

CHAPTER 23.

[H. B. 4.]

INDUSTRIAL INSURANCE—TITLE 51 REENACTMENT.

AN ACT Relating to industrial insurance; enacting an industrial insurance code to be known as Title 51 of the Revised Code of Washington; providing penalties; repealing certain acts and parts of acts; and declaring an emergency.

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

TITLE 51

INDUSTRIAL INSURANCE

Chapter 51.04

GENERAL PROVISIONS

51.04.010 Declaration of police power—Jurisdiction of courts abolished. The common law system governing the remedy of workmen against employers for injuries received in hazardous work 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 and that little only at large expense to the public. The remedy of the workman 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Washington, therefore, exercising herein its police and sovereign power, declares that all phases of the premises are withdrawn from private controversy, and sure and certain relief for workmen, injured in extrahazardous work, and their families and dependents is hereby provided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.

51.04.020 Departmental functions, generally. The director shall:

- (1) Establish and promulgate rules governing the administration of this title;
- (2) Ascertain and establish the amounts to be paid into and out of the accident fund;
- (3) Regulate the proof of accident and extent thereof, the

proof of death and the proof of relationship and the extent of dependency;

(4) Supervise the medical, surgical, and hospital treatment to the intent that it may be in all cases efficient and up to the recognized standard of modern surgery;

(5) Issue proper receipts for moneys received and certificates for benefits accrued or accruing;

(6) Investigate the cause of all serious injuries and report to the governor from time to time any violations or laxity in performance of protective statutes or regulations coming under the observation of the department;

(7) Create a division of statistics within which shall be compiled such statistics as will afford reliable information upon which to base operations of all divisions under the department;

(8) Make annual report to the governor (one of them not more than sixty nor less than thirty days prior to each regular session of the legislature) of the workings of the department, and showing the financial status and the outstanding obligations of the accident fund and the statistics aforesaid;

(9) Report to each regular session of the legislature the balance remaining in the catastrophe injury account and make recommendations.

51.04.030 Departmental medical aid functions. The director shall, through the division of industrial insurance, provide prompt and efficient care and treatment to workmen injured in extra-hazardous work 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. No service covered by such fee bill shall be charged or paid for out of the medical aid fund 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 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, he shall approve and certify those which conform to the promulgated rules, regulations, and practices of the director and the director 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.

51.04.040 Attendance of witnesses by compulsion. The superior court shall have power to enforce by proper proceedings the attendance and testimony of witnesses and the production and examination of books, papers and records before the department.

51.04.050 Testimony of physicians not privileged. In all hearings, actions or proceedings before the department or the board of industrial insurance appeals, or before any court on appeal from the board, any physician having theretofore examined or treated the claimant may be required to testify fully regarding such examination or treatment, and shall not be exempt from so testifying by reason of the relation of physician to patient.

51.04.060 No evasion of benefits or burdens. No employer or workman shall exempt himself 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.

51.04.070 Minor workman is sui juris—Guardianship expense. 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, 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, 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 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.

51.04.080 Sending notices, orders, warrants to claimant. On all claims under this title, the division of industrial insurance shall not forward claimants' written notices, orders, and warrants to, or in care of, any representative of the claimant, but shall forward such notices, orders and warrants directly to the claimant until such time as the supervisor of industrial insurance shall have

entered an order on the claim appealable to the board of industrial insurance appeals.

51.04.090 Effect of adjudication of applicability. 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, or if any workman shall be adjudicated to be outside the lawful scope of this title because of remoteness of his work from the hazard of his 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 provided in it exclusive of any other remedy on the part of the workman 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.

51.04.100 Statutes of limitation saved. If the provisions of this title relative to compensation for injuries to or death of workmen 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 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.

Chapter 51.08

DEFINITIONS

51.08.010 Meaning of words. Unless the context indicates otherwise, words used in this title shall have the meaning given in this chapter.

51.08.015 "Amount," "Payment," "Premium," "Contribution." Wherever and whenever in any of the provisions of this title re-

lating to any payments by an employer the words "amount" and/or "amounts," "payment" and/or "payments," "premium" and/or "premiums," and "contribution" and/or "contributions" appear said words shall be construed to mean taxes, which are the money payments by an employer which are required by this title to be made to the state treasury for the accident fund and for the medical aid fund.

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

51.08.030 "Child." "Child" means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, and illegitimate child legitimated prior to the injury, all while under the age of eighteen years and over the age of eighteen years if the child is a dependent invalid child.

51.08.040 "Department." "Department" means department of labor and industries.

51.08.050 "Dependent." "Dependent" means any of the following named relatives of a workman 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: *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.

51.08.060 "Director." "Director" means the director of labor and industries.

51.08.070 "Employer." "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 extrahazardous work, by way of trade or business, or who contracts with one or more workmen, the essence of which is the personal labor of such workman or workmen, in extrahazardous work.

51.08.080 "Engineering work." "Engineering work" means any kind of construction, improvement or alteration or repair of buildings, structures, streets, highways, sewers, street railways, railroads, logging roads, interurban railroads, harbors, docks, canals, electric steam or water power plants, telegraph and telephone plants and lines, electric light or power lines, and includes any other works for the construction, alteration, or repair in which machinery driven by mechanical power is used.

51.08.090 "Factories." "Factories" means undertakings in which the business of working at commodities is carried on with power driven machinery, either in manufacture, repair, or change, and includes the premises, yard, and plant of the concern.

51.08.100 "Injury." "Injury" means a sudden and tangible happening, of a traumatic nature, producing an immediate or prompt result, and occurring from without, and such physical conditions as result therefrom.

51.08.110 "Invalid." "Invalid" means one who is physically or mentally incapacitated from earning.

51.08.120 "Mill." "Mill" means any plant, premises, room or place wherein machinery is used, together with the yards and premises which are a part of the plant, including elevators, warehouses, and bunkers.

51.08.130 "Mine." "Mine" means any mine where coal, clay, ore, mineral, gypsum, or rock is dug or mined underground.

51.08.140 "Occupational disease." "Occupational disease" means such disease or infection as arises naturally and proximately out of employment under the mandatory or elective adoption provisions of this title.

51.08.150 "Permanent partial disability." "Permanent partial disability" means the loss of either one foot, one leg, one hand, one arm, one eye, one or more fingers, one or more toes, any dislocation where ligaments were severed where repair is not complete, or any other injury known in surgery to be permanent partial disability.

51.08.160 "Permanent total disability." "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 from performing any work at any gainful occupation.

51.08.170 "Quarry." "Quarry" means an open cut from which coal is mined, or clay, ore, mineral, gypsum, sand, gravel, or rock

is cut or taken for manufacturing, building or construction purposes.

51.08.180 "Workman." "Workman" 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 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 personal labor for an employer under this title, whether by way of manual labor or otherwise, in the course of his employment.

51.08.190 "Workshop." "Workshop" means any plant, yard, premises, room, or place wherein power driven machinery is employed and manual labor is exercised by way of trade for gain or otherwise, over which the employer of the person working therein has the right of access or control.

Chapter 51.12

EMPLOYMENTS AND OCCUPATIONS COVERED

51.12.010 Employments included. There is a hazard in all employment, but certain employments have come to be, and to be recognized as being inherently constantly dangerous. This title is intended to apply to all such inherently hazardous works and occupations, and it is the purpose to embrace all of them which are within the legislative jurisdiction of the state, in the following enumeration, and they are intended to be embraced within the term "extrahazardous" wherever used in this title, to-wit:

Factories, mills and workshops where machinery is used; printing, electrotyping, photoengraving and stereotyping plants where machinery is used; foundries, blast furnaces, mines, wells, gas works, waterworks, reduction works, breweries, elevators, wharves, docks, dredges, smelters, powder works; laundries operated by power, quarries, engineering works; logging, lumbering and ship-building operations; logging, street and interurban railroads; buildings being constructed, repaired, moved, or demolished; telegraph, telephone, electric light or power plants or lines, steam heating or power plants, steamboats, tugs, ferries, and railroads; installing and servicing radios and electrical refrigerators; general warehouse and storage; teaming, truck driving, and motor delivery, including drivers and helpers, in connection with any occupation except agriculture; stage, taxicab and for hire driving; restaurants, taverns, clubs, and establishments; employees supplying service to the public in hotels, clubs furnishing sleeping accommodations, apartment hotels; janitors, chambermaids, porters, bellmen, pinsetters, ele-

vator operators and maintenance men employed in apartment houses, office buildings, stores, mercantile establishments, theaters and bowling alleys employing one or more employees; bunkhouses, kitchens, and eating houses in connection with extrahazardous occupations or conducted primarily for employees in extrahazardous occupations; transfer, drayage, and hauling; warehousing and transfer; fruit warehouse and packing houses; and work performed by salaried peace officers of the state, the counties, and the municipal corporations.

51.12.020 Employments excluded. The following shall not be deemed extrahazardous within the meaning, or be included in the enumeration of RCW 51.12.010, to-wit: Using power-driven coffee grinders in wholesale or retail grocery stores; using power-driven washing machines in establishments selling washing machines at retail; using computing machines in offices; using power-driven taffy pullers in retail candy stores; using power-driven milk shakers in establishments operating soda fountains; using power-driven hair cutters in barber shops; using power-driven machinery in beauty parlors; using power-driven machinery in optical stores; private boarding houses, serving food or drink to the public or to members for consumption on the premises.

51.12.030 Inclusion of unenumerated occupations. If there be or arise any extrahazardous occupation or work other than those enumerated, it shall come under this title, and its rate of contribution to the accident fund shall be, until fixed by legislation, determined by the department upon the basis of the relation which the risk involved bears to the risks classified in chapter 51.20.

51.12.040 Inclusion by director after hearing. The director, through the division of industrial insurance, may, after hearing had upon his own motion, or upon the application of any party interested, declare any occupation or work to be extrahazardous and to be under this title. The director shall fix the time and place of such hearing and shall cause notice thereof to be published once at least ten days before the hearing in at least one daily newspaper of general circulation, published and circulated in each city of the first class of this state. No defect or inaccuracy in such notice or in the publication thereof shall invalidate any order issued by the director after hearing had. Any person affected shall have the right to appear and be heard at any such hearing.

51.12.050 State, county and municipal work—Liability for premiums. Whenever the state, county, any municipal corporation, or other taxing district shall engage in any extrahazardous work, or let a contract therefor, in which workmen are employed for wages, this title shall be applicable thereto. The employer's pay-

ments 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 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 actual wages and that received from the department under this title such employee shall be entitled to the benefits of this title and may be included in the payroll of the municipality.

51.12.060 Federal projects. 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 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.

51.12.070 Work done by contract—Liability for premiums. The provisions of this title shall apply to all extrahazardous work done by contract; the person, firm, or corporation who lets a contract for such extrahazardous work shall be responsible primarily and directly for all payments due to the accident fund and medical

aid fund upon the work. The contractor and any subcontractor shall be subject to the provisions of this title and the person, firm, or corporation letting the contract shall be entitled to collect from the contractor the full amount payable to the accident fund and medical aid fund, and the contractor in turn shall be entitled to collect from the subcontractor his proportionate amount of the payment.

It shall be unlawful for any city or town to issue a construction building permit to any person who has not submitted to the department an estimate of payroll and paid premium thereon as provided by chapter 51.16 of this title.

51.12.080 Interstate, foreign and intrastate railway employees. Inasmuch as it has proved impossible in the case of employees of common carriers by railroad, engaged in maintenance and operation of railways doing interstate, foreign and intrastate commerce, and in maintenance and construction of their equipment, to separate and distinguish the connection of such employees with interstate or foreign commerce from their connection with intrastate commerce, and such employees have, in fact, received no compensation under this title, the provisions of this title shall not apply to work performed by such employees in the maintenance and operation of such railroads or performed in the maintenance or construction of their equipment, or to the employees of such common carriers by railroad engaged therein, but nothing herein shall be construed as excluding from the operation of this title railroad construction work, or the employees engaged thereon: *Provided*, That common carriers by railroad engaged in such interstate or foreign commerce and in intrastate commerce shall, in all cases where liability does not exist under the laws of the United States, be liable in damages to any person suffering injury while employed by such carrier, or in case of the death of such employee, to his surviving wife and child, or children, and if no surviving wife or child or children, then to the parents, sisters, or minor brothers, residents of the United States at the time of such death, and who were dependent upon such deceased for support, to the same extent and subject to the same limitations as the liability now existing, or hereafter created, by the laws of the United States governing recoveries by railroad employees injured while engaged in interstate commerce: *Provided further*, That if any interstate common carrier by railroad shall also be engaged in one or more intrastate enterprises or industries (including street railways and power plants) other than its railroad, the foregoing provisions of this section shall not exclude from the operation of the other sections of this title or bring under the foregoing proviso of this section any extrahazardous work of such other enterprise or in-

dustry, the payroll of which may be clearly separable and distinguishable from the payroll of the maintenance or operation of such railroad, or of the maintenance or construction of its equipment: *Provided further*, That nothing in this section shall be construed as relieving an independent contractor engaged through or by his employees in performing extrahazardous work for a common carrier by railroad, from the duty of complying with the terms of this title, nor as depriving any employee of such independent contractor of the benefits of this title.

51.12.090 Intrastate and interstate commerce. The provisions of this title shall apply to employers and workmen (other than railroads and their workmen) 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 may and shall be clearly separable and distinguishable from the payroll of workmen engaged in interstate or foreign commerce: *Provided*, That as to workmen 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 brought into this state for the purpose of engaging in extrahazardous work.

51.12.100 Maritime occupations—Segregation of payrolls—Common enterprise. The provisions of this title shall apply to all employers and workmen, except a master or member of a crew of any vessel, engaged in maritime occupations for whom no right or obligation exists under the maritime laws for personal injuries or death of such workmen.

If an accurate segregation of payrolls covering any class or classes of workmen engaged in maritime occupations and working part time on shore and part time off shore 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 such class or classes of employees to cover the shore part of their work, and the employer shall pay to the accident fund on that basis for the time such workmen 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, such site or place shall be deemed for the purposes of this title to be the common plant of such employers.

51.12.110 Elective adoption. Any employer engaged in any occupation other than those enumerated or declared to be under this title, may make written application to the director to fix rates of contribution for such occupation for industrial insurance and for medical aid, and thereupon the director, through the division of industrial insurance, shall fix such rates, which shall be based on the hazard of such occupation in relation to the hazards of the occupations for which rates are prescribed. When such rate is fixed the applicant may file notice in writing with the supervisor of industrial insurance of his or its election to contribute under this title, and shall forthwith display in a conspicuous manner about his or its works and in a sufficient number of places to reasonably inform his or its workmen of the fact, printed notices furnished by the department stating that he or it has elected to contribute to the accident fund and the medical aid fund and stating when said election will become effective. Any workman in the employ of such applicant shall be entitled at any time within five days after the posting of said notice by his employer, or within five days after he 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 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 or its workmen 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.

Chapter 51.16

ASSESSMENT AND COLLECTION OF PREMIUMS— PAYROLLS AND RECORDS

51.16.010 Enabling provision for establishing premium rates—Quarterly payments. Inasmuch as industry should bear the greater portion of the cost of its accidents and occupational diseases and furnish medical, surgical and hospital care and treatment to its injured workmen in the proportion in which it produces injury and creates expense, each employer shall, prior to the last day of January, April, July and October of each year, pay into the state treasury (1) for the accident fund and (2) for the medical aid fund,

a certain number of cents for each man hour worked by the workmen in his employ, engaged in extrahazardous employment; if, however, there should be a deficit in any class or subclass, the director, through the supervisor of industrial insurance, shall assess the same against all the contributors to such class or subclass during the calendar year or fraction thereof in which said deficit was incurred or created. The director may promulgate, change, and revise such rates according to the condition of the accident and medical aid funds, and establish rates for industries to be hereafter declared extrahazardous and which voluntarily seek coverage under the elective adoption provisions.

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

The department shall also, prior to the first day of January of each year, determine the premium rate to be paid into said accident fund during the ensuing year by each employer to be credited to each class and subclass account, applicable to the employer's operations or business and, in so doing, shall take into consideration the average cost experience of each employer for each workman hour reported by him during each fiscal year in each such class or subclass over the five year period immediately preceding July 1st of the year in which the rate is being determined and, in so computing the cost experience of any employer, seventy-five percent of the average cost of pension claims shall be charged against his experience for each injury resulting in death or total permanent disability of a workman instead of the actual cost to the accident fund of such injury. The actual premium rate which any employer shall be required to pay for the accident fund shall be forty percent of the basic rate, plus sixty percent of the employer's cost rate for each workman hour reported by him during each fiscal year over the five year period next preceding the then last July 1st, but in no case shall the total rate exceed one hundred sixty percent of the basic rate.

