

Chap. 751 AN ACT RELATIVE TO PAYMENTS TO EMPLOYEES FOR PERSONAL INJURIES RECEIVED IN THE COURSE OF THEIR EMPLOYMENT AND TO THE PREVENTION OF SUCH INJURIES.

Be it enacted, etc., as follows:

PART I.

MODIFICATION OF REMEDIES.

Damages for personal injury, etc.

SECTION 1. In an action to recover damages for personal injury sustained by an employee in the course of his employment, or for death resulting from personal injury so sustained, it shall not be a defense:

1. That the employee was negligent;
2. That the injury was caused by the negligence of a fellow employee;
3. That the employee had assumed the risk of the injury.

Law not to apply in certain cases.

SECTION 2. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by domestic servants and farm laborers.

Same.

SECTION 3. The provisions of section one shall not apply to actions to recover damages for personal injuries sustained by employees of a subscriber.

Same.

SECTION 4. The provisions of sections one hundred and twenty-seven to one hundred and thirty-five, inclusive, and of one hundred and forty-one to one hundred and forty-three, inclusive, of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine, and of any acts in amendment thereof, shall not apply to employees of a subscriber while this act is in effect.

Right of action in certain cases held to be waived.

SECTION 5. An employee of a subscriber shall be held to have waived his right of action at common law to recover damages for personal injuries if he shall not have given his employer, at the time of his contract of hire, notice in writing that he claimed such right, or if the contract of hire was made before the employer became a subscriber, if the employee shall not have given the said notice within thirty days of notice of such subscription. An employee who has given notice to his employer that he claimed his right of action at common law may waive such claim by a notice in writing which shall take effect five days after it is delivered to the employer or his agent.

PART II.

PAYMENTS.

SECTION 1. If an employee who has not given notice of his claim of common law rights of action, as provided in Part I, section five, or who has given such notice and has waived the same, receives a personal injury arising out of and in the course of his employment, he shall be paid compensation by the association, as hereinafter provided, if his employer is a subscriber at the time of the injury.

Payment of compensation.

SECTION 2. If the employee is injured by reason of his serious and wilful misconduct, he shall not receive compensation.

Misconduct of employee to prohibit compensation.

SECTION 3. If the employee is injured by reason of the serious and wilful misconduct of a subscriber or of any person regularly entrusted with and exercising the powers of superintendence, the amounts of compensation hereinafter provided shall be doubled. In such case the subscriber shall repay to the association the extra compensation paid to the employee.

Misconduct of another person, etc.

SECTION 4. No compensation shall be paid under this act for any injury which does not incapacitate the employee for a period of at least two weeks from earning full wages, but if incapacity extends beyond the period of two weeks, compensation shall begin on the fifteenth day after the injury.

Certain cases of injury, etc.

SECTION 5. During the first two weeks after the injury, the association shall furnish reasonable medical and hospital services, and medicines when they are needed.

Medical and hospital services.

SECTION 6. If death results from the injury, the association shall pay the dependents of the employee, wholly dependent upon his earnings for support at the time of the injury, a weekly payment equal to one half his average weekly wages, but not more than ten dollars nor less than four dollars a week, for a period of three hundred weeks from the date of the injury. If the employee leaves dependents only partly dependent upon his earnings for support at the time of his injury, the association shall pay such dependents a weekly compensation equal to the same proportion of the weekly payments for the benefit of persons wholly dependent as the amount contributed by the employee to such partial dependents bears to the annual earnings of the deceased at the time of his injury. When weekly pay-

If death results from injury certain dependents to be compensated.

ments have been made to an injured employee before his death, the compensation to dependents shall begin from the date of the last of such payments, but shall not continue more than three hundred weeks from the date of the injury.

SECTION 7. The following persons shall be conclusively presumed to be wholly dependent for support upon a deceased employee: —

(a) A wife upon a husband with whom she lives at the time of his death.

(b) A husband upon a wife with whom he lives at the time of her death.

(c) A child or children under the age of eighteen years (or over said age, but physically or mentally incapacitated from earning) upon the parent with whom he is or they are living at the time of the death of such parent, there being no surviving dependent parent. In case there is more than one child thus dependent, the death benefit shall be divided equally among them.

