

175.36 DEPARTMENT OF LABOR AND INDUSTRY

175.36 Destruction of files and records

The department of labor and industry is authorized to destroy the following files and records at the times and under the conditions herein specified:

(1) All files, records and correspondence in the department, covering the period prior to June 1, 1921;

(2) All files and records subsequent thereto, covering the period of one year, on June first of each succeeding year;

(3) Interim receipts filed as the same are audited and have served the purpose of the commission.

[1973 c 388 s 11]

175.38 [Repealed, 1973 c 721 s 16]

175.39 [Repealed, 1973 c 721 s 16]

CHAPTER 176. WORKMEN'S COMPENSATION

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176.011 Definitions*[For text of subds. 1 to 5, see M.S.1971]*

Subd. 6. (1) "Commission" means the workmen's compensation commission of Minnesota.

(2) "Division" means the workmen's compensation division of the department of labor and industry.

(3) "Department" means the department of labor and industry.

[1973 c 388 s 12]

[For text of subds. 7 and 8, see M.S.1971]

Subd. 9. Employee. "Employee" means any person who performs services for another for hire; and includes the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, policeman, fireman, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in and about the pursuit or capture of any person charged with or suspected of crime;

(4) a county assessor;

(5) an elected or appointed official of the state, except members of the state legislature, or of any county, city, town, village, borough, school district or governmental subdivision therein but an officer of a political subdivision elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation;

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of public welfare and state institutions under the commissioner of corrections similar to those of officers and employees of such institutions, and whose services have been accepted or contracted for by the commissioner of public welfare or the commissioner of corrections as authorized by law, shall be employees within the meaning of this subdivision. In the event of injury or death of any such voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of such injury or death for similar services in institutions where such services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision thereof, shall be employees. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of such injury or death for similar services where such services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee within the meaning of this subdivision. In the event of injury or death of any such voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of such injury or death for similar services where such services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 85.041 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under chapter 176, shall be the usual

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going wage paid at the time of injury or death for similar services where such services are performed by paid employees.

In the event it is difficult to determine the daily wage as herein provided, then the commission may determine the wage upon which the compensation is payable.

[1973 c 420 s 2]

[For text of subds. 10 and 11, see M.S.1971]

Subd. 11a. Family farm. "Family farm" means any farm operation which pays or is obligated to pay less than \$2,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year. For purposes of this subdivision, farm laborer does not include members of the employer's immediate family or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter.

[1973 c 657 s 1]

[For text of subds. 12 to 19, see M.S.1971]

176.021 Application to employers and employees

Subdivision 1. Liability for compensation. Except as excluded by this chapter all employers and employees are subject to the provisions of this chapter. Every such employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of his employee arising out of and in the course of employment without regard to the question of negligence, unless the injury was intentionally self-inflicted or when the intoxication of the employee is the proximate cause of the injury. The burden of proof of such facts is upon the employer.

[1973 c 623 s 1]

[For text of subd. 2, see M.S.1971]

Subd. 3. Compensation, commencement of payment. All employers shall commence payment of the compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except those of medical, burial, and other non-periodic benefits, payments shall be made as nearly as may be at the intervals when the wage was payable; provided, however, that payments for permanent partial disability shall be made by lump sum payment, and the provisions of section 176.165 shall not apply, without the necessity of any agreement, or order of the division, upon cessation of payments for the healing period, or as soon thereafter as such disability can be ascertained, unless, upon good cause shown, it is otherwise ordered by the division. If doubt exists at such time as to the eventual permanent partial disability, payment shall be then made for the minimum permanent partial disability ascertainable in lump sum, and further lump sum payment shall be made upon any later ascertainment of greater permanent partial disability. At the time of the tender of any such lump sum payment, the employee shall be furnished with a copy of the medical report upon which such payment is based, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. No employee shall be requested to sign any final receipt until the weeks covered by the lump sum payment shall have expired.

[1973 c 388 s 13]

[For text of subd. 4, see M.S.1971]

Subd. 5. Accumulated credits, additional payments. If employees of the state or a county, city, village or other political subdivision of the state who are entitled to the benefits of the workmen's compensation law have, at the time of compensable injury, accumulated credits under a vacation, sick leave

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or overtime plan or system maintained by the governmental agency by which they are employed, the appointing authority may provide for the payment of additional benefits to such employees from their accumulated vacation, sick leave or overtime credits. Such additional payments to an employee may not exceed the amount of the total sick leave, vacation or overtime credits accumulated by the employee and shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. Such additional payments to any employee shall be charged against the sick leave, vacation and overtime credits accumulated by such employee. The commissioner of the department of labor and industry for the state or the governing body of any county, city, village or other political subdivision to which the provisions of this chapter apply, may adopt rules and regulations not inconsistent with this chapter for carrying out the provisions hereof relating to payment of additional benefits to employees from accumulated sick leave, vacation or overtime credits.

[1973 c 388 s 14]

[For text of subds. 6 and 7, see M.S.1971]

176.041 Application, exceptions

Subdivision 1. Employments excluded. This chapter does not apply to persons employed by any common carrier by railroad engaged in interstate or foreign commerce, domestic servants, persons employed by family farms, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession, or occupation of his employer; nor does it apply to officers or members of veteran's organizations whose employment relationship arises solely by virtue of attending meetings or conventions of their organization, unless such veteran's organizations elect by resolution to provide coverage under this chapter for such officers or members. Professional athletes under contract for hire which contract gives compensation not less than that provided by this chapter are not subject thereto if a written consent not to be bound thereby, signed by the professional athlete and the employer and approved by the commission, is filed with the commission.

[1973 c 657 s 2]

[For text of subds. 2 to 5, see M.S.1971]

176.051 Assumption of liability

An employer of workers on a family farm or domestics may assume the liability for compensation imposed by this chapter and such employer's purchase and acceptance of a valid insurance policy, which includes in its coverage a classification of workers on a family farm or domestics constitutes an assumption by the employer of such liability. This assumption of liability takes effect and continues from the effective date of the policy and as long only as the policy remains in force. If during the life of any such insurance policy any employee, who is a worker on a family farm or domestic, suffers personal injury or death arising out of and in the course of his employment, the exclusive remedy of the employee or his dependents is under this chapter.

[1973 c 657 s 3]

176.061 Third party liability

[For text of subds. 1 to 8, see M.S.1971]

Subd. 9. Service of notice on attorney general. In every case in which the state is liable to pay compensation or is subrogated to the rights of the employee or his dependents, all notices required to be given the state shall be served on the attorney general and the commissioner of the department of labor and industry.

[1973 c 388 s 15]

[For text of subd. 10, see M.S.1971]

176.081 WORKMEN'S COMPENSATION**176.081 Legal services or disbursements; lien**

No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this chapter is an enforceable lien against the compensation or is valid or binding in any other respect unless approved in writing by the commissioner of the department of labor and industry, compensation judge, or commission, if the claim arises out of a proceeding for compensation under this chapter, or by the judge presiding at the trial in an action for damages, or by a judge of the district court in a settlement of a claim for damages without trial. If the employer or his insurer or the defendant is given written notice of such claims for legal services or disbursements, the same shall be a lien against the amount paid or payable as compensation, subject to determination of the amount and approval provided by this chapter.

[1973 c 388 s 16]

176.091 Minor employees

A minor employee has the same power to enter into a contract, make election of remedy, make any settlement, and receive compensation as an adult employee, subject to the power of the commissioner of the department of labor and industry, compensation judge, or commission to require the appointment of a guardian for the minor employee to make such settlement and to receive moneys thereunder or under an award.

[1973 c 388 s 17]

176.101 Compensation schedule

Subdivision 1. Temporary total disability. For injury producing temporary total disability, 66⅔ percent of the daily wage at the time of injury subject to a maximum compensation of \$100 per week and a minimum compensation of \$17.50 per week. This compensation shall be paid during the period of disability, but not exceeding 350 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

[1973 c 643 s 1]

Subd. 2. Temporary partial disability. In all cases of temporary partial disability the compensation shall be 66⅔ percent of the difference between the daily wage of the worker at the time of injury and the wage he is able to earn in his partially disabled condition. This compensation shall be paid during the period of disability, but not beyond 350 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation of \$100 per week. If the employer does not furnish the worker with work which he can do in his temporary partially disabled condition and he is unable to procure such work with another employer, after reasonably diligent effort, the commission may fix a rate of compensation to be paid to the worker during the period of disability and unemployment, but not beyond 350 weeks; which shall be based upon the percentage of his general physical disability as determined from competent medical testimony adduced at a hearing before a compensation judge, a commissioner, or the commission.

[1973 c 643 s 2]

Subd. 3. Permanent partial disability. For the permanent partial disability from the loss of a member, the compensation for total disability during the healing period shall be as stated in subdivision 1. For partial disability during the healing period, the compensation shall be as stated in subdivision 2. The healing period shall not exceed 104 weeks. Thereafter and in addition thereto, compensation shall be that named in the following schedule, subject to a maximum compensation of \$100 per week:

(1) For the loss of a thumb, 66⅔ percent of the daily wage at the time of injury during 65 weeks;

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(2) For the loss of a first finger, commonly called index finger, 66⅔ percent of the daily wage at the time of injury during 40 weeks;

(3) For the loss of a second finger, 66⅔ percent of the daily wage at the time of injury during 35 weeks;

(4) For the loss of a third finger, 66⅔ percent of the daily wage at the time of injury during 25 weeks;

(5) For the loss of a fourth finger, commonly called the little finger, 66⅔ percent of the daily wage at the time of injury during 20 weeks;

(6) The loss of the first phalange of the thumb or of any finger, is considered equal to the loss of one-half of the thumb or finger and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the thumb or finger;

(7) The loss of one and one-half or more phalanges is considered equal to the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(8) For the loss of a great toe, 66⅔ percent of the daily wage at the time of injury during 35 weeks;

(9) For the loss of a toe other than a great toe, 66⅔ percent of the daily wage at the time of injury during 15 weeks;

(10) The loss of the first phalange of any toe is considered equal to the loss of one-half of the toe, and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the toe;

(11) The loss of one and one-half or more phalanges is considered equal to the loss of the entire toe;

(12) For the loss of a hand, not including the wrist movement, 66⅔ percent of the daily wage at the time of injury during 195 weeks;

(13) For the loss of a hand, including wrist movement, 66⅔ percent of the daily wage at the time of injury during 220 weeks;

(14) For the loss of an arm, 66⅔ percent of the daily wage at the time of injury during 270 weeks;

(15) Amputation of the arm below the elbow is considered the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it is considered the loss of an arm;

(16) For the loss of a foot, not including ankle movement, 66⅔ percent of the daily wage at the time of injury during 140 weeks;

(17) For the loss of a foot, including ankle movement, 66⅔ percent of the daily wage at the time of injury during 165 weeks;

(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member, 66⅔ percent of the daily wage at the time of injury during 195 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used, 66⅔ percent of the daily wage at the time of injury during 220 weeks;

