 51.32.080, chapter 23, Laws of 1961 as last amended by section 21, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.080 are each amended to read as follows:

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

LOSS BY AMPUTATION

Of leg above the knee joint with short thigh stump (3" or less below the tuberosity of ischium)	\$18,000.00
Of leg at or above knee joint with functional stump	16,200.00
Of leg below knee joint	14,400.00
Of leg at ankle (Syme)	12,600.00
Of foot at mid-metatarsals	6,300.00
Of great toe with resection of metatarsal bone	3,780.00
Of great toe at metatarsophalangeal joint	2,268.00
Of great toe at interphalangeal joint	1,200.00
Of lesser toe (2nd to 5th) with resection of metatarsal bone	1,380.00
Of lesser toe at metatarsophalangeal joint	672.00
Of lesser toe at proximal interphalangeal joint	498.00
Of lesser toe at distal interphalangeal joint	126.00
Of arm at or above the deltoid insertion or by disarticulation at the shoulder	18,000.00
Of arm at any point from below the deltoid insertion to below the elbow joint at the insertion of the biceps tendon	17,100.00

Of arm at any point from below the elbow joint distal to the insertion of the biceps tendon to and including mid-metacarpal amputation of the hand	16,200.00
Of all fingers except the thumb at metacarpophalangeal joints	9,720.00
Of thumb at metacarpophalangeal joint or with resection of carpometacarpal bone	6,480.00
Of thumb at interphalangeal joint	3,240.00
Of index finger at metacarpophalangeal joint or with resection of metacarpal bone	4,050.00
Of index finger at proximal interphalangeal joint	3,240.00
Of index finger at distal interphalangeal joint	1,782.00
Of middle finger at metacarpophalangeal joint or with resection of metacarpal bone	3,240.00
Of middle finger at proximal interphalangeal joint	2,592.00
Of middle finger at distal interphalangeal joint	1,458.00
Of ring finger at metacarpophalangeal joint or with resection of metacarpal bone	1,620.00
Of ring finger at proximal interphalangeal joint	1,296.00
Of ring finger at distal interphalangeal joint	810.00
Of little finger at metacarpophalangeal joint or with resection of metacarpal bone	810.00
Of little finger at proximal interphalangeal joint	648.00
Of little finger at distal interphalangeal joint	324.00

MISCELLANEOUS

Loss of one eye by enucleation	7,200.00
Loss of central visual acuity in one eye	6,000.00
Complete loss of hearing in both ears	14,400.00
Complete loss of hearing in one ear	2,400.00

(2) Compensation for amputation of a member or part thereof at a site other than those above specified, and for loss of central visual acuity and loss of hearing other than complete, shall be in proportion to that which such other amputation or partial loss of visual acuity or hearing most closely resembles and approximates. Compensation for any other permanent partial disability not involving amputation 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, compensation for any other unspecified permanent partial disability shall be in an amount as measured and compared to total bodily impairment: PROVIDED, That in order to reduce litigation and establish more certainty and uniformity in the rating of unspecified permanent partial disabilities, the department shall enact rules having the force of law classifying such disabilities in the proportion which the department shall determine such disabilities reasonably bear to total bodily impairment. In enacting such rules, the department shall give consideration to, but need not necessarily adopt, any nationally recognized medical standards or guides for determining various bodily impairments. For purposes of calculating monetary benefits, the amount

payable for total bodily impairment shall be deemed to be thirty thousand dollars: PROVIDED, That the total compensation for all unspecified permanent partial disabilities resulting from the same injury shall not exceed the sum of thirty thousand dollars: 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~~)) worker if permanent total disability compensation had been paid in the first instance, shall be deducted from the pension reserve of such injured ((~~workman~~)) worker and his or her monthly compensation payments shall be reduced accordingly.

(3) Should a ((~~workman~~)) worker receive an injury to a member or part of his or her 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~~)) worker, his or her 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.

(4) When the compensation provided for in subsections (1) and (2) exceeds three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, 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~~)) worker in full, except that the first monthly payment shall be in an amount equal to three times the average monthly wage in the state as computed under the provisions of RCW 51.08.018, and interest shall be paid at the rate of six percent on the unpaid balance of such compensation commencing with the second monthly payment: PROVIDED, That upon application of the injured ((~~workman~~)) worker 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~~)) worker 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~~)) worker 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.

Sec. 47. Section 51.32.090, chapter 23, Laws of 1961 as last amended by section 1, chapter 235, Laws of 1975 1st ex. sess. and RCW 51.32.090 are each amended to read as follows:

(1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1) through (13) of RCW 51.32.060 as amended shall apply, so long as the total disability continues.

(2) Any compensation payable under this section for children not in the custody of the injured ((~~workman~~)) worker 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)) worker, 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 unless the loss of earning power shall exceed five percent.

(4) Whenever an employer requests that a ((workman)) worker who is entitled to temporary total disability under this chapter be certified by a physician as able to perform available work other than his or her usual work, the employer shall furnish to the physician, with a copy to the ((workman)) worker, a statement describing the available work in terms that will enable the physician to relate the physical activities of the job to the ((workman's)) worker's disability. The physician shall then determine whether the ((workman)) worker is physically able to perform the work described. If the ((workman)) worker is released by his or her physician for said work, and the work thereafter comes to an end before the ((workman's)) worker's recovery is sufficient in the judgment of his or her physician to permit him or her to return to his or her usual job, or to perform other available work, the ((workman's)) worker's temporary total disability payments shall be resumed. Should the available work described, once undertaken by the ((workman)) worker, impede his or her recovery to the extent that in the judgment of his or her physician he or she should not continue to work, the ((workman's)) worker's temporary total disability payments shall be resumed when the ((workman)) worker ceases such work.