In all other cases questions of dependency, in whole or in part, shall be determined in accordance with the fact, as the fact may be at the time of the injury; and in such other cases, if there is more than one person wholly dependent, the death benefit shall be divided equally among them, and persons partly dependent, if any, shall receive no part thereof; if there is no one wholly dependent and more than one person partly dependent, the death benefit shall be divided among them according to the relative extent of their dependency.

SECTION 8. If the employee leaves no dependents, the association shall pay the reasonable expense of his last sickness and burial, which shall not exceed two hundred dollars.

SECTION 9. While the incapacity for work resulting from the injury is total, the association shall pay the injured employee a weekly compensation equal to one half his average weekly wages, but not more than ten dollars nor less than four dollars a week; and in no case shall the period covered by such compensation be greater than five hundred weeks, nor the amount more than three thousand dollars.

SECTION 10. While the incapacity for work resulting from the injury is partial, the association shall pay the injured employee a weekly compensation equal to one half the difference between his average weekly wages before

Who are presumed to be dependents, etc.

Expense of last sickness and burial to be paid in certain cases.

Compensation to be paid while incapacity for work continues.

Amount to be paid in cases of partial incapacity, etc.

the injury and the average weekly wages which he is able to earn thereafter, but not more than ten dollars a week; and in no case shall the period covered by such compensation be greater than three hundred weeks from the date of the injury.

SECTION 11. In case of the following specified injuries the amounts hereinafter named shall be paid in addition to all other compensation:

Amount to be paid in cases of specified injuries.

(a) For the loss by severance of both hands at or above the wrist, or both feet at or above the ankle, or the loss of one hand and one foot, or the entire and irrecoverable loss of the sight of both eyes, one half of the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of one hundred weeks.

(b) For the loss by severance of either hand at or above the wrist, or either foot at or above the ankle, or the entire and irrecoverable loss of the sight of either eye, one half the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of fifty weeks.

(c) For the loss by severance at or above the second joint of two or more fingers, including thumbs, or toes, one half the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twenty-five weeks.

(d) For the loss by severance of at least one phalange of a finger, thumb, or toe, one half the average weekly wages of the injured person, but not more than ten dollars nor less than four dollars a week, for a period of twelve weeks.

SECTION 12. No savings or insurance of the injured employee, independent of this act, shall be taken into consideration in determining the compensation to be paid hereunder, nor shall benefits derived from any other source than the association be considered in fixing the compensation under this act.

Savings of injured employee not to be considered.

SECTION 13. The compensation payable under this act in case of the death of the injured employee shall be paid to his legal representative; or, if he has no legal representative to his dependents; or, if he leaves no dependents, to the persons to whom payment of the expenses for the last sickness and burial are due. If the payment is made to the legal representative of the deceased employee, it shall

To whom compensation shall be paid in certain cases.

be paid by him to the dependents or other persons entitled thereto under this act.

Guardian, etc., may claim right in certain cases.

SECTION 14. If an injured employee is mentally incompetent or is a minor at the time when any right or privilege accrues to him under this act, his guardian or next friend may in his behalf claim and exercise such right or privilege.

Notice of injury to be given, etc.

SECTION 15. No proceedings for compensation for an injury under this act shall be maintained unless a notice of the injury shall have been given to the association or subscriber as soon as practicable after the happening thereof, and unless the claim for compensation with respect to such injury shall have been made within six months after the occurrence of the same; or, in case of the death of the employee, or in the event of his physical or mental incapacity, within six months after death or the removal of such physical or mental incapacity.

Notice to be in writing, etc.

SECTION 16. The said notice shall be in writing, and shall state in ordinary language the time, place and cause of the injury; and shall be signed by the person injured, or by a person in his behalf, or, in the event of his death, by his legal representative or by a person in his behalf.

Serving of notice.

