



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB6159

Introduced 2/11/2010, by Rep. David Reis

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/11	from Ch. 48, par. 138.11
820 ILCS 305/13	from Ch. 48, par. 138.13
820 ILCS 305/14	from Ch. 48, par. 138.14

Amends the Workers' Compensation Act as follows: defines "injury" as an injury that has arisen out of and in the course of employment; provides that an injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability; provides that an injury is deemed to arise out of and in the course of the employment only if specified conditions are met; provides that an injury resulting directly or indirectly from idiopathic causes is not compensable; provides that no compensation is payable if an injury was caused primarily by the intoxication of the employee or by the influence of alcohol or certain drugs and contains various provisions relating to the use of alcohol and drugs; requires Illinois Workers' Compensation Commission commissioners and arbitrators to weigh the evidence impartially without giving the benefit of the doubt to any party when weighing evidence and resolving factual conflicts. Makes other changes. Effective immediately.

LRB096 16152 WGH 31403 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 1, 11, 13, and 14 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

7 Sec. 1. This Act may be cited as the Workers' Compensation  
8 Act.

9 (a) The term "employer" as used in this Act means:

10 1. The State and each county, city, town, township,  
11 incorporated village, school district, body politic, or  
12 municipal corporation therein.

13 2. Every person, firm, public or private corporation,  
14 including hospitals, public service, eleemosynary, religious  
15 or charitable corporations or associations who has any person  
16 in service or under any contract for hire, express or implied,  
17 oral or written, and who is engaged in any of the enterprises  
18 or businesses enumerated in Section 3 of this Act, or who at or  
19 prior to the time of the accident to the employee for which  
20 compensation under this Act may be claimed, has in the manner  
21 provided in this Act elected to become subject to the  
22 provisions of this Act, and who has not, prior to such  
23 accident, effected a withdrawal of such election in the manner

1 provided in this Act.

2 3. Any one engaging in any business or enterprise referred  
3 to in subsections 1 and 2 of Section 3 of this Act who  
4 undertakes to do any work enumerated therein, is liable to pay  
5 compensation to his own immediate employees in accordance with  
6 the provisions of this Act, and in addition thereto if he  
7 directly or indirectly engages any contractor whether  
8 principal or sub-contractor to do any such work, he is liable  
9 to pay compensation to the employees of any such contractor or  
10 sub-contractor unless such contractor or sub-contractor has  
11 insured, in any company or association authorized under the  
12 laws of this State to insure the liability to pay compensation  
13 under this Act, or guaranteed his liability to pay such  
14 compensation. With respect to any time limitation on the filing  
15 of claims provided by this Act, the timely filing of a claim  
16 against a contractor or subcontractor, as the case may be,  
17 shall be deemed to be a timely filing with respect to all  
18 persons upon whom liability is imposed by this paragraph.

19 In the event any such person pays compensation under this  
20 subsection he may recover the amount thereof from the  
21 contractor or sub-contractor, if any, and in the event the  
22 contractor pays compensation under this subsection he may  
23 recover the amount thereof from the sub-contractor, if any.

24 This subsection does not apply in any case where the  
25 accident occurs elsewhere than on, in or about the immediate  
26 premises on which the principal has contracted that the work be

1 done.

2 4. Where an employer operating under and subject to the  
3 provisions of this Act loans an employee to another such  
4 employer and such loaned employee sustains a compensable  
5 accidental injury in the employment of such borrowing employer  
6 and where such borrowing employer does not provide or pay the  
7 benefits or payments due such injured employee, such loaning  
8 employer is liable to provide or pay all benefits or payments  
9 due such employee under this Act and as to such employee the  
10 liability of such loaning and borrowing employers is joint and  
11 several, provided that such loaning employer is in the absence  
12 of agreement to the contrary entitled to receive from such  
13 borrowing employer full reimbursement for all sums paid or  
14 incurred pursuant to this paragraph together with reasonable  
15 attorneys' fees and expenses in any hearings before the  
16 Illinois Workers' Compensation Commission or in any action to  
17 secure such reimbursement. Where any benefit is provided or  
18 paid by such loaning employer the employee has the duty of  
19 rendering reasonable cooperation in any hearings, trials or  
20 proceedings in the case, including such proceedings for  
21 reimbursement.