Note: See also section 6, chapter 274, Laws of 1961.

51.16.030 Medical aid fund not kept by classes—Payments from one fund—Basis of determining premiums. The medical aid fund shall not be kept by classes and all payments shall be made from the one fund, but accounts shall be kept with each class and subclass of industry in accordance with the classification provided for the purpose of computing the medical aid cost experience of such classes and subclasses and determining the correctness of the medical aid rates charged such classes and subclasses.

51.16.040 Occupational diseases — Basis for determining premiums — Compensation and benefits. The compensation and benefits provided for occupational diseases shall be paid from the same funds and in the same manner as compensation and benefits for injuries under the industrial insurance and medical aid acts and the contributions of employers to pay for occupational diseases shall be determined, assessed, and collected in the same manner and as a part of the premiums for employment under the mandatory or elective adoption provisions of this title.

51.16.050 Building industry—Rate base computation. The premiums of employers of the building industry, which shall include all field activities in connection with the erection, alteration, repairing, or demolishing of any building or buildings or parts thereof or appurtenance thereto, adapted to residential, business, governmental, educational, or manufacturing uses, shall be computed on a base rate only and no merit rating credits or penalties shall be given or imposed on such employers.

51.16.060 Quarterly report of payrolls. Every employer shall, on or before the last day of January, April, July and October of each year hereafter, furnish the department with a true and accurate payroll and the aggregate number of workmen hours, during which workmen were employed by him during the preceding calendar quarter, the total amount paid to such workmen during such preceding calendar quarter, and a segregation of employment in the different classes provided in this title, and shall pay his premium thereon to the accident fund and medical aid fund. The sufficiency of such statement shall be subject to the approval of the director: *Provided*, That the director may in his 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, his hours worked, his rate of pay and the class or classes in which such work was performed.

51.16.070 Employer's office record of employment—Confidentiality. Every employer shall keep at his place of business a record of his employment from which the information needed by the department may be obtained and such record shall at all times

be open to the inspection of the director, supervisor of industrial insurance, or the traveling auditors, agents, or assistants of the department, as provided in RCW 51.48.040.

Information obtained from employing unit records 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 any interested party shall be supplied with information from such records to the extent necessary for the proper presentation of the case in question: *Provided*, That any employing unit may authorize inspection of its records by written consent.

51.16.080 Single establishment with different risk classes—Basis for determining premiums. If a single establishment or work comprises several occupations listed in chapter 51.20 in different risk classes, the premium shall be computed according to the workmen hours of each occupation or, in the discretion of the director, a single rate of premium may be charged for the entire establishment based upon the rate of premium of the occupation reporting the largest number of workmen hours.

51.16.090 Employer may not evade unfavorable cost experience—Continuation of experience rating when legal structure of employer changes. To the end that no employer shall evade the burdens imposed by an unfavorable or high cost experience, the director may determine whether or not an increase, decrease, or change (1) of operating property; (2) of interest in operating property; (3) of employer; (4) of personnel or interest in employer is sufficient to show a bona fide change which would make inoperative any high cost experience: *Provided*, That where an employer is now or has prior to January 1, 1958, been covered under the provisions of this title for a period of at least two years and subsequent thereto the legal structure of the employer changes by way of incorporation, disincorporation, merger, consolidation, transfer of stock ownership, or by any other means, such person or entity as legally reconstituted shall be entitled to a continuation of the experience rating which existed prior to such change in the employer's legal structure unless there has been such a substantial change as provided in subdivisions (1), (2), (3) or (4) of this section as would warrant making inoperative any high cost experience.

51.16.100 Changes in classification. It is the intent that the accident fund shall ultimately become neither more nor less than self-supporting, except as provided in RCW 51.16.105 and, if in the adjustment of premium rates by the director the moneys paid into the fund by any class or classes shall be insufficient to properly and safely distribute the burden of accidents occurring therein, the

department may divide, rearrange, or consolidate such class or classes, making such adjustment or transfer of funds as it may deem proper. The director shall make corrections of classifications or subclassifications or changes in rates, classes and subclasses when the best interest of such classes or subclasses will be served thereby.

51.16.105 Administrative expenses of the safety division, how financed. All administrative expenses of the safety division of the department, except those incurred by the administration of chapter 19.28, shall be financed from the combined receipts of the accident and medical aid funds. The administrative expense paid from the accident fund shall not exceed four percent, and from the medical aid fund it shall not exceed one and one-half percent. But in no case shall the total expense paid from the combined receipts of both funds exceed five percent. The percentage shall be computed on the combined average annual receipts for the five previous fiscal years.

51.16.110 New businesses or resumed operations. Every employer who shall enter into any business, or who shall resume operations in any work or plant after the final adjustment of his payroll in connection therewith, shall, before so commencing or resuming operations, as the case may be, notify the director of such fact, accompanying such notification with a cash deposit in a sum equal to the premiums on the estimate of his payroll and workmen hours for the first three calendar months of his proposed operations which shall remain on deposit subject to the other provisions of this section.

The director may, in his discretion and in lieu of such deposit, accept a bond, in an amount which he deems sufficient, to secure payment of premiums due or to become due to the accident fund and medical aid fund. The deposit or posting of a bond shall not relieve the employer from paying premiums to the accident fund and medical aid fund based on his actual workmen hours as provided by RCW 51.16.010 and 51.16.060.

Should the employer acquire sufficient assets to assure the payment of premiums due to the accident fund and the medical aid fund the director may, in his discretion, refund the deposit or cancel the bond.

If the employer ceases to be an employer under RCW 51.08.070, the director shall, upon receipt of all payments due the accident fund and medical aid fund based on the actual workmen hours, refund to the employer all deposits remaining to the employer's credit and shall cancel any bond given under this section.

Every such employer shall pay the full basic rate until such time as an experience rating in excess of a one, two, three, or four year

period may be computed as of a first succeeding July 1st date, which said cost experience shall be computed in accordance with the provisions of RCW 51.16.020, and shall be liable for a premium of at least two dollars per month irrespective of the amount of his workmen hours reported during said month to the department: *Provided*, That where an employer is now or has prior to January 1, 1958, been covered under the provisions of this title for a period of at least two years and subsequent thereto the legal structure of such employer changes by way of incorporation, disincorporation, merger, consolidation, transfer of stock ownership, or by any other means, the director may continue, increase, or decrease such experience rating which existed prior to such change in the employer's legal structure.

51.16.120 Distribution of further accident cost. Whenever a workman 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 accident cost rate 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 account.

51.16.130 Distribution of catastrophe cost. Whenever there shall occur an accident in which three or more employees are fatally injured or receive injuries consisting of loss of both eyes or sight thereof, or loss of both hands or use thereof, or loss of both feet or use thereof, or loss of one hand and one foot or use thereof, the amount of total cost other than medical aid costs arising out of this accident that shall be charged to the proper class of the accident fund and to the account of the employer, shall be twice the average cost of pension claims chargeable under RCW 51.16.020, and the balance of costs arising out of the accident shall be charged against and defrayed by the catastrophe injury account.

51.16.140 Premium liability of workman. The employer shall deduct from the pay of each of his workmen engaged in extrahazardous work one-half of the amount the employer is required to pay into the medical aid fund for or on account of the employment of such workman, but it shall be unlawful for the employer to deduct or obtain any part of the premium required to be by him paid into the accident fund from the wages or earnings of any of his workmen, and the making of or attempt to make any such deduction shall be a gross misdemeanor.

51.16.150 Delinquent employers—Penalty after demand—Injunctive relief. If any employer shall default in any payment to the accident fund or the medical aid fund, the sum due shall be collected by action at law in the name of the state as plaintiff, and such right of action shall be in addition to any other right of action or remedy. If such default occurs after demand, there shall also be collected a penalty equal to twenty-five percent of the amount of the defaulted payment or payments, and the director may require from the defaulting employer a bond to the state for the benefit of the accident and medical aid funds, with surety to the director's satisfaction, in the penalty of double the amount of the estimated payments which will be required from such employer into the said funds for and during the ensuing one year, together with any penalty or penalties incurred. In case of refusal or failure after written demand personally served to furnish such bond, the state shall be entitled to an injunction restraining the delinquent from prosecuting an extra-hazardous occupation or work until such bond is furnished, and until all delinquent premiums, penalties, interest and costs are paid, conditioned for the prompt and punctual making of all payments into said funds during such periods, and any sale, transfer, or lease attempted to be made by such delinquent during the period of any of the defaults herein mentioned, of his works, plant, or lease thereto, shall be invalid until all past delinquencies are made good, and such bond furnished.

51.16.160 Priority of lien for premiums and penalties. All actions for the recovery of delinquent premiums and penalties shall be brought in the superior court and in all cases of probate, insolvency, assignment for the benefit of creditors, or bankruptcy, the claim of the state for the payments due shall be a lien prior to all other liens or claims and on a parity with prior tax liens and the mere existence of such cases or conditions shall be sufficient to create such lien without any prior or subsequent action by the state, and all administrators, receivers, or assignees for the benefit of creditors shall notify the department of such administration, receivership, or assignment within thirty days from date of their appointment and qualification. In any action or proceeding brought for the recovery of payments due upon the payroll of an employer, the certificate of the department that an audit has been made of the payroll of such employer pursuant to the direction of the department and the amount of such payroll for the period stated in the certificate shall be prima facie evidence of such fact.

51.16.170 Priority of lien for payments and penalties against third party interests. Separate and apart from and in addition to the foregoing provisions in this chapter, the claims of the state for payments and penalties due under this title shall be a lien prior to all

other liens or claims and on a parity with prior tax liens not only against the interest of any employer, but against the interests of all others, in real estate, plant, works, equipment, and buildings improved, operated, or constructed by any employer, and also upon any products or articles manufactured by such employer.

The lien created by this section shall attach from the date of the commencement of the labor upon such property for which such premiums are due. In order to avail itself of the lien hereby created, the department shall, within four months after the employer has made report of his payroll and has defaulted in the payment of his premiums thereupon, file with the county auditor of the county within which such property is then situated, a statement in writing describing in general terms the property upon which a lien is claimed and stating the amount of the lien claimed by the department. If any employer fails or refuses to make report of his payroll, the lien hereby created shall continue in full force and effect, although the amount thereof is undetermined and the four months' time within which the department shall file its claim of lien shall not begin to run until the actual receipt by the department of such payroll report. From and after the filing of such claim of lien, the department shall be entitled to commence suit to cause such lien to be foreclosed in the manner provided by law for the foreclosure of other liens on real or personal property, and in such suit the certificate of the department stating the date of the actual receipt by the department of such payroll report shall be prima facie evidence of such fact.

51.16.180 Property acquired by state on execution. The director shall have the custody of all property acquired by the state at execution sale upon judgments obtained for delinquent industrial insurance premiums or medical aid contributions, and penalties and costs, and may sell and dispose of the same at private sales for the sale purchase price, and shall pay the proceeds into the state treasury to the credit of the accident fund, or medical aid fund, as the case may be. In case of the sale of real estate the director shall execute the deed in the name of the state.

Chapter 51.20

CLASSIFICATION OF OCCUPATIONS

51.20.005 Classifications established. The basic premium rates shall be in accordance with the following classifications, subclassifications, and schedules and the rates shall be as established by the director.

As used in this chapter:

"N.O.S." means "not otherwise specified."

51.20.010 Class 1.**Class 1-1**

Airports, landing strips, runways and taxi ways, construction and repair

Asphalt mixing

Asphalt paving

Back filling (incidental to pipe laying, sewers, trenches, and conduit construction)

Bituminous paving, all types

Block paving

Cesspools, construction

Coaxial cable, underground construction

Concrete construction, N.O.S. (includes erection and tearing down of forms)

Concrete construction, reinforced, N.O.S.

Concrete culverts or other types with span of 12 feet or less (excludes bridge and trestle approaches)

Concrete sidewalks and driveways, N.O.S.

Concrete street pavements

Conduit, construction

Crushed stone surfacing

Diamond drilling (if work performed directly in connection with construction work, then the construction classification shall apply)

Diking

Ditches and canals, N.O.S.

Dredging (includes all marine dredging local in character)

Excavations, N.O.S.

Fence, all types, erection and repair

Fish rearing ponds, construction

Grading, N.O.S.

Grading streets, highways, and roads (includes grubbing and clearing in connection with street and highway grading)

Highway, street and road construction (includes grubbing and clearing in connection with street and highway grading; excludes tunneling in connection with road construction; excludes bridge construction)

Land clearing

Paving, all types

Pipelaying

Pit, crusher and bunker operations in connection with road, street and highway construction

Plank roads and streets, construction

Railroads, construction work other than bridge work

Railroad, grading

Railroad maintenance and repair

Retaining walls, all types, in connection with road, street and highway construction
Road surfacing, all types
Sewage disposal plants, construction
Sewers
Shaft sinking, N.O.S.
Sidewalks, plank
Soil conservation districts, all operations
Tree topping, commercial
Trenches
Tunnels and approaches, all types, N.O.S.
Tunnels, railroad (including lining)
All excavations, back filling, construction, repairing, dismantling and the installing of road beds in connection with any of the above types of work is subject to this class.
Water mains, construction and repair
(See class 15-1 for city and county maintenance)
Well drilling or digging
Transportation of equipment by job contractor subject to this class.
Maintenance and repair of equipment and machinery in connection with above types of work at job site or at site of emergency repair subject to this class 1-1.
All back filling in connection with above types of work subject to this class 1-1.

51.20.020 Class 2.**Class 2-1**

Breakwater, construction
Bridge building, steel, wood or concrete, all types
Bridge foundations and approaches
Bulkhead construction, water hazard
Concrete culverts or other types with span more than 12 feet
Concrete piles in docks and trestles
Jetties
Marine railways, construction
Overhead crossings
Pile driving (includes marine pile driving local in character)
Railroads, bridge and trestle work
Rip-rapping, water hazard
Spans, monoliths, structures, causeways and roadways elevated, all types
Subaqueous work (includes diving operations)
Trestles and approaches, all types
Undercrossings

Viaducts, all types

Wharf and pier construction

All excavating, back filling, constructing, repairing, dismantling, and the installing of road beds in connection with any of the above types of work is subject to class 2-1.

51.20.050 Class 5.

For the purpose of this act, a janitor or handyman shall be considered a man of all work, i.e., one whose work is so varied and indefinite that it is impractical to segregate his time between nonhazardous and extrahazardous operations.

A maintenance man shall be considered as one who has been hired to perform specific extrahazardous work although a part of the employment may be nonhazardous; such work consisting primarily of the maintaining in repair or in condition fixed or established property. See class 5 subclasses for maintenance work. (Home owners—elective adoption—see class 48-7)

Class 5-2

Brick work, construction, N.O.S. (See class 5-5 for brick buildings)

Carpet laying

Chimneys, all types, N.O.S.

Commercial landscaping, involving use of power driven machinery

Commercial care and upkeep of lawns and flower beds involving power driven machinery

Flooring, laying of all types

Linoleum or composition covering of walls, floors, drainboards, etc.

Mantel setting

Marble, tile and terra cotta, all types, application

Rock walls and rockeries, erection and repairing

Slate work

Class 5-3

Air conditioning and refrigeration systems, installation and repair

Automatic sprinklers, installation

Boiler, installation and covering

Chimney and smoke hood cleaning

Furnaces, installation

Heating systems, installation

Installation of padding on steam pressing equipment

Metal weather stripping, installation

Plumbing work (See class 1-1 for pipe laying)

Safes and vaults, installations and removals

Sewer pipe cleaning
Steam pipe covering, installation
Venetian blinds and shades, installation
Ventilating systems, installation
Repairing and servicing of above types of equipment away from the premises of employer's shop subject to this class 5-3. (See class 34-2 for shop work)

Class 5-4

Billboard and advertising signs, construction, installation and maintenance, all types
Chemical spraying and fumigation, commercial operations only
Frescoing
Kalsomining
Painting, building or structures (includes washing of building or structures as an incidental part of the painting operation)
Painting, inside or outside work (includes washing of surfaces to be painted, as an incidental part of the painting operation)
Paper hanging
Sign painting, inside and outside (excludes inside shop work)
Street and building decorating
Washing buildings, inside or outside
Whitewashing
Window washing (excludes domestics, janitors and handymen regularly employed for other purposes; includes the actual time of all workmen specifically employed to wash buildings or windows). (See classes 34-2, 34-4, and 41-1 for shop work)

Class 5-5

All building industry operations, which include all field activities in connection with the erection, alteration, repairing or demolishing of any building or buildings or part thereof or appurtenance thereto (excludes a person employing help by day labor to perform work on his own home—see class 48-7)
Bowling alley installation (excludes automatic pinsetting machinery—see class 6-3)
Carpenter work (includes all carpenter and helpers work in connection with alterations, repairs and installation in building industry)
Chimneys, all types, if part of a building industry operation
Concrete and brick buildings (includes all operations in connection with the construction of a concrete or brick building)

Fireproof doors and shutters, erection and repair
Galvanized iron or tin work, roof or cornice, installation or repair
Glass, installation
Grain elevators and warehouses, construction and repair
Hothouse construction and repair
House and building moving and wrecking
Installation and repair of all fixtures and equipment in houses or buildings, N.O.S.
Lathing
Metal ceiling work
Ornamental metalwork in and on buildings
Plastering
Quonset hut erection and dismantling, all types
Roof work, all types, construction and repair
Stair building, all types
Stuccoing
Excavations and back filling in connection with building construction, if work done directly by building contractor, subject to this class 5-5

Class 5-8
Cable railways, construction
Chimneys, metal erection and repair
Coaxial cable, overhead construction
Electric railways, construction
Oil refinery, construction
Steel and iron frame structures, other than bridges, erection
Steeple, erection
Street railway grading and construction (excludes all bridge and trestle work)
Structural steel, N.O.S.
Tanks, concrete, metal or wooden, erection
Telephone and telegraph systems, construction
Towers, wood, metal or concrete, all types, erection (includes electrical transmission towers)
Transmission and distribution lines, construction (includes erection of wood and metal poles)
Windmills, wood or metal, erection
This class to include all excavations and foundation work, including dismantling and repairing of above types of structures.