SECTION 17. The notice shall be served upon the association, or an officer or agent thereof, or upon the subscriber, or upon one subscriber, if there are more subscribers than one, or upon any officer or agent of a corporation if the subscriber is a corporation, by delivering the same to the person on whom it is to be served, or leaving it at his residence or place of business, or by sending it by registered mail addressed to the person or corporation on whom it is to be served, at his last known residence or place of business.

Notice not to be invalid by reason of inaccuracy, etc.

SECTION 18. A notice given under the provisions of this act shall not be held invalid or insufficient by reason of any inaccuracy in stating the time, place or cause of the injury, unless it is shown that it was the intention to mislead and the association was in fact misled thereby. Want of notice shall not be a bar to proceedings under this act, if it be shown that the association, subscriber, or agent had knowledge of the injury.

Medical examination, etc.

SECTION 19. After an employee has given notice of an injury, as provided by this act, and from time to time thereafter during the continuance of his disability he shall, if so requested by the association, submit himself to an examination by a physician or surgeon authorized to practise medi-

cine under the laws of the commonwealth, furnished and paid for by the association. The employee shall have the right to have a physician provided and paid for by himself present at the examination. If he refuses to submit himself for the examination, or in any way obstructs the same, his right to compensation shall be suspended, and his compensation during the period of suspension may be forfeited.

SECTION 20. No agreement by an employee to waive his rights to compensation under this act shall be valid. Right of compensation not to be waived.

SECTION 21. No payment under this act shall be assignable or subject to attachment, or be liable in any way for any debts. Not to be assigned, etc.

SECTION 22. Whenever any weekly payment has been continued for not less than six months, the liability therefor may in unusual cases be redeemed by the payment of a lump sum by agreement of the parties, subject to the approval of the industrial accident board. A lump sum may be paid on agreement.

PART III.

PROCEDURE.

SECTION 1. There shall be an industrial accident board consisting of three members, to be appointed by the governor, by and with the advice and consent of the council, one of whom shall be designated by the governor as chairman. The term of office of members of this board shall be six years, except that when first constituted one member shall be appointed for two years, one for four years, and one for six years. Thereafter one member shall be appointed every second year for the full term of six years. Industrial accident board, appointment, etc.

SECTION 2. The salaries and expenses of the board shall be paid by the commonwealth. The salary of the chairman shall be sixty-five hundred dollars a year, and the salary of the other members shall be six thousand dollars a year each. The board may appoint a secretary at a salary of not more than three thousand dollars a year, and may remove him. It shall also be allowed an annual sum, not exceeding ten thousand dollars, for clerical service, and travelling and other necessary expenses. The board shall be provided with an office in the state house or in some other suitable building in the city of Boston, in which its records shall be kept. Salaries and expenses to be paid by the commonwealth, etc.

SECTION 3. The board may make rules not inconsistent with this act for carrying out the provisions of the act. The board may make rules, etc.

Process and procedure under this act shall be as summary as reasonably may be. The board or any member thereof shall have the power to subpoena witnesses and to examine such parts of the books and records of the parties to a proceeding as relate to questions in dispute.

Agreements to be filed with the board.

SECTION 4. If the association and the injured employee reach an agreement in regard to compensation under this act, a memorandum of the agreement shall be filed with the industrial accident board and, if approved by it, thereupon the memorandum shall for all purposes be enforceable as a decree of the superior court. Such agreements shall be approved by said board only when the terms conform to the provisions of this act.

Committee of arbitration may be formed, etc.

SECTION 5. If the association and the injured employee fail to reach an agreement in regard to compensation under this act, either party may notify the industrial accident board who shall thereupon call for the formation of a committee of arbitration. The committee of arbitration shall consist of three members, one of whom shall be a member of the industrial accident board, and shall act as chairman. The other two members shall be named, respectively, by the two parties.

Duties of the board, etc.

SECTION 6. It shall be the duty of the industrial accident board, upon notification that the parties have failed to reach an agreement, to request both parties to appoint their respective representatives on the committee of arbitration. The board shall designate one of its members to act as chairman, and, if either party does not appoint its member on this committee within seven days after notification, as above provided, the board or any member thereof shall fill the vacancy and notify the parties to that effect.

Investigation to be made by the committee of arbitration.