22 Where an employee files an Application for Adjustment of  
23 Claim with the Illinois Workers' Compensation Commission  
24 alleging that his claim is covered by the provisions of the  
25 preceding paragraph, and joining both the alleged loaning and  
26 borrowing employers, they and each of them, upon written demand

1 by the employee and within 7 days after receipt of such demand,  
2 shall have the duty of filing with the Illinois Workers'  
3 Compensation Commission a written admission or denial of the  
4 allegation that the claim is covered by the provisions of the  
5 preceding paragraph and in default of such filing or if any  
6 such denial be ultimately determined not to have been bona fide  
7 then the provisions of Paragraph K of Section 19 of this Act  
8 shall apply.

9 An employer whose business or enterprise or a substantial  
10 part thereof consists of hiring, procuring or furnishing  
11 employees to or for other employers operating under and subject  
12 to the provisions of this Act for the performance of the work  
13 of such other employers and who pays such employees their  
14 salary or wages notwithstanding that they are doing the work of  
15 such other employers shall be deemed a loaning employer within  
16 the meaning and provisions of this Section.

17 (b) The term "employee" as used in this Act means:

18 1. Every person in the service of the State, including  
19 members of the General Assembly, members of the Commerce  
20 Commission, members of the Illinois Workers' Compensation  
21 Commission, and all persons in the service of the University of  
22 Illinois, county, including deputy sheriffs and assistant  
23 state's attorneys, city, town, township, incorporated village  
24 or school district, body politic, or municipal corporation  
25 therein, whether by election, under appointment or contract of  
26 hire, express or implied, oral or written, including all

1 members of the Illinois National Guard while on active duty in  
2 the service of the State, and all probation personnel of the  
3 Juvenile Court appointed pursuant to Article VI of the Juvenile  
4 Court Act of 1987, and including any official of the State, any  
5 county, city, town, township, incorporated village, school  
6 district, body politic or municipal corporation therein except  
7 any duly appointed member of a police department in any city  
8 whose population exceeds 200,000 according to the last Federal  
9 or State census, and except any member of a fire insurance  
10 patrol maintained by a board of underwriters in this State. A  
11 duly appointed member of a fire department in any city, the  
12 population of which exceeds 200,000 according to the last  
13 federal or State census, is an employee under this Act only  
14 with respect to claims brought under paragraph (c) of Section  
15 8.

16 One employed by a contractor who has contracted with the  
17 State, or a county, city, town, township, incorporated village,  
18 school district, body politic or municipal corporation  
19 therein, through its representatives, is not considered as an  
20 employee of the State, county, city, town, township,  
21 incorporated village, school district, body politic or  
22 municipal corporation which made the contract.

23 2. Every person in the service of another under any  
24 contract of hire, express or implied, oral or written,  
25 including persons whose employment is outside of the State of  
26 Illinois where the contract of hire is made within the State of

1 Illinois, persons whose employment results in fatal or  
2 non-fatal injuries within the State of Illinois where the  
3 contract of hire is made outside of the State of Illinois, and  
4 persons whose employment is principally localized within the  
5 State of Illinois, regardless of the place of the accident or  
6 the place where the contract of hire was made, and including  
7 aliens, and minors who, for the purpose of this Act are  
8 considered the same and have the same power to contract,  
9 receive payments and give quittances therefor, as adult  
10 employees.

11 3. Every sole proprietor and every partner of a business  
12 may elect to be covered by this Act.

13 An employee or his dependents under this Act who shall have  
14 a cause of action by reason of any injury, disablement or death  
15 arising out of and in the course of his employment may elect to  
16 pursue his remedy in the State where injured or disabled, or in  
17 the State where the contract of hire is made, or in the State  
18 where the employment is principally localized.

19 However, any employer may elect to provide and pay  
20 compensation to any employee other than those engaged in the  
21 usual course of the trade, business, profession or occupation  
22 of the employer by complying with Sections 2 and 4 of this Act.  
23 Employees are not included within the provisions of this Act  
24 when excluded by the laws of the United States relating to  
25 liability of employers to their employees for personal injuries  
26 where such laws are held to be exclusive.

1           The term "employee" does not include persons performing  
2 services as real estate broker, broker-salesman, or salesman  
3 when such persons are paid by commission only.

4           (c) "Commission" means the Industrial Commission created  
5 by Section 5 of "The Civil Administrative Code of Illinois",  
6 approved March 7, 1917, as amended, or the Illinois Workers'  
7 Compensation Commission created by Section 13 of this Act.