Once the ((workman)) worker returns to work under the terms of this subsection, he or she shall not be assigned by the employer to work other than the available work described without the ((workman's)) worker's written consent, or without prior review and approval by the ((workman's)) worker's physician.

In the event of any dispute as to the ((workman's)) worker's ability to perform the available work offered by the employer, the department shall make the final determination.

(5) No ((workman)) worker shall receive compensation for or during the day on which injury was received or the three days following the same, unless his or her disability shall continue for a period of fourteen consecutive calendar days from date of injury.

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

(7) In no event shall the monthly payments provided in this section exceed seventy-five percent of the average monthly wage in the state as computed under the provisions of RCW 51.08.018.

Sec. 48. Section 12, chapter 289, Laws of 1971 ex. sess. as amended by section 23, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.095 are each amended to read as follows:

One of the primary purposes of this title is the restoration of the injured ((workman)) worker to gainful employment. To this end, the department shall utilize the services of individuals whose experience, training, and interests in vocational rehabilitation and retraining qualify them to lend expert assistance to the supervisor of industrial insurance in such programs of vocational rehabilitation or retraining as may be reasonable to qualify the ((workman)) worker for employment consistent with his or her physical and mental status. Where, after evaluation and recommendation by such individuals and prior to final evaluation of the ((workman's)) worker's permanent disability and in the sole opinion of the supervisor, vocational rehabilitation or retraining is both necessary and likely to restore the injured ((workman)) worker to a form of gainful employment, the supervisor may, in his or her sole discretion, continue the temporary total disability compensation under RCW 51.32.090 while the ((workman)) worker is actively and successfully undergoing a formal program of vocational rehabilitation or retraining: PROVIDED, That such compensation may not be authorized for a period of more than fifty-two weeks: PROVIDED FURTHER, That such period may, in the sole discretion of the supervisor after his or her review, be extended for an additional fifty-two weeks or portion thereof by written order of the supervisor.

In cases where the ((workman)) worker is required to reside away from his or her customary residence, the reasonable cost of board and lodging shall also be paid. Said costs shall be chargeable to the employer's cost experience or shall be paid by the self-insurer for ((workmen)) workers to whom he or she is liable for compensation and benefits under the provisions of this title.

Sec. 49. Section 51.32.100, chapter 23, Laws of 1961 as amended by section 44, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.100 are each amended to read as follows:

If it is determined that an injured ((workman)) worker had, at the time of his or her injury, a preexisting disease and that such disease delays or prevents complete recovery from such injury, it shall be ascertained, as nearly as possible, the period over which the injury would have caused disability were it not for the diseased condition and the extent of permanent partial disability which the injury would have caused were it not for the disease, and compensation shall be awarded only therefor.

Sec. 50. Section 51.32.110, chapter 23, Laws of 1961 as amended by section 13, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.110 are each amended to read as follows:

Any ((workman)) worker entitled to receive compensation or claiming compensation under this title shall, if requested by the department or self-insurer, submit himself or herself for medical examination, at a time and from time to time, at a place reasonably convenient for the ((workman)) worker and as may be provided by the rules of the department. If the ((workman)) worker refuses to submit to medical examination, or obstructs the same, or, if any injured ((workman)) worker shall persist in unsanitary or injurious practices which tend to imperil or retard his or her recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his or her recovery, the department or the self-insurer upon approval by the department, with notice to the ((workman)) worker may reduce or suspend the compensation of such ((workman)) worker so long as such refusal or

practice continues. If the ((workman)) worker necessarily incurs traveling expenses in attending for examination pursuant to the request of the department, such traveling expenses shall be repaid to him or her out of the accident fund upon proper voucher and audit.

If the medical examination required by this section causes the ((workman)) worker to be absent from his or her work without pay he or she shall be paid for such time lost in accordance with the schedule of payments provided in RCW 51.32.090 as amended.

Sec. 51. Section 51.32.120, chapter 23, Laws of 1961 and RCW 51.32.120 are each amended to read as follows:

Should a further accident occur to a ((workman)) worker who has been previously the recipient of a lump sum payment under this title, his or her future compensation shall be adjusted according to the other provisions of this chapter and with regard to the combined effect of his or her injuries and his or her past receipt of money under this title.

Sec. 52. Section 51.32.135, chapter 23, Laws of 1961 as amended by section 98, chapter 154, Laws of 1973 1st ex. sess. and RCW 51.32.135 are each amended to read as follows:

In pension cases when a ((workman)) worker or beneficiary closes his or her claim by full conversion to a lump sum or in any other manner as provided in RCW 51.32.130 and 51.32.150, such action shall be conclusive and effective to bar any subsequent application or claim relative thereto by the ((workman)) worker or any beneficiary which would otherwise exist had such person not elected to close the claim: PROVIDED, The director may require the spouse of such ((workman)) worker to consent in writing as a prerequisite to conversion and/or the closing of such claim.

Sec. 53. Section 51.32.180, chapter 23, Laws of 1961 as amended by section 49, chapter 289, Laws of 1971 ex. sess. and RCW 51.32.180 are each amended to read as follows:

Every ((workman)) worker who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his or her family and dependents in case of death of the ((workman)) worker from such disease or infection, shall receive the same compensation benefits and medical, surgical and hospital care and treatment as would be paid and provided for a ((workman)) worker injured or killed in employment under this title: PROVIDED, HOWEVER, That this section and RCW 51.16.040 shall not apply where the last exposure to the hazards of the disease or infection occurred prior to January 1, 1937.

Sec. 54. Section 47, chapter 289, Laws of 1971 ex. sess. as amended by section 25, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.190 are each amended to read as follows:

(1) If the self-insurer denies a claim for compensation, written notice of such denial, clearly informing the claimant of the reasons therefor and that the director will rule on the matter shall be mailed or given to the claimant and the director within seven days after the self-insurer has notice of the claim.

