

No. 211, S.]

[Published July 8, 1953.

CHAPTER 397

AN ACT to create 102.455 (4) of the statutes, relating to workmen's compensation benefits and to make temporary provision for increased benefits for public employes under various public employe retirement systems.

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

SECTION 1. 102.455 (4) of the statutes is created to read:

102.455 (4) Any person entitled to payments under this section may file with the commission a written election temporarily to waive such payments and accept in lieu thereof the payments otherwise due under this chapter. Such waiver shall remain in effect until the enactment of permanent legislation at which time payments shall be made in accordance with the new enactment.

SECTION 2. As a temporary measure pending a comprehensive study of the problem of the relationship between benefits for death under workmen's compensation and the various public employe retirement systems with all of its ramifications, until July 1, 1955, notwithstanding the provisions of sections 66.908 (2) (aa), 102.07 (2), and 102.455 (1)

and (2) of the statutes, chapter 396, laws of 1937, as last amended by chapter 614, laws of 1947, and charter ordinance No. 160 of the city of Milwaukee dated March 1, 1951, chapter 423, laws of 1923, as last amended by chapter 574, laws of 1949 and chapter 589, laws of 1921, as last amended by chapter 704, laws of 1951, any person entitled to a pension annuity or death benefit arising out of the death of an employe under sections 61.65, 62.13 (9) or (10) or 66.90 to 66.918 of the statutes or chapter 396, laws of 1937, as last amended by chapter 614, laws of 1947, and charter ordinance No. 160 of the city of Milwaukee dated March 1, 1951, chapter 423, laws of 1923, as last amended by chapter 574, laws of 1949, chapter 589, laws of 1921, as last amended by chapter 704, laws of 1951, shall be entitled to any such pension, annuity or death benefit in addition to any payment under chapter 102 of the statutes, and during that period no award or payments thereunder provided under said chapter 102 shall be diminished because of any such pension, annuity or death benefit so paid; provided, that in the event the aggregate of payments from the applicable pension fund and the monthly or weekly payments ordered by the industrial commission pursuant to said chapter 102 shall exceed 75 per cent of the last rate of salary of the deceased employe, payments made under said chapter 102 shall be reduced so that total payments shall not exceed 75 per cent of last rate of salary. The limitation of 75 per cent of the last rate of salary shall not include burial expenses or medical payments. The term "last rate of salary" as used in this section shall mean the monthly earnings which the deceased employe would have been paid, for a full month's work, had he lived during the month in which he sustained injury resulting in death, except that in case of beneficiaries of employes in cities of the first class, such term shall mean the salary upon which death benefits under the applicable pension system are computed. Any determination by the commission of rights under this section, and payment of any award, shall be provisional pending a permanent legislative enactment. This temporary enactment shall expire at midnight on June 30, 1955.

SECTION 3. The legislature hereby finds and declares that the enactment of section 102.455 of the statutes in 1947, and the enactment of section 66.908 (2) (aa) of the statutes in 1951 have resulted in confusion and ambiguity in the statutes as to the rights of beneficiaries under said sections, and that clarification of the rights of beneficiaries may require expensive litigation in cases now pending, and that this remedial legislation is therefore necessary. Provisions of this act relating to said sections 102.455 and 66.908 (2) (aa) shall be retroactive to July 6, 1951.

SECTION 4. If any section or any provision thereof, of this act, or its application to any person or circumstance shall be held unconstitutional or invalid, such decision shall not affect the constitutionality or validity of any other section or provision thereof, or its application to other persons or circumstances.

Approved July 2, 1953.