SECTION 7. The committee of arbitration shall make such inquiries and investigations as it shall deem necessary. The hearings of the committee shall be held at the place where the injury occurred, and the decision of the committee shall be filed with the industrial accident board. Unless a claim for a review is filed by either party within seven days, the decision shall be enforceable as if it were a decree of the superior court.

Appointment of physician, etc.

SECTION 8. The industrial accident board or any member thereof may appoint a duly qualified impartial physician to examine the injured employee and to report. The fee for this service shall be five dollars and travelling ex-

penses, but the board may allow additional reasonable amounts in extraordinary cases.

SECTION 9. The arbitrators named by or for the parties to the dispute shall each receive five dollars as a fee for his services, but the industrial accident board or any member thereof may allow additional reasonable amounts in extraordinary cases. The fees shall be paid by the association, which shall deduct an amount equal to one third of the sum from any compensation found due the employee.

Fee of arbitrators.

SECTION 10. If a claim for a review is filed, as provided in Part III, section seven, the board shall hear the parties and file its decision with the records of the proceedings.

Review of claim.

SECTION 11. There shall be a right of appeal to the supreme judicial court on questions of law, and the industrial accident board may report questions of law to the supreme judicial court for its determination.

Right of appeal.

SECTION 12. Any weekly payment under this act may be reviewed by the industrial accident board at the request of the association or of the employee; and on such review it may be ended, diminished or increased, subject to the maximum and minimum amounts above provided, if the board finds that the condition of the employee warrants such action.

Weekly payments may be diminished or increased.

SECTION 13. Fees of attorneys and physicians for services under this act shall be subject to the approval of the industrial accident board.

Fees of attorneys, etc.

SECTION 14. If the committee of arbitration, industrial accident board, or any court before whom any proceedings are brought under this act determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, it shall assess the whole cost of the proceedings upon the party who has so brought, prosecuted or defended them.

Payment of cost of proceedings before arbitration board.

SECTION 15. Where the injury for which compensation is payable under this act was caused under circumstances creating a legal liability in some person other than the subscriber to pay damages in respect thereof, the employee may at his option proceed either at law against that person to recover damages, or against the association for compensation under this act, but not against both, and if compensation be paid under this act, the association may enforce in the name of the employee, or in its own name and for its own benefit, the liability of such other person.

Legal liability for injuries.

Settlement of
certain
questions.

SECTION 16. All questions arising under this act, if not settled by agreement by the parties interested therein, shall, except as otherwise herein provided, be determined by the industrial accident board. The decisions of the industrial accident board shall for all purposes be enforceable as if they were decrees of the superior court.

Proceedings in
case of con-
tract work, etc.

SECTION 17. If a subscriber enters into a contract, written or oral, with an independent contractor to do such subscriber's work, or if such a contractor enters into a contract with a sub-contractor to do all or any part of the work comprised in such contract with the subscriber, and the association would, if such work were executed by employees immediately employed by the subscriber, be liable to pay compensation under this act to those employees, the association shall pay to such employees any compensation which would be payable to them under this act if the independent or sub-contractors were subscribers. The association, however, shall be entitled to recover indemnity from any other person who would have been liable to such employees independently of this section, and if the association has paid compensation under the terms of this section, it may enforce in the name of the employee, or in its own name and for the benefit of the association, the liability of such other person. This section shall not apply to any contract of an independent or sub-contractor which is merely ancillary and incidental to, and is no part of or process in, the trade or business carried on by the subscriber, nor to any case where the injury occurred elsewhere than on, in, or about the premises on which the contractor has undertaken to execute the work for the subscriber or which are under the control or management of the subscriber.

Record of
injuries to
be kept, etc.

SECTION 18. Every employer shall hereafter keep a record of all injuries, fatal or otherwise, received by his employees in the course of their employment. Within forty-eight hours, not counting Sundays and legal holidays, after the occurrence of an accident resulting in personal injury a report thereof shall be made in writing to the industrial accident board on blanks to be procured from the board for the purpose.

Supplemental
report.

Upon the termination of the disability of the injured employee or, if such disability extends beyond a period of sixty days, at the expiration of such period the employer shall make a supplemental report on blanks to be procured from the board for that purpose.

