

No. 447, S.]

[Published June 27, 1955.

**CHAPTER 283**

AN ACT to repeal 102.455 (4); to renumber 102.455 (2) (intro. par.) and (a) and (3); to renumber and amend 102.455(1) and (2) (b); to amend 20.07 (3), 66.908 (2) (aa), as repealed and recreated by chapter 41, laws of 1955, 102.07 (2) and 102.21; to repeal and recreate 66.907 (2) (g); and to create 66.191 (2) (c), (4) and (5) and 102.66 of the statutes, relating to setoffs of benefits as between the workmen's compensation law and various public employe retirement systems, and making an appropriation.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 20.07 (3) of the statutes is amended to read:

20.07 (3) Annually, such sums as may be necessary for payments as provided in ch. 102, and under \* \* \* ss. 56.21 and 66.191, except that payments of increased compensation payable under ss. 102.57 and 102.60, shall be paid from the appropriation covering the salary or maintenance of the person injured, provided such appropriation has not been exhausted; otherwise payments shall be made from the general fund and the first \$200 of compensation thus paid from the general fund in the case of any person whose work was financed from a segregated fund or account shall be charged to that fund or account.

SECTION 2. 66.191 (2) (c), (4) and (5) of the statutes are created to read:

66.191 (2) (c) Any person entitled to death benefit payments under this subsection may file with the commission a written election to waive such payments and accept in lieu thereof such death benefits, burial expenses, and medical and incidental compensation payments as may

otherwise be due under ch. 102, but no person shall receive death and burial expense payments under both ch. 102 and this subsection.

(4) This section shall be administered by the industrial commission, which may adopt necessary rules relating to hearings, investigations and other matters in connection with applications for benefits under this section.

(5) Any person entitled to disability benefit payments under this section may file with the commission a written election to waive such payments and accept in lieu thereof such payments as may otherwise be due under s. 66.907 (2); but no person shall receive disability benefit payments under both s. 66.907 (2) and this section.

SECTION 3. 66.907 (2) (g) of the statutes is repealed and recreated to read:

66.907 (2) (g) Any person entitled to payments under this subsection who may otherwise be entitled to payments under s. 66.191 may file with the commission a written election to waive payments due under this subsection and accept in lieu thereof such payments as may be due under s. 66.191, but no person shall receive payments under both s. 66.191 and this subsection.

SECTION 4. 66.908 (2) (aa) of the statutes, as repealed and recreated by chapter 41, laws of 1955, is amended to read:

66.908 (2) (aa) Upon the death of a participating employe who is currently in the service of a participating municipality or who is on a leave of absence therefrom, subject to the limitations of s. 66.903 (1) (b), or upon the death of an applicant for a disability or retirement annuity, other than an annuity authorized by s. 66.906 (3), whose application had been received within 30 days after termination of employment and who would have been entitled to such annuity had he lived, which participating employe or applicant, as the case may be, had at the time of his death prior or current service credit, or both, for at least 60 months as a participating employe for any one participating municipality, if the beneficiary or beneficiaries to whom the death benefit is payable are a spouse, parent, child (including legally adopted child), grandchild, brother or sister of such employe or applicant, the death benefit provided under par. (a) or, if greater, an amount equal to the accumulated normal, additional, municipality and prior service credits of such participating employe or applicant on the date of his death; except that the total accumulated municipality and prior service credits used to provide the total death benefit shall not exceed such respective credits which could have been used to provide an annuity for the deceased participating employe or applicant at the time of his death, assuming that an annuity could have been granted to him at such time. \* \* \*

SECTION 5. 102.07 (2) of the statutes is amended to read:

102.07 (2) \* \* \* Any \* \* \* peace officer shall be considered an employe while engaged in the enforcement of peace or in the pursuit and capture of those charged with crime.

SECTION 6. 102.21 of the statutes is amended to read:

102.21 Whenever an award is made by the commission *under this chapter or s. 66.191* against any municipality, the person in whose favor it is made shall file a certified copy thereof with the municipal clerk. Within 20 days thereafter, unless an appeal is taken, such clerk shall draw an order on the municipal treasurer for the payment of the award. If upon appeal such award is affirmed in whole or in part the order for payment shall be drawn within 10 days after a certified copy of such

judgment is filed with the proper clerk. If more than one payment is provided for in the award or judgment, orders shall be drawn as the payments become due. No statute relating to the filing of claims against, and the auditing, allowing and payment of claims by municipalities shall apply to the payment of an award or judgment under \* \* \* this section.

