

such repair or replacement of any of the facilities which are reconstructed to a higher type or improved, plus one-half of the increased cost, as determined or estimated by the commission, of the reconstruction to a higher type or the improvement of any of the facilities, and less one-fourth of the annual allotment referred to in subsection (2).

(4) Whenever the aid allotted or determined to be payable exceeds the cash balance in the appropriation under section 20.49 (7e), no further payments shall be made until the following June 30, on which date all amounts allotted or determined to be payable shall be reduced pro rata to the amount of the balance available.

(5) Any town, city or village may, and at the discretion of the commission shall, arrange to have such work for which aid is granted performed by the county, and in such case, on order of the town, city or village, the aid from the state for such work shall be paid to the county.

Approved July 30, 1947.

No. 233, S.]

[Published August 5, 1947.]

#### CHAPTER 475.

AN ACT to repeal 102.44 (5), 102.54, 102.55 (1), (2), (6) and (7), 102.555; to renumber 102.55 (3), (4) and (5) to be 102.55 (1), (2) and (3); to amend 102.11 (1) (Introductory paragraph), 102.12, 102.29 (1) (b) and (2), 102.48 (1), 102.49 (5), 102.55 (1), (2) and (3), as renumbered; to amend 102.44 (4); and to repeal and recreate 102.52 and to create 102.03 (4), 102.29 (5), 102.53 of the statutes, relating to indemnities for injuries under workmen's compensation.

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

SECTION 1. 102.03 (4) of the statutes is created to read:

102.03 (4) The right to compensation and the amount thereof shall in all cases be determined in accordance with the provisions of law in effect as of the date of the injury.

SECTION 2. 102.11 (1) (Introductory paragraph) of the statutes is amended to read:

102.11 (1) (Introductory paragraph) The average weekly

earnings for temporary disability shall be taken at not less than \$12.50 nor more than \* \* \* \$40, and for permanent disability or death shall be taken at not less than \$20 nor more than \* \* \* \$40. Between said limits the average weekly earnings shall be determined as follows:

SECTION 3. 102.12 of the statutes is amended to read:

102.12 No claim for compensation shall be maintained unless, within 30 days after the occurrence of the injury or within 30 days after the employe knew or ought to have known the nature of his disability and its relation to his employment, actual notice was received by the employer or by an officer, manager or designated representative of an employer. If no representative has been designated by posters placed in one or more conspicuous places, then notice received by any superior shall be sufficient. Absence of notice shall not bar recovery if it is found that the employer was not misled thereby. Regardless of whether notice was received, if no payment of compensation (other than medical treatment or burial expense) is made, and no application filed with the commission within 2 years from the date of the injury or death, or from the date the employe or his dependent knew or ought to have known the nature of the disability and its relation to the employment, the right to compensation therefor shall be barred, *except that the right to compensation shall not be barred if the employer knew or should have known, within the 2-year period, that the employe had sustained or probably would sustain permanent disability.*

SECTION 4. 102.29 (1) (b) and (2) of the statutes are amended to read:

102.29 (1) (b) The commencement of an action by an employe or his dependents against a third party for damages by reason of an injury to which \* \* \* *sections 102.03 to 102.64 are applicable, or the adjustment of any such claim, shall not affect the right of the injured employe or his dependents to recover compensation, but any amount recovered by the injured employe or his dependents from a third party shall be applied as follows: Reasonable costs of collection, and expense of treatment paid by the employer and the insurer, shall be deducted, except that if the amount of damages for expense of treatment shall have been separately determined the deduction on account thereof shall not exceed the amount as so determined; then one-third of the remainder shall in every case belong to the*

injured employe or his dependents, as the case may be; the remainder, *exclusive of any damages separately determined for expense of treatment*, or so much thereof as is necessary to discharge in equal amount the liability of the employer and the insurer for compensation, *other than for expense of treatment*, shall be paid to such employer or insurer; and any excess shall belong to the injured employe or his dependents.