(20) Amputation of a leg below the knee is considered as equal to the loss of a foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member, otherwise it is considered as equal to the loss of a leg;

(21) For the loss of an eye, 66⅔ percent of the daily wage at the time of injury during 160 weeks;

(22) For the complete permanent loss of hearing in one ear, 66⅔ percent of the daily wage at the time of injury during 85 weeks;

(23) For the complete permanent loss of hearing in both ears, 66⅔ percent of the daily wage at the time of injury during 170 weeks;

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(24) For the loss of an eye and a leg, 66⅔ percent of the daily wage at the time of injury during 475 weeks;

(25) For the loss of an eye and an arm, 66⅔ percent of the daily wage at the time of injury during 475 weeks;

(26) For the loss of an eye and a hand, 66⅔ percent of the daily wage at the time of injury during 450 weeks;

(27) For the loss of an eye and a foot, 66⅔ percent of the daily wage at the time of injury during 400 weeks;

(28) For the loss of two arms, other than at the shoulder, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(29) For the loss of two hands, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(31) For the loss of two feet, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(32) For the loss of one arm and the other hand, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(33) For the loss of one hand and one foot, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(34) For the loss of one leg and the other foot, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(35) For the loss of one leg and one hand, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(36) For the loss of one arm and one foot, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(37) For the loss of one arm and one leg, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(38) For loss of the voice mechanism, 66⅔ percent of the daily wage at the time of injury during 500 weeks;

(39) For head injuries resulting in permanent partial disability, 66⅔ percent of the daily wage at the time of injury for that proportion of 500 weeks which is represented by the percentage of such permanent partial disability as is determined from competent testimony adduced at a hearing before a compensation judge, a commissioner, or the commission;

(40) For permanent partial disability resulting from injury to any internal organ, including the heart, 66⅔ percent of the daily wage at time of injury for that proportion of 500 weeks which is represented by the percentage of such permanent partial disability as is determined from competent testimony adduced at a hearing before a compensation judge, a commissioner, or the commission;

(41) For disfigurement not resulting from the loss of a member or other injury specifically compensated, affecting the employability of the injured person in the employment in which he was injured or other employment for which the employee is then qualified, 66⅔ percent of the daily wage at the time of injury during such period as the compensation judge or the commission in cases on appeal determines, not beyond 90 weeks;

(42) For permanent partial disability resulting from injury to the back, 66⅔ percent of the daily wage at the time of injury for that proportion of 350 weeks which is represented by the percentage of such permanent partial disability as is determined from competent testimony adduced at a hearing before a compensation judge, a commissioner, or the commission;

(43) When an employee sustains concurrent injuries resulting in concurrent disabilities he shall receive compensation only for the injury which entitled him to the largest amount of compensation, but this does not affect liability

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for disfigurement affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subdivision 5;

(44) In all cases of permanent partial disability it is considered that the permanent loss of the use of a member is equivalent to and draws the same compensation as the loss of that member, but the compensation in and by this schedule provided shall be in lieu of all other compensation in such cases, except as otherwise provided by this section;

In the event a workman has been awarded, or is entitled to receive, a compensation for loss of use of a member under any workmen's compensation law, and thereafter sustains a loss of such member under circumstances entitling him to compensation therefor under the workmen's compensation act, as amended, the amount of compensation awarded, or that he is entitled to receive, for such loss of use, is to be deducted from the compensation due under the schedules of this section for the loss of such member, provided, that the amount of compensation due for the loss of the member caused by the subsequent accident is in no case less than 25 percent of the compensation payable under the schedule of this section for the loss of such member;

(45) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

(46) In cases of permanent partial disability caused by simultaneous injury to two or more members, the applicable schedules in this subdivision shall be increased by 15 percent. This clause shall not apply when the injuries are compensated under paragraphs 22 to 37 inclusive, of this subdivision. In cases of partial disability due to injury to both eyes resulting in less than total loss of vision in one or both eyes compensation shall be paid at the prescribed rate during that part of 450 weeks which the extent of the combined injury to both eyes bears to the complete loss of industrial vision;

(47) The commissioner of the department of labor and industry with the commission may make or revise rules for the determination of the extent of the impairment of the industrial use of one or both eyes taking into account all primary coordinate factors of vision. These rules shall be made or revised after consultation with experts on industrial vision and after public notice to and hearing of interested parties;

(48) In all cases of permanent partial disability not enumerated in this schedule the compensation shall be 66⅔ percent of the difference between the daily wage of the worker at the time of the injury and the daily wage he is able to earn in his partially disabled condition, subject to a maximum of \$100 per week, and continue during disability, not beyond 350 weeks; and if the employer does not furnish the worker with work which he can do in his permanently partially disabled condition and he is unable to secure such work with another employer after a reasonably diligent effort, the commission may fix a rate of compensation to be paid to the worker during the period of his unemployment, not beyond 350 weeks, which is to be based upon the percentage of his general physical disability as determined from competent medical testimony adduced at a hearing before a compensation judge, or the commission in cases upon appeal.

[1973 c 388 s 18; 1973 c 600 s 1; 1973 c 643 s 3]

Subd. 4. Permanent total disability. For permanent total disability, as defined in subdivision 5, the compensation shall be 66⅔ percent of the daily wage at the time of the injury, subject to a maximum compensation of \$100 per week and a minimum compensation of \$17.50 per week. If the wages of the employee at the time of the injury are \$17.50 or less per week, he shall receive the full amount of his wages per week. This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the

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weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if such disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. Such reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of his confinement in such institution, unless he has wholly dependent on him for support some person named in section 176.111, subdivisions 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of such confinement, shall be paid for the benefits of such dependent person during dependency. The dependency of such persons shall be determined as though the employee were deceased.

[1973 c 643 s 4]

[For text of subd. 5, see M.S.1971]

Subd. 6. Previous payments, deducted from benefits. In case a worker sustains an injury arising out of and in the course of employment, and during the period of disability caused thereby death results approximately therefrom, all payments for temporary or permanent disability previously made as compensation for such injury are deducted up to a maximum of \$17,500 from any compensation due on account of the death, and accrued compensation due to the deceased prior to his death but not paid is payable to such dependent persons or legal heirs as the commissioner of the department of labor and industry, compensation judge, or commission in cases upon appeal may order, without probate administration.

[1973 c 388 s 19]

[For text of subd. 7, see M.S.1971]

Subd. 8. Compensation during retraining. For any injury producing permanent disability which will prevent the employee from adequately performing the duties of the occupation he held at the time of injury, or any other injury which will or is likely to produce indefinite and continuous disability in excess of 26 weeks, the commissioner of the department of labor and industry shall require that the injured employee be promptly referred to the division of vocational rehabilitation, department of education, or other public or private, properly accredited agency, to determine if retraining for a new occupation would significantly reduce or remove any reduction in employability caused by the injury. The employer shall pay any usual and reasonable expenses and charges for such evaluation. If the evaluating agency certifies to the commissioner of the department of labor and industry that a period of retraining will significantly reduce or prevent the decrease in employability resulting from the injury, and if the commissioner of the department of labor and industry, compensation judge, or commission, in cases upon appeal, determines the retraining is necessary and makes an order for such compensation, the employer shall pay up to 104 weeks of additional compensation during the actual period of retraining according to the schedule of compensation for temporary total disability. However, the total additional compensation provided by this subdivision shall not be greater than an amount equal to that payable for the injury as compensation for temporary and permanent disability.

[1973 c 388 s 20]

176.111 Dependents, allowances

[For text of subds. 1 to 4, see M.S.1971]

Subd. 5. Payments, to whom made. In death cases compensation payable to dependents is computed on the following basis and shall be paid to the persons entitled thereto or to a guardian or such other person as the commis-

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sioner of the department of labor and industry, compensation judge, or commission in cases upon appeal directs for the use and benefit of the person entitled thereto.

[1973 c 388 s 21]

[For text of subds. 6 to 9, see M.S.1971]

Subd. 10. Allocation of compensation. In all cases where compensation is payable to the surviving spouse for the benefit of the surviving spouse and dependent children, the commissioner of the department of labor and industry, compensation judge, or commission in cases upon appeal may determine what portion of the compensation shall be applied for the benefit of any such child and may order the same paid to a guardian.

[1973 c 388 s 22]

Subd. 11. Remarriage of widow. In the case of the remarriage of a widow without dependent children she shall receive a lump sum settlement equal to one-half of the amount of compensation remaining unpaid, without deduction for interest, but not to exceed two full years compensation. In case of the remarriage of a widow who has dependent children the unpaid balance of compensation which would otherwise become her due shall be payable to the mother, guardian, or such other person as the commissioner of the department of labor and industry, compensation judge, or commission in cases upon appeal, orders for the use and benefit of the children during dependency. If the dependency of the children ceases before the equivalent of two years of the mother's compensation has been paid to the children, the remainder of the two years compensation shall be payable in a lump sum to the mother without deduction for interest. The payments provided herein shall be paid within 60 days after written notice to the employer of the remarriage or that the dependency of the children has ceased. No widow who has remarried shall be held to be a widow without dependent children when the deceased employee leaves any dependent child as defined by this chapter.

[1973 c 388 s 23]

[For text of subds. 12 to 16, see M.S.1971]

Subd. 17. Partial dependents. Partial dependents are entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependents at the time of and for a reasonable time immediately prior to the injury bore to the total income of the dependent during the same time; and if the amount regularly contributed by the deceased to such partial dependents cannot be ascertained because of the circumstances of the case, the compensation judge or commission, in cases upon appeal, shall make a reasonable estimate thereof taking into account all pertinent factors of the case.

[1973 c 388 s 24]

Subd. 18. Burial expense. In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount \$1,000. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, such reasonable value shall be determined and approved by the commissioner of the department of labor and industry, a compensation judge, or commission, in cases upon appeal, before payment, after such reasonable notice to interested parties as is required by the commissioner of the department of labor and industry. If the deceased leave no dependents, no compensation is payable, except as provided by this chapter.

[1973 c 388 s 25]

Subd. 19. Compensation; maximum, minimum. The compensation payable in case of death to persons wholly dependent is subject to a maximum compensation of \$100 per week and a minimum of \$17.50 per week. If at the time of injury the employee receives wages of \$17.50 or less per week, then the compensation shall be the full amount of the wages per week. The com-

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pensation payable to partial dependents is subject to a maximum of \$100 per week and a minimum of \$17.50 per week. If the income loss of partial dependents by such death is \$17.50 or less per week, then the dependents shall receive the full amount of their income loss. This compensation shall be paid during dependency but shall not exceed \$40,000 in case of a dependent wife, child, or orphan and shall not exceed 300 weeks in case of any other dependent, payments to be made at the intervals when the wage was payable, as nearly as may be.

