

SEC. 5. If any section of this act shall for any reason be held invalid, that such construction shall not affect the other provisions herein contained not expressly invalidated.

Invalidity of part not to affect balance.

SEC. 6. The oath herein provided shall be required of all teachers whose contracts are renewed or executed from and after March 1, 1931.

Contracts on and after March 1, 1931.

Passed the Senate March 4, 1931.

Passed the House March 10, 1931.

Approved by the Governor March 20, 1931.

## CHAPTER 104.

[ S. B. 223. ]

### COMPENSATION FOR WORKMEN ENGAGED IN EXTRA-HAZARDOUS EMPLOYMENTS.

AN ACT relating to the compensation, medical and surgical care of workmen injured; the safety of workmen engaged in extra-hazardous employment; to the compensation of the dependents of such workmen in case of death; to the liability of the employers of workmen so engaged, for such compensations and cost of care and treatment; amending Section 4 of Chapter 74 of the Laws of 1911, and repealing certain acts and parts of acts in relation thereto.

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

SECTION 1. That section 4 of chapter 74 of the Laws of 1911, as amended by section 3 of chapter 310 of the Laws of 1927 (section 7676 of Remington's Compiled Statutes, 1927 Supplement) be amended to read as follows:

Amends § 4, ch. 74, Laws 1911; § 3, ch. 310, Laws 1927; § 7676, Rem. Comp. Stat. 1927 Sup.

Section 4. Inasmuch as industry should bear the greater portion of the burden of the cost of its accidents, each employer shall prior to the fifteenth day of February, 1932, and prior to the fifteenth day of each month thereafter, pay into the state treasury (1) for the accident fund, a sum equal to a percentage of his total payroll for the preceding calendar

Employer to pay percentage of payroll.

Accident fund.

Medical  
aid fund.

Classes and  
sub-classes.

Monthly  
balance in  
accident  
fund.

Payments  
into accident  
fund, how  
determined.

month, and (2) for the medical aid fund a certain number of cents for each day worked by workmen, all while engaged in extra-hazardous employment. The employments as classed and sub-classed, together with the industrial insurance and medical aid premium or assessment rates, all as contained in this section prior to the taking effect of this amendment, except as cancelled, changed or added to, or as hereafter cancelled, changed or added to, by the director of labor and industries in the manner provided by law, shall constitute the employments, classes and sub-classes and also the rates of premiums or assessments to which the act is applicable; subject, however, to the provisions in this section contained: *Provided*, That as nearly as may be practicable, the balance in the accident fund of any class, on the first day of each calendar month, together with the estimated payments to be made on or before the fifteenth day of each respective calendar month, shall not exceed one hundred and twenty-five per cent of the estimated amount required to carry such class for such month, based on the previous five years experience of such class, but there may be added the amount of the estimated deficit, if any, in the accident fund of such class on the first of such calendar month.

The amounts to be paid into the accident fund shall be determined as follows: The department of labor and industries shall, prior to the first day of January, 1932, and prior to the first day of January of each year thereafter, determine for each class and/or sub-class a basic premium rate for the ensuing calendar year, and in so doing shall take into consideration, first, the cost experience of each class and sub-class over the two year period immediately preceding September first of the year in which the basic rate is being fixed; second, the then condition of each class and sub-class account.

The department of labor and industries shall also, prior to the first day of January, 1932, and prior to the first day of January of each year thereafter, determine the percentage of the payroll to be paid into said accident fund during the ensuing year by each employer to be credited to each class and/or sub-class account applicable to the employer's operations of business, and in so doing shall take into consideration the average cost experience of each employer for each one-hundred dollars of payroll in each such class or sub-class over the two year period immediately preceding September first of the year in which the percentage rate is being determined, and in so computing the cost experience of any employer the fixed sum of four thousand dollars (\$4,000) shall be charged against his experience for each injury resulting in the death or total permanent disability of a workman instead of the actual cost to the accident fund of such injury. The actual rate or per cent of payroll which any employer shall be required to pay for the accident fund shall be twenty-five per cent (25%) of the basic rate, plus seventy-five per cent (75%) of the employer's cost rate for each one hundred dollars (\$100) of payroll over the two year period next preceding the then last September first, but in no case shall the total rate exceed one hundred seventy-five per cent (175%) of the basic rate. If any employer shall operate more than one plant or establishment a premium rate shall be determined for each plant or establishment according to its experience cost.