(2) An employer or compensation insurer who shall have paid a lawful claim under this chapter for the injury or death of an employe shall have a right to maintain an action in tort against any other party responsible for such injury or death. If reasonable notice and opportunity to be represented in such action by counsel shall have been given to the compensation beneficiary, the liability of such other party to such compensation beneficiary shall be determined in such action as well as his liability to the employer and insurer. If recovery shall be had against such other party, by suit or otherwise, the compensation beneficiary shall be entitled to any amount recovered over and above the amount that the employer or insurer have paid or are liable for in compensation, after deducting reasonable costs of collection, and in no event shall the compensation beneficiary be entitled to less than one-third of the amount recovered from the third party, less the reasonable costs of collection *and reimbursement for expense of treatment, except that if the amount of damages for expense of treatment shall have been separately determined the deduction on account thereof shall not exceed the amount as so determined.* Settlement of such claims and the distribution of the proceeds therefrom must have the approval of a court or of the industrial commission.

SECTION 5. 102.29 (5) of the statutes is created to read:

102.29 (5) If the insurance carrier of the employer and of the third party shall be the same, or if there is common control of the insurer of each, the insurance carrier of the employer shall promptly notify the parties in interest and the industrial commission of that fact; likewise, if the employer has assumed the liability of the third party he shall give similar notice; and, in default of such notice, any settlement with an injured employe or beneficiary shall be void.

SECTION 6. 102.48 (1) of the statutes is amended to read:

102.48 (1) An unestranged surviving parent or parents, residing within any of the states or District of Columbia of the

United States, shall receive a death benefit of \* \* \* \$1,500. If the parents are not living together, the commission shall divide this sum in such proportion as it shall determine to be just, considering their ages and other facts bearing on dependency.

SECTION 7. 102.49 (5) of the statutes is amended to read:

102.49 (5) In each case of injury resulting in death, leaving no person wholly dependent for support, the employer or insurer shall pay into the state treasury such an amount, when added to the sums paid or to be paid on account of partial dependency, as shall equal the death benefit payable to a person wholly dependent, such payment to the state treasury in no event to exceed \* \* \* \$2,500. The payment into the state treasury shall be made in all such cases regardless of whether the dependents or personal representatives of the deceased employe commence action against a third party as provided in section 102.29. If such payment is not made within 20 days after the commission makes request therefor, any sum payable shall bear interest at the rate of 6 per cent per annum.

SECTION 8. 102.44 (4) of the statutes is amended to read:

102.44 (4) Where the permanent disability is covered by the provisions of sections 102.52, \* \* \* 102.53 and 102.55, such sections shall govern; provided, that in no case shall the percentage of permanent total disability be taken as more than 100 per cent.

SECTION 9. 102.44 (5) of the statutes is repealed.

SECTION 10. 102.52 of the statutes is repealed and recreated to read:

102.52 PERMANENT PARTIAL DISABILITY SCHEDULE. In cases included in the following schedule of permanent partial disabilities indemnity shall be paid for the healing period, and in addition thereto, where the employe is 50 years of age or less, for the period specified, at the rate of 70 per cent of the average weekly earnings of the employe, to be computed as provided in section 102.11:

- (1) The loss of an arm at the shoulder, 500 weeks;
- (2) The loss of an arm at the elbow, 450 weeks;
- (3) The loss of a hand, 400 weeks;
- (4) The loss of a palm where the thumb remains, 275 weeks;
- (5) The loss of a thumb and the metacarpal bone thereof, 125 weeks;

- (6) The loss of a thumb at the proximal joint, 100 weeks;
- (7) The loss of a thumb at the distal joint, 40 weeks;
- (8) The loss of all fingers on one hand at their proximal joints, 225 weeks;
- (9) Losses of fingers on each hand as follows:
  - (a) An index finger and the metacarpal bone thereof, 60 weeks;
  - (b) An index finger at the proximal joint, 50 weeks;
  - (c) An index finger at the second joint, 30 weeks;
  - (d) An index finger at the distal joint, 12 weeks;
  - (e) A middle finger and the metacarpal bone thereof, 45 weeks;
  - (f) A middle finger at the proximal joint, 35 weeks;
  - (g) A middle finger at the second joint, 20 weeks;
  - (h) A middle finger at the distal joint, 8 weeks;
  - (i) A ring finger and the metacarpal bone thereof, 26 weeks;
  - (j) A ring finger at the proximal joint, 20 weeks;
  - (k) A ring finger at the second joint, 15 weeks;
  - (l) A ring finger at the distal joint, 6 weeks;
  - (m) A little finger and the metacarpal bone thereof, 28 weeks;
  - (n) A little finger at the proximal joint, 22 weeks;
  - (o) A little finger at the second joint, 16 weeks;
  - (p) A little finger at the distal joint, 6 weeks;
- (10) The loss of a leg at the hip joint, 500 weeks;
- (11) The loss of a leg at the knee, 425 weeks;
- (12) The loss of a foot at the ankle, 250 weeks;
- (13) The loss of the great toe with the metatarsal bone thereof, 83-1/3 weeks;
- (14) Losses of toes on each foot as follows:
  - (a) A great toe at the proximal joint, 25 weeks;
  - (b) A great toe at the distal joint, 12 weeks;
  - (c) The second toe with the metatarsal bone thereof, 25 weeks;
  - (d) The second toe at the proximal joint, 8 weeks;
  - (e) The second toe at the second joint, 6 weeks;
  - (f) The second toe at the distal joint, 4 weeks;
  - (g) The third, fourth or little toe with the metatarsal bone thereof, 20 weeks;
  - (h) The third, fourth or little toe at the proximal joint, 6 weeks;
  - (i) The third, fourth or little toe at the second or distal joint, 4 weeks;