[1973 c 643 s 5]

Subd. 20. Actual dependents, compensation. Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until 66⅔ percent of the daily wage of the deceased at the time of injury is exhausted. This compensation shall not exceed \$40,000 in case of a dependent wife, child, or orphan or continue beyond 300 weeks in case of any other dependent. The total compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate \$100 per week.

[1973 c 643 s 6]

Subd. 21. Death benefits; coordination with governmental survivor benefits. The following provisions shall apply to any dependent entitled to receive weekly compensation benefits under subdivisions 19 and 20 as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

(a) The combined total of weekly government survivor benefits and workmen's compensation death benefits provided under this section shall not exceed 100 percent of the weekly wage being earned by the deceased employee at the time of the injury causing his death; provided, however, that no state workmen's compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage; and

(b) In the event that weekly workmen's compensation benefits payable as the result of an employee's death are reduced below the maximum benefit to which a dependent is otherwise entitled under this section, the 300 week limit on compensation payments provided in subdivisions 19 and 20 shall not apply.

[1973 c 643 s 7]

176.131 Subsequent disability, special fund

[For text of subs. 1 and 2, see M.S.1971]

Subd. 3. To entitle the employer to secure reimbursement from the special compensation fund, the following provisions must be complied with:

(a) Provisions of section 176.181, subdivisions 1 and 2.

(b) The employee with a pre-existing physical impairment must have been registered with the commissioner of the department of labor and industry prior to the employee's personal injury.

[1973 c 388 s 26]

Subd. 4. Any employer who hires or retains in his employment any person who has a physical impairment shall file a formal registration for each such employee with the commissioner of the department of labor and industry in such form as the commissioner may require.

[1973 c 388 s 27]

Subd. 5. Registration under this section may be made by the employee or any employer provided:

(a) Registration shall be accompanied by satisfactory evidence of such physical impairment;

(b) Registration shall be in effect as long as said impairment exists;

(c) Upon request, a registered employee shall be furnished by the commissioner of the department of labor and industry with a registration card evi-

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dencing the fact of registration, and such other facts as the commissioner of the department of labor and industry deems advisable.

[1973 c 388 s 28]

Subd. 6. When the employer claims reimbursment from the special compensation fund after paying compensation as prescribed by this section, he shall file with the commissioner of the department of labor and industry written notice of intention to claim reimbursement in accordance with the rules and regulations of the commissioner of the department of labor and industry.

[1973 c 388 s 29]

Subd. 7. Under subdivisions 1 and 2, an occupational disease may be deemed to be the personal (second) injury.

If the subsequent disability for which reimbursement is claimed is an occupational disease, and if, subsequent to registration as provided by subdivisions 4 and 5, the employee has been employed by the employer in employment similar to that which initially resulted in such occupational disease, no reimbursement shall be paid to the employer.

[1973 c 643 s 8]

[For text of subd. 8, see M.S.1971]

Subd. 9. The commissioner of the department of labor and industry shall prescribe rules and regulations necessary for the operation of this section, except as noted in section 176.131, subdivision 8, clause (p).

[1973 c 388 s 30]

Subd. 10. The special compensation fund is created for the purposes provided in this chapter in the following manner:

(1) In every case of death of an employee resulting from personal injury arising out of and in the course of his employment where there are no persons entitled to monetary benefits of dependency compensation, the employer shall pay to the commissioner of the department of labor and industry the sum of \$5,000 for the benefit of the special compensation fund; in every case of death of an employee resulting from personal injury arising out of and in the course of his employment where there are no persons entitled to at least \$5,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner of the department of labor and industry for the benefit of the special compensation fund the difference between the amounts actually paid for such dependency benefits and \$5,000; but in no event shall the employer pay the commissioner of the department of labor and industry less than \$1,000;

(2) When an employee shall suffer personal injury which results in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability or death and which entitles him or dependents to compensation under sections 176.101 or 176.111, the employer shall in addition to compensation provided therein, pay to the commissioner of the department of labor and industry for the benefit of the special compensation fund a lump sum without interest deduction equal to seven percent of such total compensation, as soon as the amount payable for the particular injury is determined, or arrived at by agreement of the parties and such amount is approved by the commissioner of the department of labor and industry.

The provisions of clause (1) and clause (2) of this subdivision shall apply to all workmen's compensation payments, exclusive of medical costs, paid under sections 176.101 and 176.111 for all injuries or death occurring on or after June 1, 1971.

Personal injuries that occurred prior to June 1, 1971 shall be assessed at the rate in effect on the date of occurrence.

The seven percent of the total compensation required to be paid by the employer to the commissioner of the department of labor and industry for the

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benefit of the special compensation fund as provided in clause (2) of this subdivision shall remain fixed at said seven percent for the period from June 1, 1971, to June 1, 1972. Effective June 1, 1972, and thereafter on June 1, of each subsequent year, the rate shall be adjusted on the following basis: if the balance in the special compensation fund as of April 30 in any year is below \$1,000,000, the rate of payment shall be increased by two percent over the then prevailing rate. If the balance is at least \$1,000,000 but below \$1,500,000, the rate will be increased by one percent. If the balance is at least \$1,500,000 but below \$2,000,000, there shall be no change. If the balance is at least \$2,000,000 but less than \$2,500,000, the rate shall be decreased by one percent. If the balance is at least \$2,500,000, the rate shall be decreased by two percent.

Such sums as are paid to the commissioner of the department of labor and industry pursuant to the provisions hereof, shall be by it deposited with the state treasurer for the benefit of the special compensation fund and be used to pay the benefits provided by chapter 176. All money heretofore arising from the provisions of this section or similar law shall be transferred to this special compensation fund.

The state treasurer shall be the custodian of this special fund and the workmen's compensation division and the workmen's compensation commission in cases before it shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of clause (1) and dependency later is shown, or if deposit is or has been made pursuant to either clause (1) or (2) by mistake or inadvertence, or under such circumstances that justice requires a refund thereof, the state treasurer is hereby authorized to refund such deposit under order of the workmen's compensation division or the workmen's compensation commission. There is appropriated to the persons entitled to such refunds from the fund an amount sufficient to make the refund and payment.

Costs within the department of labor and industry for the accounting and legal procedures necessary for administration of the programs financed by the special compensation fund shall come from the fund during each biennium commencing July 1, 1971 with the special compensation fund being reimbursed from general fund in the next regular session of the legislature.

[1973 c 388 s 31]

Subd. 11. The commissioner of the department of labor and industry shall report biennially to the governor and to the legislature as to the financial status of such special compensation fund, which report shall include a statement of the receipts and the disbursements for the period covered.

[1973 c 388 s 32]

Subd. 12. All employers shall make such reports to the commissioner of the department of labor and industry as shall be required for the proper administration of this section.

[1973 c 388 s 33]

176.132 Supplementary benefits

[For text of subd. 1, see M.S.1971]

Subd. 2. Amount. (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives after January 1, 1972, under section 176.101, subdivision 1 or subdivision 4, and \$60 per week.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or \$60 a week, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer

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or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and \$60 per week.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent.

[1973 c 643 s 9]

[For text of subd. 3, see M.S.1971]

Subd. 4. Administrative procedures. The commissioner of the department of labor and industry shall prescribe such forms and procedures as are required for the administration of this section.

[1973 c 388 s 34]

176.135 Treatment; appliances; supplies

Subdivision 1. Medical, chiropractic, surgical, hospital. The employer shall furnish such medical, chiropractic, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. Such treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of his inability or refusal seasonably to do so the employer shall be liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of a compensation judge with respect to this subdivision may be reviewed by the commission on petition of an aggrieved party or by writ of certiorari to the supreme court.

[1973 c 388 s 35]

Subd. 2. Change of physicians or chiropractors. The commissioner of the department of labor and industry shall make the necessary rules for a change of physicians or chiropractors in the case that either the employee or the employer desire a change and for the designation of a physician or chiropractor suggested by the injured employee or the commissioner of the department of labor and industry. In such case the expense thereof shall be borne by the employer upon the same terms and conditions as provided in subdivision 1 and for medical, chiropractic and surgical treatment and attendance.

[1973 c 388 s 36]

Subd. 2a. Definitions. For the purposes of this section, the word "physicians" shall include persons holding the degree M. D. (Doctor of Medicine) and persons holding the degree D. O. (Doctor of Osteopathy); and

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the terms "medical, surgical and hospital treatment" shall include professional services rendered by licensed persons who have earned the degree M. D. or the degree D. O.

[1973 c 258 s 1]

Subd. 3. Limitation of liability. The pecuniary liability of the employer for the treatment, articles and supplies required by this section shall be limited to such charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living when the same are paid for by the injured persons. On this basis the compensation judge or commission on appeal may determine the reasonable value of all such services and supplies and the liability of the employer is limited to the amount so determined.

[1973 c 388 s 37]

Subd. 4. Christian science treatment. Any employee electing to receive Christian Science treatment as provided in subdivision 1 shall notify his employer in writing of his election within 30 days after July 1, 1953, and any person hereafter accepting employment shall give such notice at the time he accepts employment. Any employer may elect not to be subject to the provisions for Christian Science treatment provided for in this section by filing a written notice of such election with the commissioner of the department of labor and industry, in which event the election of the employee shall have no force or effect whatsoever.

[1973 c 388 s 38]

176.151 Time limitations

The time within which the following acts shall be performed shall be limited to the following periods, respectively:

(1) Actions or proceedings by an injured employee to determine or recover compensation, two years after the employer has made written report of the injury to the commissioner of the department of labor and industry, but not to exceed six years from the date of the accident.

(2) Actions or proceedings by dependents to determine or recover compensation, two years after the receipt by the commissioner of the department of labor and industry of written notice of death, given by the employer, but not to exceed six years from the date of injury, provided, however, if the employee was paid compensation for the injury from which the death resulted, such actions or proceedings by dependents must be commenced within two years after the receipt by the commissioner of the department of labor and industry of written notice of death, given by the employer, but not to exceed six years from the date of death. In any such case, if a dependent of the deceased, or any one in his behalf, gives written notice of such death to the commissioner of the department of labor and industry, the commissioner shall forthwith give written notice to the employer of the time and place of such death. In case the deceased was a native of a foreign country and leaves no known dependent within the United States, the commissioner of the department of labor and industry shall give written notice of the death to the consul or other representative of the foreign country forthwith.

(3) Once compensation has been paid to the employee, he must bring any action for further compensation within eight years from the date compensation was last paid except in the case of lump sum payments made pursuant to section 176.021, subdivision 3, in which case any action must be commenced within eight years from what would have been the date of expiration of weekly benefits under section 176.101 had not lump sum payments been made.

(4) Clause (3) shall not apply where any existing order or award provides for further payments of compensation for recurrences of the disability from the injury to the employee; or in an injury of a nature where in the opinion

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of the compensation judge or commission upon appeal there is a possibility of a future disability and the compensation judge or commission upon appeal so finds.