The said reports shall contain the name and nature of the business of the employer, the location of the establishment, the name, age, sex and occupation of the injured employee, and shall state the date and hour of the accident, the nature and cause of the injury, and such other information as may be required by the board.

Contents of report.

Any employer who refuses or neglects to make the report required by this section shall be punished by a fine of not more than fifty dollars for each offence.

Penalty.

PART IV.

THE MASSACHUSETTS EMPLOYEES INSURANCE ASSOCIATION.

SECTION 1. The Massachusetts Employees Insurance Association is hereby created a body corporate with the powers provided in this act and with all the general corporate powers incident thereto.

The Massachusetts Employees Insurance Association created.

SECTION 2. The governor shall appoint a board of directors of the association, consisting of fifteen members, who shall serve for a term of one year, or until their successors are elected by ballot by the subscribers at such time and for such term as the by-laws shall provide.

Board of directors, appointment, etc.

SECTION 3. Until the first meeting of the subscribers the board of directors shall have and exercise all the powers of the subscribers, and may adopt by-laws not inconsistent with the provisions of this act, which shall be in effect until amended or repealed by the subscribers.

Powers of the board.

SECTION 4. The board of directors shall annually choose by ballot a president, who shall be a member of the board, a secretary, a treasurer, and such other officers as the by-laws shall provide.

Officers of the board.

SECTION 5. Seven or more of the directors shall constitute a quorum for the transaction of business.

Quorum.

Vacancies in any office may be filled in such manner as the by-laws shall provide.

Vacancies.

SECTION 6. Any employer in the commonwealth may become a subscriber.

Any employer may be a subscriber.

SECTION 7. The board of directors shall, within thirty days of the subscription of twenty-five employers, call the first meeting of the subscribers by a notice in writing mailed to each subscriber at his place of business not less than ten days before the date fixed for the meeting.

First meeting of the board

SECTION 8. In any meeting of the subscribers each subscriber shall be entitled to one vote, and if a subscriber

Number of votes to which each sub-

subscriber is entitled.

has five hundred employees to whom the association is bound to pay compensation he shall be entitled to two votes, and he shall be entitled to one additional vote for each additional five hundred employees to whom the association is bound to pay compensation, but no subscriber shall cast, by his own right or by the right of proxy, more than twenty votes.

Issue of policies.

SECTION 9. No policy shall be issued by the association until not less than one hundred employers have subscribed, who have not less than ten thousand employees to whom the association may be bound to pay compensation.

Same.

SECTION 10. No policy shall be issued until a list of the subscribers, with the number of employees of each, together with such other information as the insurance commissioner may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement by every subscriber that he will take the policies subscribed for by him within thirty days of the granting of a license to the association by the insurance commissioner to issue policies.

Same.

SECTION 11. If the number of subscribers falls below one hundred, or the number of employees to whom the association may be bound to pay compensation falls below ten thousand, no further policies shall be issued until other employers have subscribed who, together with existing subscribers, amount to not less than one hundred who have not less than ten thousand employees, said subscriptions to be subject to the provisions contained in the preceding section.

Duties of the insurance commissioner.

SECTION 12. Upon the filing of the certificate provided for in the two preceding sections the insurance commissioner shall make such investigation as he may deem proper and, if his findings warrant it, grant a license to the association to issue policies.

Subscribers to be distributed in groups.

SECTION 13. The board of directors shall distribute the subscribers into groups in accordance with the nature of the business and the degree of the risk of injury.

Payment of premiums.

Subscribers within each group shall annually pay in cash, or notes absolutely payable, such premiums as may be required to pay the compensation herein provided for the injuries which may occur in that year.

Liability of subscribers.

SECTION 14. The association may in its by-laws and policies fix the contingent mutual liability of the subscribers

for the payment of losses and expenses not provided for by its cash funds; but such contingent liability of a subscriber shall not be less than an amount equal to and in addition to the cash premium.