8           (d) "Injury" means an injury that has arisen out of and in  
9 the course of employment. An injury by accident is compensable  
10 only if the accident was the prevailing factor in causing both  
11 the resulting medical condition and disability. "Prevailing  
12 factor" means the primary factor, in relation to any other  
13 factor, causing both the resulting medical condition and  
14 disability.

15           (1) An injury is deemed to arise out of and in the  
16 course of the employment only if:

17           (A) it is reasonably apparent, upon consideration  
18 of all the circumstances, that the accident is the  
19 prevailing factor in causing the injury; and

20           (B) it does not come from a hazard or risk  
21 unrelated to the employment to which workers would have  
22 been equally exposed outside of and unrelated to the  
23 employment in normal nonemployment life.

24           (2) An injury resulting directly or indirectly from  
25 idiopathic causes is not compensable.

26           (Source: P.A. 93-721, eff. 1-1-05.)



1 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

2 Sec. 11. The compensation herein provided, together with  
3 the provisions of this Act, shall be the measure of the  
4 responsibility of any employer engaged in any of the  
5 enterprises or businesses enumerated in Section 3 of this Act,  
6 or of any employer who is not engaged in any such enterprises  
7 or businesses, but who has elected to provide and pay  
8 compensation for accidental injuries sustained by any employee  
9 arising out of and in the course of the employment according to  
10 the provisions of this Act, and whose election to continue  
11 under this Act, has not been nullified by any action of his  
12 employees as provided for in this Act.

13 Accidental injuries incurred while participating in  
14 voluntary recreational programs including but not limited to  
15 athletic events, parties and picnics do not arise out of and in  
16 the course of the employment even though the employer pays some  
17 or all of the cost thereof. This exclusion shall not apply in  
18 the event that the injured employee was ordered or assigned by  
19 his employer to participate in the program.

20 Accidental injuries incurred while participating as a  
21 patient in a drug or alcohol rehabilitation program do not  
22 arise out of and in the course of employment even though the  
23 employer pays some or all of the costs thereof.

24 Any injury to or disease or death of an employee arising  
25 from the administration of a vaccine, including without

1 limitation smallpox vaccine, to prepare for, or as a response  
2 to, a threatened or potential bioterrorist incident to the  
3 employee as part of a voluntary inoculation program in  
4 connection with the person's employment or in connection with  
5 any governmental program or recommendation for the inoculation  
6 of workers in the employee's occupation, geographical area, or  
7 other category that includes the employee is deemed to arise  
8 out of and in the course of the employment for all purposes  
9 under this Act. This paragraph added by this amendatory Act of  
10 the 93rd General Assembly is declarative of existing law and is  
11 not a new enactment.

12 No compensation shall be payable if the injury was caused  
13 primarily by the intoxication of the employee, or if the injury  
14 was caused by the influence of alcohol or any narcotic drugs,  
15 barbiturates, or other stimulants not prescribed by a  
16 physician, or by the combined influence of alcohol and any  
17 other drug or drugs that affected the employee to such an  
18 extent that the intoxication constituted a departure from  
19 employment. Evidence of the concentration of alcohol or a drug  
20 or combination thereof in a person's blood or breath at the  
21 time alleged, as determined by analysis of the person's blood,  
22 urine, breath, or other bodily substance, shall be admissible  
23 in any hearing to determine compensability. If the employee  
24 refuses to submit to such analysis, it shall be presumed, in  
25 the absence of substantial evidence to the contrary, that the  
26 accident was caused by the intoxication of the employee. If

1 there was at the time of the injury 0.08% or more by weight of  
2 alcohol in the employee's blood or breath or there is any  
3 amount of a drug, substance or compound in the person's breath,  
4 blood, or urine resulting from the unlawful use or consumption  
5 of cannabis listed in the Cannabis Control Act, a controlled  
6 substance listed in the Illinois Controlled Substances Act, or  
7 an intoxicating compound listed in the Use of Intoxicating  
8 Compounds Act, it shall be presumed, in the absence of  
9 substantial evidence to the contrary, that the injury was  
10 caused by the intoxication of the employee. Percentage by  
11 weight of alcohol in the blood shall be based upon grams of  
12 alcohol per 100 milliliters of blood. Percentage by weight of  
13 alcohol in the breath shall be based upon grams of alcohol per  
14 210 liters of breath.