(5) Clause (3) shall not apply where the employee's injury for which he has received compensation is such that as part of his medical care he is entitled to the future replacement or repair of crutches, apparatus, artificial members, glasses, spectacles, artificial eyes, dental bridge work, dentures or artificial teeth, hearing aids, canes, wheel chairs, or other prosthetic devices and his claim relates to items in this paragraph, or to future medical care as it relates to items in this paragraph.

(6) In case of physical or mental incapacity, other than minority, of the injured person or his dependents to perform or cause to be performed any act required within the time specified in this section, the period of limitation in any such case shall be extended for two years from the date when the incapacity ceases.

(7) In the case of injury caused by x-rays, radium, radioactive substances or machines, ionizing radiation, or any other occupational disease, the time limitations otherwise prescribed by Minnesota Statutes 1961, Chapter 176, and acts amendatory thereof, shall not apply, but the employee shall give notice to the employer and commence his action within two years after the employee has knowledge of the cause of such injury and the injury has resulted in disability.

[1973 c 388 s 39; 1973 c 643 s 10]

(NOTE: The provisions of Laws 1973, Chapter 643, Section 10, are effective on July 1, 1973).

176.155 Examinations

[For text of subd. 1, see M.S.1971]

Subd. 2. Neutral physician. In each case of dispute as to the injury the commissioner of the department of labor and industry, or in case of a hearing the compensation judge conducting the hearing, or the commission if the matter is before it, may upon its own or his own motion, or upon request of any interested party, made in compliance with the rules of the commissioner of the department of labor and industry and the commission regulating the proper time and forms for such request, designate a neutral physician of good standing and ability to make an examination of the injured worker and report his findings to the commissioner of the department of labor and industry, compensation judge, or the commission as the case may be. The commissioner of the department of labor and industry, compensation judge, or the commission, as the case may be, may request the neutral physician to answer any particular question with reference to the medical phases of the case, including questions calling for an opinion as to the cause and occurrence of the injury insofar as medical knowledge is relevant in such answer. A copy of the signed certificate of such neutral physician shall be mailed to the parties in interest and either party, within five days from date of mailing, may demand that such physician be produced for purposes of cross-examination. Such signed certificate of a neutral physician is competent evidence of the facts stated therein. The expense of such examination shall be paid as ordered by the commissioner of the department of labor and industry, compensation judge, or the commission.

[1973 c 388 s 40]

Subd. 3. Refusal to be examined. If the injured employee refuses to comply with any reasonable request for examination, his right to compensation may be suspended by order of the division, or commission in a matter before it, and no compensation shall be paid while he continues in such refusal.

[1973 c 388 s 41]

Subd. 4. Autopsies. In all death claims where the cause of death is obscure or disputed any interested party may request an autopsy and, if denied, the compensation judge, or commission upon appeal, upon petition and proper

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showing, shall order an autopsy. If any dependent claiming compensation or benefits does not consent to such autopsy within the time fixed by the order, all dependents shall forfeit all rights to compensation. The party demanding an autopsy shall bear the cost thereof.

[1973 c 388 s 42]

Subd. 5. Testimony of examining physicians. Any physician designated by the commissioner of the department of labor and industry, compensation judge, or commission or whose services are furnished or paid for by the employer, who treats or who makes or is present at any examination of an injured employee, may be required to testify as to any knowledge acquired by him in the course of such treatment or examination relative to the injury or disability resulting therefrom.

[1973 c 388 s 43]

176.161 Alien dependents

Subdivision 1. Residing outside United States. In case a deceased employee for whose injury or death compensation is payable leaves surviving him an alien dependent residing outside the United States the commissioner of the department of labor and industry shall direct the payment of all compensation due the dependent to be made to the duly accredited consular officer of the country of which the beneficiary is a citizen residing within the state, or to his designated representative residing within the state; or, if the commissioner of the department of labor and industry believes that the interests of the dependent will be better served and at any time prior to the final settlement the dependent files with the commissioner of the department of labor and industry a power of attorney designating any other suitable person residing in this state to act as attorney in fact in such proceedings, the commissioner of the department of labor and industry may appoint such person. If it appears necessary to institute proceedings to enforce payment of compensation due the dependent, the commissioner of the department of labor and industry may permit the consular officer to institute these proceedings. If during the pendency of these proceedings, such power of attorney is filed by the alien dependent, the commissioner of the department of labor and industry shall then determine whether such attorney in fact be substituted to represent such dependent or if the consular officer or his representative continue therein. The person so appointed may carry on proceedings to settle all claims for compensation and receive for distribution to such dependent all compensation arising under this chapter. The settlement and distribution of the funds shall be made only on the written order of the commissioner of the department of labor and industry. The person so appointed shall furnish a bond satisfactory to the commission, conditioned upon the proper application of the money received by him. Before the bond is discharged, the person so appointed shall file with the commissioner of the department of labor and industry a verified account of his receipts and disbursements of such compensation.

[1973 c 388 s 44]

Subd. 2. List of dependents. Before receiving the first payment of such compensation and thereafter when ordered so to do by the commissioner of the department of labor and industry, the person so appointed shall furnish to the commissioner of the department of labor and industry a sworn statement containing a list of the dependents showing the name, age, residence, extent of dependency, and relationship to the deceased of each dependent.

[1973 c 388 s 45]

[For text of subd. 3, see M.S.1971]

176.165 Lump sum payments

The amounts of compensation payable periodically may be commuted to one or more lump sum payments only by order of the commissioner of the department of labor and industry, compensation judge, or commission in cases upon

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appeal, and on such terms and conditions as the commissioner of the department of labor and industry, compensation judge, or commission prescribes. In making these commutations the lump sum payments shall amount, in the aggregate, to a sum equal to the present value of all future instalments of the compensation calculated on a five percent basis.

[1973 c 388 s 46]

176.171 Payment to trustee

At any time after the amount of any award or commutation is finally determined, a sum equal to the present value of all future instalments of the compensation, calculated on a five percent basis, where death or the nature of the injury renders the amount of future payments certain, may be paid by the employer to any bank, mutual savings bank, savings and loan association, or trust company in this state approved and designated by the commissioner of the department of labor and industry, compensation judge, or commission in cases upon appeal. Such sum, together with all interest thereon, shall be held in trust for the employee or for the dependents of the employee, who shall have no further recourse against the employer. The employer's payment of this sum evidenced by a receipt of the trustee filed with the commissioner of the department of labor and industry, operates as a satisfaction of the compensation liability as to the employer. The trustee shall make payments from the fund in the same amounts and at the same time as are required of the employer until the fund and interest is exhausted, except when otherwise ordered by the commissioner of the department of labor and industry. In the appointment of trustee the preference shall be given to the choice of the injured employee or the choice of the dependents of the deceased employee.

[1973 c 388 s 47]

176.181 Insurance

[For text of subd. 1, see M.S.1971]

Subd. 2. Compulsory insurance; self-insurers. Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of such compensation with some insurance carrier authorized to insure such liability in this state, or obtain a written order from the commissioner of the department of labor and industry exempting such employer from insuring his liability for compensation and permitting him to self-insure such liability. With the approval of the commissioner of the department of labor and industry, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure such other portion of his operations which may be determined by the commissioner of the department of labor and industry to be a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation shall make application to the commissioner of the department of labor and industry, showing his financial ability to pay such compensation, whereupon by written order the commissioner of the department of labor and industry may make such exemption as it deems proper. The commissioner of the department of labor and industry may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of the department of labor and industry may revoke its order granting such exemption, in which event the employer shall immediately insure his liability. As a condition for the granting of an exemption the commissioner of the department of labor and industry may require the employer to furnish such security as it considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of the department of labor and industry shall deposit same with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final or-

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der or decision of the commissioner of the department of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to such self-insurer, the commissioner of the department of labor and industry may by written order to the state treasurer require him to sell the pledged and assigned securities or such part thereof as is necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of the department of labor and industry or any judgment obtained thereon. When such securities are sold the money so obtained shall be deposited in the state treasury to the credit of the commissioner of the department of labor and industry and awards made against any such self-insurer by the commissioner of the department of labor and industry shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of the department of labor and industry and approved by the state auditor out of the proceeds of the sale of such securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of the department of labor and industry, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

[1973 c 388 s 48]

Subd. 3. Failure to insure, penalty. Any employer who fails to comply with the provisions of subdivision 2 to secure payment of compensation is liable to the state of Minnesota for a penalty of \$50, if the number of uninsured employees in his employment is less than 5 and for a penalty of \$200 if the number of such uninsured employees in his employment is 5 or more. If the employer continues his noncompliance, he is liable for five times the lawful premium for compensation insurance for such employer for the period he fails to comply with such provisions, commencing ten days after notice has been served upon him by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify the fact thereof to the attorney general. Upon receipt of such certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of his duty, the attorney general, upon request of the commissioner of the department of labor and industry, may proceed against the employer in any court having jurisdiction for an order restraining him from having any person in his employment at any time when he is not complying with the provisions of subdivision 2.

[1973 c 388 s 49]

[For text of subd. 4, see M.S.1971]

176.183 Uninsured employers; benefits to employees and dependents; liability of employer

[For text of subd. 1, see M.S.1971]

Subd. 1a. When an employee or his dependent is entitled to benefits under chapter 176 from a self-insurer, present or past, other than the state and its municipal subdivisions, but fails to be paid them, the employee or his dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive such benefits from the special compensation fund, and the state treasurer as custodian of such fund shall have a cause of action against such employer for reimbursement, for all moneys paid out or to be paid out and, in the discretion of the court, as puni-

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tive damages an additional amount not to exceed 50 percent of all moneys paid out or to be paid out. An action to recover such moneys shall be instituted unless the custodian determines that no recovery is possible. All moneys recovered shall be deposited in the general fund.

[1973 c 750 s 1]

Subd. 2. Upon a warrant prepared by the commissioner of the department of labor and industry and approved by the state auditor, and in accordance with the terms of the order awarding compensation, the state treasurer shall pay compensation to the employee or his dependent from the special compensation fund. The commissioner of the department of labor and industry shall certify to the state treasurer and to the legislature at the end of each biennium the total amount of compensation paid from the special compensation fund under subdivisions 1 and 1a, including the necessary expenses and salary which the attorney general incurs in investigating, defending and in maintaining any cause of action against any employer. The state treasurer shall upon proper certification reimburse the special compensation fund from the general fund the total amount certified as paid under this section, and the funds required for the purpose of making such reimbursement are hereby annually appropriated.

