

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

SECTION 1. A new section is added to the statutes and a new subsection is added to section 20.02 of the statutes to read: 101.34 ACCEPTANCE OF ACTS OF CONGRESS FOR ECONOMIC RECOVERY. (1) The governor is authorized to accept for the state the provisions of any act of the seventy-third congress whereby funds or other benefits are made available to the state, its political subdivisions, or its citizens, so far as the governor may deem such provisions to be in the public interest; and to this end the governor may take or cause to be taken all necessary acts including (without limitation because of enumeration) the making of leases or other contracts with the federal government; the preparation, adoption and execution of plans, methods, and agreements, and the designation of state, municipal or other agencies to perform specific duties.

(20.02) (9) STATE PARTICIPATION IN FEDERAL ACTS FOR ECONOMIC RECOVERY. To the executive department, such sums as may be necessary to enable the state to receive the benefits to which it may be entitled under any act of the seventy-third congress designed to promote economic recovery, which is accepted by the governor for the state pursuant to section 101.34.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 12, 1933.

No. 787, A.]

[Published July 14, 1933.

CHAPTER 402.

AN ACT to repeal subsection (5) of section 102.07, and to amend subsection (3) of section 20.07, subsection (2) of section 102.01, section 102.03, subsection (1) of section 102.07, sections 102.08 and 102.18, the introductory paragraph of subsection (1) of section 102.23, subsection (1) of section 102.31, and subsection (1) of section 102.59 of the statutes, relating to the administration of the workmen's compensation act and making an appropriation.

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

SECTION 1. Subsection (5) of section 102.07 of the statutes is repealed.

SECTION 2. Subsection (3) of section 20.07, subsection (2) of section 102.01, section 102.03, subsection (1) of section 102.07, section 102.08 and 102.18, the introductory paragraph of subsection (1) of section 102.23, subsection (1) of section 102.31 and subsection (1) of section 102.59 of the statutes are amended to read: (20.07) (3) Annually, such sums as may be necessary, for compensation of persons injured while in the state service, as provided in sections 102.01 to 102.34, and for compensation to inmates of state institutions injured in the performance of work in such institutions, except persons injured in prison industries, as provided in *subsection (2) of section 56.21, * * * to cover primary compensation and medical benefits awarded by the industrial commission in excess of two hundred dollars in any individual case. Primary compensation and medical benefits of two hundred dollars or less, as well as all increased compensation payable under the provisions of sections 102.57 and 102.60, shall be paid from the appropriation covering the salary or maintenance of the person injured.*

(102.01) (2) "Act" as used in this chapter means "chapter;" "compensation" means workmen's compensation; "injury" is mental or physical harm to an employe * * * *caused by accident or disease*; and "municipality" includes county, city, town, village, school district, sewer district, drainage district and other public or quasi public corporations; and "commission" means the industrial commission of Wisconsin. "Time of injury," "occurrence of injury," "date of injury" is the date of the accident which caused the injury * * * *or in the case of disease, the last day of work for the last employer whose employment caused disability.*

102.03 (1) Liability * * * *under this chapter shall exist against an employer * * * only where the following conditions * * * concur:*

(a) *Where the employe sustains an injury.*

* * * (b) Where, at the time of the injury, both the employer and employe are subject to the provisions of this chapter.

* * * (c) Where, at the time of the injury, the employe is performing service growing out of and incidental to his employment. Every employe going to and from his employment in the ordinary and usual way, while on the premises of his employer, shall be deemed to be performing service growing out of and in-

cidental to his employment; and so shall any fireman responding to a call for assistance outside the limits of his city or village, unless such response is in violation of law.

* * * (d) Where the injury is not intentionally self-inflicted.

(e) *Where the accident or disease causing injury arises out of his employment.*

(2) Where such conditions * * * exist * * * the right to the recovery of * * * compensation pursuant to the provisions of this chapter shall be the exclusive remedy against the employer.

(102.07) (1) Every person * * * in the service of the state, or of any municipality therein under any appointment, or contract of hire, express or implied. No officer of the state who is subject to the direction and control of any superior, and except as provided in subsection (2) no officer of any municipality, who is subject to the direction and control of a superior officer thereof, while engaged in the performance of duties for which his only remuneration is received from the state, or from such municipality, shall be deemed an official. The state and any municipality may require a bond from a contractor to protect it against compensation to employes of such contractor or employes of a subcontractor under him.

102.08 NONELECTION BY EPILEPTICS AND BLIND PERSONS; CO-PARTNERS AND CORPORATION OFFICERS. Epileptics and persons who are totally blind may elect not to be subject to the provisions of this chapter for injuries resulting because of such epilepsy or blindness and still remain subject to its provisions for all other injuries. *Copartners and officials of corporations may also elect not to be subject to the provisions of this chapter.* Such elections shall be made by giving notice to the employer in writing on a form to be furnished by the industrial commission, and filing a copy of such notice with the industrial commission.

102.18 (1) After final hearing the commission shall make and file its findings upon all the facts involved in the controversy, and its * * * order, which shall state its determination as to the rights of the parties. Pending the final determination of any controversy before it, the commission may after any hearing make interlocutory findings, orders and awards which may be enforced in the same manner as final awards. The commission may include in its final award, as a penalty for noncompliance with any such

interlocutory order or award, if it shall find that noncompliance was not in good faith, not exceeding twenty-five per cent of each amount which shall not have been paid as directed thereby.