SECTION 7. 102.455 (1), (2) and (3) of the statutes are renumbered 66.191 (1), (2) and (3), respectively, and as so renumbered 66.191 (1) and (2) (b) are amended to read:

66.191 SPECIAL DEATH AND DISABILITY BENEFITS FOR CERTAIN PUBLIC EMPLOYEES SUBJECT TO WISCONSIN RETIREMENT ACT. (1) Whenever a policeman, fireman, conservation warden, deputy state fire marshal, state forest ranger, field employe of the conservation commission who is subject to call for forest fire control or warden duty, member of the state traffic patrol, state university full-time policeman, guard or any other employe whose principal duties are supervision and discipline of inmates at a state penal institution *including central state hospital*, or state beverage tax investigator who is a participating employe under ss. 66.90 to \* \* \* 66.918 shall, while engaged in the performance of duty, be injured or contract a disease due to his occupation, and be found upon examination to be so completely and presumably permanently disabled, either physically or mentally, as to render necessary his retirement from any of the aforesaid services, the *industrial* commission shall order payment to him monthly, *under s. 20.07 (3) or 102.21*, of a sum equal to one-half his monthly salary in such service at the time that he became so disabled. \* \* \*

(2) (b) To the guardian of each such child, \$15 until he becomes 18 years of age; provided, \* \* \* that the total monthly payments ordered under this subsection shall not exceed 65 per cent of the monthly salary being paid to the deceased in such service at the time of his disability or death, and there shall be a pro rata reduction in the benefits paid hereunder, if necessary, in order to comply with such limitation. \* \* \* On or before January 15 in each year any widow entitled to a benefit under this subsection shall file with the municipality which makes payments hereunder an affidavit stating that she has not married again. The monthly payment ordered to any widow under this subsection shall begin in each calendar year only after such affidavit shall have been filed with the clerk of such municipality, and no payment shall be made for any month in such year prior to the one in which such affidavit was filed.

SECTION 8. 102.455 (4) of the statutes is repealed.

SECTION 9. 102.66 of the statutes is created to read:

102.66 WAIVER OF PAYMENTS. Any person entitled to death benefits, burial expenses, and medical and incidental compensation payments under this chapter who may otherwise be entitled to payments under s. 66.191 (2) may file with the commission a written election to waive the death and burial expense payments due under this chapter and accept in lieu thereof such death benefit payments as may be due under s. 66.191 (2) plus such medical and incidental compensation payments as may be due under s. 102.42. No person shall receive death and burial expense payments under both s. 66.191 (2) and ch. 102.

SECTION 10. This act is intended to constitute the legislation contemplated in chapter 397, laws of 1953. All cases pending under the temporary provisions of said chapter 397, laws of 1953 shall be disposed of pursuant to this act. The provisions of this act relating to ss. 66.908 (2) (aa) and 102.455 (herein renumbered 66.191), except that portion

of s. 66.191 (1) which provides death and disability benefits for the surviving employes of central state hospital or their surviving beneficiaries, shall be retroactive to July 6, 1951. The remainder of this act, except that portion of s. 66.191 (1) which provides death and disability benefits for the surviving employes of central state hospital or their surviving beneficiaries, shall be retroactive to July 9, 1953.

SECTION 11. The legislature hereby finds and declares that this remedial legislation is necessary pending further comprehensive study of the relationship between the various death, disability and medical expense benefits under workmen's compensation and the various public employe retirement systems.

SECTION 12. Workmen's compensation awards and pension benefits granted pursuant to this act shall not be affected by the repeal of or amendment of this act or by any subsequent act of the legislature, it being intended by this act that workmen's compensation or pension benefits which were temporary in nature as a result of the enactment of chapter 397, laws of 1953 shall be adjusted to conform to the provisions hereof, and as so adjusted shall be permanent, and the recipients of benefits shall have a vested right therein.

Approved June 22, 1955.

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