[1973 c 388 s 50; 1973 c 750 s 2]

176.185 Policy of Insurance

Subdivision 1. Notice of coverage, termination, cancellation. Within 10 days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by any insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner of the department of labor and industry under regulations and on forms prescribed by the commissioner of the department of labor and industry. No policy shall be canceled by the insurer within the policy period nor terminated upon expiration date until a notice in writing shall be delivered or mailed to the insured and filed with the commissioner of the department of labor and industry, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. Such cancellation or termination shall not become effective until 30 days after written notice has been filed with the commissioner of the department of labor and industry unless prior to the expiration of said 30 day period the employer obtains other insurance coverage or an order exempting him from carrying insurance as provided in section 176.181. Upon receipt of said notice the commissioner of the department of labor and industry shall notify the insured that he must obtain coverage from some other licensed carrier and that, if unable to do so, he shall request the Compensation Rating Bureau to designate some carrier to issue a policy as provided in section 79.25. Upon a cancellation or termination of a policy by the insurer the employer is entitled to have a policy assigned to him in accordance with sections 79.24 to 79.27. Notice of cancellation or termination by the insured shall be served upon the insurer by written statement to that effect mailed or delivered to the insurer. Upon receipt of such notice the insurer shall notify the commissioner of the department of labor and industry of the cancellation or termination and thereupon the commissioner of the department of labor and industry shall ask the employer for the reasons for his cancellation or termination and notify him of his duty under this chapter to insure his employees.

[1973 c 388 s 51]

[For text of subds. 2 to 5, see M.S.1971]

Subd. 6. Joining risks with other risks in policy. Where the agreement has been approved by the commissioner of the department of labor and industry the employer and employee may agree to carry the risk provided for in this chapter in conjunction with other and greater risks providing other and greater benefits in the form of additional compensation, or accident, sickness,

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or old age insurance or benefits. This agreement may provide for appropriate contribution by the employee.

[1973 c 388 s 52]

Subd. 7. Notice, effect. Where an employer has properly insured the payment of compensation to his employee, and he posts a notice in conspicuous places about his place of business stating that he is so insured and by whom, and he files a copy of that notice with the commissioner of the department of labor and industry, the employee, or his dependent, shall proceed directly against the insurer. In such case but subject to subdivision 8, the employer is released from further liability in this respect.

[1973 c 388 s 53]

[For text of subds. 8 and 9, see M.S.1971]

176.191 Dispute between two or more employers or insurers regarding liability

Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner of the department of labor and industry, compensation judge, or commission upon appeal may direct that one or more of the employers or insurers make payment of the benefits pending a determination of liability.

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate of five percent per annum. The claimant may also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.

An order directing payment of benefits pending a determination of liability may not be used as evidence before any commissioner, compensation judge, commission, or court in which the dispute is pending.

[1973 c 388 s 54]

176.195 Revocation of insurer's license

[For text of subd. 1, see M.S.1971]

Subd. 2. Commencement of proceedings. Such commissioner may act under subdivision 1 upon his own motion, the recommendation of the commissioner of the department of labor and industry, or the commission, or the complaint of any interested person.

[1973 c 388 s 55]

[For text of subds. 3 and 4, see M.S.1971]

Subd. 5. Findings of facts, order. Such commissioner shall make findings of fact and enter an appropriate order. He shall file the findings and order, and mail a copy of them to the commissioner of the department of labor and industry, the complainant, and the insurer.

[1973 c 388 s 56]

[For text of subd. 6, see M.S.1971]

176.215 Subcontractor's failure to comply with chapter

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. Determination of respective liabilities. The workmen's compensation division may determine the respective liabilities of persons under this section.

[1973 c 388 s 57]

176.221 Payment of compensation, commencement

Subdivision 1. Denial of liability, request for extension of time. Within 30 days from the date of notice to or knowledge by the employer of an injury

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compensable under the chapter, and unless within that 30 day period the employer or the insurer files with the commissioner of the department of labor and industry a denial of liability or a request for an extension of time within which to determine liability, the person responsible for payment of compensation shall begin payment of compensation.

[1973 c 388 s 58]

Subd. 2. Grant of extension. Upon application made within the 30 day period referred to in subdivision 1, the commissioner of the department of labor and industry may grant an extension of time within which to determine liability. The extension shall not exceed 30 days.

[1973 c 388 s 59]

[For text of subds. 3 and 4, see M.S.1971]

Subd. 5. Double payments to special compensation fund. Where an employer or insurer has failed to make the payments required by subdivision 3 or subdivision 4 within 60 days from the end of the 30 day period or the extended period, the division may require him to pay to the special compensation fund, each day subsequent to the end of the period and until a compensation payment is made to the injured employee, a sum equal to double the total amount of compensation to which the employee is entitled because of the injury. In addition, the person responsible for compensation shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled.

[1973 c 388 s 60]

Subd. 6. Assessment of penalties. The division shall assess the penalty payments provided for by subdivisions 3 to 5 against either the employer or the insurer depending upon to whom the delay is attributable in making payment of compensation. The insurer is not liable for a penalty payment assessed against the employer.

[1973 c 388 s 61]

176.225 Additional award as penalty

Subdivision 1. Grounds. Upon reasonable notice and hearing or opportunity to be heard, the division or upon appeal, the commission or the supreme court may award compensation, in addition to the total amount of compensation award, of up to 25 percent of that total amount where an employer or insurer has:

- (a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,
- (b) unreasonably or vexatiously delayed payment; or,
- (c) neglected or refused to pay compensation; or,
- (d) intentionally underpaid compensation.

[1973 c 388 s 62]

Subd. 2. Examination of books and records. To determine whether an employer or insurer has become subject to the payment provided by subdivision 1, the division or the commission upon appeal may examine the books and records of the person relating to the payment of compensation, and may require him to furnish any other information relating to the payment of compensation.

[1973 c 388 s 63]

Subd. 3. Defiance of workmen's compensation commission, complaint. Where an insurer persists in an action or omission listed in subdivision 1, or does not permit the examination of his books and records, or fails to furnish such information as required, the commissioner shall file a written complaint with the insurance commissioner. The complaint shall specify the facts and

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recommend the revocation of the license of the insurer to do business in this state. The commission may also file such written complaint.

[1973 c 388 s 64]

[For text of subd. 4, see M.S.1971]

176.231 Report of death or injury to commissioner of the department of labor and industry

Subdivision 1. Time limitation. Where death or serious injury occurs to an employee during the course of employment, the employer shall report the same to the commissioner of the department of labor and industry within 48 hours after its occurrence. Where any other injury occurs which wholly or partly incapacitates the employee from performing labor or service for three days or longer, the employer shall report the injury to the commissioner of the department of labor and industry within 15 days from its occurrence. Where an injury has once been reported but subsequently death ensues, the employer shall report the death to the commissioner of the department of labor and industry within 48 hours after he receives notice of such fact.

[1973 c 388 s 65]

Subd. 2. Initial report, written report. Where subdivision 1 requires an injury to be reported within 48 hours, the employer may make his initial report by telephone, telegraph, or personal notice, and file a written report of the injury within seven days from its occurrence or within such time as the commissioner of the department of labor and industry designates. All written reports of injuries shall be in duplicate.

[1973 c 388 s 66]

Subd. 3. Physicians or surgeons to report injuries. Where a physician or surgeon has examined, treated, or has special knowledge of an injury to an employee which may be compensable under this chapter, he shall report to the commissioner of the department of labor and industry all facts relating to the nature and extent of the injury and disability within ten days after he has received a written request for such information from the commissioner of the department of labor and industry or any member or employee thereof.

[1973 c 388 s 67]

Subd. 4. Supplementary reports. The commissioner of the department of labor and industry, or any member or employee thereof, may require the filing of such supplementary reports of accidents as it deems necessary to provide information required by law.

[1973 c 388 s 68]

Subd. 5. Forms for reports. The commission of the department of labor and industry shall prescribe forms for use in making the reports required by this section. The form which the employer submits with reference to an accident shall include a declaration by the employer that he will pay the compensation the law requires.

[1973 c 388 s 69]

Subd. 6. Commissioner of the department of labor and industry; duty to keep informed. The commissioner of the department of labor and industry shall keep fully informed of the nature and extent of all injuries compensable under this chapter, their resultant disabilities, and of the rights of employees to compensation. Where a physician or surgeon has examined, treated, or has special knowledge relating to an injury which may be compensable under this chapter, the commissioner of the department of labor and industry or any member or employee thereof shall request in writing a report from such person of the attendant facts.

[1973 c 388 s 70]

Subd. 7. Medical reports. If requested by the division or by the commission, or any member or employee thereof an employer, insurer, or employee shall file with the commissioner of the department of labor and industry the

original or a verified copy of any medical report in his possession which bears upon the case.

[1973 c 388 s 71]

Subd. 8. No public inspection of reports. Subject to subdivision 9, a report or its copy which has been filed with the commissioner of the department of labor and industry under this section is not available to public inspection. Any person who has access to such a report shall not disclose its contents to anyone in any manner.

A person who unauthorizedly discloses a report or its contents to another is guilty of a misdemeanor.

[1973 c 388 s 72]

Subd. 9. Uses which may be made of reports. Reports filed with the commissioner of the department of labor and industry under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics.

The division may permit an attorney at law who represents an employer, insurer, or an employee or his dependent to examine its file in a compensation case if the attorney furnishes written authorization to do so from his client.

[1973 c 388 s 73]

Subd. 10. Failure to file required report, penalty. Where an employer, physician, or surgeon has failed to file with the commissioner of the department of labor and industry any report required by this section in the manner and within the time limitations prescribed, he shall forfeit to the state \$50 for each such failure.

The attorney general shall sue in a civil action to collect this penalty upon notification of the matter by the commissioner of the department of labor and industry. The commissioner of the department of labor and industry shall certify to the attorney general each failure to report immediately upon its occurrence.

Penalties collected by the state under this subdivision shall be paid into the state treasury.

[1973 c 388 s 74]

176.235 Notice to injured employee of his rights and duties

When the commissioner of the department of labor and industry has received notice or information that an employee has sustained an injury which may be compensable under this chapter, the commissioner of the department of labor and industry shall mail a form letter notice to the employee stating briefly and simply the rights and duties of the employee in such case.

The notice:

(1) shall summarize the duty of the employer to pay compensation and to furnish medical and hospital treatment;

(2) shall invite the employee to ask the advice of the division with reference to any doubt or dispute which the employee has concerning the injury;

(3) may contain whatever other relevant information the commissioner of the department of labor and industry deems necessary.

[1973 c 388 s 75]

176.241 Notice to division of intention to discontinue compensation payments

Subdivision 1. Necessity for notice; contents. Where an employee claims that the right to compensation continues, or refuses to sign or objects to signing a final receipt for compensation, the employer may not discontinue payment of compensation until he notifies the division in writing of his intention to do so.

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The notice to the division shall state the date of intended discontinuance, the reason for such action, and the fact that the employee objects to the discontinuance. The notice shall be accompanied by whatever medical reports are in the possession of the employer bearing on the physical condition of the employee at the time of the proposed discontinuance.

[1973 c 388 s 76]

Subd. 2. Continuance of employer's liability; suspension. Except where the commissioner of the department of labor and industry orders otherwise, until the notice and reports have been filed with the division, the liability of the employer to make payments of compensation continues.