15 The employee shall notify the employer of the prescription  
16 of any narcotic drug that may adversely affect the employee's  
17 ability to safely perform his or her job duties prior to the  
18 start of any job duties.

19 (Source: P.A. 93-829, eff. 7-28-04.)

20 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

21 Sec. 13. There is created an Illinois Workers' Compensation  
22 Commission consisting of 10 members to be appointed by the  
23 Governor, by and with the consent of the Senate, 3 of whom  
24 shall be representative citizens of the employing class  
25 operating under this Act and 3 of whom shall be representative

1 citizens of the class of employees covered under this Act, and  
2 4 of whom shall be representative citizens not identified with  
3 either the employing or employee classes. Not more than 6  
4 members of the Commission shall be of the same political party.

5 One of the members not identified with either the employing  
6 or employee classes shall be designated by the Governor as  
7 Chairman. The Chairman shall be the chief administrative and  
8 executive officer of the Commission; and he or she shall have  
9 general supervisory authority over all personnel of the  
10 Commission, including arbitrators and Commissioners, and the  
11 final authority in all administrative matters relating to the  
12 Commissioners, including but not limited to the assignment and  
13 distribution of cases and assignment of Commissioners to the  
14 panels, except in the promulgation of procedural rules and  
15 orders under Section 16 and in the determination of cases under  
16 this Act.

17 Notwithstanding the general supervisory authority of the  
18 Chairman, each Commissioner, except those assigned to the  
19 temporary panel, shall have the authority to hire and supervise  
20 2 staff attorneys each. Such staff attorneys shall report  
21 directly to the individual Commissioner.

22 A formal training program for newly-appointed  
23 Commissioners shall be implemented. The training program shall  
24 include the following:

- 25 (a) substantive and procedural aspects of the office of  
26 Commissioner;

1 (b) current issues in workers' compensation law and  
2 practice;

3 (c) medical lectures by specialists in areas such as  
4 orthopedics, ophthalmology, psychiatry, rehabilitation  
5 counseling;

6 (d) orientation to each operational unit of the  
7 Illinois Workers' Compensation Commission;

8 (e) observation of experienced arbitrators and  
9 Commissioners conducting hearings of cases, combined with  
10 the opportunity to discuss evidence presented and rulings  
11 made;

12 (f) the use of hypothetical cases requiring the  
13 newly-appointed Commissioner to issue judgments as a means  
14 to evaluating knowledge and writing ability;

15 (g) writing skills.

16 A formal and ongoing professional development program  
17 including, but not limited to, the above-noted areas shall be  
18 implemented to keep Commissioners informed of recent  
19 developments and issues and to assist them in maintaining and  
20 enhancing their professional competence.

21 The Commissioner candidates, other than the Chairman, must  
22 meet one of the following qualifications: (a) licensed to  
23 practice law in the State of Illinois; or (b) served as an  
24 arbitrator at the Illinois Workers' Compensation Commission  
25 for at least 3 years; or (c) has at least 4 years of  
26 professional labor relations experience. The Chairman

1 candidate must have public or private sector management and  
2 budget experience, as determined by the Governor.

3 Each Commissioner shall devote full time to his duties and  
4 any Commissioner who is an attorney-at-law shall not engage in  
5 the practice of law, nor shall any Commissioner hold any other  
6 office or position of profit under the United States or this  
7 State or any municipal corporation or political subdivision of  
8 this State, nor engage in any other business, employment, or  
9 vocation.

10 Commissioners shall weigh the evidence impartially without  
11 giving the benefit of the doubt to any party when weighing  
12 evidence and resolving factual conflicts.

13 The term of office of each member of the Commission holding  
14 office on the effective date of this amendatory Act of 1989 is  
15 abolished, but the incumbents shall continue to exercise all of  
16 the powers and be subject to all of the duties of Commissioners  
17 until their respective successors are appointed and qualified.

18 The Illinois Workers' Compensation Commission shall  
19 administer this Act.

20 In the promulgation of procedural rules, the determination  
21 of cases heard en banc, and other matters determined by the  
22 full Commission, the Chairman's vote shall break a tie in the  
23 event of a tie vote.