(2) Until such time as the department has entered an order in a disputed case acceptance of compensation by the claimant shall not be considered a binding determination of his or her rights under this title. Likewise the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments.

(3) Upon making the first payment of income benefits, and upon stopping or changing of such benefits except where a determination of the permanent disability has been made as elsewhere provided in this title, the self-insurer shall immediately notify the director in accordance with a form to be prescribed by the director that the payment of income benefits has begun or has been stopped or changed. Where temporary disability compensation is payable, the first payment thereof shall be made within fourteen days after notice of claim and shall continue at regular semimonthly or biweekly intervals.

(4) If, after the payment of compensation without an award, the self-insurer elects to controvert the right to compensation, the payment of compensation shall not be considered a binding determination of the obligations of the self-insurer as to future compensation payments. The acceptance of compensation by the ((~~workman~~)) worker or his or her beneficiaries shall not be considered a binding determination of their rights under this title.

(5) The director (a) may, upon his or her own initiative at any time in a case in which payments are being made without an award, and (b) shall, upon receipt of information from any person claiming to be entitled to compensation, from the self-insurer, or otherwise that the right to compensation is controverted, or that payment of compensation has been opposed, stopped or changed, whether or not claim has been filed, promptly make such inquiry as circumstances require, cause such medical examinations to be made, hold such hearings, require the submission of further information, make such orders, decisions or awards, and take such further action as he or she considers will properly determine the matter and protect the rights of all parties.

(6) The director, upon his or her own initiative, may make such inquiry as circumstances require or is necessary to protect the rights of all the parties and he or she may enact rules and regulations providing for procedures to ensure fair and prompt handling by self-insurers of the claims of ((~~workmen~~)) workers and beneficiaries.

Sec. 55. Section 26, chapter 43, Laws of 1972 ex. sess. and RCW 51.32.210 are each amended to read as follows:

Claims of injured ((~~workmen~~)) workers of employers who have secured the payment of compensation by insuring with the department shall be promptly acted upon by the department. Where temporary disability compensation is payable, the first payment thereof shall be mailed within fourteen days after receipt of the claim at the department's offices in Olympia and shall continue at regular semimonthly intervals. The payment of this or any other benefits under this title, prior to the entry of an order by the department in accordance with RCW 51.52.050 as now or hereafter amended, shall be not considered a binding determination of the obligations of the department under this title. The acceptance of compensation by the ((~~workman~~)) worker or his or her beneficiaries prior to such order shall likewise not be considered a binding determination of their rights under this title.

Sec. 56. Section 51.36.010, chapter 23, Laws of 1961 as last amended by section 1, chapter 234, Laws of 1975 1st ex. sess. and RCW 51.36.010 are each amended to read as follows:

Upon the occurrence of any injury to a ((workman)) worker entitled to compensation under the provisions of this title, he or she shall receive proper and necessary medical and surgical services at the hands of a physician of his or her own choice, if conveniently located, and proper and necessary hospital care and services during the period of his or her disability from such injury, but the same shall be limited in point of duration as follows:

In the case of permanent partial disability, not to extend beyond the date when compensation shall be awarded him or her, except when the ((workman)) worker returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him or her shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him or her shall cease: PROVIDED, That after any injured ((workman)) worker has returned to his or her work his or her medical and surgical treatment may be continued if, and so long as, such continuation is deemed necessary by the supervisor of industrial insurance to be necessary to his or her more complete recovery; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or her or he or she is placed upon the permanent pension roll: PROVIDED, HOWEVER, That the supervisor of industrial insurance, solely in his or her discretion, may authorize continued medical and surgical treatment for conditions previously accepted by the department when such medical and surgical treatment is deemed necessary by the supervisor of industrial insurance to protect such ((workman's)) worker's life or provide for the administration of medical and therapeutic measures including payment of prescription medications, but not including those controlled substances currently scheduled by the state board of pharmacy as Schedule I, II, III, or IV substances under chapter 69.50 RCW, which are necessary to alleviate continuing pain which results from the industrial injury. In order to authorize such continued treatment the written order of the supervisor of industrial insurance issued in advance of the continuation shall be necessary.

Sec. 57. Section 51.36.020, chapter 23, Laws of 1961 as last amended by section 14, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.36.020 are each amended to read as follows:

When the injury to any ((workman)) worker is so serious as to require his or her being taken from the place of injury to a place of treatment, his or her employer shall, at the expense of the medical aid fund, or self-insurer, as the case may be, furnish transportation to the nearest place of proper treatment.

Every ((workman)) worker whose injury results in the loss of one or more limbs or eyes shall be provided with proper artificial substitutes and every ((workman)) worker, who suffers an injury to an eye producing an error of refraction, shall be once provided proper and properly equipped lenses to correct such error of refraction and his or her disability rating shall be based upon the loss of sight before correction. Every ((workman)) worker, whose accident results in damage to or destruction of an artificial limb, eye, or tooth, shall have same repaired or replaced. Every ((workman)) worker whose hearing aid or eyeglasses or lenses are damaged,

destroyed, or lost as a result of an industrial accident shall have the same restored or replaced. The department or self-insurer shall be liable only for the cost of restoring damaged hearing aids or eyeglasses to their condition at the time of the accident. All mechanical appliances necessary in the treatment of an injured ((workman)) worker, such as braces, belts, casts, and crutches, shall be provided and all mechanical appliances required as permanent equipment after treatment has been completed shall continue to be provided or replaced without regard to the date of injury or date treatment was completed, notwithstanding any other provision of law. A ((workman)) worker, whose injury is of such short duration as to bring him or her within the time limit provisions of RCW 51.32.090, shall nevertheless receive during the omitted period medical, surgical, and hospital care and service and transportation under the provisions of this chapter.