- (15) The loss of an eye by enucleation or evisceration, 275 weeks;
- (16) Total impairment of one eye for industrial use, 250 weeks;
- (17) Total deafness 333-1/3 weeks;
- (18) Total deafness of one ear, 50 weeks.

SECTION 11. 102.53 of the statutes is created to read:

102.53 MULTIPLE INJURY AND AGE VARIATIONS. (1) In case an injury causes more than one permanent disability specified in sections 102.44 (3), 102.52 and 102.55, the period for which indemnity shall be payable for each additional equal or lesser disability shall be increased as follows:

- (a) In the case of impairment of both eyes, by 200 per cent.
- (b) In the case of disabilities on the same hand covered by section 102.52 (9), by 100 per cent for the first equal or lesser disability and by 150 per cent for the second and third equal or lesser disabilities.
- (c) In the case of disabilities on the same foot covered by section 102.52 (14), by 20 per cent.
- (d) In all other cases, by 20 per cent.
- (e) The aggregate result as computed by applying paragraph (a), and the aggregate result for members on the same hand or foot as computed by applying paragraphs (b) and (c), shall each be taken as a unit for applying paragraph (d) as between such units, and as between such units and each other disability.
- (2) In cases where the injured employe is above 50 years of age when injured the periods for which indemnity shall be payable, in addition to the healing period, shall be reduced from those specified in section 102.52 by 2 per cent for each year that the age of such employe exceeds 50.

SECTION 12. 102.54 of the statutes is repealed.

SECTION 13. 102.55 (1), (2), (6) and (7) of the statutes are repealed.

SECTION 14. 102.55 (3), (4) and (5) are renumbered to be 102.55 (1), (2) and (3) of the statutes and amended to read:

102.55 (1) Whenever amputation of a member is made between any 2 joints mentioned in the schedule \* \* \* in sections 102.52 \* \* \* the determined loss and resultant indemnity therefor shall bear such relation to the loss and indemnity applicable

in case of amputation at the joint next nearer the body as such injury bears to one of amputation at the joint nearer the body.

(2) For the purposes of \* \* \* *this* schedule \* \* \* permanent and complete paralysis of any member shall be deemed equivalent to the loss thereof.

(3) For all other injuries to the members of the body or its faculties which are specified in \* \* \* *this* schedule \* \* \* resulting in permanent disability, though the member be not actually severed or the faculty totally lost, compensation shall bear such relation to that named in \* \* \* *this* schedule \* \* \* as disabilities bear to \* \* \* *the disabilities* named in \* \* \* *this* schedule \* \* \*. Indemnity in such cases shall be determined by allowing weekly indemnity during the healing period resulting from the injury and the percentage of permanent disability resulting thereafter as found by the commission. \* \* \*

SECTION 15. 102.555 of the statutes is repealed.

SECTION 16. This act shall take effect on July 1, 1947.

Approved August 1, 1947.

No. 142, S.]

[Published August 5, 1947.

#### CHAPTER 476.

AN ACT to create 16.08 (2) (c) of the statutes, relating to certain positions of the state historical society in the unclassified service.

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

16.08 (2) (c) of the statutes is created to read:

16.08 (2) (c) The director, chief librarian, and chief curator of the museum of the state historical society.

Approved July 30, 1947.