Department  
to make  
annual  
estimate of  
payroll  
percentage.

Actual rate.

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 labor and industries of such fact, accompanying such notification with an estimate of his

Work after  
final ad-  
justment.

payroll for the first calendar month of his proposed operations, and shall make payment of the premium on such estimated payroll. Every such employer shall be liable for a premium of at least such estimated payroll. Every such employer shall pay the full basic rate until such time as an experience rating in excess of a year period may be computed as of a first succeeding September first date, and shall be liable for a premium of at least one dollar irrespective of the amount of his payroll.

High cost  
experience.

To the end that no employer shall evade the burden imposed by an unfavorable or high cost experience, the director of labor and industries shall have the power to determine whether or not an increase, decrease or change (a) of operating property; (b) of interest in operating property; (c) of employer; (d) of personnel or interest in employer is sufficient to show a *bona fide* change which would make inoperative any high cost experience.

Monthly  
report of  
payroll.

Every employer within the provisions of this act shall on or before the fifteenth day of each month hereafter furnish the department with a true and accurate payroll showing the aggregate number of work days, that is men-days, during which workmen were employed by him during the preceding calendar month, the total amount paid to such workmen during such preceding calendar month, and a segregation of employment in the different classes provided in this act, 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 of labor and industries.

Employer to  
keep record  
of employ-  
ment.

Every employer shall keep at his place of business a record of his employment from which the above information may be obtained and such record shall at all times be open to the inspection of the director of labor and industries, supervisor of industrial insurance, or the traveling auditors, agents or

assistants of the department, as provided in section 7690 of Remington's Compiled Statutes of Washington.

In all cases where partners or other persons are excluded on the payroll such statement shall state both the names and occupations of the parties excluded and no such person shall be entitled to compensation unless notice in writing that such excluded person has been included is received by the department prior to the date of injury to such person. Such employer shall at the time of reporting his payroll also state the names and addresses of any contractor or sub-contractor operating for or under him.

Partners  
or others  
excluded.

Every person, firm or corporation who shall fail to keep such record or fail to make such report in the manner and at the time herein provided shall be subject to a penalty of one hundred dollars (\$100.00) for each such offense, to be collected by civil action in the name of the state and paid into the accident fund.

Penalty  
failure to  
report.

Every employer who shall fail to furnish an estimated payroll and make payments as above provided shall be liable to a penalty of not to exceed five hundred dollars (\$500.00) 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 per cent of the cost to the accident fund and medical aid fund of such accident, to be collected in a civil action in the name of the state, and paid into the accident fund. The director of labor and industries may waive the whole or any part of any penalty charged under this act. In respect to any injury happening to any of his workmen during the period such employer shall be in default in the payment of any premium, if such default be after demand for payment, or if such employer shall be in default for failure to

Penalty  
failure to  
furnish  
estimate of  
payroll.

Default of  
premium.

Action by  
injured  
workmen.

furnish the department with an estimated payroll or with monthly reports of his payroll as required by this section, the defaulting employer shall not be entitled to the benefits of this act, but shall be liable to suit by the injured workman (or his beneficiaries and dependents), at his or their option, as he would have been on March 14, 1911, and in any action brought against such employer, it shall be no defense for such employer to show that such injury was caused in whole or in part by the negligence of a fellow servant of the injured workman, that the negligence of the injured workman, other than his wilful act committed for the purpose of sustaining the injury, contributed to the accident, or that the injured workman had knowledge of the danger or assumed the risk which resulted in his injury. If such injured workman or his beneficiaries, or dependents, shall elect to take under this act, such action against the employer shall revert to the state for the benefit of the accident fund.

Misrepresentation by  
employer,  
penalty.

Any employer who shall misrepresent to the department the amount of his payroll or the number of days upon which the premium under this act 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 shall be made knowingly. Civil penalties to the state under this act shall be collected by civil action in the name of the state and paid into the accident fund.

New contract, failure  
to report,  
penalty.

Any person, firm or corporation who not having previously reported to the department shall establish any new plant, or works, or enter upon the performance of any new building contract or construction contract and who shall fail to send written notice thereof to the department within five days after such establishing or entering shall be guilty of a misdemeanor.