Sec. 58. Section 51.36.030, chapter 23, Laws of 1961 and RCW 51.36.030 are each amended to read as follows:

Every employer, who employs less than fifty ((workmen)) workers, shall keep at his or her plant a first aid kit equipped as required by the department with materials for first aid to his or her injured ((workmen)) workers. Every employer who employs within a radius of one-half mile of any plant or establishment fifty or more ((workmen)) workers, shall keep one first aid station equipped as required by the department with materials for first aid to his or her injured ((workmen)) workers, and shall cooperate with the department in training one or more employees in first aid to the injured. The maintenance of such first aid kits and stations shall be deemed to be a part of any educational standards established under Title 49 RCW.

Sec. 59. Section 2, chapter 107, Laws of 1961 and RCW 51.36.040 are each amended to read as follows:

The benefits of Title 51 RCW shall be provided to each ((workman)) worker receiving an injury, as defined therein, during the course of his or her employment and also during his or her lunch period as established by the employer while on the jobsite. The jobsite shall consist of the premises as are occupied, used or contracted for by the employer for the business of work process in which the employer is then engaged: PROVIDED, That if a ((workman)) worker by reason of his or her employment leaves such jobsite under the direction, control or request of the employer and if such ((workman)) worker is injured during his or her lunch period while so away from the jobsite, the ((workman)) worker shall receive the benefits as provided herein: AND PROVIDED FURTHER, That the employer need not consider the lunch period in ((workman)) worker hours for the purpose of reporting to the department unless the ((workman)) worker is actually paid for such period of time.

Sec. 60. Section 54, chapter 289, Laws of 1971 ex. sess. and RCW 51.36.070 are each amended to read as follows:

Whenever the director or the self-insurer deems it necessary in order to resolve any medical issue, a ((workman)) worker shall submit to examination by a physician or physicians selected by the director, with the rendition of a report to the person ordering the examination. The director, in his or her discretion, may charge the cost of such examination or examinations to the self-insurer or to the medical

aid fund as the case may be. The cost of said examination shall include payment to the ((workman)) worker of reasonable expenses connected therewith.

Sec. 61. Section 51.40.010, chapter 23, Laws of 1961 and RCW 51.40.010 are each amended to read as follows:

Any contract made in violation of this title shall be invalid, except that any employer engaged in extrahazardous work may, with the consent of a majority of his ((workmen)) or her workers, enter into written contracts with physicians, surgeons and owners of hospitals operating the same, or with hospital associations, for medical, surgical and hospital care to ((workmen)) workers injured in such employment, by, and under the control and administration of, and at the direct expense of the employer and his ((workmen)) or her workers. Such a contract shall be known as a "medical aid contract" and shall not be assignable or transferable by operation of law or otherwise except with the consent of the supervisor of industrial insurance endorsed thereon.

Sec. 62. Section 51.40.020, chapter 23, Laws of 1961 as last amended by section 2, chapter 80, Laws of 1965 ex. sess. and RCW 51.40.020 are each amended to read as follows:

Before any medical aid contract shall go into effect it shall be submitted to the supervisor of industrial insurance and may be disapproved by him or her when found not to provide for such care of injured ((workmen)) workers as is contemplated by the provisions of RCW 51.04.030 and, if a contract so submitted is with the owners of a hospital operating the same, or with a hospital association, the supervisor of industrial insurance shall have power to disapprove the same if in his or her judgment the ownership or management of such hospital or hospital association is not such as to produce satisfactory service. Any such contract with physician, surgeon, or owner and operator of a hospital, or with a hospital association, so disapproved shall not be valid. If approved the contract shall be in effect for any period of time specified therein, not exceeding three years from the date of approval: PROVIDED, That the director, through the division of industrial insurance, may, before approving any such contract, require the giving by any physician, surgeon, hospital or hospital association, of a bond in such sum and in such form, as the director may determine, conditioned that the obligor will faithfully perform such contract. Every such contract to be valid must provide the injured ((workman)) worker the same services and a standard of service equal to that provided by the department for noncontract cases: PROVIDED, That the contract shall provide for the payment of fees to licensed practitioners of the healing arts ((that)) who are not members of the medical contracting group but who render services to a contract-covered employee. Such fees shall not exceed the agreed fee schedule of the medical contracting group and said fees shall be subject to the proration of payments on the same basis as the medical aid contracting group and any such practitioner participating in the agreement of any contract-covered employee shall agree to render similar services in the event of a catastrophe and to accept a proration of payments on the same basis as the medical contracting group. Every such contract to be valid must provide that the expenses incident to it shall be borne one-half by the employer and one-half by the employees, and that it shall be administered by the two interests jointly and equally.

No contract entered into prior to the time chapter 36, Laws of 1965 goes into effect shall be invalidated during its term by anything contained in the amendatory provisions of said chapter 36, Laws of 1965.

Sec. 63. Section 51.40.030, chapter 23, Laws of 1961 and RCW 51.40.030 are each amended to read as follows:

So long as a medical aid contract is in effect the subject matter of the contract shall, except as in this chapter otherwise specified, be outside of, and not affected by the provisions relating to the assessment and payment of medical aid premiums, but the provisions relating to artificial substitutes and lenses and the basis of compensation when lenses are supplied, and to transportation of injured (~~workmen~~) workers and to educational standards of safety shall apply.