SECTION 15. If the association is not possessed of cash funds above its unearned premiums sufficient for the payment of incurred losses and expenses, it shall make an assessment for the amount needed to pay such losses and expenses upon the subscribers liable to assessment therefor in proportion to their several liability. Assessments.

Every subscriber shall pay his proportional part of any assessments which may be laid by the association, in accordance with law and his contract, on account of injuries sustained and expenses incurred while he is a subscriber.

SECTION 16. The board of directors may, from time to time, by vote fix and determine the amount to be paid as a dividend upon policies expiring during each year after retaining sufficient sums to pay all the compensation which may be payable on account of injuries sustained and expenses incurred. Dividends.

All premiums, assessments, and dividends shall be fixed by and for groups as heretofore provided in accordance with the experience of each group, but all the funds of the association and the contingent liability of all the subscribers shall be available for the payment of any claim against the association. All funds to be available for payment of claims.

SECTION 17. Any proposed premium, assessment, dividend or distribution of subscribers shall be filed with the insurance department and shall not take effect until approved by the insurance commissioner after such investigation as he may deem necessary. Insurance commissioner to approve premiums, etc.

SECTION 18. The board of directors shall make and enforce reasonable rules and regulations for the prevention of injuries on the premises of subscribers, and for this purpose the inspectors of the association shall have free access to all such premises during regular working hours. Rules and regulations for the prevention of injuries, etc.

Any subscriber or employee aggrieved by any such rule or regulation may petition the industrial accident board for a review, and it may affirm, amend, or annul the rule or regulation. Rules may be reviewed, etc.

SECTION 19. If any officer of the association shall falsely make oath to any certificate required to be filed with the insurance commissioner, he shall be guilty of perjury. False oath of officer, etc.

SECTION 20. Every subscriber shall, as soon as he secures a policy, give notice, in writing or print, to all persons Certain notice to be given to

employees,
etc.

Same.

Subscribers
required to
pay damages
by judgment
of a court may
be reimbursed
in certain
cases.

Certain
provisions
of law to
apply.

Expenses of
the board to
be approved
by the
governor and
council.

An employee
who accepts
payment, etc.,
releases the
subscriber.

Certain
words and
phrases
defined.

under contract of hire with him that he has provided for payment to injured employees by the association.

SECTION 21. Every subscriber shall give notice in writing or print to every person with whom he is about to enter into a contract of hire that he has provided for payment to injured employees by the association.

SECTION 22. If a subscriber, who has complied with all the rules, regulations and demands of the association, is required by any judgment of a court of law to pay to an employee any damages on account of personal injury sustained by such employee during the period of subscription, the association shall pay to the subscriber the full amount of such judgment and the cost assessed therewith, if the subscriber shall have given the association notice in writing of the bringing of the action upon which the judgment was recovered and an opportunity to appear and defend the same.

SECTION 23. The provisions of chapter five hundred and seventy-six of the acts of the year nineteen hundred and seven and of acts in amendment thereof shall apply to the association, so far as such provisions are pertinent and not in conflict with the provisions of this act, except that the corporate powers shall not expire because of failure to issue policies or make insurance.

SECTION 24. The board of directors appointed by the governor under the provisions of Part IV, section two, may incur such expenses in the performance of its duties as shall be approved by the governor and council. Such expenses shall be paid from the treasury of the commonwealth and shall not exceed in amount the sum of fifteen thousand dollars.

PART V.

MISCELLANEOUS PROVISIONS.

SECTION 1. If an employee of a subscriber files any claim with or accepts any payment from the association on account of personal injury, or makes any agreement, or submits any question to arbitration, under this act, such action shall constitute a release to the subscriber of all claims or demands at law, if any, arising from the injury.

SECTION 2. The following words and phrases, as used in this act, shall, unless a different meaning is plainly required by the context, have the following meaning: —

“Employer” shall include the legal representative of a deceased employer.

Certain words and phrases defined.

“Employee” shall include every person in the service of another under any contract of hire, express or implied, oral or written, except one whose employment is but casual, or is not in the usual course of the trade, business, profession or occupation of his employer. Any reference to an employee who has been injured shall, when the employee is dead, also include his legal representatives, dependents and other persons to whom compensation may be payable.