51.20.060 Class 6.

Class 6-1

Conduits, placing wires in
Electrical apparatus, installing systems in buildings

Electrical installations, servicing and repairs, N.O.S. (excludes shop work)

Fire alarms, installation

Highway lighting, installation

Servicing of electrical amusement devices (excludes shop work)

Television antenna installation and repair

Television cable maintenance

Vending machines installation and servicing

Wiring of buildings and structures

This class includes household installation and servicing of manufactured household electrical appliances. (See class 34-2 for shop work)

Class 6-3

Automatic pin-setting machine, installation

Belts, erection of shafting

Dynamos, installation

Elevator, freight or passenger, installation and repair

Engines, installation

Gas machine, installation

Machinery, installation, dismantling and servicing away from shop premises

Railroad dismantling (excludes bridges, trestles and snowshed wrecking)

Class 6-4

Junk dealers

51.20.070 Class 7.

Class 7-1

Dam construction, all operations (includes office employees within damsite area)

51.20.080 Class 8.

Class 8-3

Highway department of counties and cities, all operations in connection with highway maintenance (excludes all new highway construction, grading or bridge building, which operation must be reported in respective classifications)

Class 8-4

Commercial production of sand, gravel and processing clay and stone products

Class 8-6

Irrigation ditches, operation, repair and maintenance

51.20.090 Class 9.

Class 9-1

Boat building and dismantling, steel hulls

Shipbuilding and dismantling, steel hulls (includes all operations within shipyards)

Class 9-2

Boat building, wooden hulls

Shipbuilding, wooden hulls (includes all operations within shipyards)

51.20.100 Class 10.

Class 10-2

Creosote works (includes yard operations)

Lath mills, planing mills, sawmills and tie mills, operation and maintenance (includes yard operations)

Loading and unloading of ties and lumber (excludes operations subject to classes 42-1 and 50-1)

Lumber hauling (see class 11-3 for retail lumber yards)

Lumber inspectors

Manufacture of shakes, hand or machinery operation (does not include cutting of shingle bolts, see class 50-1)

Masts, with or without machinery

Pile and pole treating works (includes yard operations)

Pole yard, independent of logging operations, N.O.S.

Shingle mills, operation and maintenance

Spars, with or without machinery (excludes work in woods, see class 50-1)

51.20.110 Class 11.

The time of truck drivers and helpers shall be reported as follows:

- (1) If the employer's main business is under the act, the classification of the main business will apply.
- (2) If trucking is incidental to and wholly a part of an extrahazardous department of a main nonhazardous business, then the classification applicable to the extrahazardous department will apply.
- (3) If trucking is the only extrahazardous operation being conducted, then classification 11-1 will apply. (Excludes log trucking—see class 50-1)
- (4) If trucking is separate and distinct from other extrahazardous operations, or separate and distinct from other extrahazardous operations of a main nonhazardous business, then classification 11-1 will apply. (Excludes log trucking—see class 50-1)

Class 11-1

Agricultural ammonia fertilizer (delivery and application)

Auto freight transportation

Drayage, transfer and storage (includes teamsters, drivers and helpers)

General hauling, N.O.S. and trucking (excludes log trucking)
Septic tank cleaning (excludes installation or repair)
Teaming, truck driving and motor delivery, N.O.S.

Class 11-3

Retail solid fuel yard operation (excludes liquid fuel. See class 34-7)

Wholesale and retail lumber yard operation (excludes yard operations subject to class 10-2)

51.20.130 Class 13.

Class 13-1

Bridge tenders, electrically operated bridges

Electric light and power plants, operation and maintenance (includes meter readers)

Electric systems, N.O.S., operation and maintenance

Steam heat and power plants, operation and maintenance

Class 13-3

Maintenance of telegraph lines

Telegraph systems, operation

Telephone systems, operation and maintenance (excludes telephone operators) (if interstate operations involved, payroll segregation to be permitted—for interstate companies only)

51.20.140 Class 14.

Class 14-1

Ambulance drivers and helpers

City or town passenger bus operation (includes those operated by municipalities in connection with street railway system or as a replacement of street railway system and also those operated by others operating under a municipal franchise)

Ferries, steamboats, tugs; operations

School bus drivers, vehicles used must be under direct control of school district and driver must be expressly employed by school district, or under contract with school district (excludes persons using their own passenger cars to transport children to and from school)

Stage, taxicab and for hire car driving

51.20.150 Class 15.

Class 15-1

City and county operation and maintenance (includes all extrahazardous operations in connection with regular functions of city and county government; includes peace officers on salary and probation officers having police powers; excludes all operations in connection with the maintenance of highways by counties and cities. See class 8-3) New con-

struction of bridges, grading and paving of roads shall be reported in respective classifications

Housing authorities, local public, all employees

Water works, operation (includes meter readers)

Class 15-2

Tuberculosis sanatoriums (all employees)

51.20.160 Class 16.

Class 16-1

Coal mines (includes shaft sinking and all tunneling in connection with all coal mines)

Coke ovens, operations (excludes office force only)

Class 16-2

Coal mines (includes shaft sinking and all tunneling in connection with all coal mines)

Coke ovens, operation (excludes office force only)

51.20.170 Class 17.

Class 17-2

Clay pits, N.O.S.

Mines, all types other than coal (includes all shaft sinking and tunneling in connection with mines other than coal)

Open cut mining, all types (excludes prospecting and assessment work)

Ore reduction, by wet or dry process without application of heat at mine

Placer or hydraulic mining

Shaft sinking, metal mines

Tunneling, metal mines

Class 17-3

Quarries

Stone cutting, quarry hazard

51.20.180 Class 18.

Class 18-1

Aluminum reduction plants and rolling mills

Blast furnaces, operation

Copper, lead, zinc, etc., smelting

Open hearth furnaces, operation

Rolling mills, operation

Smelters, operation

Steel and iron making

51.20.210 Class 21.

Class 21-1

Chop, feed and flour mills, operation

Grain and feed stores—wholesale and retail (includes drivers and helpers)

Seed cleaning

Class 21-2

Commercial storage warehouses, operation (includes drivers and helpers; excludes line drivers, see class 11-1)

Commercial grain warehouse and elevators, operation

Warehouse operations of merchandise wholesalers, N.O.S. (excludes drivers and helpers. See class 11-1 for drivers and helpers)

Class 21-4

Commission fruit and vegetable warehouses (see class 11-1 for drivers and helpers)

Commercial fruit warehouses (includes all operations in connection with grading, sorting and packing of fresh fruit)

Commercial vegetable warehouses, same as fruit warehouses

This class includes cold storage operations if a part of warehousing operations; if a separate distinct operation or business see class 44-1.

51.20.220 Class 22.

Class 22-1

Carpet and rug cleaning

Dye works and cleaners (includes drivers and helpers)

Laundries, operation (includes drivers and helpers)

51.20.240 Class 24.

Class 24-1

Paper, working in

Paper mills, operation and maintenance

Paper products, manufacturing

Pulpmills, operation and maintenance

51.20.290 Class 29.

Class 29-3

Barrels, kegs, pails, manufacturing (excludes metal)

Basket manufacturing

Boxes and packing cases, manufacturing

Cabinet works

Cooperage, manufacturing

Excelsior, manufacturing

Furniture, manufacturing, repair and refinishing

Glazing, beveling and setting glass in shops and factories

Kindling wood

Manual training instructors, shop work only, public schools only

Pattern shops, independent

Plant fabrication of ready-made houses (see class 5-5 for erection)

Sash and door factories, all factory operations
Sash, door, etc., manufacturing
Staves, barrel, tub, manufacturing (excludes metal)
Venetian blinds, manufacturing
Wood pipe, manufacturing
Wood working, N.O.S., shop work only
Wooden and fibre ware, manufacturing

Class 29-4

Commercial production of plywood
Commercial production of wood veneer

51.20.310 Class 31.

Class 31-1

Asbestos products manufacturing
Building material, N.O.S.
Cement, manufacturing
Concrete blocks, tiles, and pipe manufacturing
Gypsum, manufacturing
Insulation material, manufacturing
Lime, manufacturing
Paving blocks, cutting
Pre-mixing concrete
Staves, cement, manufacturing
Stone cutting, away from quarry
All employers engaged in the business of manufacturing
building materials, N.O.S. and the wholesale warehousing
of such building materials subject to this class.

51.20.330 Class 33.

Class 33-1

Fish canneries and fish trap, operation
Fish oil, manufacturing
Fish products
Fish receiving and wholesaling
Fish reduction plants, operation
Oyster beds, operation
Oyster, crab and clam canning or cold packing

51.20.340 Class 34.

Class 34-1

Auto sales agencies, used car dealers and garages, (includes
only those operations in connection with storage, service,
parts and repair departments; gas and oil service stations
performing auto repairing subject to this class)
Automobile body construction, repair and painting
Automobile repair
Automobile wrecking
Tire vulcanizing, rebuilding and recapping

Class 34-2

Battery manufacturing

Blacksmith shops, with machinery

Boiler works

Bowling alleys (includes janitors, mechanics, pin chasers and pin setters)

Foundries

Furnace assembly

Machine shops, N.O.S.

Marina, shop work (excludes boat building and repair)

Motorcycle or bicycle repair shop

Plastic products, manufacturing

Trailer manufacturing and repair

Welding, shop work only (welding at site of construction, installation or repair work to be reported under construction, installation or repair classification)

Wood working, in connection with car building

This class to apply to all employers who operate a shop using power driven machinery for the purpose of manufacturing N.O.S., repairing or servicing articles.

Class 34-3

Airplane, manufacturing

Class 34-4

Cans, manufacturing

Galvanized iron works, manufacturing

Hardware, manufacturing

Metal, stamping, plating and polishing

Neon and illuminating signs, manufacturing (see class 5-4 for installations)

Sheet metal works

Stamping tin or metal

Tin works

This class for shop operations only.

Class 34-6

Automobile service stations without auto repair facilities

Automobile tire sales and service, including delivery (excludes vulcanizing, rebuilding and recapping. See class 34-1)

Class 34-7

Asphalt storage

Bitumen storage

Gas works, operation and repair (excludes meter readers, complaint men, solicitors and store room employees)

Oil refineries, operation and maintenance

Oil well, operations

Wholesale and retail merchandising and distribution of butane and propane gas (includes drivers and helpers)

Wholesale and retail merchandising and distribution of gasoline and oil, including fuel oils (includes drivers and helpers)

51.20.350 Class 35.

Class 35-1

Brick, manufacturing

Briquettes, manufacturing

Charcoal burning

Earthenware, manufacturing

Fire clay products, manufacturing

Glass, manufacturing

Paints and varnishes and allied oils, manufacturing

Peat fuel, manufacturing

Plastic material, compounding or manufacturing

Porcelain ware, manufacturing

Pottery, manufacturing

Terra cotta, manufacturing

Tile, manufacturing

This class does not apply to the production of raw materials for use in the manufacturing of the above articles.

51.20.370 Class 37.

Class 37-1

Alcohol, manufacturing

Ammonia, manufacturing

Chemical and assaying laboratories

Chemical, manufacturing

Cosmetics, manufacturing

Distilleries, N.O.S.

Nitrogen, manufacturing

Oxygen, manufacturing

Class 37-2

Bottling work (includes drivers and helpers)

Breweries (includes drivers and helpers)

Wineries (includes drivers and helpers)

51.20.380 Class 38.

Class 38-1

Brooms, manufacturing

Brushes, manufacturing

Cordage, manufacturing

Leather, working in (includes shoe repair shops using power driven machinery)

Match manufacturing

Rubber, working in, N.O.S.

Class 38-2

Automobile upholstery

Cloth, working in
Clothing, manufacturing
Tailoring and alteration establishments or departments having
power driven machinery
Tents, awnings, shades, manufacturing
Textiles, manufacturing

51.20.390 Class 39.**Class 39-1**

Bakeries (includes drivers and helpers)
Candy or cracker, manufacturing
Confectionery, manufacturing
Macaroni making

Class 39-2

Canneries, fruit and vegetables
Commercial potato sorting (if broker or commission agent
have sorting operations conducted, they shall be considered
as the employers; if work performed by farmer see
class 48-3)

Custom hay baling
Dehydrators, all operations
Foodstuffs, working in, N.O.S.
Frozen fruits and vegetables, commercial wholesaling opera-
tions only

Fruits, canning
Handling, processing and adapting for sale, butter, eggs, poul-
try and egg meat products, N.O.S.

Pea vining (after cutting) commercial
Sugar refineries, all operations (includes drivers and helpers)

Class 39-5

Bunkhouses, kitchens and eating houses in connection with
extrahazardous occupations or conducted primarily for em-
ployees in extrahazardous occupations

Restaurants, taverns, clubs, and establishments, except pri-
vate boarding houses, preparing and serving food or drink
to the public or to members for consumption on the
premises

51.20.400 Class 40.**Class 40-2**

Cheese making (includes drivers and helpers)
Condensed milk, all operations (includes drivers and helpers)
Creameries and dairies, operation (includes drivers and help-
ers)

Ice cream, manufacturing (includes drivers and helpers)
If a separate distinct commercial dairy or creamery operation

is operated in connection with a dairy farm, this class 40-2 will apply to all workmen employed within that separate distinct operation. The operations in connection with the actual dairy farming may be covered under Elective Adoption, class 48-3.

51.20.410 Class 41.

Class 41-1

Business machines, maintenance and repair, away from shop premises

Business machines, repair with power driven machinery

Dental laboratories with power driven machinery

Electrotyping

Engraving, photo-engraving

Jewelry, engraving

Jewelry, manufacturing

Linotype operators (includes all employees in room with machinery)

Lithographing

Photo-engraving

Printing

Sign and card printing and painting, inside shop operations only

51.20.420 Class 42.

Class 42-1

Longshoring and stevedoring

Wharf and pier, operation

51.20.430 Class 43.

Class 43-1

Fertilizer, manufacturing (includes drivers and helpers)

Garbage works (includes drivers and helpers)

Glue manufacturing

Incinerators (includes drivers and helpers)

Lard making (includes drivers and helpers)

Meat, fish, and poultry markets with power driven machinery (includes drivers and helpers)

Meat products, canneries (includes drivers and helpers)

Packing houses (includes all operations in connection with the meat packing industry; includes drivers and helpers)

Peat moss, extraction and baling

Slaughter houses (includes drivers and helpers)

Soap making (includes drivers and helpers)

Stockyards, operations (includes drivers and helpers)

Tallow making (includes drivers and helpers)

Tanneries (includes drivers and helpers)

51.20.440 Class 44.**Class 44-1**

Cold storage plants, refrigeration (includes drivers and helpers)

Ice, artificial, manufacturing and delivery (includes drivers and helpers)

Ice, natural, harvesting and handling (includes drivers and helpers)

Refrigeration or cold storage plants, operation (includes drivers and helpers)

51.20.450 Class 45.**Class 45-1**

Theatre moving picture operators, stage employees and janitors

Radio and television station technicians only

51.20.460 Class 46.**Class 46-1**

Fireworks, including all operations in connection with manufacturing (excludes the sale, exhibition and display of fireworks)

Powder works, manufacturing (includes all operations)

51.20.470 Class 47.**Class 47-1**

Combined chemicals and explosives, manufacturing

51.20.480 Class 48.

Elective adoption—Sub-classes as follows:

Class 48-1

Care takers, N.O.S.

