

Section 515. Rights of Dissenting Shareholders.—\* \* \*

M. [Subsection] Clause (1) of subsection L of this section shall not apply to:

(1) An amendment to which section 810 of this act is applicable.

(2) Shares converted by a plan, if such shares are not converted solely into shares of the acquiring, surviving, new or other corporation or solely into such shares and cash in lieu of fractional shares; and

(3) Shares of any preferred or special class, unless the articles or the plan entitles all shareholders of such class to vote thereon and requires for the adoption of the plan the affirmative vote of shareholders of such class entitled to cast at least a majority of the votes which all shareholders of such class are entitled to cast thereon.

Section 902.1. Merger Without Shareholder Approval.—A. Unless otherwise required by its articles a plan of merger which does not alter the state of incorporation of a business corporation nor any provision of the articles (except that such a plan may change the corporate name) nor otherwise affect its outstanding shares shall not require the approval of the shareholders of such corporation if:

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(2) The [authorized unissued or treasury shares of any class] total number of common shares of the surviving corporation to be issued or delivered under the plan [do] plus those initially issuable upon conversion of any other shares, securities or obligations to be issued or delivered under the plan, does not exceed fifteen per cent of the common shares of [the business] such corporation [of the same class] outstanding immediately prior to the effective date of the plan.

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Section 2. This act shall take effect immediately and shall be retroactive to August 19, 1968.

APPROVED—The 2nd day of December, A. D. 1968.

RAYMOND P. SHAFER.

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No. 362

AN ACT

SB 1642

Amending the act of June 21, 1939 (P. L. 566), entitled "An act defining the liability of an employer to pay damages for occupational disease contracted by an employee arising out of and in the course of employment; establishing

an elective schedule of compensation; providing procedure for the determination of liability and compensation thereunder; imposing duties on the Department of Labor and Industry, the Workmen's Compensation Board, Workmen's Compensation Referees, and deans of medical schools; creating a medical board to determine controverted medical issues; establishing an Occupational Disease Fund in custody of the State Workmen's Insurance Board; imposing upon the Commonwealth a part of the compensation payable for certain occupational diseases; making an appropriation; and prescribing penalties," further regulating compensation payments.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Clauses (a) and (b) and the last paragraph of clause (c) of section 306, and section 307, act of June 21, 1939 (P. L. 566), known as "The Pennsylvania Occupational Disease Act," amended November 10, 1965 (P. L. 695), are amended to read:

Section 306. The following schedule of compensation is hereby established subject to the limitations of section 301:

(a) For total disability sixty-six and two-thirds per centum of the wages of the disabled employe as defined in section three hundred and nine, beginning after the seventh day of total disability, and payable for the duration of total disability, but the compensation shall not be more than [fifty] sixty dollars per week nor less than [thirty] thirty-five dollars per week. If at the time when disability begins, the employe receives wages of [thirty] thirty-five dollars

per week or less, then he shall receive ninety per centum of the wages per week as compensation, but in no event less than twenty-two dollars [and fifty cents] per week. Nothing in this clause shall require payment of compensation after disability shall cease.

(b) For disability partial in character (except the particular cases mentioned in clause (c)) sixty-six and two thirds per centum of the difference between the wages of the disabled employe, as defined in section three hundred and nine, and the earning power of the employe thereafter; but such compensation shall not be more than [forty] forty-five dollars per week. This compensation shall be paid

during the period of such partial disability except as provided in clause (e) of this section, but not more than three hundred and fifty weeks. Should total disability be followed by partial disability, the period of three hundred and fifty weeks shall not be reduced by the number of weeks during which compensation was paid for total disability. The term "earning power," as used in this section, shall in no case be less than the weekly amount which the employe receives after disability begins, and in those cases in which the employe works fewer than five days per week for reasons not connected with or arising out of the disability resulting from the injury shall not be less than five times his actual daily wage as fixed by the day, hour, or by the output of the employe, and in no instance shall an

employe receiving compensation under this section receive more in compensation and wages combined than a fellow employe in employment similar to that in which the injured employe was engaged at the time of disability.