Sec. 64. Section 51.40.040, chapter 23, Laws of 1961 as amended by section 29, chapter 106, Laws of 1973 and RCW 51.40.040 are each amended to read as follows:

The employer shall pay monthly into the medical aid fund ten percent of the amount he or she would have been required to pay in that month if such contract had not been made, and of that ten percent he or she shall collect one-half from his or her said (~~workmen~~) workers by proper deduction from the daily wage of each and, in addition thereto, every classification and subclassification of industries whose employer and employees are under medical aid contract, shall pay into the surplus fund hereby created a further sum to be determined by the director, through the division of industrial insurance, not exceeding ten percent of the amount that would have been required to be paid into the medical aid fund if such contract had not been made and the employer shall collect such sum from the party agreeing to furnish such medical aid and hospital service. The surplus fund shall be used by the director only for the purpose of furnishing medical aid to (~~workmen~~) workers included in the contract provided for in this section, where the necessity therefor arises after the expiration or cancellation of such medical aid contract, in those instances where the medical aid contractor has become deceased, insolvent, dissolved or, in the opinion of the director, otherwise incapable of rendering the required medical aid to the injured (~~workmen~~) workers. The amount at which such surplus fund shall be maintained in each classification and subclassification shall be determined by the director, through the division of industrial insurance, based upon the estimated costs of such future medical treatment required to be furnished after the expiration or cancellation of the medical aid contract, except as in this chapter provided. When adequate reserves for such purpose have been accumulated to the credit of any classification and subclassification the levy therefor may be suspended in the discretion of the director. Disbursements from said surplus fund shall be made by warrants drawn against the same by the department upon certificate thereof, or requisition therefor through the division of industrial insurance. Payment into the surplus fund shall not relieve the party agreeing to furnish such medical aid and hospital service from his or her obligation so to do at any time during or after the expiration of his or her medical aid contract except as in this section provided: PROVIDED, That if, upon the expiration of any medical aid contract, the medical aid contractor does not renew it and forthwith and thereafter ceases the performance of all medical aid contracts as in this chapter provided, he or she shall be relieved from all liability to furnish future medical aid to the injured

~~((workman))~~ worker arising after the expiration of such contract or contracts, if he or she has paid all levies theretofore made during the existence of such contract or contracts into the surplus fund.

Sec. 65. Section 51.40.050, chapter 23, Laws of 1961 and RCW 51.40.050 are each amended to read as follows:

During the operation of any contract the supervisor of industrial insurance, on his or her own motion, or any interested person, may file a complaint alleging that the service and care actually rendered thereunder are not up to the standard provided in RCW 51.04.030 and, upon a hearing had upon notice to the employer and ~~((workmen))~~ workers interested thereunder, the supervisor of industrial insurance may make an order that the contract shall terminate unless the defect or deficiency complained of is remedied to his or her satisfaction within a period to be fixed in such order, or he or she may at such hearing sustain the complaint and make an order that the contract shall terminate forthwith.

Notice to the ~~((workmen))~~ workers may be effected by service upon one of them designated by a majority of the ~~((workmen))~~ workers, in writing in duplicate, one copy to be posted for local convenience and the other filed with the supervisor of industrial insurance. In default of any such designation, service upon any one ~~((workman))~~ worker other than the one instituting a complaint shall be service upon all. During an appeal the contract shall remain in force and operation, but the costs of the appeal shall be paid out of the medical aid fund only in case the decision of the supervisor of industrial insurance is reversed.

Sec. 66. Section 51.40.060, chapter 23, Laws of 1961 and RCW 51.40.060 are each amended to read as follows:

If, during the operation of any medical aid contract, any injured ~~((workman))~~ worker shall not receive medical or surgical treatment with reasonable promptness upon the occurrence of his or her injury, or at any time during his or her treatment, the supervisor of industrial insurance may provide such treatment during the emergency at the expense of his or her employer, who may charge such expense against such contract, and such emergency treatment shall continue until supplanted by like treatment under such contract, notwithstanding the pendency of an appeal from such action. The cost of such emergency treatment shall not exceed the rate specified in the department's fee bill. The acceptance of employment by any ~~((workman))~~ worker shall be and be held to be an acceptance of any existing contract made under this chapter to which his or her employer is a party.

Sec. 67. Section 51.40.070, chapter 23, Laws of 1961 and RCW 51.40.070 are each amended to read as follows:

The director shall have power to enact rules prescribing whether and under what conditions an injured ~~((workman))~~ worker, who has been receiving treatment under medical aid contract at a place other than his or her place of permanent abode and who shall be or have become ambulatory or who, being discharged, shall require further treatment, may be transferred to the care of a surgeon at his or her place of residence, and providing for the compensation of such surgeon at the expense of the doctor, hospital or hospital association holding such contract.

Sec. 68. Section 51.44.110, chapter 23, Laws of 1961 as amended by section 30, chapter 106, Laws of 1973 and RCW 51.44.110 are each amended to read as follows:

Disbursement out of the several funds shall be made only upon warrants drawn by the department. The state treasurer shall pay every warrant out of the fund upon which it is drawn. If, at any time, there shall not be sufficient money in the fund on which any such warrant is drawn wherewith to pay the same, the employer on account of whose ((~~workman~~)) worker it was that the warrant was drawn shall pay the same, and he or she shall be credited upon his or her next following contribution to such fund the amount so paid with interest thereon at the legal rate from the date of such payment to the date such next following contribution became payable and, if the amount of the credit shall exceed the amount of the contribution, he or she shall have a warrant upon the same fund for the excess and, if any such warrant shall not be so paid, it shall remain, nevertheless, payable out of the fund.

Sec. 69. Section 51.48.010, chapter 23, Laws of 1961 as amended by section 61, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.010 are each amended to read as follows:

Every employer shall be liable for the penalties described in this title and shall also be liable if an injury or occupational disease has been sustained by a ((~~workman~~)) worker prior to the time he or she has secured the payment of such compensation to a penalty in a sum equal to fifty percent of the cost for such injury or occupational disease, for the benefit of the medical aid fund.