“Dependents” shall mean members of the employee’s family or next of kin who were wholly or partly dependent upon the earnings of the employee for support at the time of the injury.

“Average weekly wages” shall mean the earnings of the injured employee during the period of twelve calendar months immediately preceding the date of injury, divided by fifty-two; but if the injured employee lost more than two weeks’ time during such period then the earnings for the remainder of such twelve calendar months shall be divided by the number of weeks remaining after the time so lost has been deducted. Where, by reason of the shortness of the time during which the employee has been in the employment of his employer, or the nature or terms of the employment, it is impracticable to compute the average weekly wages, as above defined, regard may be had to the average weekly amount which, during the twelve months previous to the injury, was being earned by a person in the same grade employed at the same work by the same employer; or, if there is no person so employed, by a person in the same grade employed in the same class of employment and in the same district.

“Association” shall mean the Massachusetts Employees Insurance Association.

“Subscriber” shall mean an employer who has become a member of the association by paying a year’s premium in advance and receiving the receipt of the association therefor, provided that the association holds a license issued by the insurance commissioner as provided in Part IV, section twelve.

SECTION 3. Any liability insurance company authorized to do business within this commonwealth shall have the same right as the association to insure the liability to pay the compensation provided for by this act, and a policy

Liability insurance companies subject to certain regulations contained in this act.

holder of such liability company shall be regarded as a subscriber so far as applicable within the meaning of this act, and when any such company insures such payment of compensation it shall be subject to all the regulations and obligations imposed upon the association.

Repeal. SECTION 4. Sections one hundred and thirty-six to one hundred and forty, inclusive, of chapter five hundred and fourteen of the acts of the year nineteen hundred and nine are hereby repealed.

Not to apply in certain cases. SECTION 5. The provisions of this act shall not apply to injuries sustained prior to the taking effect thereof.

Time of taking effect. SECTION 6. Part IV of this act shall take effect on the first day of January, nineteen hundred and twelve; the remainder thereof shall take effect on the first day of July, nineteen hundred and twelve. *Approved July 28, 1911.*

Chap. 752 AN ACT TO APPORTION AND ASSESS A STATE TAX OF FIVE MILLION FIVE HUNDRED THOUSAND DOLLARS.

Be it enacted, etc., as follows:

State tax apportioned and assessed. SECTION 1. Each city and town in this commonwealth shall be assessed and pay the sum with which it stands charged in the following schedule, that is to say: —

Abington, forty-six hundred and twenty dollars, . . .	\$4,620 00
Acton, three thousand and eighty dollars, . . .	3,080 00
Acushnet, eleven hundred and fifty-five dollars, . . .	1,155 00
Adams, ten thousand four hundred and fifty dollars, . . .	10,450 00
Agawam, three thousand and twenty-five dollars, . . .	3,025 00
Alford, two hundred and seventy-five dollars, . . .	275 00
Amesbury, ninety-four hundred and five dollars, . . .	9,405 00
Amherst, fifty-seven hundred and twenty dollars, . . .	5,720 00
Andover, eleven thousand three hundred and eighty-five dollars, . . .	11,385 00
Arlington, sixteen thousand six hundred and ten dollars, . . .	16,610 00
Ashburnham, fifteen hundred and ninety-five dollars, . . .	1,595 00
Ashby, eleven hundred dollars, . . .	1,100 00
Ashfield, nine hundred and ninety dollars, . . .	990 00
Ashland, seventeen hundred and sixty dollars, . . .	1,760 00
Athol, seventy-two hundred and sixty dollars, . . .	7,260 00
Attleborough, twenty-one thousand five hundred and sixty dollars, . . .	21,560 00
Auburn, eighteen hundred and seventy dollars, . . .	1,870 00
Avon, fifteen hundred and forty dollars, . . .	1,540 00
Ayer, three thousand and eighty dollars, . . .	3,080 00
Barnstable, eighty-three hundred and sixty dollars, . . .	8,360 00
Barre, twenty-eight hundred and sixty dollars, . . .	2,860 00
Becket, eight hundred and twenty-five dollars, . . .	825 00