When the division has received a notice of discontinuance and available medical reports, the duty of the employer to pay compensation is suspended pending an investigation, hearing, and determination of the matter by the division as provided in the following subdivisions.

[1973 c 388 s 77]

Subd. 3. Copy of notice to employee, investigation, hearing. When the division has received a notice of discontinuance, it shall immediately send the employee a copy of the notice and copies of whatever medical reports have been submitted in conjunction with the notice. The commissioner of the department of labor and industry shall make an investigation to determine whether the right to compensation has terminated. If it appears from the investigation that the right to compensation may not have terminated, the commissioner of the department of labor and industry shall schedule a hearing before a compensation judge, to determine the right of the employee, or his dependent, to further compensation.

The hearing shall be held within a reasonable time after the division has received the notice of discontinuance. The commissioner of the department of labor and industry shall give eight days notice of the hearing to interested parties.

[1973 c 388 s 78]

Subd. 4. Order. When the hearing has been held, and he has duly considered the evidence, the person who held the hearing shall promptly enter an order directing the payment of further compensation or confirming the termination of compensation. Where the order confirms a termination of compensation, the commissioner of the department of labor and industry shall notify the employer of such action. This notification relieves the employer from further liability for compensation subject to the right of review afforded by this chapter, and to the right of the division to set aside the order at any time prior to the review and grant a new hearing pursuant to this chapter.

[1973 c 388 s 79]

176.245 Receipts for payment of compensation, filing

An employer shall promptly file with the division receipts for payment of compensation as may be required by the rules of the division.

The commissioner of the department of labor and industry shall periodically check its records in each case to determine whether these receipts have been promptly filed, and if not, shall require the employer to do so.

[1973 c 388 s 80]

176.251 Duties of the commissioner of the department of labor and industry

The commissioner of the department of labor and industry shall actually supervise and require prompt and full compliance with all provisions of this chapter relating to the payment of compensation.

[1973 c 388 s 81]

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176.261 Employee of commissioner of the department of labor and industry may act for and advise a party to a proceeding

When requested by an employer or an employee or his dependent, the commissioner of the department of labor and industry may designate one or more of the division employees to advise that party of his rights under this chapter, and as far as possible to assist in adjusting differences between the parties. The person so designated may appear in person in any proceedings under this chapter as the representative or adviser of the party. In such case, the party need not be represented by an attorney at law.

[1973 c 388 s 82]

176.265 Report to legislature

The commissioner of the department of labor and industry shall observe in detail the operation of this chapter throughout the state. He shall make a report to each session of the legislature concerning the operation of the chapter, proposing such changes as he deems advisable to improve the law.

[1973 c 388 s 83]

176.271 Initiation of proceedings

Unless otherwise provided by this chapter or by the commissioner of the department of labor and industry, all proceedings before the division are initiated by the filing of a written petition on a prescribed form with the commissioner of the department of labor and industry at his principal office.

[1973 c 388 s 84]

176.275 Filing of papers

The workmen's compensation division and the commission shall file any paper which has been delivered to it for filing immediately upon its receipt in the office of the commissioner of the department of labor and industry. The commissioner of the department of labor and industry shall file any paper which has been delivered to him for filing immediately upon its receipt.

[1973 c 388 s 85]

176.281 Orders, decisions, and awards of compensation judges, commissioner of the department of labor and industry, or commission; filing; service

When the commissioner of the department of labor and industry or compensation judge or the commission has rendered an order, decision, or award, it shall be filed immediately with the commissioner of the department of labor and industry. Where the commissioner of the department of labor and industry, compensation judge, or commission has rendered an order, decision, or award, the commissioner of the department of labor and industry shall immediately serve a copy upon every party in interest, together with a notification of the time the same was filed.

[1973 c 388 s 86]

176.285 Service of papers and notices

Service of papers and notices shall be by mail or by such other means as the commissioner of the department of labor and industry directs. Where service is by mail, service is effected at the time mailed if properly addressed and stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served. However, a party may show by competent evidence that he did not receive it or that it had been delayed in transit for an unusual or unreasonable period of time. In case of such non-receipt or delay, an allowance shall be made for the party's failure to assert a right within the prescribed time.

The commissioner of the department of labor and industry shall keep a careful record of each service including the time when made.

[1973 c 388 s 87]

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176.291 Disputes and defaults; procedure

Where there is a dispute as to a question of law or fact in connection with a claim for compensation, or where there has been a default in the payment of compensation for a period of ten days, a party may present a verified petition to the commissioner of the department of labor and industry stating the matter in dispute or the fact of default.

The petition shall also state:

- (1) names and residence of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) facts which the commissioner of the department of labor and industry and commission by rule requires; and,
- (6) such other facts as are necessary for the information of the commissioner of the department of labor and industry and commission.

[1973 c 388 s 88]

176.295 Nonresident employers; foreign corporation

Subdivision 1. Affidavit of inability to obtain service. Where an employee or his dependent has filed a petition for compensation with the commissioner of the department of labor and industry, and he is unable to make service of the petition and other notices on the employer because the latter is a nonresident or a foreign corporation, the petitioner may file an affidavit with the commissioner of the department of labor and industry stating that he is so unable to make service.

[1973 c 388 s 89]

Subd. 2. Action in district court. When he has filed the affidavit with the commissioner of the department of labor and industry, the petitioner may bring an action against the employer in the district court located in the county in which the employee resided at the time of the injury or death. The action shall be brought and conducted in the same manner as are other civil actions in district court. The complaint shall state that a petition for compensation has been filed with the commissioner of the department of labor and industry, and shall be accompanied by a verified copy of the affidavit. The complaint shall also state the facts upon which the right to compensation or other relief is based.

[1973 c 388 s 90]

[For text of subd. 3, see M.S.1971]

Subd. 4. General appearances; security, bond. Where the employer makes a general appearance in the district court action and files a bond or security approved by the commissioner of the department of labor and industry, or where an insurer appears generally in the action and assumes liability for any award which may be rendered against the employer, the district court shall dismiss the action.

[1973 c 388 s 91]

176.301 Determination of issues

Subdivision 1. Trial by court; reference to commissioner of the department of labor and industry. When issue has been joined in the district court action, the court may try the action itself without a jury, or refer the matter to the commissioner of the department of labor and industry to be assigned for hearing. In the latter case, a compensation judge or the workmen's compensation commission upon appeal shall hear the case in the manner in which it hears cases originally. The commissioner of the department of labor and industry shall report the findings and decision of the compensation judge, or

the workmen's compensation commission to the district court. The court may approve or disapprove such decision in the same manner as it approves or disapproves the report of a referee. The court shall enter judgment upon such decision.

[1973 c 388 s 92]

[For text of subd. 2, see M.S.1971]

176.305. Petitions filed with the workmen's compensation division

Subdivision 1. Hearings on petitions. When any petition has been filed with the workmen's compensation division, the commissioner of the department of labor and industry shall, pursuant to his general rules or those of the commission or special order, direct that the matter presented by the petition be heard by a compensation judge or presented to the commission if it is a matter within its jurisdiction. The division shall hear petitions to commute further compensation.

[1973 c 388 s 93]

Subd. 2. Service of copy of petition. Within ten days after a petition has been filed, the commissioner of the department of labor and industry shall serve upon each adverse party a copy of the petition and a notice stating whether the hearing will be held before a compensation judge or that the petition has been referred to the workmen's compensation commission. The commissioner of the department of labor and industry shall deliver the original petition and copies of the notice which have been served, to a compensation judge or the workmen's compensation commission depending upon who will hear the matter.

[1973 c 388 s 94]

Subd. 3. Testimony. Unless the commission orders differently, testimony taken before a commissioner or compensation judge is considered as though taken before the commission. Where the commissioner of the department of labor and industry has substituted a compensation judge originally assigned to hear a matter, the testimony taken before the substitute compensation judge shall be considered as though taken before the judge before whom it was originally assigned.

[1973 c 388 s 95]

176.311 Reassignment of petition for hearing

Where a petition is heard before a compensation judge, at any time before an award or order has been made in such proceeding, the commissioner of the department of labor and industry may reassign the petition for hearing before another compensation judge.

[1973 c 388 s 96]

176.321 Answer to petition

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. Extension of time in which to file answer. Upon showing of cause, the commissioner of the department of labor and industry may extend the time in which to file an answer or reply for not more than 30 additional days.

[1973 c 388 s 97]

176.331 Award by default

Where an adverse party has failed to file and serve an answer, if the petitioner presents proof of such fact, the commissioner of the department of labor and industry or compensation judge shall enter whatever award or order to which petitioner is entitled on the basis of the facts alleged in the petition, but the commissioner of the department of labor and industry or compensation judge may require proof of any alleged fact. It the commissioner of the

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department of labor and industry requires such proof, he shall assign the matter to a compensation judge to summarily hear and determine the same and to promptly make an award or order.

Where in such a default case the petition does not state facts sufficient to support an award, the commissioner of the department of labor and industry or compensation judge shall give the petitioner or his attorney written notice of such fact. The petitioner may thereupon file another petition as in the case of an original petition.

[1973 c 388 s 98]

176.341 Hearing on petition

Subdivision 1. Time. When the reply has been filed or the time has expired in which to file a reply, the commissioner of the department of labor and industry shall fix a time and place for hearing the petition. The hearing shall be held not less than ten days from the time the reply is filed or the expiration of the time in which the reply could have been filed or as soon thereafter as the parties can be heard.

[1973 c 388 s 99]

Subd. 2. Place. Unless otherwise ordered by the commissioner of the department of labor and industry or compensation judge, the hearing shall be held in the county where the injury or death occurred.

[1973 c 388 s 100]

Subd. 3. Notice mailed to each party. At least five days prior to the date of hearing, the workmen's compensation division shall mail a notice of the time and place of hearing to each interested party.

[1973 c 388 s 101]

176.351 Testimonial powers

Subdivision 1. Oaths. The compensation judge to whom a petition has been assigned for hearing shall administer an oath to each witness. The commission shall also administer an oath to each witness appearing before it. The commissioner of the department of labor and industry may also administer an oath when required in the performance of his duties.

[1973 c 388 s 102]

Subd. 2. Subpoenas. Upon his or its own initiative, or upon written request of an interested party, the commission, or the commissioner or compensation judge before whom a hearing is held may issue a subpoena for the attendance of a witness or the production of such books, papers, records and documents as are material in the cause and are designated in the subpoena. The commissioner of the department of labor and industry may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material in the cause pending and are designated in the subpoena.

[1973 c 388 s 103]

Subd. 3. Advancement of fees and costs. The person who applies for issuance of a subpoena shall advance the required service and witness fees. The commissioner of the department of labor and industry shall pay for the attendance of witnesses who are subpoenaed by him, or the commission, or a commissioner, or a compensation judge. The fees are the same as the service and witness fees in civil actions in district court.