Clerks, N.O.S.

Inside occupations, N.O.S.

Inside salesmen and demonstrators, N.O.S.

Office employees, N.O.S.

Office employees of employers whose business is not subject to the Act

Outside occupations, N.O.S.

Outside salesmen, demonstrators and collectors using automobiles

Class 48-3

Agricultural workers

Christmas tree planting, pruning and harvesting (excludes drivers and helpers)

Class 48-7

Temporary building construction by employers who are not engaged in a business or an industry. (i.e., a person employ-

ing help by day labor to perform work on his own home: farmers, churches, charitable and social organizations)

51.20.490 Class 49.

Class 49-1

Foresters, forest rangers, timber cruisers, surveyors and engineers

Log scaling bureaus

Class 49-2

State employees of code departments, boards and commissions whose occupational duties are not enumerated as extra-hazardous and regularly assigned inside occupations.

Class 49-4

Office employees of employers whose business is subject to the compulsory provisions of the act and whose place of employment is situated in the yard, plant, or on the premises where the employer is conducting extrahazardous operations.

Class 49-5

Employees supplying service to the public in hotels, clubs furnishing sleeping accommodations, apartment hotels, N.O.S.

Bellmen, chambermaids, elevator operators, janitors, maintenance men N.O.S. and porters employed by apartment houses, mercantile establishments, office buildings and stores.

Class 49-6

Academic and non-academic employees of state operated institutions of higher learning

51.20.500 Class 50.

Class 50-1

Cutting of fuel wood in the woods, commercial

Log trucking (includes contract log hauling)

Logging, operation and maintenance

Logging rail and truck road construction and maintenance

Pulpwood cutting

Railroads, logging operation

Shingle bolt cutting

Tie cutting

Logging shall be considered the complete operations of falling, bucking, skidding, yarding, loading and other necessary incidental operations.

Class 50-2

Booming and rafting logs

51.20.600 Class 60.**Class 60-1**

State employees of code departments, boards and commissions, whose duties have been enumerated as extrahazardous or regularly assigned outside occupations.

Chapter 51.24**ACTIONS AT LAW FOR INJURY OR DEATH**

51.24.010 Right of action against third party. If the injury to a workman is due to negligence or wrong of another not in the same employ, the injured workman or, if death results from the injury, his widow, children, or dependents, as the case may be, shall elect whether to take under this title or seek a remedy against such other, such election to be in advance of any suit under this section and, if he takes under this title, the cause of action against such other shall be assigned to the state for the benefit of the accident fund and the medical aid fund; if the other choice is made, the accident fund shall contribute only the deficiency, if any, between the amount of recovery against such third person actually collected and the compensation provided or estimated by this title for such case: *Provided*, That the injured workman or if death results from his injury, his widow, children or 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 for the benefit of the accident fund and the medical aid fund to the extent of such payments having been made by the department to the injured workman or if death results from his injury, his widow, children or dependents as the case may be shall be subrogated to the rights of such person or persons against the recovery had from such third party and shall have a lien thereupon. Any such cause of action assigned to the state may be prosecuted or compromised by the department in its discretion in the name of the workman, beneficiaries, or legal representative. Any compromise by the workman of any such suit, which would leave a deficiency to be made good out of the accident fund may be made only with the written approval of the department.

Note: See also section 7, chapter 274, Laws of 1961.

51.24.020 Action against employer for intentional injury. If injury or death results to a workman from the deliberate intention of his employer to produce such injury or death, the workman, the widow, widower, child, or dependent of the workman 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.

Chapter 51.28**NOTICE AND REPORT OF ACCIDENT—APPLICATION
FOR COMPENSATION**

51.28.010 Notice of accident. Whenever any accident occurs to any workman it shall be the duty of such workman or someone in his behalf to forthwith report such accident to his employer, superintendent or foreman in charge of the work, and of the employer to at once report such accident and the injury resulting therefrom to the department and also to any local representative of the department.

51.28.020 Workman's application for compensation—Physician to aid in. Where a workman is entitled to compensation under this title he shall file with the department, his application for such, together with the certificate of the physician who attended him, and it shall be the duty of the physician to inform the injured workman of his 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.

51.28.030 Beneficiaries' application for compensation. Where death results from injury the parties entitled to compensation under this title, or someone in their behalf, shall make application for the same to the department, which application must be accompanied with proof of death and proof of relationship showing the parties to be entitled to compensation under this title, certificates of attending physician, if any, and such proof as required by the rules of the department.

51.28.040 Application for change in compensation—Effective date. If change of circumstances warrants an increase or rearrangement of compensation, like application shall be made therefor. No increase or rearrangement shall be operative for any period prior to application therefor.

51.28.050 Time limitation for filing application or enforcing claim for injury. No application shall be valid or claim thereunder enforceable unless filed within one year after the day upon which the injury occurred or the rights of dependents or beneficiaries accrued.

51.28.055 Time limitation for filing claim for occupational disease. Claims for occupational disease or infection to be valid and compensable must be filed within one year following the date the workman had notice from a physician of the existence of his occupational disease, without reference to its date of origin.

51.28.060 Proof of dependency. 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.

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.

51.28.070 Claim files and records confidential. Information contained in the claim files and records of injured workmen, 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 the files of their own injured workmen.

Chapter 51.32

COMPENSATION—RIGHT TO AND AMOUNT

51.32.005 "Child" defined. The term "child" whenever used in this chapter means every natural born child, posthumous child, stepchild, child legally adopted prior to the injury, and illegitimate child legitimated prior to the injury, all while under the age of eighteen years and over the age of eighteen years if the child is a dependent invalid child.

51.32.010 Who entitled to compensation. Each workman injured in the course of his employment, or his family or dependents in case of death of the workman, shall receive out of the accident fund 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, or the surviving spouse of an injured workman shall not have the custody of a child for, or on account of whom payments are required to be made under this chapter, such payment or payments shall be made to the person having the lawful custody of such child.

51.32.020 Who not entitled to compensation. If injury or death results to a workman from the deliberate intention of the workman himself to produce such injury or death, or while the workman is

engaged in the attempt to commit, or the commission of, a crime, neither the workman nor the widow, widower, child, or dependent of the workman shall receive any payment whatsoever out of the accident fund.

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 and, at the same time, as the stepchild of a deceased workman.

51.32.030 When compensation payable to employer or member of corporate employer. 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: *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.

51.32.040 Exemption of awards—Payment of awards after death. No money paid or payable under this title out of the accident fund or out of the medical aid fund shall, prior to the issuance and delivery of the 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 suffers a permanent partial injury, and dies from some other cause than the accident which produced such injury before he shall have received payment of his award for such permanent partial injury, or if any workman suffers any other injury and dies from some other cause than the accident which produced such injury before he shall have received payment of any monthly installment covering any period of time prior to his death, the amount of such permanent partial award, or of such monthly payment or both, shall be paid to his widow, if he leaves a widow, or to his child or children if he leaves a child or children and does not leave a widow: *Provided further*, That, if any workman suffers an injury and dies therefrom before he shall have received payment of any monthly installment covering time loss for any period of time prior to his death, the amount of such monthly payment shall be paid to his widow, if he leaves a widow, or to his child or children, if he leaves a child or children and does not leave a widow: *Provided*

further, That if the injured workman resided in the United States as long as three years prior to the date of the injury, such payment shall not be made to any widow or child who was at the time of the injury a nonresident of the United States.

51.32.050 Death benefits. (1) Where death results from the injury the expenses of burial not to exceed five hundred dollars shall be paid to the undertaker conducting the funeral.

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

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

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

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

(5) If the workman is under the age of twenty-one years and unmarried at the time of his death, the parents or parent of the workman shall receive forty dollars for each month after his death until the time at which he would have arrived at the age of twenty-one years.

(6) If the workman leaves no widow, widower or child, but leaves a dependent or dependents, a monthly payment shall be made to each dependent equal to fifty percent of the average monthly support actually received by such dependent from the

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

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

Note: See also section 1, chapter 274, Laws of 1961.

51.32.060 Permanent total disability compensation — Personal attendant. When the supervisor of industrial insurance shall determine that permanent total disability results from the injury, the workman shall receive monthly during the period of such disability:

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

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

(3) If the workman has a wife or husband and a child or children, or, being a widow or widower having any such child or children, the monthly payment in subdivision (2) shall be increased by thirty dollars for the youngest or only child, twenty-five dollars for the next or second youngest child, and twelve dollars for each additional child, but the total monthly payments shall not exceed two hundred forty-six dollars and any deficit shall be deducted proportionately among the beneficiaries.

(4) In case of permanent total disability, if the character of the injury is such as to render the workman so physically helpless

as to require the services of an attendant, the monthly payment to such workman shall be increased seventy-five dollars per month as long as such requirement continues, but such increases shall not obtain or be operative while the workman is receiving care under or pursuant to the provisions of chapters 51.36 and 51.40.

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

Note: See also section 2, chapter 274, Laws of 1961.

51.32.070 Additional payments for prior pensioners. Notwithstanding any other provision of law, every widow or invalid widower receiving a pension under this title shall, after April 1, 1957, be paid one hundred dollars per month, and every permanently totally disabled workman receiving a pension under this title shall, after such date, be paid one hundred dollars per month, in addition to any amount now or hereafter allowed in cases requiring the services of an attendant, if unmarried at the time his injury occurred; one hundred twenty-five dollars per month, in addition to any amount now or hereafter allowed in cases requiring the services of an attendant, if he or she has a wife or invalid husband; and seventy-five dollars per month, in addition to any amount now or hereafter allowed in cases requiring the services of an attendant, if the husband is not an invalid and the husband and wife are living together as such.

No part of such additional payments shall be payable from the accident fund or be charged against any class under the industrial insurance law.

The director shall pay monthly to every such widow, invalid widower, and totally disabled workman from the funds appropriated by the legislature such an amount as will, when added to the pensions they are presently receiving, exclusive of amounts received for children or dependents or attendants, equal the amounts hereinabove specified.

In cases where money has been or shall be advanced to any such person from the pension reserve, the additional amount to be paid to him or her under this section shall be reduced by the amount of monthly pension which was or is predicated upon such advanced portion of the pension reserve.

The legislature shall make biennial appropriations to carry out the purposes of this section.

Note: See also section 1, chapter 108, Laws of 1961.

51.32.071 ————Payment from reserve fund—Reimbursement. In order to facilitate accounting, the director, with the consent of the state auditor, may make such additional payments provided by

RCW 51.32.070 from the reserve fund, and the state auditor shall monthly reimburse the reserve fund in an amount equal to the sum of such additional payments made in the preceding month, either by cash transfer or from an appropriation made available for that purpose.

Note: See also section 2, chapter 108, Laws of 1961.

51.32.080 Permanent partial disability—Specified—Unspecified—Injury after permanent partial disability. (1) For the permanent partial disabilities here specifically described, the injured workman shall receive compensation as follows:

LOSS BY AMPUTATION

Of one leg so near the hip that an artificial limb cannot be worn	\$7,500.00
Of one leg at or above the knee so that an artificial limb can be worn	6,375.00
Of one leg below the knee.....	4,000.00
Of great toe with metatarsal bone thereof.....	1,125.00
Of great toe at the proximal joint.....	750.00
Of great toe at the second joint.....	225.00
Of one other toe other than the great toe with the metatarsal bone thereof.....	750.00
Of second toe at proximal joint.....	225.00
Of third toe at proximal joint.....	225.00
Of fourth toe at proximal joint.....	225.00
Of fifth toe at proximal joint.....	150.00
Of one metatarsal bone on toe other than great toe.....	375.00
Of one arm so near the shoulder that an artificial arm cannot be worn.....	7,500.00
Of the major arm at or above the elbow.....	6,375.00
Of forearm at upper third.....	5,250.00
Of the major hand at wrist.....	4,875.00
Of thumb with metacarpal bone thereof.....	1,875.00
Of thumb with proximal joint.....	1,500.00
Of thumb at second joint.....	375.00
Of index or first finger at proximal joint.....	1,125.00
Of index or first finger at second joint.....	750.00
Of index or first finger at distal joint.....	375.00
Of middle or second finger at proximal joint.....	675.00
Of middle or second finger at second joint.....	600.00
Of middle or second finger at distal joint.....	300.00
Of ring or third finger at proximal joint.....	600.00
Of ring or third finger at second joint.....	450.00
Of ring or third finger at distal joint.....	300.00
Of little or fourth finger at proximal joint.....	375.00

Of little or fourth finger at second joint.....	225.00
Of little or fourth finger at distal joint.....	150.00
Of metacarpal bone in finger except thumb.....	225.00

MISCELLANEOUS

Loss of one eye by enucleation.....	\$3,750.00
Loss of sight of one eye.....	3,000.00
Complete loss of hearing in both ears.....	5,250.00
Complete loss of hearing in one ear.....	1,500.00
Complete broken arch in foot.....	1,500.00

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

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

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

Note: See also section 3, chapter 274, Laws of 1961.

51.32.090 Temporary total disability — Partial restoration of earning power—When employer continues wages. (1) When the total disability is only temporary, the schedule of payments contained in subdivisions (1), (2), and (3) of RCW 51.32.060 shall apply, so long as the total disability continues.

(2) But if the injured workman has a wife or husband and has no child or has a wife or husband or, being a widow or widower, with one or more children, the compensation for the case during such period of time as the total temporary disability continues, shall be per month as follows, to wit: (a) Injured workman with wife or husband and no child, one hundred fifty-five dollars; injured workman with wife or husband and one child, or being a widow or widower and having one child, one hundred eighty-five dollars; (b) injured workman with wife or invalid husband and two children, or being a widow or widower and having two children, two hundred ten dollars and twelve dollars for each additional child, but the total monthly payments shall not exceed two hundred forty-six dollars and any deficit shall be deducted proportionately among the beneficiaries.

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

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

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

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

Note: See also section 4, chapter 274, Laws of 1961.

51.32.100 When preexisting disease delays or prevents recovery. If it is determined by the department that an injured workman had, at the time of his injury, a preexisting disease and that such disease

delays or prevents complete recovery from such injury, the said department shall ascertain, 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 award compensation only therefor.

51.32.110 Medical examination—Refusal to submit—Traveling expenses. Any workman entitled to receive compensation under this title shall, if requested by the department, submit himself for medical examination, at a time and from time to time, at a place reasonably convenient for the workman and as may be provided by the rules of the department. If the workman refuses to submit to any such examination, or obstructs the same, his rights to monthly payments shall be suspended until such examination has taken place and no compensation shall be payable during or for such period or, if any injured workman shall persist in unsanitary or injurious practices which tend to imperil or retard his recovery, or shall refuse to submit to such medical or surgical treatment as is reasonably essential to his recovery, the department may reduce or suspend the compensation of such workman. If the workman necessarily incurs traveling expenses in attending for examination pursuant to the request of the department, such traveling expenses shall be repaid to him out of the accident fund upon proper voucher and audit.

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

51.32.130 Lump sum for death or permanent total disability. In case of death or permanent total disability, the monthly payment provided may be converted, in whole or in part, into a lump sum payment, not in any case to exceed eight thousand five hundred dollars, equal or proportionate, as the case may be, to the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, in which event the monthly payments shall cease in whole or in part accordingly or proportionately. Such conversion may be made only upon written application (in case of minor children the application may be by either parent) to the department and shall rest in the discretion of the department. Within the rule aforesaid the amount and value of the lump sum payment may be agreed upon between the department and applicant. In the event any payment shall be due to an alien residing in a foreign country, the department may settle the same by making a lump sum pay-

ment in such amount as may be agreed to by such alien, not to exceed fifty percent of the value of the annuity then remaining.

Nothing herein shall preclude the department from making, and authority is hereby given it to make, on its own motion, lump sum payments equal or proportionate, as the case may be, to the value of the annuity then remaining, in full satisfaction of claims due to dependents.

51.32.135 Closing of claim conclusive in pension cases—Wife's consent may be required. In pension cases when a workman or beneficiary closes his 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 or any beneficiary which would otherwise exist had such person not elected to close the claim: *Provided*, The director may require the wife of such workman to consent in writing as a prerequisite to conversion and/or the closing of such claim.

51.32.140 Nonresident alien beneficiary. Except as otherwise provided by treaty, whenever compensation is payable to a beneficiary who is an alien not residing in the United States, the department shall pay fifty percent of the compensation herein otherwise provided to such beneficiary. But if a nonresident alien beneficiary is a citizen of a government having a compensation law which excludes citizens of the United States, either resident or nonresident, from partaking of the benefit of such law in as favorable a degree as herein extended to nonresident aliens, he shall receive no compensation. No payment shall be made to any beneficiary residing in any country with which the United States does not maintain diplomatic relations when such payment is due.

