It has been held that the making of ready mixed or transit mixed concrete is "manufacture" involving transformation, that is, the fashioning of raw materials into a change of form for use.


From the above authorities and citations, it would appear that all of the employees of said company come within the terms of the Act, and therefore, it is my opinion that the employees of said company can legally demand and receive payment of their wages at least once every week in accordance with said Act.

OFFICIAL OPINION NO. 32

May 6, 1954

B. Groesbeck, Jr., M. D., Director
Department of Health
1330 West Michigan Street
Indianapolis, Indiana

Dear Dr. Groesbeck:

Your letter requesting my Official Opinion concerning the total amount to be paid by counties for funeral and burial expenses of deceased members of the Indiana State Soldiers' Home reads as follows:

"Arrangements have recently been completed with the Tippecanoe County Funeral Directors' Association to rotate the services of the Association members in directing funerals of deceased members of the Indiana State Soldiers' Home in cases for which previous arrangements have not been effected.

"During a recent conference with members of this Association, the question arose as to the interpretation on the part of county officials of the meaning of Chapter 109 of the Acts of 1951, which authorizes payment by the counties for funeral expenses of certain members of the armed forces of the United States and their widows.

"The law states, in part, that the county commis-
sioners, after a submission of a claim by a funeral director for funeral services rendered, 'shall make allowance in a sum not exceeding one hundred dollars for service rendered and material furnished in care of such body, and where necessary an amount not to exceed twenty-five dollars for a place of burial of such body.'

"I am informed that certain counties are paying the funeral directors the sum of $100.00 for 'service rendered and material furnished in care of such body' and that other counties are paying only $75.00 unless the claim includes the purchase of a cemetery plot.

"In order that the law may be administered in a uniform manner throughout the State, your opinion concerning the intent of Chapter 109 of the Acts of 1951 is respectfully requested."

This question is governed by the Acts of 1915, Ch. 3, Sec. 1, as last amended by the Acts of 1953, Ch. 216, as found in Burns' Indiana Statutes (1951 Repl., 1953 Supp.), Section 59-1009, which reads as follows:

"Section 1. Whenever any person, male or female, who has heretofore served, or who may hereafter serve, as a member of the armed forces of the United States as a soldier, sailor or marine in the army or navy of the United States, or as a member of the women's components thereof, resident of any county of this state, and who, while a member of the armed forces and before discharge therefrom, or, who after receiving an honorable discharge therefrom, or the wife or widow, the husband or widower of any such member of the armed forces of the United States, resident of any county of this state, has died or shall hereafter die, upon claim being filed by an interested person with the board of commissioners of the county of the residence of such deceased person, stating the fact of such service, death, and discharge, if discharged from such service prior to death, and that the body has been buried in a decent and respectable manner, in a cemetery or burial ground, such board of commissioners shall hear and determine such claim, like other claims, filed for allowance by
them, and if the facts averred are found to be true, as a tribute of respect due such member of the armed forces, shall make allowance of such claim in a sum not exceeding one hundred dollars for service rendered and material furnished in care of such body and where necessary an amount not to exceed twenty-five dollars for a place of burial of such body.

"The total sum of any claim filed and for which allowance shall be made whether it be for service rendered and material furnished or service rendered, material furnished and place for burial furnished shall not exceed one hundred dollars: Provided, That should the federal government provide a marker for the grave of any such person, the board of commissioners shall make a further allowance of eight dollars for the setting of such marker: Provided further, That any sum of money expended by any county under the provisions of this act shall be considered as a gift, and no persons for and on behalf of the State of Indiana or any of its political subdivisions shall be authorized to file a claim for a lump sum death benefit with the Federal Social Security claiming reimbursement for any sum of money so expended."

One proviso of the foregoing statute answers your question completely and is as follows:

"* * * The total sum of any claim filed and for which allowance shall be made whether it be for service rendered and material furnished or service rendered, material furnished and place for burial furnished shall not exceed one hundred dollars * * *."

(Our emphasis)

The foregoing proviso is susceptible of only one meaning, i.e. the total sum which may be allowed, both for material furnished and services rendered by the undertaker and for furnishing a burial place shall not exceed $100.00.

It is only when there is no claim for furnishing a place of burial that the undertaker may be allowed a sum not exceeding $100.00 for services rendered and material furnished by him. If a claim is made for furnishing a place of burial, such
claim may be allowed in a sum not to exceed $25.00, which reduces the ceiling allowable to the undertaker by whatever amount is allowed for such burial place. The only additional allowance over and above the maximum of $100.00 is the proviso by which the county may make a further allowance of $8.00 for the setting of a marker if such marker is furnished by the Federal Government. By this statute, the intent of the Legislature is clear that in no event may the claim for services rendered and material furnished by the undertaker and for furnishing a burial place plus the setting of a marker, if furnished by the Federal Government, aggregate in excess of $108.00.

OFFICIAL OPINION NO. 33

May 12, 1954

Mr. Cecil Bolinger
Executive Secretary
Public Employes' Retirement Fund
707 Board of Trade Building
Indianapolis, Indiana

Dear Mr. Bolinger:

This is in reply to your request for an Official Opinion concerning the rights of a member of the Public Employes' Retirement Fund who leaves the service of one employer and enters the service of another employer, both such employers being participants in the Public Employes' Retirement Fund.

Your first question is as follows:

"1. John Smith is an employee of Municipality A which is participating under the Public Employes' Retirement Fund Law. On March 1, 1954 without withdrawing his contributions he leaves the employment of A and enters immediately the employment of B. B is also a participating municipality under the Public Employes' Retirement Fund.

"Can John Smith keep his credit for work performed for Municipality A and must Municipalities A and B share the cost of John Smith's retirement as provided in Section 24?"