Sec. 70. Section 51.48.050, chapter 23, Laws of 1961 and RCW 51.48.050 are each amended to read as follows:

It shall be unlawful for any employer to directly or indirectly demand or collect from any of his ((~~workmen~~)) or her workers any sum of money whatsoever for or on account of medical, surgical, hospital, or other treatment or transportation of injured ((~~workmen~~)) workers, other than as specified in RCW 51.16.140 and 51.40.040, and any employer who directly or indirectly violates the foregoing provisions of this section shall be liable to the state for the benefit of the medical aid fund in ten times the amount so demanded or collected, and such employer and every officer, agent, or servant of such employer knowingly participating therein shall also be guilty of a misdemeanor.

Sec. 71. Section 51.48.060, chapter 23, Laws of 1961 as amended by section 20, chapter 289, Laws of 1971 ex. sess. and RCW 51.48.060 are each amended to read as follows:

Any physician who fails, neglects or refuses to file a report with the director, as required by this title, within five days of the date of treatment, showing the condition of the injured ((~~workman~~)) worker at the time of treatment, a description of the treatment given, and an estimate of the probable duration of the injury, or who fails or refuses to render all necessary assistance to the injured ((~~workman~~)) worker, as required by this title, shall be subject to a civil penalty of one hundred dollars.

Sec. 72. Section 51.48.070, chapter 23, Laws of 1961 and RCW 51.48.070 are each amended to read as follows:

If any ((workman)) worker is injured because of the absence of any safeguard or protection required to be provided or maintained by, or pursuant to, any statute or ordinance, or any departmental regulation under any statute, or is, at the time of the injury, of less than the maximum age prescribed by law for the employment of a minor in the occupation in which he or she is engaged when injured the employer shall, within ten days after the demand therefor by the department, pay into the accident fund in addition to all other payments required by law:

(1) In case the consequent payment to the ((workman)) worker out of the accident fund is a lump sum, a sum equal to fifty percent of that amount.

(2) In case the consequent payment to the ((workman)) worker is payable in monthly payments, a sum equal to fifty percent of the lump value of such monthly payment, estimated in accordance with the rule stated in RCW 51.32.130.

The foregoing provisions shall not apply to the employer if the absence of such guard or protection is due to the removal thereof by the injured ((workman)) worker himself or herself or with his or her knowledge by any of his or her fellow ((workmen)) workers, unless such removal is by order or direction of the employer or superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such ((workman)) worker. If the removal of such guard or protection is by the ((workman)) worker himself or herself or with his or her consent by any of his or her fellow ((workmen)) workers, unless by order or direction of the employer or the superintendent or foreman of the employer, or anyone placed by the employer in control or direction of such ((workman)) worker, the schedule of compensation provided in chapter 51.32 RCW shall be reduced ten percent for the individual case of such ((workman)) worker.

Sec. 73. Section 1, chapter 78, Laws of 1972 ex. sess. and RCW 51.48.105 are each amended to read as follows:

The penalties provided under this title for failure to apply for coverage for employees as required by the provisions of Title 51 RCW, the ((workmen's)) worker's compensation law, shall not be applicable prior to March 1, 1972, as to any employer whose work first became subject to this title on or after January 1, 1972.

Sec. 74. Section 51.52.010, chapter 23, Laws of 1961 as last amended by section 151, chapter 34, Laws of 1975-'76 2nd ex. sess. and RCW 51.52.010 are each amended to read as follows:

There shall be a "board of industrial insurance appeals," hereinafter called the "board," consisting of three members appointed by the governor as hereinafter provided. One shall be a representative of the public and a lawyer, appointed from a mutually agreed to list of not less than three active members of the Washington state bar association, submitted to the governor by the two organizations defined below, and such member shall be the ((chairman)) chairperson of said board. The second member shall be a representative of the majority of ((workmen)) workers engaged in employment under this title and selected from a list of not less than three names submitted to the governor by an organization, state-wide in scope, which through its affiliates embraces a cross section and a majority of the organized labor of the state. The third member shall be a representative of employers under this title, and appointed from a list of at least three names submitted to the governor by a recognized state-wide organization of employers, representing a majority of employers. The initial terms of office of the members of the board shall be

for six, four, and two years respectively. Thereafter all terms shall be for a period of six years. Each member of the board shall be eligible for reappointment and shall hold office until his or her successor is appointed and qualified. In the event of a vacancy the governor is authorized to appoint a successor to fill the unexpired term of his or her predecessor. All appointments to the board shall be made in conformity with the foregoing plan. Whenever the workload of the board and its orderly and expeditious disposition shall necessitate, the governor may appoint two additional pro-tem members in addition to the regular members. Such appointments shall be for a definite period of time, and shall be made from lists submitted respectively by labor and industry as in the case of regular members. One pro-tem member shall be a representative of labor and one shall be a representative of industry. Members shall devote their entire time to the duties of the board and shall receive for their services a salary as fixed by the governor in accordance with the provisions of RCW 43.03.040 which shall be in addition to travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. Headquarters for the board shall be located in Olympia. The board shall adopt a seal which shall be judicially recognized.

Sec. 75. Section 51.52.050, chapter 23, Laws of 1961 as amended by section 1, chapter 58, Laws of 1975 1st ex. sess. and RCW 51.52.050 are each amended to read as follows:

Whenever the department has made any order, decision, or award, it shall promptly serve the ((workman)) worker, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his or her last known address as shown by the records of the department. The copy, in case the same is a final order, decision, or award, shall bear on the same side of the same page on which is found the amount of the award, a statement, set in black faced type of at least ten point body or size, that such final order, decision, or award must be appealed to the board, Olympia, within sixty days, or the same shall become final.