For the purpose of such payments into the accident fund accounts shall be kept with each industry in accordance with the classification herein provided and no class shall be liable for the depletion of the accident fund from accidents happening in any other class. Each class shall meet and be liable for the accidents occurring in such class. The fund thereby created shall be termed the "accident fund" which shall be devoted to the purpose specified for it in this act.

Accounts,  
accident  
fund.

The medical aid fund created in section 7713 of Remington's Compiled Statutes of Washington 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 sub-class of industry in accordance with the classification herein provided for the purpose of computing the medical aid cost experience of such classes and sub-classes and determining the correctness of the medical aid rates charged such classes and sub-classes.

Accounts,  
medical  
aid fund.

In that the intent is that the accident fund created under this section shall ultimately become neither more nor less than self-supporting, exclusive of the expense of administration, the rates named in this section are subject to future adjustment by the director of labor and industries, in accordance with any relative increase or decrease in hazard shown by experience, and if in the adjustment by the director of labor and industries the moneys paid into the fund of 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.

Adjustment  
of rates

It shall be unlawful for the employer to deduct or obtain any part of the premium required by this section to be by him paid into the accident fund from

Deduction  
from wages  
prohibited.

Classifica-  
tions,  
corrected.

the wages or earnings of his workmen or any of them, and the making or attempting to make any such deduction shall be a gross misdemeanor. The director of labor and industries shall make corrections of classifications as between classes of industries if and as experience shall show error or inaccuracy therein. From the original classification or premium rating or any change made therein, any employer claiming to be aggrieved may upon application have a hearing before the joint board created by the administrative code upon notice to the interested parties, and in the manner provided in section 8 hereof, a review by the courts.

Single estab-  
lishment,  
different  
risk classes.

If a single establishment or work comprises several occupations listed in this section in different risk classes, the premium shall be computed according to the payroll of each occupation, or in the discretion of the director of labor and industries, a single rate of premium may be charged for the entire establishment based upon the rate of premium of the occupation reporting the largest payroll: *Provided*, That when a single establishment or work comprises distinct different risk classes, each employing a considerable number of persons, the right to have the premium computed according to the payroll of each occupation shall not be denied the employer without hearing. In computing the payroll the entire compensation received by every workman employed in extra-hazardous employment shall be included, whether it be in the form of salary, wage, piecework, overtime, or any allowance in the way of profit sharing, premium or otherwise, and whether payable in money, board, or otherwise.

Department  
attorney to  
collect  
premiums.

The director of labor and industries shall have power to authorize any employee of the department who is an attorney admitted to practice law in the State of Washington to appear for the department in any action instituted for the purpose of collecting industrial insurance premiums.



Except as otherwise provided herein this section shall take effect as of September 1, 1932.

SEC. 2. Nothing in this act contained shall be construed to affect coal mines (include shaft sinking and all tunneling in connection with coal mines), but such industries shall be governed exclusively by the laws in force prior to the taking effect of this act, as fully, to all intents and purposes, as if this act had not taken effect. Coal mines  
not affected.

SEC. 3. That, except as in this act continued in force or otherwise provided, section 60, 61, 62, 63 and 65 of chapter 130 of the Laws of 1919; section 14 and 15 of chapter 182 of the Laws of 1921; sections 15, 16, 17, 18 and 19 of chapter 136 of the Laws of 1923, and section 10 of chapter 310 of the Laws of 1927 (sections 7781, 7782, 7783, 7784 and 7786 of Remington's Compiled Statutes) are hereby repealed. Repeals  
certain acts.

Passed the Senate March 7, 1931.

Passed the House March 10, 1931.

Approved by the Governor March 20, 1931.

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## CHAPTER 105.

[ S. B. 240. ]

### DEEDS TO UNITED STATES OF RESERVED RIGHTS IN STATE LANDS.

AN ACT relating to state lands; providing for the execution in certain cases of a deed of conveyance to the United States of America of certain rights reserved to the state in the sale thereof.

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

SECTION 1. Whenever the state shall have heretofore sold or may hereafter sell any state lands and issued a contract of purchase or executed a deed of conveyance therefor, in which there is a reservation