(c) For all disability resulting from loss or loss of the use of members resulting from occupational disease, the compensation shall be exclusively as follows:

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This compensation shall not be more than [fifty] sixty dollars per week nor less than [thirty] thirty-five dollars per week: Provided, That if at the time of disability the employe receives wages of [thirty] thirty-five dollars per week or less, then he shall receive ninety per centum of such wages per week as compensation, but in no event less than twenty-two dollars [and fifty cents] per week. When an employe works during the healing period, his wages and earning power shall be as defined in this act, and he shall not receive more in wages and compensation combined than his wages at the time of disability as defined in section 309. Where any such injury or injuries shall require an amputation at a time after the end of the healing period hereinbefore provided, the employe shall be entitled to receive compensation for the second healing period, and in the case of a second injury or amputation to the same limb prior to the expiration of the first healing period, a new healing period shall commence for the period hereinbefore provided and no further compensation shall be payable for the first healing period.

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Section 307. In case of death resulting from occupational disease, compensation shall be computed on the following basis, and distributed to the following persons, subject to the limitations of section 301:

1. If there be no widow nor widower entitled to compensation, compensation shall be paid to the guardian of the child or children, or if there be no guardian, to such other persons as may be designated by the board as hereinafter provided, as follows:

(a) If there be one child, thirty-two per centum of wages of deceased, but not in excess of [twenty] twenty-five dollars per week.

(b) If there be two children, forty-two per centum of wages of deceased, but not in excess of [twenty-seven dollars and twenty-five cents] thirty-three dollars per week.

(c) If there be three children, fifty-two per centum of wages of deceased, but not in excess of [thirty-four dollars and twenty-five cents] forty-one dollars per week.

(d) If there be four children, sixty-two per centum of wages of deceased, but not in excess of [forty] forty-eight dollars per week.

(e) If there be five children, sixty-four per centum of wages of deceased, but not in excess of [forty-five dollars and twenty-five cents] fifty-four dollars per week.

(f) If there be six or more children, sixty-six and two-thirds per centum of wages of deceased, but not in excess of [fifty] sixty dollars per week.

2. To the widow or widower, if there be no children, fifty-one per centum of wages, but not in excess of [thirty-two dollars and twenty-five cents] thirty-nine dollars per week.

3. To the widow or widower, if there be one child, sixty per centum of wages, but not in excess of [thirty-eight dollars and fifty cents] forty-six dollars per week.

4. To the widow or widower, if there be two children, sixty-six and two-thirds per centum of wages, but not in excess of [forty-five dollars and twenty-five cents] fifty-four dollars per week.

5. To the widow or widower, if there be three or more children, sixty-six and two-thirds per centum of wages, but not in excess of [fifty] sixty dollars per week.

6. If there be neither widow, widower, nor children, entitled to compensation, then to the father or mother, if dependent to any extent upon the employe at the time of his death, thirty-two per centum of wages, but not in excess of [twenty-one] twenty-five dollars per week: Provided, however, That in the case of a minor child who has been contributing to his parents, the dependency of said parents shall be presumed: And provided further, That if the father or mother was totally dependent upon the deceased employe at the time of his death, the compensation payable to such father or mother shall be fifty-two per centum of wages, but not in excess of [thirty-one dollars and fifty cents] thirty-eight dollars per week.

7. If there be neither widow, widower, children, nor dependent parent, entitled to compensation, then to the brothers and sisters, if actually dependent upon the decedent for support at the time of his death, twenty-two per centum of wages for one brother or sister, and five per centum additional for each additional brother or sister, with a maximum of thirty-two per centum, such compensation to be paid to their guardian, or, if there be no guardian, to such other person as may be designated by the board, as hereinafter provided.

8. Whether or not there be dependents as aforesaid, the reasonable expense of burial, not exceeding seven hundred fifty dollars, which shall be paid by the employer or insurer directly to the undertaker (without deduction of any amounts theretofore paid for compensation or for medical expenses).