Whenever the department has taken any action or made any decision relating to any phase of the administration of this title the ((workman)) worker, beneficiary, employer, or other person aggrieved thereby may appeal to the board and said appellant shall have the burden of proceeding with the evidence to establish a prima facie case for the relief sought in such appeal. Any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

Sec. 76. Section 51.52.060, chapter 23, Laws of 1961 as last amended by section 2, chapter 58, Laws of 1975 1st ex. sess. and RCW 51.52.060 are each amended to read as follows:

Any ((workman)) worker, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he or she 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)) worker 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 in the event the department shall direct the submission of further evidence or the investigation of any further fact, as above provided, the department shall render a final order, decision, or award within ninety days from the date such further submission of evidence or investigation of further fact is ordered which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days: PROVIDED, FURTHER, That the department, either within the time limited for appeal, or within thirty days after receiving a notice of appeal, may modify, reverse or change any order, decision, or award, or may hold any such order, decision, or award in abeyance for a period of ninety days which time period may be extended by the department for good cause stated in writing to all interested parties for an additional ninety days pending further investigation in light of the allegations of the notice of appeal, and the board shall thereupon deny the appeal, without prejudice to the appellant's right to appeal from any subsequent determinative order issued by the department.

Sec. 77. Section 51.52.070, chapter 23, Laws of 1961 as last amended by section 18, chapter 224, Laws of 1975 1st ex. sess. and RCW 51.52.070 are each amended to read as follows:

The notice of appeal to the board shall set forth in full detail the grounds upon which the person appealing considers such order, decision, or award is unjust or unlawful, and shall include every issue to be considered by the board, and it must contain a detailed statement of facts upon which such ((workman)) worker, beneficiary, employer, or other person relies in support thereof. The ((workman)) worker, beneficiary, employer, or other person shall be deemed to have waived all objections or irregularities concerning the matter on which such appeal is taken other than those specifically set forth in such notice of appeal or appearing in the records of the department. The department shall promptly transmit its original record, or a legible copy thereof produced by mechanical, photographic, or electronic means, in such matter to the board.

Sec. 78. Section 51.52.095, chapter 23, Laws of 1961 as last amended by section 3, chapter 148, Laws of 1963 and RCW 51.52.095 are each amended to read as follows:

The board, upon request of the ((workman)) worker, beneficiary, or employer, or upon its own motion, may direct all parties interested in an appeal, together with their attorneys, if any, to appear before it, a member of the board, or an authorized

hearing examiner, for a conference for the purpose of determining the feasibility of settlement, the simplification of issues of law and fact, the necessity of amendments to the notice of appeal or other pleadings, the possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof, the limitation of the number of expert witnesses, and such other matters as may aid in the disposition of the appeal. Such conference may be held prior to the hearing, or it may be held during the hearing, at the discretion of the board member or hearing examiner conducting the same, in which case the hearing will be recessed for such conference. Following the conference, the board member or hearing examiner conducting the same, shall state on the record the results of such conference, and the parties present or their representatives shall state their concurrence on the record. Such agreement as stated on the record shall control the subsequent course of the proceedings, unless modified at a subsequent hearing to prevent manifest injustice. If agreement concerning final disposition of the appeal is reached by the parties present at the conference, or by the employer and ((workman)) worker or beneficiary, the board may enter a final decision and order in accordance therewith, providing the board finds such agreement is in conformity with the law and the facts.

Sec. 79. Section 51.52.100, chapter 23, Laws of 1961 as amended by section 4, chapter 148, Laws of 1963 and RCW 51.52.100 are each amended to read as follows:

Hearings shall be held in the county of the residence of the ((workman)) worker or beneficiary, or in the county where the injury occurred, at a place designated by the board. Such hearing shall be de novo and summary, but no witness' testimony shall be received unless he or she 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 or her testimony shall have been taken by deposition according to the statutes and rules relating to superior courts of this state. The department shall be entitled to appear in all proceedings before the board and introduce testimony in support of its order. The 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 appeal. Such hearings on appeal to the board may be conducted by one or more of its members, or a duly authorized hearing examiner, and depositions may be taken by a person duly commissioned for the purpose by the board.

Members of the board, its duly authorized hearing examiners, and all persons duly commissioned by it for the purpose of taking depositions, shall have power to administer oaths; to preserve and enforce order during such hearings; 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 or her office.

If any person in proceedings before the 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 neglects 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 board or any member or duly authorized hearing examiner may certify the facts to the superior court having jurisdiction in the place in which said board or member or hearing examiner is sitting; the court 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.

Sec. 80. Section 1, chapter 40, Laws of 1973 and RCW 51.52.110 are each amended to read as follows:

Within thirty days after a decision of the board to deny the petition or petitions for review upon such appeal has been communicated to such ((workman)) worker, beneficiary, employer or other person, or within thirty days after the final decision and order of the board upon such appeal has been communicated to such ((workman)) worker, beneficiary, employer or other person, or within thirty days after the appeal is deemed denied as herein provided, such ((workman)) worker, beneficiary, employer or other person aggrieved by the decision and order of the board may appeal to the superior court.