[1973 c 388 s 104]

Subd. 4. Proceedings as for contempt of court. Where a person does not comply with an order or subpoena, the commissioner of the department of labor and industry, the commission, or the commissioner or compensation judge concerned, may apply to the district court in the county in which the petition is pending for issuance of an order compelling obedience. Upon such an application, the district court shall compel obedience to the order or subpoena

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by attachment proceedings as for contempt in the case of disobedience of a similar order or subpoena issued by the district court.

[1973 c 388 s 105]

176.361 Intervention

Where a person has an interest in any matter before the commission, or commissioner, or compensation judge of such a character that he may either gain or lose by an order or decision, he may intervene in the proceeding by filing an application in writing stating the facts which show such interest.

The commissioner of the department of labor and industry and commission shall adopt rules to govern the procedure for intervention.

[1973 c 388 s 106]

176.381 Reference of questions of fact

Subdivision 1. Hearing before commission. In the hearing of any matter before the workmen's compensation commission, the commission may refer any question of fact to a commissioner or compensation judge either to hear evidence and report it to the commission or to hear evidence and make findings of fact and report them to the commission. The commission shall notify the commissioner of the department of labor and industry of any matter referred to a commissioner or a compensation judge under this subdivision.

[1973 c 388 s 107]

Subd. 2. Hearing before compensation judge. In the hearing of any petition before a compensation judge, the commissioner of the department of labor and industry may refer any question of fact to another compensation judge to hear evidence and report it to the original compensation judge.

[1973 c 388 s 108]

176.391 Investigations

Subdivision 1. Power to make. Before, during, or after any hearing, the commissioner of the department of labor and industry, compensation judge, or commission, if the matter is before it, may make an independent investigation of the facts alleged in the petition or answer.

[1973 c 388 s 109]

Subd. 2. Appointment of physicians, surgeons, and other experts. The commission, or a commissioner or compensation judge assigned to a matter, or the commissioner of the department of labor and industry, may appoint one or more impartial physicians or surgeons to examine the injury of the employee and report thereon. Where necessary to determine the facts, the services of other experts may also be employed.

[1973 c 388 s 110]

Subd. 3. Reports. The report of a physician, surgeon, or other expert shall be filed with the commissioner of the department of labor and industry. The report shall be made a part of the record of the case and be open to inspection as such.

[1973 c 388 s 111]

Subd. 4. Compensation. The commissioner of the department of labor and industry, compensation judge, or commission, as the case may be, shall fix the compensation of a physician, surgeon, or other expert whose services are employed under this chapter. This compensation shall be paid initially out of the funds appropriated for the maintenance of the workmen's compensation division, but shall be taxed as costs to either party, or both, or otherwise, as the commissioner of the department of labor and industry, compensation judge, or the commission directs.

Where a sum which has been taxed to a party has not been paid, it may be collected in the same manner as are costs generally.

[1973 c 388 s 112]

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176.421 Appeals to workmen's compensation commission

[For text of subds. 1 to 3, see M.S.1971]

Subd. 4. Service and filing of notice; cost of transcript. Within the 30 day period for taking an appeal, the appellant shall:

- (1) Serve a copy of the notice of appeal on each adverse party;
- (2) File the original notice, with proof of service by admission or affidavit, with the commissioner of the department of labor and industry;
- (3) In order to defray the cost of the transcript of the proceedings appealed from, pay to the commissioner of the department of labor and industry the sum of \$10 or so much of that sum as is necessary to present the question raised on the appeal.

The appellant is liable for the cost of the transcript in excess of \$10, but is entitled to a refund of any part of that sum not used to pay the cost of the transcript.

Upon a showing of cause, the commissioner of the department of labor and industry may direct that a transcript be prepared without expense to the appellant.

[1973 c 388 s 113]

Subd. 5. Transcript. When the notice of appeal has been filed with the commissioner of the department of labor and industry and the transcription fee has been paid, the commissioner of the department of labor and industry shall immediately prepare a typewritten transcript of the proceedings. The official reporter who transcribes the proceedings shall certify to their correctness.

[1973 c 388 s 114]

[For text of subd. 6, see M.S.1971]

Subd. 7. Record of proceedings. At the division's own expense, the commissioner of the department of labor and industry shall make a complete record of all proceedings before himself, the commission, a commissioner, or compensation judge. The commissioner of the department of labor and industry shall provide a stenographer to make a record of the proceedings.

The stenographer shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge. The commissioner of the department of labor and industry shall fix the amount of this charge.

[1973 c 388 s 115]

176.431 Appeal based on error of law by compensation judge

Subdivision 1. Hearing. Where an appeal has been taken to the commission under this chapter on the ground that the compensation judge has made an error of law, the commission shall grant a hearing. The commissioner of the department of labor and industry shall notify the commission promptly of the taking of any appeal.

The commission shall fix a time and place for the hearing, and notify the commissioner of the department of labor and industry who shall give each party in interest at least five days written notice.

[1973 c 388 s 116]

[For text of subd. 2, see M.S.1971]

176.441 Appeal based on fraud or insufficiency of evidence

Subdivision 1. Disposition by commission. Where an appeal has been taken to the commission under this chapter, on either the ground that the findings or order or both were unwarranted by the evidence, or were procured by fraud, coercion, or other improper conduct of a party, the commission may:

- (1) grant a hearing de novo; or,

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(2) assign the petition for rehearing, notify the commissioner of the department of labor and industry, who shall set the rehearing before a compensation judge; or,

(3) sustain, reverse, or modify the order appealed from.

[1973 c 388 s 117]

Subd. 2. Hearing de novo. When the commission grants a hearing de novo under subdivision 1, it shall fix a time and place for the hearing, and notify the commissioner of the department of labor and industry who shall give each party in interest at least five days written notice of the hearing.

As soon after the hearing as possible, the commission shall make written findings of fact and enter an order awarding or disallowing compensation.

[1973 c 388 s 118]

176.442 Appeals from decisions of commissioner of department of labor and industry

Any decision or determination of the commissioner of the department of labor and industry affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workmen's compensation commission. A person aggrieved by such determination may appeal to the commission in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the commission.

[1973 c 388 s 119]

176.461 Setting aside award

Except where a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or where as a matter of law the determination of the supreme court cannot be subsequently modified, the commission, for cause, at any time after an award within eight years from the date compensation was last paid, upon application of either party and not less than five days after written notice to all interested parties, may set the award aside and grant a new hearing before itself or refer the matter for a determination on its merits to a compensation judge, who shall make such findings of fact, conclusions of law, and award or disallowance of compensation or other order as the pleadings and the evidence produced and the provisions of this chapter shall require.

[1973 c 388 s 120]

176.471 Review by supreme court on certiorari

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. Service of writ and bond; filing fee. To effect a review upon certiorari, the party shall serve a writ of certiorari and a bond upon the commissioner of the department of labor and industry within the 30 day period referred to in subdivision 1. The party shall also at this time pay to the secretary of the commissioner of the department of labor and industry the fee prescribed by section 605.03 which shall be disposed of in the manner provided by section 605.045.

[1973 c 388 s 121]

[For text of subd. 4, see M.S.1971]

Subd. 5. Bond. The bond required by subdivision 3 shall be executed in such amount and with such sureties as the commissioner of the department of labor and industry directs and approves. The bond shall be conditioned to pay the cost of the review.

[1973 c 388 s 122]

Subd. 6. Transmittal of fee and return. When the writ of certiorari has been served upon the commissioner of the department of labor and industry,

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the bond has been filed, and the filing fee has been paid, the commissioner of the department of labor and industry shall immediately transmit to the clerk of the supreme court that filing fee and the return to the writ of certiorari and bond.

[1973 c 388 s 123]

[For text of subd. 7, see M.S.1971]

Subd. 8. Return of proceedings transmitted to court. Within 30 days after the writ of certiorari, bond, and filing fee have been filed with the commissioner of the department of labor and industry, the commissioner of the department of labor and industry shall transmit to the clerk of the supreme court a true and complete return of the proceedings of the commission under review, or such part of those proceedings as is necessary to allow the supreme court to review properly the questions presented.

The commissioner of the department of labor and industry shall certify the return of the proceedings under his seal. The petitioner or relator shall pay to the commissioner of the department of labor and industry the reasonable expense of preparing the return.

[1973 c 388 s 124]

[For text of subds. 9 and 10, see M.S.1971]

176.491 Stay of proceedings pending disposition of case

Where a writ of certiorari has been perfected under this chapter, it stays all proceedings for the enforcement of the order being reviewed until the case has been finally disposed of either in the supreme court or, where the cause has been remanded to the workmen's compensation division for a new hearing or further proceedings, before the commission or compensation judge.

[1973 c 388 s 125]

176.511 Costs

[For text of subd. 1, see M.S.1971]

Subd. 2. Disbursements, taxation. The compensation judge, or on appeals to the commission, the commission may award the prevailing party reimbursement for actual and necessary disbursements. These disbursements shall be taxed upon five days written notice to adverse parties.

[1973 c 388 s 126]

[For text of subds. 3 to 5, see M.S.1971]

176.521 Settlement of claims

Subdivision 1. Validity. An agreement between an employee or his dependent and the employer or insurer to settle any claim, which is not upon appeal before the commission, for compensation under this chapter is valid where it has been executed in writing and signed by the parties, and the division has approved the settlement and made an award thereon. If the matter is upon appeal before the commission, the commission is the approving body.

[1973 c 388 s 127]

Subd. 2. Approval. Settlements shall be approved only where the terms conform with this chapter.

The division and the commission shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter.

[1973 c 388 s 128]

[For text of subd. 3, see M.S.1971]

176.531 Award of compensation against a political subdivision or school district

Subdivision 1. Preferred claim. Where there has been an award of compensation under this chapter to be paid by a political subdivision or a school district, the entitlement of a person to payment under the award is a preferred claim against the subdivision or district. The award shall be paid when and as ordered from the general fund of the subdivision or district, and from the current tax apportionment received by the subdivision or district for the credit of the general fund.

[1973 c 388 s 129]

[For text of subds. 2 and 3, see M.S.1971]

176.541 State departments

[For text of subd. 1, see M.S.1971]

Subd. 2. Defense of claim against state. When the commissioner of the department of labor and industry believes that a claim against the state for compensation should be contested, he shall defend the state claim.

[1973 c 388 s 130]

Subd. 3. Duties of attorney general. At any stage in such a compensation proceeding, the attorney general may assume the duty of defending the state. When the commissioner of the department of labor and industry or a department of this state requests the attorney general to assume the defense, he shall do so.

[1973 c 388 s 131]

Subd. 4. Medical examination of employee; witnesses; conduct of defense. In conducting a defense against a claim for compensation, the commissioner of the department of labor and industry or the attorney general, as the case may be, may require that an employee submit to a medical examination, procure the attendance of expert and other witnesses at a hearing, and do any other act necessary to conduct a proper defense.