Compensation shall be payable under this section to or on account of any child, brother, or sister, only if and while such child,

brother, or sister is under the age of eighteen. No compensation shall be payable under this section to a widow, unless she was living with her deceased husband at the time of his death, or was then actually dependent upon him and receiving from him a substantial portion of her support. No compensation shall be payable under this section to a widower, unless he be incapable of self-support at the time of his wife's death and be at such time dependent upon her for support. If members of decedent's household at the time of his death, the terms "child" and "children" shall include stepchildren, adopted children, and children to whom he stood in loco parentis, and shall include posthumous children. Should any dependent of a deceased employe die or remarry, or should the widower become capable of self-support, the right of such dependent or widower to compensation under this section shall cease: Provided, however, [That upon remarriage of any widow the compensation of such widow shall continue, as hereinbefore provided, for one-third of the period during which compensation then remains payable to her: Provided further,] That if, upon investigation and hearing, it shall be ascertained that the widow or widower is living with a man or woman, as the case may be, in meretricious relationship and not married, or the widow living a life of prostitution, the board may order the termination of compensation payable to such widow or widower. If the compensation payable under this section to any person shall, for any cause, cease, the compensation to the remaining persons entitled thereunder shall thereafter be the same as would have been payable to them had they been the only persons entitled to compensation at the time of the death of the deceased.

The wages upon which death compensation shall be based shall not in any case be taken to exceed [seventy-five] ninety dollars per week, nor be less than fifty dollars per week.

[This compensation shall be paid during three hundred and fifty weeks and, in the case of children entitled to compensation under this section, the compensation of each child shall continue after said period of three hundred and fifty weeks until such child reaches the age of eighteen, at the rate of twenty-four and one-half per centum of wages, but not in excess of fifteen dollars per week, if there is one child; thirty-four and one-half per centum of wages, but not in excess of twenty dollars per week, if there are two children; forty-five and one-half per centum of wages, but not in excess of twenty-seven dollars and twenty-five cents per week, if there are three children; fifty-seven per centum of wages, but not in excess of thirty-four dollars and twenty-five cents per week, if there are four children; sixty-two per centum of wages, but not in excess of thirty-six dollars and seventy-five cents per week, if there be five children; and sixty-six and two-thirds per centum of wages, but not in excess of forty-two dollars per week, if there be six children or more.]

The board may, if the best interests of a child or children shall so require, at any time order and direct the compensation payable to a child or children, or to a widow or a widower, on account of any child or children, to be paid to the guardian of such child or children, or, if there be no guardian, to such other person as the board, as hereinafter provided, may direct. If there be no guardian or committee of any minor, dependent, or insane employe, or dependent, on whose account compensation is payable, the amount payable on account of such minor, dependent, or insane employe, or dependent may be paid to any surviving parent, or to such other person as the board may order and direct, and the board may require any person, other than a guardian or committee, to whom it has directed compensation for a minor, dependent, or insane employe, or dependent to be paid, to render, as and when it shall so order, accounts of the receipts and disbursements of such person, and to file with it a satisfactory bond in a sum sufficient to secure the proper application of the moneys received by such person.

Section 2. This act shall take effect the first day of the month following its enactment.

APPROVED—The 9th day of December, A. D. 1968.

RAYMOND P. SHAFER.

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No. 363

AN ACT

HB 261

Amending the act of June 1, 1959 (P. L. 350), entitled "An act relating to the retirement of public school employes; amending, revising, consolidating and changing the laws relating thereto," extending credit for certain military service to school employes who were not contributors prior to serving in the armed forces of the United States upon certain conditions.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Subsection (6) of section 206, act of June 1, 1959 (P. L. 350), known as the "Public School Employes' Retirement Code of 1959," added October 13, 1965 (P. L. 589), is amended to read:

Section 206. Credit for Military Service.—

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(6) Any school employe who is a contributor and who served in the armed forces of the United States subsequent to September 1, 1940, and who was not a school employe prior to such period of military service and who commenced teaching <sup>1</sup>(i) within [one (1) year]

<sup>1</sup> "T" in original.