(2) *The industrial commission may authorize a commissioner or examiner to make findings and orders, under rules to be adopted by the commissioner. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the industrial commission as a commission to review the findings or order.*

(3) *If no petition is filed within twenty days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the industrial commission as a body, unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commission or examiner the time for filing petition with the commission shall run from the date that notice of such reversal or modification is mailed to the last known address of the parties in interest. Within ten days after the filing of such petition with the commission the commission shall either affirm, reverse, set aside or modify such findings or order in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another twenty days for filing petition with the commission.*

(4) *The commission shall have power to remove or transfer the proceedings pending before a commissioner or examiner. It may also on its own motion, set aside, modify or change * * * any order, findings or award (whether made by an individual commissioner, an examiner or by the commission as a body) at any time within twenty days from the date thereof if it shall discover any mistake therein, or upon the grounds of newly discovered evidence. Unless the liability under * * * sections 102.49, 102.57, 102.58, 102.59, 102.60 and 102.61 is specifically mentioned, the order, findings or award shall be deemed not to affect such liability.*

(5) If it shall appear to the commission on due hearing that a mistake has been made in an award of compensation for an injury when in fact the employe was suffering from an occupational disease, the commission may within three years, set aside such award, and make a new award under this section.

(102.23) (1) (Introductory paragraph) The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive; and the order or award, either interlocutory or final, whether judgment has been rendered thereon or not, shall be subject to review only in the manner and upon the grounds following: Within thirty days from the date of the order or award *of the commission as a body* any party aggrieved thereby may commence, in the circuit court for Dane county, an action against the commission for the review of such order or award, in which action the adverse party shall also be made defendant. In such action a complaint, which need not be verified, but which shall state the grounds upon which a review is sought, shall be served with the summons. Service upon the secretary of the commission, or any member of the commission, shall be deemed completed service on all parties, but there shall be left with the person so served as many copies of the summons and complaint as there are defendants, and the commission shall mail one such copy to each other defendant. *If the circuit court is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another thirty days in which such action may be commenced.* The commission shall serve its answer within twenty days after the service of the complaint, and, within the like time, such adverse party shall, if he so desires, serve his answer to said complaint, which answer may, by way of counterclaim or cross complaint, ask for the review of the order or award referred to in the complaint, with the same effect as if such party had commenced a separate action for the review thereof. With its answer, the commission shall make return to said court of all documents and papers on file in the matter, and of all testimony which may have been taken therein, and of its order, findings and award. Such return of the commission when filed in the office of the clerk of the circuit court shall, with the papers mentioned in section 270.72, constitute a judgment roll in such action; and it shall not be necessary to settle a bill of exceptions in order to make such return part of the record of such court in such

action. Said action may thereupon be brought on for hearing before said court upon such record by either party on ten days' notice to the other; subject, however, to the provisions of law for a change of the place of trial or the calling in of another judge. Upon such hearing, the court may confirm or set aside such order or award; and any judgment which may theretofore have been rendered thereon; but the same shall be set aside only upon the following grounds:

(102.31) (1) Every contract for the insurance of the compensation herein provided for, or against liability therefor, shall be deemed to be made subject to the provisions of this act, and provisions thereof inconsistent with the act shall be void. Such contract shall be construed to grant full coverage of all liability of the assured under and according to the provisions of the act, notwithstanding any agreement of the parties to the contrary unless the commission has theretofore by written order specifically consented to the issuance of a policy on a part of such liability. No such policy shall be cancelled within the policy period *nor terminated upon expiration date* until a notice in writing shall be given to the commission *and to the assured*, fixing the date on which it is proposed to cancel it, *or declaring that the company does not intend to renew the policy upon expiration date*, such notices to be served personally or by registered mail on the commission at its offices in * * * *Madison and upon the assured*. No such cancellation, *or termination*, shall be effective * * * until * * * *thirty days* after the service of such notice, unless the employer has obtained other insurance coverage * * *. Every policy shall be written for * * * *one year and shall terminate at the expiration thereof except as herein provided*.

(102.59) (1) If an employe has at the time of injury permanent disability * * * *the equivalent of five per cent or more* * * * *of permanent total disability*, and, as a result of such injury, incurs further permanent disability * * * *the equivalent of five per cent or more* * * * *of permanent total disability*, he shall be paid from the funds provided in this section additional compensation * * * *for seventy per cent of the loss of earning capacity occurring subsequent to the second disability after subtracting the amount of compensation payable for the second disability*. *The payment of compensation under this section shall not commence until the payment of compensation for the second disability has ceased*.

SECTION 3. This act shall take effect upon passage and publication.

Approved July 12, 1933.

No. 948, A.]

[Published July 14, 1933.

CHAPTER 403.

AN ACT to repeal the introductory paragraph and subsection (1) of section 70.58 and section 70.59 of the statutes, relating to an annual state tax on property.

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

SECTION 1. The introductory paragraph and subsection (1) of section 70.58 and section 70.59 of the statutes are repealed.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 12, 1933.

No. 223, S.]

[Published July 15, 1933.

CHAPTER 404.

AN ACT to create subsection (3) of section 29.286 of the statutes, relating to possession and use of fish nets in Fond du Lac county.

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

SECTION 1. A new subsection is added to section 29.286 of the statutes to read: (29.286) (3) Nothing in this section shall prohibit any person to have in his possession or under his control in Fond du Lac county any kind of a net, upon receiving a permit to do the same from the state conservation commission who is authorized to issue such a permit whenever the commission deems it advisable.

SECTION 2. This act shall take effect upon passage and publication.

Approved July 14, 1933.