[1973 c 388 s 132]

[For text of subd. 5, see M.S.1971]

Subd. 6. Legal and clerical help. The commissioner of the department of labor and industry may employ such legal and clerical help as authorized by the department of administration. The salaries of these persons shall be paid from the state compensation revolving fund, but shall be apportioned among the several departments of the state in relation to the amount of compensation paid to employees of any department as against the total amount of compensation paid to employees of all departments.

[1973 c 388 s 133]

[For text of subd. 7, see M.S.1971]

176.561 Commission's powers and duties as to state employees; procedure for determining liability

The division and the commission have the same powers and duties in matters relating to state employees as they have in relation to other employees.

Except as specifically provided otherwise herein, the procedure for determining the liability of the state for compensation is the same as that applicable in other cases.

[1973 c 388 s 134]

176.571 Investigations of injuries to state employees

Subdivision 1. Preliminary investigation. When the head of a department has filed a report or the commissioner of the department of labor and industry has otherwise received information of the occurrence of an injury to a state employee for which liability to pay compensation may exist, the com-

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missioner of the department of labor and industry shall make a preliminary investigation to determine the question of probable liability.

In making this investigation, the commissioner of the department of labor and industry may require the assistance of the head of any department or any employee of the state. The commissioner of the department of labor and industry may require that all facts be furnished which appear in the records of any state department bearing on the issue.

[1973 c 388 s 135]

Subd. 2. Findings of fact, proposed order. When the commissioner of the department of labor and industry has completed his investigation, he shall make findings of fact and shall enter an award or other order which he proposes to make relating to the liability of the state to pay compensation.

[1973 c 388 s 136]

Subd. 3. Copies of findings and proposed order, mailing. The commissioner of the department of labor and industry shall mail a copy of his findings and proposed order to the employee, the head of the department in which he works, and the attorney general.

[1973 c 388 s 137]

Subd. 4. Objections to order. Within ten days from the date the findings and order were mailed, or within such longer period which the commissioner of the department of labor and industry may fix, the employee, or the head of the department, or the attorney general, may file an objection to the order with the commissioner of the department of labor and industry.

[1973 c 388 s 138]

Subd. 5. Reconsideration of order. When an objection has been filed under subdivision 4, the commissioner of the department of labor and industry shall reconsider his proposed order. Subject to subdivision 6, in making this reconsideration, the commissioner of the department of labor and industry may set aside or correct any finding or order, or both, without the necessity of holding a formal hearing.

[1973 c 388 s 139]

Subd. 6. Formal hearing on objections. The commissioner of the department of labor and industry shall hold a formal hearing on the objections which have been filed to the proposed order where the circumstances warrant such a hearing. The hearing shall be before a compensation judge.

[1973 c 388 s 140]

Subd. 7. Finality of findings and order in absence of objection. Where an objection has not been made to the proposed order under subdivision 4, the findings and order are final subject to the right of the commissioner of the department of labor and industry to reform or modify it under this chapter.

The findings and order which the commissioner of the department of labor and industry makes upon a reconsideration are likewise final though subject to the same review under this chapter.

[1973 c 388 s 141]

176.581 Findings and final order

Subdivision 1. Filing of certified copies. The commissioner of the department of labor and industry shall file a certified copy of his findings and final order with the attorney general and the state auditor.

[1973 c 388 s 142]

Subd. 2. Payment of compensation. Upon a warrant prepared by the commissioner of the department of labor and industry and approved by the state auditor, and in accordance with the terms of the order awarding compensation, the state treasurer shall pay compensation to the employee or his dependent. These payments shall be made from money appropriated for this purpose.

[1973 c 388 s 143]

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Subd. 3. Receipts filed. The person to whom compensation is paid shall file with the commissioner of the department of labor and industry all current interim and final receipts for such payment as is required of employers.

[1973 c 388 s 144]

176.591 State compensation revolving fund

[For text of subds. 1 and 2, see M.S.1971]

Subd. 3. Compensation payments upon warrants. The state treasurer shall make compensation payments from the fund only as authorized by this chapter upon warrants of the commissioner of the department of labor and industry.

[1973 c 388 s 145]

176.601 Payments from state compensation revolving fund

From the state compensation revolving fund, the state treasurer shall pay in the order listed:

(1) annual cost to the commissioner of the department of labor and industry of administering this chapter in relation to state employees;

(2) necessary expenses which the commissioner of the department of labor and industry or the attorney general incurs in investigating and defending a claim against the state for compensation; and,

(3) awards of compensation, and the expenses of other benefits paid to an employee or his dependent.

[1973 c 388 s 146]

176.611 Maintenance of state compensation revolving fund

[For text of subd. 1, see M.S.1971]

Subd. 2. Self-sustaining departments. Except that the state highway department shall reimburse the fund for moneys paid to its employees or their dependents at such times and in such amounts as the commissioner of the department of labor and industry orders, every self-sustaining department of the state shall pay into such fund at the end of every fiscal year such amounts as the commissioner of the department of labor and industry shall certify has been paid out of the fund for its employees or their dependents. For the purposes of this section, a "self-sustaining department" is one in which the income and revenue from its activities substantially offsets its cost of operation.

[1973 c 388 s 147]

Subd. 3. Departments not self-sustaining. A department which is not self-sustaining shall pay to the fund at the end of each biennium, such sums as the commissioner of the department of labor and industry certifies has been paid out of the fund for its employees or their dependents. The heads of the department shall anticipate these payments by including them in their budget requests to the legislature.

[1973 c 388 s 148]

Subd. 4. Departments partially self-sustaining. Every department which is partially self-sustaining shall pay (1) at the end of every fiscal year such proportion of the sum which the commissioner of the department of labor and industry certifies has been paid out of the fund during the year to its employees or their dependents as the total of their income and revenue bears to their annual cost of operation, and (2) at the end of each biennium, the balance of the sums so certified. The head of the department shall anticipate these payments by including them in their budget requests to the legislature.

[1973 c 388 s 149]

[For text of subds. 5 and 6, see M.S.1971]

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176.621 Declaration of policy; advisory council

Subdivision 1. Responsibility of workmen's compensation division. It is the policy of the state of Minnesota to restore the injured worker as soon and nearly as possible to the status of self-support as an able-bodied employee, and it is the responsibility of the workmen's compensation division to make a final award only when the above policy has been carried out to its most practical extent.

[1973 c 388 s 150]

[For text of subds. 2 and 3, see M.S.1971]

Subd. 4. Meetings. The council shall meet biannually or as often as it deems necessary under the direction of the commissioner of the department of labor and industry who shall provide suitable quarters, clerical help, and give further assistance as the council deems necessary. The director of the vocational rehabilitation division of the state board of education shall attend all council meetings or designate a representative from the division to attend for him. This council is in no way under the control of the commissioner of the department of labor and industry or the state board of education.

[1973 c 388 s 151]

Subd. 5. Duties of council. The council shall advise the commissioner of the department of labor and industry and the state board of education on questions concerning the administration and improvement of the workmen's compensation law as it relates to the rehabilitation of injured workers, assist in the procurement and development of adequate facilities and personnel for an effective rehabilitation program and to devise procedures which will facilitate and assure the physical and vocational rehabilitation of injured workers.

[1973 c 388 s 152]

[For text of subd. 6, see M.S.1971]

176.631 Bureau of workmen's rehabilitation

Subdivision 1. Creation. There is hereby created a bureau of workmen's rehabilitation under the control and supervision of the division of workmen's compensation and appointed by the commissioner of the department of labor and industry, to consist of personnel well versed in rehabilitation.

[1973 c 388 s 153]

[For text of subds. 2 and 3, see M.S.1971]

176.66 Occupational diseases; how regarded

Subdivision 1. Disability, disablement. The disablement of an employee resulting from an occupational disease shall be regarded as a personal injury within the meaning of the workmen's compensation law.

[1973 c 643 s 11]

Subd. 2. [Repealed, 1973 c 643 s 12]

Subd. 3. [Repealed, 1973 c 643 s 12]

Subd. 4. [Repealed, 1973 c 643 s 12]

Subd. 5. [Repealed, 1973 c 643 s 12]

Subd. 6. [Repealed, 1973 c 643 s 12]

Subd. 7. [Repealed, 1973 c 643 s 12]

Subd. 8. [Repealed, 1973 c 643 s 12]

Subd. 9. [Repealed, 1973 c 643 s 12]

176.661 [Repealed, 1973 c 643 s 12]

176.662 [Repealed, 1973 c 643 s 12]

176.663 [Repealed, 1973 c 643 s 12]

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176.664 [Repealed, 1973 c 643 s 12]

176.665 [Repealed, 1973 c 643 s 12]

176.666 [Repealed, 1973 c 643 s 12]

176.667 [Repealed, 1973 c 643 s 12]

176.668 [Repealed, 1973 c 643 s 12]

176.669 Expenses; rules

Subdivision 1. Payment of expenses. Any expense incurred by the department of labor and industry in carrying out the purposes of Laws 1943, Chapter 633, shall be paid out of the general fund for the department of labor and industry.

[1973 c 388 s 164]

Subd. 2. Making of rules. The department shall make such rules, regulations, and orders with reference to procedure as it deems necessary not inconsistent with Laws 1943, Chapter 633.

[1973 c 388 s 165]

CHAPTER 177. MINIMUM WAGES

Sec.
177.01 to 177.20 Repealed.
177.21 Citation; fair labor standards act [new].
177.22 Statement of policy [New].
177.23 Definitions [New].
177.24 Payment of minimum wages [New].
177.25 Overtime [New].
177.26 Division of labor standards [New].
177.27 Powers and duties of the commissioner [New].
177.28 Power to make regulations [New].
177.29 Judicial review [New].
177.30 Keeping records [New].

Sec.
177.31 Posting of law and regulations [New].
177.32 Penalties [New].
177.33 Employee's remedies [New].
177.34 Relation to other laws [New].
177.35 Right of collective bargaining [New].
177.41 State projects and state highway construction; public policy [New].
177.42 Definitions [New].
177.43 Contracts for state projects; hours of labor; wage rates [New].
177.44 Highway contracts; hours of labor; wage rates [New].

177.01 [Repealed, 1973 c 721 s 16]

177.02 [Repealed, 1973 c 721 s 16]

(NOTE: Section 177.02, Subdivisions 6 and 7, were also amended by Laws 1973, Chapter 725, Sections 25 and 26, to read as follows:

"Sec. 25. Minnesota Statutes 1971, Section 177.02, Subdivision 6, is amended to read:

Subd. 6. [Minor.] "Minor" means any person under the age of 18 years.

Sec. 26. Minnesota Statutes 1971, Section 177.02, Subdivision 7, is amended to read:

Subd. 7. [Learner, apprentice.] "Learner" and "apprentice" may mean any minor or person over 18 years of age.")

177.03 [Repealed, 1973 c 721 s 16]

177.04 [Repealed, 1973 c 721 s 16]

177.05 [Repealed, 1973 c 721 s 16]

177.06 [Repealed, 1973 c 721 s 16]