51.32.150 Lump sum to beneficiary outside state. If a beneficiary shall reside or remove out of the state, the department may, with the written consent of the beneficiary, convert any monthly payments provided for such cases into a lump sum payment (not in any case to exceed the value of the annuity then remaining, to be fixed and certified by the state insurance commissioner, but in no case to exceed the sum of eighty-five hundred dollars).

51.32.160 Aggravation, diminution, or termination. If aggravation, diminution, or termination of disability takes place, or be discovered after the rate of compensation shall have been established or compensation terminated, in any case the director, through and by means of the division of industrial insurance, may, upon the application of the beneficiary, made within five years after the establishment or termination of such compensation, or upon his own motion, readjust for further application the rate of compensation

in accordance with the rules in this section provided for the same, or in a proper case terminate the payment.

No act done or ordered to be done by the director, or the department prior to the signing and filing in the matter of a written order for such readjustment shall be ground for such readjustment.

51.32.180 Occupational diseases—Limitation. Every workman who suffers disability from an occupational disease in the course of employment under the mandatory or elective adoption provisions of this title, or his family and dependents in case of death of the workman 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 injured or killed in employment under the industrial insurance and medical aid acts of the state: *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.

Chapter 51.36

MEDICAL AID

51.36.010 Extent and duration. Upon the occurrence of any injury to a workman entitled to compensation under the provisions of this title, he shall receive, in addition to such compensation and out of the medical aid fund, proper and necessary medical and surgical services at the hands of a physician of his own choice, if conveniently located, and proper and necessary hospital care and services during the period of his 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, except when the workman returned to work before permanent partial disability award is made, in such case not to extend beyond the time when monthly allowances to him out of the accident fund shall cease; in case of temporary disability not to extend beyond the time when monthly allowances to him out of the accident fund shall cease; in case of a permanent total disability not to extend beyond the date on which a lump sum settlement is made with him or he is placed upon the permanent pension roll. But after any injured workman has returned to his work his medical and surgical treatment may be continued at the expense of the medical aid fund if, and as long as, such continuation is deemed by the supervisor of industrial insurance to be necessary to his more complete recovery. 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.

51.36.020 Speedy and adequate care—Artificial substitutes and mechanical aids. When the injury to any workman is so serious as to require his being taken from the place of injury to a place of treatment, his employer shall, at his own expense and without charge against the medical aid fund, furnish transportation to the nearest place of proper treatment. To assure prompt and adequate hospital care in cases of serious injury the department shall furnish to employers suitable index cards which the employer shall be required to have filled in and shall keep at all times convenient and accessible on which shall be set forth the name and address of each workman, together with such information as, in the judgment of the department, is necessary in cases of serious injury where the workman may be rendered unconscious and at the point of death, said card to be filled in at time of employment of workman and to have space for the following information: Hospital preferred, doctor preferred, religious, fraternal or union affiliations, and name of nearest relative: *Provided*, That the employee may as his option decline to give any or all of the information hereinbefore provided for.

Every workman whose injury results in the loss of one or more limbs or eyes shall be provided with proper artificial substitutes to be purchased by the department at the expense of the accident fund. Every workman, who suffers a penetrating wound of the cornea producing an error of refraction, shall be once provided, at the expense of the accident fund, proper and properly equipped lenses to correct such error of refraction and his disability rating shall be based upon the loss of sight before correction. Every workman, whose accident results in damage to or destruction of an artificial limb, eye or tooth, shall have same repaired or replaced at the expense of the accident fund. Every workman whose eyeglasses or lenses are damaged, destroyed, or lost as a result of an industrial accident shall have the same restored or replaced at the expense of the accident fund. The accident fund shall be liable only for the cost of restoring damaged eyeglasses to their condition at the time of the accident. All mechanical appliances necessary in the treatment of an injured workman, such as braces, belts, casts and crutches, may be provided at the expense of the medical aid fund and all mechanical appliances required as permanent equipment after treatment has been completed shall be provided at the expense of the accident fund. A workman, whose injury is of such short duration as to bring him within the provisions of subsection (4) 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.

51.36.030 First aid. Every employer, who employs less than fifty workmen, shall keep at his plant a first aid kit equipped as required by the department with materials for first aid to his injured workmen. Every employer who employs within a radius of one-half mile of any plant or establishment fifty or more workmen, shall keep one first aid station equipped as required by the department with materials for first aid to his injured workmen, 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.

Chapter 51.40

MEDICAL AID CONTRACTS

51.40.010 Medical aid contracts authorized. 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, 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 injured in such employment, by, and under the control and administration of, and at the direct expense of the employer and his workmen. 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.

51.40.020 Contract approval. 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 when found not to provide for such care of injured workmen 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 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 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.

51.40.030 Provisions made inapplicable where contract exists.

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 and to educational standards of safety shall apply.

51.40.040 Provision for medical aid when contract service ended.

The employer shall pay monthly into the medical aid fund ten percent of the amount he would have been required to pay in that month if such contract had not been made, and of that ten percent he shall collect one-half from his said workmen 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 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. 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 state auditor upon certificate thereof,

or requisition therefor, by the director, 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 obligation so to do at any time during or after the expiration of his 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 shall be relieved from all liability to furnish future medical aid to the injured workman arising after the expiration of such contract or contracts, if he has paid all levies theretofore made during the existence of such contract or contracts into the surplus fund.

51.40.050 Complaint of the contract service. During the operation of any contract the supervisor of industrial insurance, on his 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 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 satisfaction within a period to be fixed in such order, or he may at such hearing sustain the complaint and make an order that the contract shall terminate forthwith.

Notice to the workmen may be effected by service upon one of them designated by a majority of the workmen, 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 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.

51.40.060 Adequate treatment when contract treatment deficient. If, during the operation of any medical aid contract, any injured workman shall not receive medical or surgical treatment with reasonable promptness upon the occurrence of his injury, or at any time during his treatment, the supervisor of industrial insurance may provide such treatment during the emergency at the expense of his 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 emer-

gency treatment shall not exceed the rate specified in the department's fee bill. The acceptance of employment by any workman shall be and be held to be an acceptance of any existing contract made under this chapter to which his employer is a party.

51.40.070 Transfer from contract doctor. The director shall have power to enact rules prescribing whether and under what conditions an injured workman, who has been receiving treatment under medical aid contract at a place other than his 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 place of residence, and providing for the compensation of such surgeon at the expense of the doctor, hospital or hospital association holding such contract.

Chapter 51.44

FUNDS

51.44.010 Accident fund. There shall be, in the office of the state treasurer, a fund to be known and designated as the "accident fund."

51.44.020 Medical aid fund. There shall be, in the office of the state treasurer, a fund to be known and designated as the "medical aid fund."

51.44.030 Reserve fund. There shall be, in the office of the state treasurer, a fund to be known and designated as the "reserve fund."

51.44.040 Second injury account—Basis for determining charges. There shall be a special account within the accident fund to be known and designated as the "second injury account," which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.120.

The charge to each class of the accident fund to defray charges against the second injury account shall be made on June 30th and December 31st of each year, and the total industrial insurance premium contributions of each class for the preceding calendar year shall be used in determining the proportionate charge to each class for the second injury account.

51.44.050 Catastrophe injury account. There shall be a special account within the accident fund to be known as the "catastrophe injury account" which shall be used only for the purpose of defraying charges against it as provided in RCW 51.16.130.

51.44.060 Charge to each class of accident fund for the catastrophe injury account. The charge to each class of the accident fund to defray charges against the catastrophe injury account shall

be made on June 30th and December 31st of each year, and the total industrial insurance premium contributions of each class for the preceding calendar year shall be used in determining the proportionate charge to each class for the catastrophe injury account.

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

Note: See also section 5, chapter 274, Laws of 1961.

51.44.080 Reserve fund record—Interest. The department shall notify the state treasurer from time to time, of such transfers as a whole from the accident fund to the reserve fund and the interest or other earnings of the reserve fund shall become a part of the reserve fund itself. The department shall, on October 1st of each year, apportion the interest or other earnings of the reserve fund, as certified to it by the state treasurer, to the various class reserve funds according to the average class balance for the preceding year. As soon as possible after October 1st of each year the state insurance commissioner shall expert the reserve fund of each class to ascertain its standing as of October 1st of that year and the relation of its outstanding annuities at their then value to the cash on hand or at interest belonging to that fund. He shall promptly report the result of his examination to the department and to the state treasurer in writing not later than December 31st following. If the report shows that there was on said October 1st, in the reserve fund of any class in cash or at interest, a greater sum than the then annuity value of the outstanding pension obligations of that class, the surplus shall be forthwith turned over to the accident fund of that class but, if the report shows the contrary condition of any class reserve, the deficiency shall be forthwith made good out of the accident fund of that class.

51.44.090 Reserve fund record and maintenance by state treasurer. The state treasurer shall keep accurate accounts of the reserve fund and the investment and earnings thereof, to the end that the total reserve fund shall at all times, as nearly as may be, be properly and fully invested and, to meet current demands for pension or lump sum payments, may, if necessary, make temporary

loans to the reserve fund out of the accident fund for that class, repaying the same from the earnings of that reserve fund or from collections of its investments or, if necessary, sales of the same.

51.44.100 Investment of accident, medical aid, reserve funds. Whenever, in the judgment of the state finance committee there shall be in the accident fund, medical aid fund, or in the reserve fund, funds in excess of that amount deemed by such committee to be sufficient to meet the current expenditures properly payable therefrom, the committee may invest such excess funds in national, state, county, municipal, or school district bonds, and shall exercise the same discretion and have the same authority with respect to the investment of such excess funds as is provided by law with respect to the investment of the permanent school fund.

Note: See also section 10, chapter 281, Laws of 1961.

51.44.110 Disbursements of funds. Disbursement out of the several funds shall be made only upon warrants drawn by the state auditor upon vouchers therefor transmitted to him by the department and audited by him. 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 it was that the warrant was drawn shall pay the same, and he shall be credited upon his 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 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.

51.44.120 Liability of state treasurer. The state treasurer shall be liable on his official bond for the safe custody of the moneys and securities of the several funds, but all of the provisions of law relating to state depositories and to the deposit of state moneys therein shall apply to the several funds and securities.

Chapter 51.48

PENALTIES

51.48.010 Omission of estimate of payroll and payment. Every employer who fails to furnish an estimate of payroll and workmen hours and make payments as provided in RCW 51.16.110 shall be liable to a penalty of not to exceed five hundred dollars and shall also be liable if an accident has been sustained by an employee prior

to the time such estimate is received by the department, to a penalty in a sum equal to fifty percent of the cost to the accident fund and medical aid fund for such accident, for the benefit of the accident fund and medical aid fund.

51.48.020 Employer's misrepresentation. Any employer, who misrepresents to the department the amount of his payroll or the number of workman hours upon which the premium under this title is based, shall be liable to the state in ten times the amount of the difference in premiums paid and the amount the employer should have paid, and shall also be guilty of a misdemeanor if such misrepresentations are made knowingly.

51.48.030 Failure to keep records and make reports. Every person, firm, or corporation who fails to keep the records required by this title or fails to make the reports in the manner and at the time provided in chapter 51.16 shall be subject to a penalty of not to exceed one hundred dollars for each such offense.

51.48.040 Inspection of employer's records. The books, records and payrolls of the employer pertinent to the administration of this title shall always be open to inspection by the department or its traveling auditor, agent or assistant, for the purpose of ascertaining the correctness of the payroll, the men employed, and such other information as may be necessary for the department and its management under this title. Refusal on the part of the employer to submit his books, records and payrolls for such inspection to the department, or any assistant presenting written authority from the director, shall subject the offending employer to a penalty of one hundred dollars for each offense and the individual who personally gives such refusal shall be guilty of a misdemeanor.

51.48.050 Liability for illegal collections for medical aid. It shall be unlawful for any employer to directly or indirectly demand or collect from any of his workmen any sum of money whatsoever for or on account of medical, surgical, hospital, or other treatment or transportation of injured workmen, 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.

51.48.060 Physician, failure to report or comply with title. Any physician who fails, neglects or refuses to file a report with the director, as required by this title, within ten days of the date of treatment, showing the condition of the injured workman 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, as required by this title, shall be guilty of a misdemeanor.

51.48.070 Employer's responsibility for safeguard. If any workman 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 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 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 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 himself or with his knowledge by any of his fellow workmen, 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. If the removal of such guard or protection is by the workman himself or with his consent by any of his fellow workmen, 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, the schedule of compensation provided in chapter 51.32 shall be reduced ten percent for the individual case of such workman.

51.48.080 Violation of rules. Every person, firm or corporation who violates or fails to obey, observe or comply with any rule of the department promulgated under authority of this title, shall be subject to a penalty of not to exceed two hundred and fifty dollars.

51.48.090 Collection of penalties. Civil penalties to the state under this title shall be collected by civil action in the name of the state and paid into the accident fund unless a different fund is designated.

51.48.100 Waiver of penalties. The director may waive the whole or any part of any penalty charged under this title.

Chapter 51.52**APPEALS**

51.52.010 Board of industrial insurance appeals. 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 of said board. The second member shall be a representative of the majority of workmen engaged in extrahazardous employment 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 engaged in extrahazardous industry, 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 who are substantial contributors to the industrial insurance and accident fund. 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 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 predecessor. All appointments to the board shall be made in conformity with the foregoing plan. Members shall devote their entire time to the duties of the board and shall receive for their services a salary which shall be in addition to reasonable travel allowance as follows: The chairman shall receive the same salary as that provided for superior court judges in class A counties; the two remaining members shall each receive the same salary less the sum of five hundred dollars per annum. Headquarters for the board shall be located in Olympia. The board shall adopt a seal which shall be judicially recognized.

Note: See also section 8, chapter 307, Laws of 1961.

51.52.020 Board—Rule making power. The board may make rules and regulations concerning its functions and procedure, which shall have the force and effect of law until altered, repealed, or set aside by the board: *Provided*, That the board may not delegate to any other person its duties of interpreting the testimony and making the final decision and order on appeal cases. All rules

and regulations adopted by the board shall be printed and copies thereof shall be readily available to the public.

51.52.030 Board—Expenses. The board may incur such expenses as are reasonably necessary to carry out its duties hereunder, which expenses shall be paid, one-half from the accident fund and one-half from the medical aid fund upon vouchers approved by the board.

51.52.040 Board—Removal of member. Any member of the board may be removed for inefficiency, malfeasance or misfeasance in office, upon specific written charges filed by the governor, who shall transmit the original of such written charges to the chief justice of the supreme court and a copy thereof to the member accused. The chief justice shall thereupon designate a special tribunal composed of three judges of the superior court to hear and adjudicate the charges. Such tribunal shall fix the time, place and procedure for the hearing, and the hearing shall be public. The decision of such tribunal shall be final and not subject to review.

51.52.050 Copy of department action to be served—Appeal. Whenever the department has made any order, decision, or award, it shall promptly serve the workman, beneficiary, employer, or other person affected thereby, with a copy thereof by mail, which shall be addressed to such person at his 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, beneficiary, employer, or other person aggrieved thereby may appeal to the board and any such person aggrieved by the decision and order of the board may thereafter appeal to the superior court, as prescribed in this chapter.

51.52.060 Notice of appeal—Time—Withdrawal. Any workman, beneficiary, employer, or other person aggrieved by an order, decision, or award of the department must, before he appeals to the courts, file with the board and the director, by mail or personally, within sixty days from the day on which such copy of such order, decision, or award was communicated to such person, a notice of appeal to the board: *Provided*, That failure to file notice of appeal with both the board and the department shall not be ground for

denying the appeal if the notice of appeal is filed with either the board or the department: *And provided*, That, if within the time limited for filing a notice of appeal to the board from an order, decision, or award of the department, the department shall direct the submission of further evidence or the investigation of any further fact, the time for filing such notice of appeal shall not commence to run until such person shall have been advised in writing of the final decision of the department in the matter: *Provided, further*, That the department, either before receiving a notice of appeal, or within thirty days thereafter, may modify, reverse or change any order, decision, or award, and the board shall thereupon deny the appeal.

Note: See also section 8, chapter 274, Laws of 1961.

51.52.070 Contents of notice—Transmittal of record. 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, beneficiary, employer, or other person relies in support thereof. The workman, 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 in such matter to the board.

51.52.080 Appeal to board denied, when. If the board finds that the department properly and lawfully decided all matters raised by such appeal it may, without further hearing, deny the same and confirm the department's decision or award, or if the department's record sustains the contention of the person appealing to the board, it may, without further hearing, allow the relief asked in such appeal; otherwise, it shall grant the appeal and order a hearing to decide the issues raised.

51.52.090 Appeal to board deemed denied, when. If the appeal is not granted within thirty days after the notice is filed with the board, the appeal shall be deemed to have been denied: *Provided*, That the board may extend the time within which it may act upon such appeal, not exceeding thirty days.