In cases involving injured ((workmen)) workers such appeal shall be to the superior court of the county of residence of the ((workman)) worker or beneficiary, as shown by the department's records, or to the superior court of the county wherein the injury occurred or where neither the county of residence nor the county wherein the injury occurred are in the state of Washington then the appeal may be directed to the superior court for Thurston county. In all other cases the appeal shall be to the superior court of Thurston county. 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 and on the board. If the case is one involving a self-insurer, a copy of the notice of appeal shall also be served by mail, or personally, on such self-insurer. The department shall, in all cases not involving a self-insurer, within twenty days after the receipt of such notice of appeal, serve and file its notice of appearance and such appeal shall thereupon be deemed at issue. If the case is one involving a self-insurer, such self-insurer 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 to be at issue. In such cases the department may appear and take part in any proceedings. The board shall serve upon the appealing party, the director, the self-insurer if the case involves a self-insurer, and any other party appearing at the board's proceeding, and file with the clerk of the court before trial, a certified copy of the board's official record which shall include the notice of appeal and other pleadings, testimony and exhibits, and the board's decision and order, which shall become the record in such case. No bond shall be required on appeals to the superior court or on appeals to the supreme court or the court of appeals, except that an appeal by the employer from a decision and order of the board under RCW 51.48.070, 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: PROVIDED, HOWEVER, That whenever the board has made any decision and order reversing an order of the supervisor of industrial insurance on questions of law or mandatory administrative actions of the director, the department shall have the right of appeal to the superior court.

Sec. 81. Section 51.52.120, chapter 23, Laws of 1961 as amended by section 1, chapter 63, Laws of 1965 ex. sess. and RCW 51.52.120 are each amended to read as follows:

(1) It shall be unlawful for an attorney engaged in the representation of any ((~~workman~~)) worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the director for services performed by an attorney for such ((~~workman~~)) worker or beneficiary, prior to the notice of appeal to the board if written application therefor is made by the attorney, ((~~workman~~)) worker or beneficiary.

(2) If, on appeal to the board, the order, decision or award of the department is reversed or modified and additional relief is granted to a ((~~workman~~)) worker or beneficiary, or in cases where a party other than the ((~~workman~~)) worker or beneficiary is the appealing party and the ((~~workman's~~)) worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, ((~~workman~~)) worker or beneficiary. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by the director, for services before the department, and the board may review the fee fixed by said director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor.

Sec. 82. Section 51.52.130, chapter 23, Laws of 1961 and RCW 51.52.130 are each amended to read as follows:

If, on appeal to the court from the decision and order of the board, said decision and order is reversed or modified and additional relief is granted to a ((~~workman~~)) worker or beneficiary, or in cases where a party other than the ((~~workman~~)) worker or beneficiary is the appealing party and the ((~~workman's~~)) worker's or beneficiary's right to relief is sustained by the court, a reasonable fee for the services of the ((~~workman's~~)) worker's or beneficiary's attorney shall be fixed by the court. In fixing the fee the court shall take into consideration the fee or fees, if any, fixed by the director and the board for such attorney's services before the department and the board. If the court finds that the fee fixed by the director or by the board is inadequate for services performed before the department or board, or if the director or the board has fixed no fee for such services, then the court shall fix a fee for the attorney's services before the department, or the board, as the case may be, in addition to the fee fixed for the services in the court. If the decision and order of the board is reversed or modified and if the accident fund is affected by the litigation then the attorney's fee fixed by the court for services before the court

only, and the fees of medical and other witnesses and the costs shall be payable out of the administrative fund of the department.

Passed the House March 11, 1977.

Passed the Senate June 11, 1977.

Approved by the Governor July 1, 1977, with the exception of section 30 which was vetoed.

Filed in Office of Secretary of State July 1, 1977.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith without my approval as to one section House Bill No. 49 entitled:

"AN ACT Relating to industrial insurance;"

Section 30 of the bill purports to amend RCW 51.24.010 to change "workman" to "worker". Because Senate Bill No. 2154, codified in Chapter 85, Laws of 1977, 1st Extraordinary Session, approved by me on May 26, 1977, repealed that section of the RCW and made other substantive changes in the law dealing with the same subject and using the term "worker", section 30 is therefore unnecessary.

With the exception of section 30 which I have vetoed, the remainder of House Bill No. 49 is approved."

CHAPTER 351

[Substitute House Bill No. 68]

CEMETERIES

AN ACT Relating to cemeteries; amending section 31, chapter 290, Laws of 1953 and RCW 68.05.040; amending section 32, chapter 290, Laws of 1953 and RCW 68.05.050; amending section 40, chapter 290, Laws of 1953 as amended by section 16, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.05.180; amending section 51, chapter 290, Laws of 1953 as amended by section 4, chapter 99, Laws of 1969 ex. sess. and RCW 68.05.230; amending section 9, chapter 68, Laws of 1973 1st ex. sess. and RCW 68.46.090; and adding a new section to chapter 68.46 RCW.

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

Section 1. Section 31, chapter 290, Laws of 1953 and RCW 68.05.040 are each amended to read as follows:

A cemetery board is created to consist of ~~((five))~~ six members to be appointed by the governor. The first five members shall be appointed within thirty days after June 11, 1953. The terms of the five members first appointed shall expire: One, January 15, 1954; one, January 15, 1955; one, January 15, 1956; and two, January 15, 1957. Thereafter appointments shall be for a four year term. The sixth member shall be appointed within thirty days of the effective date of this 1977 amendatory act, and shall serve a four year term.

Sec. 2. Section 32, chapter 290, Laws of 1953 and RCW 68.05.050 are each amended to read as follows:

Three members of the board shall be ~~((appointed only from))~~ persons who have had ~~((, immediately preceding their appointment,))~~ a minimum of five ~~((consecutive))~~ years experience in this state in the active administrative management of a cemetery corporation or as a member of the board of directors thereof for this period ~~((and shall at the time of their appointment, have the actual and full authority of a president, general manager, or executive vice president, but they shall hold office only so long as they continue in such active, actual, and authoritative capacity. The five year consecutive period shall be exclusive of time spent in the armed~~