24 The members shall be appointed by the Governor, with the  
25 advice and consent of the Senate, as follows:

26 (a) After the effective date of this amendatory Act of

1 1989, 3 members, at least one of each political party, and  
2 one of whom shall be a representative citizen of the  
3 employing class operating under this Act, one of whom shall  
4 be a representative citizen of the class of employees  
5 covered under this Act, and one of whom shall be a  
6 representative citizen not identified with either the  
7 employing or employee classes, shall be appointed to hold  
8 office until the third Monday in January of 1993, and until  
9 their successors are appointed and qualified, and 4  
10 members, one of whom shall be a representative citizen of  
11 the employing class operating under this Act, one of whom  
12 shall be a representative citizen of the class of employees  
13 covered in this Act, and two of whom shall be  
14 representative citizens not identified with either the  
15 employing or employee classes, one of whom shall be  
16 designated by the Governor as Chairman (at least one of  
17 each of the two major political parties) shall be appointed  
18 to hold office until the third Monday of January in 1991,  
19 and until their successors are appointed and qualified.

20 (a-5) Notwithstanding any other provision of this  
21 Section, the term of each member of the Commission who was  
22 appointed by the Governor and is in office on June 30, 2003  
23 shall terminate at the close of business on that date or  
24 when all of the successor members to be appointed pursuant  
25 to this amendatory Act of the 93rd General Assembly have  
26 been appointed by the Governor, whichever occurs later. As

1 soon as possible, the Governor shall appoint persons to  
2 fill the vacancies created by this amendatory Act. Of the  
3 initial commissioners appointed pursuant to this  
4 amendatory Act of the 93rd General Assembly, 3 shall be  
5 appointed for terms ending on the third Monday in January,  
6 2005, and 4 shall be appointed for terms ending on the  
7 third Monday in January, 2007.

8 (a-10) After the effective date of this amendatory Act  
9 of the 94th General Assembly, the Commission shall be  
10 increased to 10 members. As soon as possible after the  
11 effective date of this amendatory Act of the 94th General  
12 Assembly, the Governor shall appoint, by and with the  
13 consent of the Senate, the 3 members added to the  
14 Commission under this amendatory Act of the 94th General  
15 Assembly, one of whom shall be a representative citizen of  
16 the employing class operating under this Act, one of whom  
17 shall be a representative of the class of employees covered  
18 under this Act, and one of whom shall be a representative  
19 citizen not identified with either the employing or  
20 employee classes. Of the members appointed under this  
21 amendatory Act of the 94th General Assembly, one shall be  
22 appointed for a term ending on the third Monday in January,  
23 2007, and 2 shall be appointed for terms ending on the  
24 third Monday in January, 2009, and until their successors  
25 are appointed and qualified.

26 (b) Members shall thereafter be appointed to hold



1 office for terms of 4 years from the third Monday in  
2 January of the year of their appointment, and until their  
3 successors are appointed and qualified. All such  
4 appointments shall be made so that the composition of the  
5 Commission is in accordance with the provisions of the  
6 first paragraph of this Section.

7 The Chairman shall receive an annual salary of \$42,500, or  
8 a salary set by the Compensation Review Board, whichever is  
9 greater, and each other member shall receive an annual salary  
10 of \$38,000, or a salary set by the Compensation Review Board,  
11 whichever is greater.

12 In case of a vacancy in the office of a Commissioner during  
13 the recess of the Senate, the Governor shall make a temporary  
14 appointment until the next meeting of the Senate, when he shall  
15 nominate some person to fill such office. Any person so  
16 nominated who is confirmed by the Senate shall hold office  
17 during the remainder of the term and until his successor is  
18 appointed and qualified.

19 The Illinois Workers' Compensation Commission created by  
20 this amendatory Act of 1989 shall succeed to all the rights,  
21 powers, duties, obligations, records and other property and  
22 employees of the Industrial Commission which it replaces as  
23 modified by this amendatory Act of 1989 and all applications  
24 and reports to actions and proceedings of such prior Industrial  
25 Commission shall be considered as applications and reports to  
26 actions and proceedings of the Illinois Workers' Compensation