51.52.095 Conference for disposal of matters involved in appeal. The board, upon request of the workman, 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 representative thereof, 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 member or representative of the board conducting the same, in which case the hearing will be recessed for such conference. Following the conference, if held before hearing, the board shall make an order which recites the actions taken at the conference, and the agreements made by the parties as to any of the matters considered, and which limits the issues at hearings to those not disposed of by said admissions or agreements of the parties. If the conference is held during the hearing, the board, or the member or representative thereof conducting the same, shall state on the record the results of such conference. The order or the statement on the record, as the case may be, 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 or workman 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.

51.52.100 Proceedings before board—Contempt. Hearings shall be held in the county of the residence of the workman 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 shall first have been sworn to testify the truth, the whole truth and nothing but the truth in the matter being heard, or unless his testimony shall have been taken by deposition according to the statutes 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 representative, and depositions may be taken by a person duly commissioned for the purpose by the board.

Members of the board, its duly authorized representatives, 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 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 representative thereof shall certify the facts to the superior court having jurisdiction in the place in which said board or member or duly authorized representative thereof 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.

51.52.102 Hearing the appeal—Evidence—Continuances. At the time and place fixed for hearing each party shall present all his evidence with respect to the issues raised in the notice of appeal, and if any party fails so to do, the board may determine the issues upon such evidence as may be presented to it at said hearing: *Provided*, That for good cause shown in the record to prevent hardship, the board may grant continuances upon application of any party, but such continuances, when granted, shall be to a time and place certain within the county where the initial hearing was held unless it shall appear that a continuance elsewhere is required in justice to interested parties: *And provided further*, That the board may continue hearings on its own motion to secure in an impartial manner such evidence, in addition to that presented by the parties, as the board, in its opinion, deems necessary to decide the appeal fairly and equitably, but such additional evidence shall be received subject to any objection as to its admissibility, and, if admitted in evidence all parties shall be given full opportunity for cross-examination and to present rebuttal evidence.

51.52.106 Decision and order on appeal. On appeal to the board the record before it shall be considered by all of the members of the board, and the decision and order of the majority of the members shall be the decision and order of the board. Every final decision and order rendered by the board shall be in writing and shall contain findings and conclusions as to each contested issue of fact and law, as well as the board's order based thereon. In cases involving injured workmen the findings and conclusions shall contain a concise statement of the board's jurisdiction, the nature of the workman's injury, the pathological condition, if any, resulting therefrom, the physiological disability, if any, resulting from such pathological condition, and any other material facts pertinent to the case, as well as the relief, including the statutory percentage of disability, if any, to which the workman or beneficiary is entitled. A copy of the decision and order, including the findings and conclusions, shall be mailed to each party to the appeal and to his attorney of record.

51.52.110 Court appeal—Taking the appeal. Within thirty days after the final decision and order of the board upon such appeal has been communicated to such workman, beneficiary, employer or other person, or within thirty days after the appeal is deemed denied as herein provided, such workman, 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 such appeal shall be to the superior court of the county of residence of the workman or beneficiary, as shown by the department's records, the superior court for Thurston county, or to the superior court of the county wherein the injury occurred. 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. The department shall, 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. The board shall serve upon the appealing party, the director 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, 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.

51.52.115 Court appeal—Procedure at trial—Burden of proof. Upon appeals to the superior court only such issues of law or fact may be raised as were properly included in the notice of appeal to the board, or in the complete record of the proceedings before the board. The hearing in the superior court shall be *de novo*, but the court shall not receive evidence or testimony other than, or in addition to, that offered before the board or included in the record filed by the board in the superior court as provided in RCW 51.52.110: *Provided,* That in cases of alleged irregularities in procedure before the board, not shown in said record, testimony thereon may be taken in the superior court. The proceedings in every such appeal shall be informal and summary, but full opportunity to be heard shall be had before judgment is pronounced. In all court proceedings under or pursuant to this title the findings and decision of the board shall be *prima facie* correct and the burden of proof shall be upon the party attacking the same. If the court shall determine that the board has acted within its power and has correctly construed the law and found the facts, the decision of the board shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the department with an order directing it to proceed in accordance with the findings of the court: *Provided,* That any award shall be in accordance with the schedule of compensation set forth in this title. In appeals to the superior court hereunder, either party shall be entitled to a trial by jury upon demand, and the jury's verdict shall have the same force and effect as in actions at law. Where the court submits a case to the jury, the court shall by instruction advise the jury of the exact findings of the board on each material issue before the court.

51.52.120 Attorney's fee before department or board. It shall be unlawful for an attorney engaged in the representation of any workman or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not less than ten percent nor more than thirty-five 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 or beneficiary, prior to the notice of appeal to the board. 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 or beneficiary, or in cases where a party other than the workman or beneficiary is the appealing party and the workman's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his attorney in proceedings before the board if written application therefor is made by the attorney. 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.

51.52.130 Attorney and witness fees in court appeal. 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 or beneficiary, or in cases where a party other than the workman or beneficiary is the appealing party and the workman's or beneficiary's right to relief is sustained by the court, a reasonable fee for the services of the workman'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.

51.52.132 Unlawful attorney's fees. It shall be unlawful for any attorney representing a workman before the department or the board or the court to charge or receive either directly or indirectly any fee, unless the same has been previously fixed as provided in RCW 51.52.120 or 51.52.130, or to charge or receive either directly or indirectly any fee or fees greater in amount than the fee or fees so fixed.

51.52.140 Rules of practice—Duties of attorney general—Supreme court appeal. Except as otherwise provided in this chapter, the practice in civil cases shall apply to appeals prescribed in this chapter. Appeal shall lie from the judgment of the superior court as

in other civil cases. The attorney general shall be the legal advisor of the department and the board.

51.52.150 Costs on appeals. All expenses and costs incurred by the department for board and court appeals, including fees for medical and other witnesses, court reporter costs and attorney's fees, and all costs taxed against the department, shall be paid one-half out of the medical aid fund and one-half out of the accident fund.

Chapter 51.98

CONSTRUCTION

51.98.010 Continuation of existing law. The provisions of this title insofar as they are substantially the same as statutory provisions repealed by this chapter, and relating to the same subject matter, shall be construed as restatements and continuations, and not as new enactments.

51.98.020 Title, chapter, section headings not part of law. Title headings, chapter headings, and section or subsection headings, as used in this title do not constitute any part of the law.

51.98.030 Invalidity of part of title not to affect remainder. If any provision of this title, or its application to any person or circumstance is held invalid, the remainder of the title, or the application of the provision to other persons or circumstances is not affected: *Provided*, That nothing in this section shall affect or invalidate any of the provisions of RCW 51.04.090.

51.98.040 Repeals and saving. The following acts or parts of acts are repealed:

- (1) Sections 1 through 29, 31 and 32, chapter 74, Laws of 1911;
- (2) Chapter 148, Laws of 1913;
- (3) Chapter 188, Laws of 1915;
- (4) Sections 1 through 20, and 22, chapter 28, Laws of 1917;
- (5) Chapter 120, Laws of 1917;
- (6) Chapter 67, Laws of 1919;
- (7) Chapter 129, Laws of 1919;
- (8) Sections 1 through 8 and 10, chapter 131, Laws of 1919;
- (9) Sections 1 through 12, and 14 through 17, chapter 182, Laws of 1921;
- (10) Chapter 128, Laws of 1923;
- (11) Sections 1 through 11, and 15 through 19, chapter 136, Laws of 1923;
- (12) Chapter 84, Laws of 1925 extraordinary session;
- (13) Chapter 111, Laws of 1925 extraordinary session;
- (14) Chapter 310, Laws of 1927;

- (15) Chapter 132, Laws of 1929;
- (16) Chapter 79, Laws of 1931;
- (17) Chapter 90, Laws of 1931;
- (18) Chapter 104, Laws of 1931;
- (19) Chapter 116, Laws of 1931;
- (20) Chapter 193, Laws of 1933;
- (21) Chapter 90, Laws of 1935;
- (22) Chapter 89, Laws of 1937;
- (23) Chapter 147, Laws of 1937;
- (24) Chapter 211, Laws of 1937;
- (25) Chapter 212, Laws of 1937;
- (26) Chapter 41, Laws of 1939;
- (27) Chapter 50, Laws of 1939;
- (28) Chapter 135, Laws of 1939;
- (29) Chapter 138, Laws of 1939;
- (30) Chapter 184, Laws of 1939;
- (31) Chapter 169, Laws of 1941;
- (32) Chapter 209, Laws of 1941;
- (33) Chapter 235, Laws of 1941;
- (34) Chapter 16, Laws of 1943;
- (35) Section 2, chapter 186, Laws of 1943;
- (36) Chapter 210, Laws of 1943;
- (37) Chapter 280, Laws of 1943;
- (38) Chapter 89, Laws of 1945;
- (39) Chapter 219, Laws of 1945;
- (40) Chapter 56, Laws of 1947;
- (41) Chapter 183, Laws of 1947;
- (42) Chapter 233, Laws of 1947;
- (43) Sections 1 and 3, chapter 246, Laws of 1947;
- (44) Chapter 247, Laws of 1947;
- (45) Chapter 281, Laws of 1947;
- (46) Chapter 219, Laws of 1949;
- (47) Chapter 115, Laws of 1951;
- (48) Chapter 198, Laws of 1951;
- (49) Chapter 214, Laws of 1951;
- (50) Chapter 225, Laws of 1951;
- (51) Chapter 236, Laws of 1951;
- (52) Chapter 246, Laws of 1951;
- (53) Chapter 143, Laws of 1953;
- (54) Chapter 218, Laws of 1953;
- (55) Chapter 74, Laws of 1955;
- (56) Chapter 360, Laws of 1955;
- (57) Sections 3 through 64, chapter 70, Laws of 1957;
- (58) Chapter 196, Laws of 1957;
- (59) Chapter 55, Laws of 1959;
- (60) Chapter 179, Laws of 1959;

- (61) Chapter 244, Laws of 1959;
- (62) Chapter 256, Laws of 1959; and
- (63) Chapter 308, Laws of 1959.

Such repeals shall not be construed as invalidating, abating, or otherwise affecting any existing right acquired or any liability or obligation incurred under the provisions of the statutes repealed, nor any process, proceeding or judgment thereunder, nor any criminal or civil proceeding instituted thereunder, nor any rule, regulation or order promulgated thereunder, nor any administrative action taken thereunder, nor the term of office or appointment or employment of any person appointed or employed thereunder, nor shall such repeals affect the application of any provision repealed herein which provides for the retroactive or nonretroactive application of any provision of this title or laws prior hereto, nor shall such repeals affect any law providing for the installation or maintenance of any device, means or method for the prevention of accidents in extrahazardous work or for a penalty or punishment to install or maintain any such protective device, means or method. The saving provision of this section shall apply to any and all claims or actions or proceedings of whatsoever nature whether heretofore completed or which may be pending at the time this act takes effect and all prior or existing laws having application thereto shall continue in force as they were prior to and shall be unaffected by this act.

51.98.050 Emergency. 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.

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note.

TITLE 51

INDUSTRIAL INSURANCE

EXPLANATORY NOTE

I. Introductory.

As part of its program to restore session law language to the Revised Code of Washington, the Statute Law Committee and the code reviser's office have examined the provisions of Title 51, Industrial Insurance, and have concluded that, in view of the profuse ratification and amendment by the 1955, 1957 and 1959 legislatures, the public interest could best be served by the preparation and submission to the legislature of a bill to reenact this title as primary law and which in the reenactment process would correct such statutory problems as might be corrected without altering the substance of the law.

In preparing this bill, the provisions of the Revised Code of Washington were carefully compared with their session law sources by the reviser's office, significant language and organizational variances were documented, and a preliminary draft was prepared. Such draft and the comprehensive study materials which accompanied it were minutely considered by the codifications subcommittee of the Statute Law Committee in concert with representatives of the department of labor and

industries, the industrial insurance board of appeals, the attorney general's office, and interested persons representing other groups. Pursuant to hearings held by the subcommittee on June 17, 1960, the instant draft was evolved. It was approved by the Statute Law Committee at its regular meeting on December 17, 1960.

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Title 51 was adopted as a *prima facie* expression of the law relating to industrial insurance by the Revised Code adoption act of 1950 and 1951, following its revision by the 1941 Code Committee. This title has been frequently amended since the 1951 adoption, with the consequence that much of the 1941 revision has been expressly ratified by the legislature through the operation of RCW 1.04.020 which provides that:

" . . . Any section of the Revised Code of Washington (as supplemented or modified by the 1950 supplement) expressly amended by the legislature, including the entire context set out, shall, as so amended, constitute the law and ultimate declaration of legislative intent."

In addition the 1957 and 1959 comprehensive bills took into account certain technical revisions incorrectly made and the legislature made such corrections along with the substantive amendments desired. For these reasons the approach to Title 51 has been to adopt the revised language for the most part, making only such corrections therein as were required to preserve the intent of the session law sources thereto, and which could be made without change in substance.

It should be noted that the appearance of the phrase "this act" and similar phrases, as they appear in the session laws codified herein, have caused some difficulty due to the complex background of these titles. In this bill such phrases have been translated to "this title", "this chapter", "this section", or to specific code section numbers, in accordance with what most nearly corresponds to their original application, but at the same time taking into consideration the doctrine of statutes in *pari materia* and the necessity for harmonizing the provisions of the ratified and amended sections accomplished during the past three sessions. Each such instance was carefully considered and discussed at the meetings mentioned above.

Throughout this title in some unamended sections certain references have been made to the obsolete "joint board"; these have been changed to indicate the new appeal board. Likewise references to the obsolete "state medical aid board", "local aid boards" and "commission" have been modernized to reflect the "directors" and "departments" existing powers.

The remainder of these notes consist of source notes and a section by section comment regarding this reenactment. The complete study materials relating to this title is on permanent file in the office of the code reviser at Olympia.

II. Section by section comment.

Chapter 51.04 General Provisions

51.04.010 Source—[1911 c 74 § 1.]
"act" to "title".

51.04.020 Source—[1957 c 70 § 3. Prior: 1947 c 247 § 1, part; 1921 c 182 § 9; 1911 c 74 §§ 4, part, 24.]

51.04.030 Source—[(i) 1917 c 28 § 6. (ii) 1919 c 129 § 3; 1917 c 29 § 7. (iii) 1923 c 136 § 10.]

This section follows the Revised Code of Washington language and combines three session law sections, omitting therefrom the duplicated and obsolete portions.

51.04.040 Source—[1915 c 188 § 7.]

51.04.050 Source—[1915 c 188 § 4.]

51.04.060 Source—[1911 c 74 § 11.]

51.04.070 Source—[1959 c 308 § 1; 1957 c 70 § 4. Prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part.]

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- 51.04.080 Source—[1959 c 308 § 2; 1957 c 70 § 5. Prior: 1947 c 56 § 1, part; 1927 c 310 § 7, part; 1923 c 136 § 4, part; 1921 c 182 § 6, part; 1919 c 131 § 6, part; 1911 c 74 § 10, part.]
- 51.04.090 Source—[1911 c 74 § 27.]
The language "section 4 of this act" has been omitted from the phrase "if the provisions of section 4 of this act for the creation of the accident fund"; "section 4" as originally referred to was a lengthy section of some six pages subsequently divided by the legislature in 1947 into a number of sections and the translation is therefore impossible.
The language "except the provisions of section 31, and an accounting according to the justice of the case shall be had of moneys received" has been omitted from the sentence reading "If the provisions for the creation of the accident fund, or the provisions of this title making the compensation to the workman provided in and exclusive of any other remedy on the part of the workman shall be held invalid the entire title shall be thereby invalidated." The omitted language appeared at the end of such sentence. The language is omitted since section 31 is being repealed and the disposition and accounting of the funds referred to in the omitted phrase is controlled by the trust fund doctrine. See *State ex rel. Trenholm v. Yelle*, 174 Wash. 547 at page 549 et seq; see also *Mason-Walsh-Atkinson-Kier Co. v. Dept. L. & I.*, 5 Wn. (2d) 508 at page 515 et seq.
- 51.04.100 Source—[1911 c 74 § 28.]
The language "section 4" has been changed to "this title" in the clause reading "if the defendant employer shall have paid without delinquency into the accident fund the payment provided by section 4". Section 4 was discussed in connection with 51.04.090, supra.

Chapter 51.08 Definitions

- 51.08.010—Source—[1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part.]
- 51.08.015 Source—[1959 c 308 § 25.]
- 51.08.020 Source—[1957 c 70 § 6. Prior: (i) 1939 c 41 § 2, part; 1929 c 132 § 1, part; 1927 c 310 § 2, part; 1921 c 182 § 2, part; 1919 c 131 § 2, part; 1917 c 120 § 1, part; 1911 c 74 § 3, part. (ii) 1949 c 219 § 1(i); 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part.]
- 51.08.030 Source—[1957 c 70 § 7. Prior: (i) See (i) of source note to 51.08.020. (ii) 1941 c 209 § 3, part.]
- 51.08.040 Source—Added.
- 51.08.050 Source—[1957 c 70 § 8. Prior: See (i) of 51.08.020.]
- 51.08.060 Source—Added.
- 51.08.070 Source—[1957 c 70 § 9. Prior: See (i) of 51.08.020.]
- 51.08.080 Source—[1957 c 70 § 10. Prior: See (i) of 51.08.020.]
- 51.08.090 Source—[1957 c 70 § 11. Prior: See (i) of 51.08.020.]
- 51.08.100 Source—[1959 c 308 § 3; 1957 c 70 § 12. Prior: See (i) of 51.08.020.]
- 51.08.110 Source—[1957 c 70 § 13. Prior: See (i) of 51.08.020.]
- 51.08.120 Source—[1957 c 70 § 14. Prior: See (i) of 51.08.020.]
- 51.08.130 Source—[1957 c 70 § 15. Prior: See (i) of 51.08.020.]
- 51.08.140 Source—[1959 c 308 § 4; 1957 c 70 § 16. Prior: 1951 c 236 § 1; 1941 c 235 § 1, part; 1939 c 135 § 1, part; 1937 c 212 § 1, part.]
- 51.08.150 Source—[1957 c 70 § 17. Prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part.]

- 51.08.160 Source—[1957 c 70 § 18. Prior: See prior history to 51.08.150.]
 51.08.170 Source—[1957 c 70 § 19. Prior: See (i) of 51.08.020.]
 51.08.180 Source—[1957 c 70 § 20. Prior: (i) See (i) of 51.08.020. (ii) 1937 c 211 § 2.]
 51.08.190 Source—[1957 c 70 § 21. Prior: See (i) of 51.08.020.]

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Chapter 51.12 Employments and Occupations Covered

- 51.12.010 Source—[1959 c 55 § 1; 1955 c 74 § 2. Prior: (i) 1947 c 281 § 1, part; 1943 c 210 § 1, part; 1939 c 41 § 1, part; 1937 c 211 § 1, part; 1927 c 310 § 1, part; 1921 c 182 § 1, part; 1919 c 131 § 1, part; 1911 c 74 § 2, part. (ii) 1923 c 128 § 1, part.]
 51.12.020 Source—[1955 c 74 § 3. Prior: See (i) of 51.12.010.]
 51.12.030 Source—[1955 c 74 § 4. Prior: See (i) of 51.12.010.]
 51.12.040 Source—[1955 c 74 § 5. Prior: See (i) of 51.12.010.]
 51.12.050 Source—[1955 c 74 § 6. Prior: (i) 1923 c 136 § 5, part; 1921 c 182 § 8, part; 1915 c 188 § 6, part; 1911 c 74 § 17, part. (ii) 1923 c 128 § 1, part.]
 51.12.060 Source—[1937 c 147 § 1.]

The first portion of the session law from which this section was derived read:

"That the application of the industrial insurance and related medical aid and safety laws of the State of Washington, section 7673 through 7796, inclusive, of Remington's Revised Statutes of Washington is hereby extended to all lands and premises owned or held by the United States of America, etc."

This has been changed in the bill to read:

"The application of this title and related safety laws is hereby extended . . . etc."

All of the Remington sections referred to in the original session law are contained in this title except those that have been repealed, those superseded or obsolete, and those which are codified in Title 49. The language "related safety laws" will pick up those sections in Title 49 and the language "this title" retains all of the internal references. The reference at the end of this section to "section 290 United States Code, 1958 edition" originally read "section 290, United States Code Annotated 1936 edition supplement". This brings the internal reference up to date. No amendments have been made thereto.

- 51.12.070 Source—[1955 c 74 § 7. Prior: 1923 c 136 § 5, part; 1921 c 182 § 8, part; 1915 c 188 § 6, part; 1911 c 74 § 17, part.]
 51.12.080 Source—[1925 ex.s. c 84 § 1; 1919 c 67 § 1; 1917 c 29 § 19; 1911 c 74 § 18.]
 51.12.090 Source—[1959 c 308 § 10; 1919 c 67 § 3.]
 51.12.100 Source—[1931 c 79 § 1; 1925 ex.s. c 111 § 1.]
 51.12.110 Source—[1959 c 308 § 11; 1929 c 132 § 5; 1923 c 136 § 6; 1911 c 74 § 19.]

Chapter 51.16 Assessment and Collection of Premiums—

Payrolls and Records

- 51.16.010 Source—[1959 c 308 § 13; 1957 c 70 § 53. Prior: (i) 1947 c 247 § 1, part; 1931 c 104 § 1, part; 1927 c 310 § 3, part; 1923 c 136 § 1, part; 1919 c 131 § 3, part; 1917 c 120 § 2, part; 1915 c 188 § 1, part; 1911 c 74 § 4, part. (ii) 1923 c 136 § 7, part; 1921 c 182 § 10, part; 1917 c 29 § 3, part.]
 51.16.020 Source—[1957 c 70 § 54. Prior: 1951 c 236 § 2; See also (i) of 51.16.010.]
 51.16.030 Source—[1947 c 247 § 1, part.]
 The language "the medical aid fund created in section 7713 of Remington's Revised Statutes of Washington" has been

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changed to read "the medical aid fund" since the Remington section is divided and such reference is now obsolete.

The language "the classification herein provided" has been changed to "the classification provided" since the language "herein" referred to a lengthy section first appearing in 1923 c 136 § 1; the last amendment, in 1947, divided such lengthy section into several sections; the actual classification language referred to is now in chapter 51.20.

51.16.040 Source—[1959 c 308 § 12; 1941 c 235 § 2.]

51.16.050 Source—[1951 c 198 § 1; 1947 c 247 § 1, part.]

51.16.060 Source—[1959 c 308 § 14; 1957 c 70 § 47. Prior: 1947 c 247 § 1, part.]

51.16.070 Source—[1957 c 70 § 48. Prior: 1947 c 247 § 1(4c), part.]

51.16.080 Source—[1951 c 236 § 3; 1947 c 247 § 1, part.]

Prior to the 1951 amendment to this section a sentence appeared reading as follows:

"From the original classification or premium rating or any change made therein, any employer claiming to be aggrieved may appeal to the joint board and to the courts in the manner provided in section 7697 of Remington's Revised Statutes."

This had been omitted by the 1941 Code Committee and was ratified by the 1951 legislature apparently on the grounds that it is covered by the later appeal procedure in chapter 51.52 RCW. See in particular RCW 51.52.050.

Also omitted from this section, on the grounds that it is now obsolete in the light of later law, is that portion empowering the director to authorize any employee who is an attorney to appear for the department in any action instituted for the purpose of collecting industrial insurance premiums. These powers are now vested in the attorney general (Chapter 43.10 RCW).

51.16.090 Source—[1959 c 179 § 1; 1957 c 70 § 49. Prior: 1947 c 247 § 1, part.]

51.16.100 Source—[1953 c 218 § 1. Prior: (i) 1947 c 247 § 1(4d), part. (ii) 1947 c 247 § 1(4e), part.]

51.16.105 Source—[1953 c 218 § 2.]

51.16.110 Source—[1959 c 179 § 2 and 1959 c 308 § 15. Prior: 1957 c 70 § 50; 1951 c 236 § 4; 1947 c 247 § 1(4c), part.]

This section was twice amended in 1959: by section 15 of chapter 308, and also by section 2 of chapter 179. Chapter 179 of the Laws of 1959 raised the one dollar premium to two dollars immediately preceding the proviso in the last paragraph; and also added such proviso. Section 15 of chapter 308, amended this section in different respects; changes wrought by chapter 308 related to cash deposits for new employers or resumed operations and provided for a bond in lieu thereof; chapter 308 also provided for a method of computing the cost experience. Since these amendments were in different respects, both may be given effect by blending the language of the two sections as is done in this bill. (See rule of construction contained in RCW 1.12.025.)

51.16.120 Source—[1959 c 308 § 16; 1945 c 219 § 1; 1943 c 16 § 1.]

51.16.130 Source—[1957 c 70 § 22. Prior: 1947 c 247 § 1(4f), part; 1911 c 74 § 4, part.]

51.16.140 Source—[(i) 1923 c 136 § 8, part; 1919 c 129 § 1, part; 1917 c 29 § 4, part. (ii) 1947 c 247 § 1(4e), part.]

This section adopts the existing Revised Code of Washington language. A portion of the 1923 law relating to the payments of premiums by an employer is covered by 51.16.010 and the portion as to the establishment of the medical aid fund is adequately covered in 51.44.020. Thus the second paragraph

of the 1923 law is codified herein in combination with a portion of the 1947 law. The remaining portions of the 1947 section are codified and combined with other session laws in 51.16.050, 51.16.080, 51.16.100 and 51.52.050. Two sections, 51.16.100 and 51.52.050 have been subsequently ratified by the legislature. The revised language preserves the substance of these session laws.

- 51.16.150 Source—[1959 c 308 § 22. Prior: 1929 c 132 § 4, part; 1923 c 136 § 3, part; 1917 c 120 § 5, part; 1917 c 28 § 2, part; 1915 c 188 § 3, part; 1911 c 74 § 8, part.]
- 51.16.160 Source—[1959 c 308 § 23. Prior: See prior history for 51.16.150.]
- 51.16.170 Source—[1959 c 308 § 24. Prior: 1951 c 214 § 1; see also prior history for 51.16.150.]
- 51.16.180 Source—[1921 c 7 § 78, subdivision (4).]
Section 78 of the 1921 law referred to in the source note is codified in its entirety in RCW 43.22.030. Since the powers and duties of the department of labor and industries are directly connected with several other titles, the basic session law section is not repealed and reenacted but will be considered when Title 43 is fully reviewed; this RCW section is presented for enactment on the grounds that many amendments in recent years were made with such RCW section in existence.

Chapter 51.20 Classification of Occupations

Chapter 51.20 as it currently appears in RCW was derived from 1947 c 247 § 1(4b). The director is authorized by statute to change classifications and to include unenumerated occupations; see for example 51.12.030, 51.12.040, and 51.16.100. Herein chapter 51.20 consists of 1947 c 247 § 1(4b) as revised from time to time by the director, and as certified by the director to the Statute Law Committee as being the classifications in effect at the time of the presentment of this bill to the legislature.

Chapter 51.24 Actions at Law for Injury or Death

- 51.24.010 Source—[1957 c 70 § 23. Prior: See (i) of 51.08.020.]
- 51.24.020 Source—[1957 c 70 § 24. Prior: 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part.]

Chapter 51.28 Notice and Report of Accident—

Application for Compensation

- 51.28.010 Source—[1915 c 188 § 9; 1911 c 74 § 14.]
- 51.28.020 Source—[1927 c 310 § 6, part; 1921 c 182 § 7, part; 1911 c 74 § 12, part.]
This session law section was divided by the 1941 Code Committee into RCW 51.28.020, 51.28.030, 51.28.040, 51.28.050 and 51.48.060. The session law language has been restored where necessary but the organization has been retained in the light of the profuse amendments throughout Title 51. This preserves the division and numbering without any change in substance.
- 51.28.030 Source—See notes to 51.28.020.
- 51.28.040 Source—See notes to 51.28.020.
- 51.28.050 Source—See notes to 51.28.020.
- 51.28.055 Source—[1959 c 308 § 18; 1957 c 70 § 16, part; 1951 c 236 § 1, part.]
- 51.28.060 Source—[1957 c 70 § 25. Prior: (i) See (i) of 51.08.020. (ii) See notes to 51.04.080.]
- 51.28.070 Source—[1957 c 70 § 51.]

Chapter 51.32 Compensation—Right to and Amount

- 51.32.005 Source—[1951 c 115 § 6.]
The language "this act" has been changed to "this chapter". The term "this act" appears in this independent section en-

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acted in 1951. The first five sections of such act amended other sections in 51.32.

The definition of "child" contained in chapter 51.08 is identical and is applicable to the entire title; the term has the same meaning throughout the chapter by virtue of the general definition in chapter 51.08; hence the translation from "act" to "chapter".

- 51.32.010 Source—[1957 c 70 § 26. Prior: 1949 c 219 § 1, part; 1947 c 246 § 1, part; 1929 c 132 § 2, part; 1927 c 310 § 4, part; 1923 c 136 § 2, part; 1919 c 131 § 4, part; 1917 c 28 § 1, part; 1913 c 148 § 1, part; 1911 c 74 § 5, part.]
- 51.32.020 Source—[1957 c 70 § 27. Prior: (i) 1927 c 310 § 5, part; 1919 c 131 § 5, part; 1911 c 74 § 6, part. (ii) See prior history to 51.32.010.]
- 51.32.030 Source—[1957 c 70 § 28. Prior: See (i) of 51.08.020.]
- 51.32.040 Source—[1957 c 70 § 29. Prior: See prior history to 51.04.080.]
- 51.32.050 Source—[1957 c 70 § 30. Prior: See prior history to 51.32.010.]
- 51.32.060 Source—[1957 c 70 § 31. Prior: See prior history to 51.32.010.]
- 51.32.070 Source—[1957 c 196 § 1; 1947 c 233 § 1.]
- 51.32.071 Source—[1957 c 196 § 2.]
- 51.32.080 Source—[1957 c 70 § 32. Prior: 1951 c 115 § 4.]
See also prior history notes to 51.32.010.
- 51.32.090 Source—[1957 c 70 § 33; 1955 c 74 § 8. Prior: 1951 c 115 § 3.]
See also prior history to 51.32.010.
- 51.32.100 Source—[1957 c 70 § 34. Prior: See prior history to 51.32.010.]
- 51.32.110 Source—[1917 c 28 § 18; 1915 c 188 § 5; 1911 c 74 § 13.]
This section has been revised somewhat to conform to the existing RCW language since practically every other section in this chapter has been amended and ratified by the legislature.
- 51.32.120 Source—[1957 c 70 § 35. Prior: See prior history to 51.32.010.]
- 51.32.130 Source—[1957 c 70 § 45. Prior: 1941 c 209 § 2; 1929 c 132 § 3; 1927 c 310 § 6(i); 1917 c 29 § 22; 1911 c 74 § 7.]
- 51.32.135 Source—[1953 c 143 § 1.]
- 51.32.140 Source—[1957 c 70 § 36. Prior: See prior history to 51.04.080.]
- 51.32.150 Source—[1959 c 308 § 5; 1957 c 70 § 37. Prior: See history to 51.32.010.]
- 51.32.160 Source—[1957 c 70 § 38. Prior: 1951 c 115 § 5; see also prior history to 51.32.010.]
- 51.32.180 Source—[1959 c 308 § 19. Prior: 1941 c 235 § 1, part; 1939 c 135 § 1, part; 1937 c 212 § 1, part.]

Chapter 51.36 Medical Aid

- 51.36.010 Source—[1959 c 256 § 2. Prior: 1943 c 186 § 2, part; 1923 c 136 § 9, part; 1921 c 182 § 11, part; 1919 c 129 § 2, part; 1917 c 28 § 5, part.]
- 51.36.020 Source—[1959 c 256 § 3. Prior: 1951 c 236 § 6; see also prior history note to 51.36.010.]
- 51.36.030 Source—[1959 c 256 § 4. Prior: See prior history to 51.36.010.]

Chapter 51.40 Medical Aid Contracts

This chapter (except for 51.40.070 which is derived from the 1939 law codified and subsequently amended and ratified in 51.36) is derived from 1939 c 50 § 1. It is here presented in divided form to conform to the general approach of retaining RCW organization wherever possible because of the profuse amendments and ratifications throughout the remainder of Title 51.

- 51.40.010 Source—[1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part.]

The language "such a contract shall be known as a 'medical aid contract'" was added by the 1941 Code Committee. Since such language has been in RCW for ten years and since

- such contracts are referred to as such in subsequent sections herein it is retained in the reenactment bill. Explanatory note.
- 51.40.020 Source—See source note to 51.40.010.
The language in this section is edited to conform to the existing RCW language.
- 51.40.030 Source—See source note to 51.40.010.
This section is edited to conform to the Revised Code of Washington language since the original session law referred to RRS §§ 7712 to 7723 and 7725. Some of the sections referred to have been repealed, some are obsolete and some were originally codified by RCW in combination with other laws which have been ratified.
- 51.40.040 Source—See source note to 51.40.010.
This section has been edited to conform to the existing RCW language.
- 51.40.050 Source—See source note to 51.40.010.
This section has been edited to conform to the existing RCW language. The original session law provided in the last paragraph for notice to the workmen to be effected as “in the manner provided in section 7712”. Part of section 7712 was codified in 51.16.010 and part in 51.52.050, both of which RCW sections have since been amended and ratified. The last paragraph of 7712 is the part necessary for the execution of this section. The 1941 Code Committee set forth the pertinent provisions of 7712 rather than leaving the obsolete reference. This section adopts the RCW version but also includes certain language of 7712 which the 1941 Code Committee had heretofore omitted (see 51.40.050, next to last sentence).
The provision in this session law providing for appeal by employer or a workman in the manner provided in “section 7697” has been eliminated as being covered by chapter 51.52, the present appeal procedure. The 1941 Code Committee did not codify such obsolete appeal provision in RCW.
- 51.40.060 Source—See source note to 51.40.010.
This section has been edited to conform to RCW language. The original session law contains a sentence stating that the cost of such emergency treatment shall not exceed the rate “specified in the fee bill provided by section 7715”. 7715 is an obsolete reference and such former section is now combined in 51.04.030, the department’s medical aid functions in general (see notes to that section). Thus, in this bill it has been changed to “specified in the department’s fee bill”. The temporary paragraph relating to the effect of this 1939 law on prior medical aid contracts has been deleted as obsolete. It was not codified in the RCW version.
- 51.40.070 Source—[1959 c 256 § 5. Prior: See source notes to 51.36.010.]

Chapter 51.44 Funds

- 51.44.010 Source—[1947 c 247 § 1(4d), part.]
- 51.44.020 Source—[1923 c 136 § 8, part; 1919 c 129 § 1, part; 1917 c 29 § 4, part.]
- 51.44.030 Source—[1957 c 70 § 39. Prior: See prior history to 51.32.010.]
- 51.44.040 Source—[1959 c 308 § 17; 1947 c 183 § 1; 1945 c 219 § 2.]
- 51.44.050 Source—[1959 c 308 § 6; 1957 c 70 § 40. Prior: 1947 c 247 § 1(4f), part; 1911 c 74 § 4, part.]
- 51.44.060 Source—[1959 c 308 § 7; 1957 c 70 § 41. Prior: 1947 c 247 § 1(4f), part; 1911 c 74 § 4, part.]
- 51.44.070 Source—[1959 c 308 § 8; 1957 c 70 § 42. Prior: 1951 c 236 § 7; see also 1941 c 169 § 1 and prior source note to 51.32.010.]
- 51.44.080 Source—[1957 c 70 § 43. Prior: See prior source note to 51.32.010.]

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51.44.090 Source—[1957 c 70 § 44. Prior: See prior source note to 51.44.100.]

51.44.100 Source—[1959 c 244 § 1; 1935 c 90 § 1.]

51.44.110 Source—[1911 c 74 § 26, part.]

This section is edited to conform to the RCW version. The 1941 Code Committee herein codified part of this 1911 section and the balance was combined with a 1917 law in 51.44.120. The next to the last sentence of the 1911 section reads "The state treasurer shall to such extent as shall appear to him to be advisable keep the moneys of the unsegregated portion of the accident fund invested at interest in the class of securities provided by law for the investment of the permanent school fund." The 1941 Code Committee considered such sentence as being superseded and did not codify it. This sentence is adequately covered by 51.44.100 relating to the investment of funds by the state finance committee and is therefore omitted.

51.44.120 Source—[(i) 1911 c 74 § 26, part. (ii) 1917 c 28 § 14.]

This section is a combination of two session law sections (heretofore noted in section 51.44.110); the last sentence of the 1911 section, relating to the liabilities for moneys and securities in the accident fund, is codified herein and rewritten to apply to the "several" funds because the 1917 act, with which it is combined, applies to other than the accident fund.

Chapter 51.48 Penalties

51.48.010 Source—[1947 c 247 § 1(4d), part.]

The session law section contains language to the effect that every employer "shall also be liable to a penalty . . . to be collected in a civil action in the name of the state, and paid into the accident fund and/or medical aid fund". This provision as to the action for collection is covered by 51.48.090, infra. Thus, the language relating to collection is eliminated and the provision is revised to read in part "shall also be liable to a penalty . . . for the benefit of the accident fund and the medical aid fund". This follows the existing RCW approach and the problem recurs in subsequent sections.

51.48.020 Source—[1947 c 247 § 1(4d), part.]

Edited to conform to RCW language.

The language relating to the collection by civil action is deleted, see notes to 51.48.010.

51.48.030 Source—[1947 c 247 § 1(4d), part.]

The language relating to collection by civil action deleted, see notes to 51.48.010.

51.48.040 Source—[1911 c 74 § 15, part.]

The language relating to collection by civil action deleted, see notes to 51.48.010.

51.48.050 Source—[1917 c 28 § 17.]

Language relating to liability and civil action is deleted as being covered by 51.48.090, see also notes to 51.48.010.

51.48.060 Source—[1927 c 310 § 6(e), part; 1921 c 182 § 7, part; 1911 c 74 § 12, part.]

51.48.070 Source—[1911 c 74 § 9.]

This section contained language in the original session law at the end of the first paragraph which read "in addition to the same required by section 4 to be paid". Section 4 referred to was a cumbersome section appearing in the original act which was subsequently divided by the legislature into several sections (1947 c 247) which, as amended and ratified, is codified in some 64 sections throughout this title. To preserve the legislative intent and meaning the bill states "in addition to all other payments required by law".

- 51.48.080 Source—[1915 c 188 § 8.]
The language providing for the recovery of a penalty in a civil action has been deleted as being covered by 51.48.090, see notes to 51.48.010. Explanatory note.
- 51.48.090 Source—[(i) 1947 c 247 § 1, part. (ii) 1911 c 74 § 15, part. (iii) 1917 c 28 § 17, part.]
This section covers all civil actions; the original session law provided for payment into the accident fund; the bill adds to the end of the section the phrase "unless a different fund is designated" since some of the prior sections in this chapter include different funds; these prior sections were revised (as heretofore noted) with respect to payment of penalties, fees, etc., collected in a civil action. This revision preserves such other laws without changing the meaning thereof and continues the RCW approach.
- 51.48.100 Source—[1947 c 247 § 1, part.]

Chapter 51.52 Appeals

- 51.52.010 Source—[1951 c 225 § 1; 1949 c 219 § 2.]
- 51.52.020 Source—[1951 c 225 § 2; 1949 c 219 § 3, part.]
- 51.52.030 Source—[1951 c 225 § 3; 1949 c 219 § 3, part.]
- 51.52.040 Source—[1951 c 225 § 4; 1949 c 219 § 4.]
- 51.52.050 Source—[1957 c 70 § 55; 1951 c 225 § 5. Prior: (i) 1947 c 281 § 1, part; 1943 c 210 § 1, part; 1939 c 41 § 1, part; 1937 c 211 § 1, part; 1927 c 310 § 1, part; 1921 c 182 § 1, part; 1919 c 131 § 1, part; 1911 c 74 § 2, part. (ii) 1949 c 76 § 97; 1947 c 247 § 1, part; 1911 c 74 § 20, part. (iii) 1949 c 219 § 6, part; 1943 c 280 § 1, part; 1931 c 90 § 1, part; 1929 c 132 § 6, part; 1927 c 310 § 8, part; 1911 c 74 § 20, part. (iv) 1923 c 136 § 7, part; 1921 c 182 § 10, part; 1917 c 29 § 3, part. (v) 1917 c 29 § 11. (vi) 1939 c 50 § 1, part; 1927 c 310 § 9, part; 1921 c 182 § 12, part; 1919 c 129 § 5, part; 1917 c 28 § 15, part.]
- 51.52.060 Source—[1957 c 70 § 56; 1951 c 225 § 6. Prior: (i) See (iii) of 51.52.050. (ii) See prior source note to 51.32.010.]
- 51.52.070 Source—[1957 c 70 § 57; 1951 c 225 § 7. Prior: See (iii) of 51.52.050.]
- 51.52.080 Source—[1957 c 70 § 58; 1951 c 225 § 8. Prior: See (iii) of 51.52.050.]
- 51.52.090 Source—[1957 c 70 § 59; 1951 c 225 § 9. Prior: See (iii) of 51.52.050.]
- 51.52.095 Source—[1951 c 225 § 10.]
- 51.52.100 Source—[1957 c 70 § 60; 1951 c 225 § 11. Prior: See (iii) of 51.52.050.]
The second sentence of the session law provides that in a proceeding before the board, a hearing shall be de novo and testimony of a witness may be taken by deposition "according to the statutes relating to superior courts of this state". The language has been changed to provide that the deposition may be taken according to the "statutes and rules" since the new procedural court rules control the taking of depositions.
- 51.52.102 Source—[1951 c 225 § 12.]
- 51.52.106 Source—[1951 c 225 § 13.]
- 51.52.110 Source—[1957 c 70 § 61; 1951 c 225 § 14. Prior: See prior history note (iii) of 51.52.050.]
- 51.52.115 Source—[1957 c 70 § 62; 1951 c 225 § 15. Prior: (i) See prior history note (iii) of 51.52.050. (ii) 1949 c 219 § 6; 1939 c 184 § 1.]
- 51.52.120 Source—[1951 c 225 § 16; 1947 c 246 § 3.]
- 51.52.130 Source—[1957 c 70 § 63; 1951 c 225 § 17. Prior: See (iii) of 51.52.050.]
- 51.52.132 Source—[1951 c 225 § 18.]

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- 51.52.140 Source—[1957 c 70 § 64; 1951 c 225 § 19. Prior: See prior source note to (iii) of 51.52.050.]
- 51.52.150 Source—[1951 c 225 § 20; 1931 c 116 § 1.]

Chapter 51.98 Construction

- 51.98.010 This section has been added to preserve continuity.
- 51.98.020 This section has been added to provide that title, chapter, section and subsection headings are not a part of the law.
- 51.98.030 Severability. Proviso added to make sure that the basic and comprehensive severability clause appearing in the basic workmen's compensation act of 1911 codified as 51.04.090 shall not be affected.

51.98.040 Repeals and saving.

The laws set forth in the schedule of repeals were either repealed previously, or are substantially reenacted by this bill. Specifically noted below are certain acts not previously repealed, which are proposed for repeal without reenactment. The numbers in parentheses correspond to the like-numbered subdivisions of the repealer schedule.

- (1) Section 21 provided for the creation of a department since abolished and powers and duties transferred to the department of labor and industries by 1921 c 7 §§ 74-82, 135—see chapter 43.22 RCW. Hence, this section repealed without reenactment.

Sections 22 and 23 of the 1911 act are repealed without reenactment; they relate to the salary, deputies and assistance of the commissioners of labor; the commissioners' powers and duties have been transferred to the department.

Section 30 of chapter 74, Laws of 1911 is preserved from repeal. It is presently codified as RCW 49.16.160. Similar language preserving safeguard regulations has been written into the saving provision in 51.98.040.

Section 31 of chapter 74, Laws of 1911 is repealed without reenactment; this section reads:

"If this act shall be hereafter repealed, all moneys which are in the accident fund at the time of the repeal shall be subject to such disposition as may be provided by the legislature, and in default of such legislative provision distribution thereof shall be in accordance with the justice of the matter, due regard being had to obligations of compensation incurred and existing."

This was mentioned in connection with 51.04.090, *supra*. This section was necessary in 1911 when the basic law was enacted since at that time it was not known whether the courts would uphold the constitutionality of the act or not. Since the act does not provide any formula for a disposition of funds in the case of repeal, a legislature may dispose of such funds without being bound by a prior legislature; such legislative distribution shall necessarily be in accordance with the judicial rules laid down with regard to the accident fund, and the courts have declared such fund a "trust fund" imposing certain rules and conditions relating thereto. See *State ex rel Trenholm v. Yelle*, 174 Wash. 547; *Mason-Walsh-Atkinson-Kier Co. v. Dept. L & I.*, 5 Wn. (2d) 508.

Section 32, chapter 74, Laws of 1911 is repealed without reenactment; this saving clause related to actions pending in 1911 and is now covered by the new saving clause.

- (4) Section 8, chapter 28, Laws of 1917 is repealed without reenactment. This section relates to the obsolete state medical board, its organization, assistants, etc. Such board was abolished by the 1921 administrative code and its powers and duties are vested in the department of labor and industries.

Section 9 of the 1917 act is repealed without reenactment for the same reasons given above for section 8.

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Section 16 of the 1917 act is repealed without reenactment. This section relates to the collection and disbursements of medical aid funds in accordance with certain provisions specifically enumerated. All of the current provisions, powers and duties relating to the collection and disbursement of medical aid funds are in later laws reenacted herein; most of the sections referred to in the 1917 law have since been completely amended, or have been repealed, superseded or supplemented.

- (11) Sections 12, 13 and 14, chapter 136, Laws of 1923 preserved from repeal are codified in 49.16.090, 49.16.120 and 49.16.151 and therefore are retained.

Section 20, chapter 136, Laws of 1923 is a section providing for nonretroactive application of the 1923 act. The retroactive and non-retroactive features of all acts have been preserved in the saving clause to the repealer schedule in 51.98.040. This section and other similar construction sections have not been repealed, thereby preserving their effect; however, they are not reenacted since the retroactivity of the reenactment bill will be covered in the general saving clause. All such retroactive construction sections will be footnoted on publication of Title 51 following passage of this reenactment bill. This reasoning also applies to subdivision (9) with respect to 1919 c 131 § 9 and to subdivision (4) with respect to section 21, chapter 28, Laws of 1917.

Also preserved from repeal of chapter 136, Laws of 1923 are sections 21, 22 and 23, a severability clause, a repealer clause coupled with a saving provision, and an effective date with an exception therein. Other sections of this session law are codified in Title 49 (which is not being reenacted) and therefore are not repealed or reenacted in this bill.

- (18) Section 2, chapter 104, Laws of 1931, which is repealed without reenactment, was a construction section excepting a 1931 amendment to RRS § 7676 from having application to coal mines and stating that such industry should be governed by the laws in effect prior to the taking effect of the 1931 amendment. Subsequently, RRS § 7676 was again amended in 1939 and the last paragraph of the 1939 act rendered section 2 of the 1931 act ineffective. Former compilations also omitted this section. See also notes to 1939 c 138 § 2, *infra*, subdivision (29).
- (29) Section 2, chapter 138, Laws of 1939 is repealed without reenactment. This section provided an effective date for the new rates and classifications set up by the 1939 act and was formerly compiled as RRS § 7676-1 in lieu of 1931 c 104 § 2, discussed above in (18). This was a temporary section and is now obsolete.
- (38) Section 1, chapter 89, Laws of 1945 is repealed without reenactment since it was held unconstitutional in its entirety in *Swedish Hospital etc. v. Dept. of L. & I.*, 26 Wn. (2d) 819.
- (46) Section 5, chapter 219, Laws of 1949 is repealed without reenactment since it was temporary transferring all of the powers and proceedings before the old joint board of the department of labor and industries to the board of industrial insurance appeals.
- (57) Sections 1 and 2, chapter 70, Laws of 1957 are not repealed nor reenacted. Section 2, chapter 70, Laws of 1957 reenacted RCW 49.16.010. A portion of 49.16.010 in the 1950 publication of RCW contained a definition of "educational standard"; the remaining portion of the session law from which it was derived was combined, divided and codified throughout Title

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51; all of such RCW sections, by means of chapter 70, were amended and ratified by the legislature in 1957. Each law prior to 1957 is repealed and reenacted in this bill with the exception of the definition of "educational standard" in 49.16.010. Thus, in order to preserve that portion of the prior law not enacted in 49.16.010, section 2 is withdrawn from the repealer leaving such latter RCW section with its 1957 session law source. The prior laws containing such definition which are repealed herein are found in 1921 c 182 § 2; 1927 c 310 § 2; 1939 c 41 § 2. Since such section 2 (in 49.16.010) is dependent upon the legislative direction section contained in section 1 of the 1957 act both section 1 and section 2 are preserved from repeal.

- (52) Section 1, chapter 246, Laws of 1951 is repealed without re-enactment since it was declared unconstitutional in *Rourke v. Dept. of L. & I.*, 41 Wn. (2d) 310.
- (56) Section 1, chapter 360, Laws of 1955 is repealed without re-enactment. This section relates to the quarterly report of payrolls controlled by 51.16.060, and although the 1955 section was actually repealed by 1959 c 308 § 20, it is here re-repealed to prevent any question of revival.
- (63) Section 26, chapter 308, Laws of 1959 is repealed without re-enactment. This is a construction section providing that section 25 of the 1959 act is a restatement and continuation of existing law and not a new enactment. The section construed section 25 codified as 51.08.015. The new continuation section in 51.98.010 covers this situation.

51.98.050 Emergency.