1 Commission created by this amendatory Act of 1989.

2 Notwithstanding any other provision of this Act, in the  
3 event the Chairman shall make a finding that a member is or  
4 will be unavailable to fulfill the responsibilities of his or  
5 her office, the Chairman shall advise the Governor and the  
6 member in writing and shall designate a certified arbitrator to  
7 serve as acting Commissioner. The certified arbitrator shall  
8 act as a Commissioner until the member resumes the duties of  
9 his or her office or until a new member is appointed by the  
10 Governor, by and with the consent of the Senate, if a vacancy  
11 occurs in the office of the Commissioner, but in no event shall  
12 a certified arbitrator serve in the capacity of Commissioner  
13 for more than 6 months from the date of appointment by the  
14 Chairman. A finding by the Chairman that a member is or will be  
15 unavailable to fulfill the responsibilities of his or her  
16 office shall be based upon notice to the Chairman by a member  
17 that he or she will be unavailable or facts and circumstances  
18 made known to the Chairman which lead him to reasonably find  
19 that a member is unavailable to fulfill the responsibilities of  
20 his or her office. The designation of a certified arbitrator to  
21 act as a Commissioner shall be considered representative of  
22 citizens not identified with either the employing or employee  
23 classes and the arbitrator shall serve regardless of his or her  
24 political affiliation. A certified arbitrator who serves as an  
25 acting Commissioner shall have all the rights and powers of a  
26 Commissioner, including salary.

1           Notwithstanding any other provision of this Act, the  
2 Governor shall appoint a special panel of Commissioners  
3 comprised of 3 members who shall be chosen by the Governor, by  
4 and with the consent of the Senate, from among the current  
5 ranks of certified arbitrators. Three members shall hold office  
6 until the Commission in consultation with the Governor  
7 determines that the caseload on review has been reduced  
8 sufficiently to allow cases to proceed in a timely manner or  
9 for a term of 18 months from the effective date of their  
10 appointment by the Governor, whichever shall be earlier. The 3  
11 members shall be considered representative of citizens not  
12 identified with either the employing or employee classes and  
13 shall serve regardless of political affiliation. Each of the 3  
14 members shall have only such rights and powers of a  
15 Commissioner necessary to dispose of those cases assigned to  
16 the special panel. Each of the 3 members appointed to the  
17 special panel shall receive the same salary as other  
18 Commissioners for the duration of the panel.

19           The Commission may have an Executive Director; if so, the  
20 Executive Director shall be appointed by the Governor with the  
21 advice and consent of the Senate. The salary and duties of the  
22 Executive Director shall be fixed by the Commission.

23           On the effective date of this amendatory Act of the 93rd  
24 General Assembly, the name of the Industrial Commission is  
25 changed to the Illinois Workers' Compensation Commission.  
26 References in any law, appropriation, rule, form, or other

1 document: (i) to the Industrial Commission are deemed, in  
2 appropriate contexts, to be references to the Illinois Workers'  
3 Compensation Commission for all purposes; (ii) to the  
4 Industrial Commission Operations Fund are deemed, in  
5 appropriate contexts, to be references to the Illinois Workers'  
6 Compensation Commission Operations Fund for all purposes;  
7 (iii) to the Industrial Commission Operations Fund Fee are  
8 deemed, in appropriate contexts, to be references to the  
9 Illinois Workers' Compensation Commission Operations Fund Fee  
10 for all purposes; and (iv) to the Industrial Commission  
11 Operations Fund Surcharge are deemed, in appropriate contexts,  
12 to be references to the Illinois Workers' Compensation  
13 Commission Operations Fund Surcharge for all purposes.

14 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;  
15 94-277, eff. 7-20-05.)

16 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

17 Sec. 14. The Commission shall appoint a secretary, an  
18 assistant secretary, and arbitrators and shall employ such  
19 assistants and clerical help as may be necessary.

20 Each arbitrator appointed after November 22, 1977 shall be  
21 required to demonstrate in writing and in accordance with the  
22 rules and regulations of the Illinois Department of Central  
23 Management Services his or her knowledge of and expertise in  
24 the law of and judicial processes of the Workers' Compensation  
25 Act and the Occupational Diseases Act.

1           A formal training program for newly-hired arbitrators  
2 shall be implemented. The training program shall include the  
3 following:

4           (a) substantive and procedural aspects of the  
5 arbitrator position;

6           (b) current issues in workers' compensation law and  
7 practice;

8           (c) medical lectures by specialists in areas such as  
9 orthopedics, ophthalmology, psychiatry, rehabilitation  
10 counseling;

11           (d) orientation to each operational unit of the  
12 Illinois Workers' Compensation Commission;

13           (e) observation of experienced arbitrators conducting  
14 hearings of cases, combined with the opportunity to discuss  
15 evidence presented and rulings made;

16           (f) the use of hypothetical cases requiring the trainee  
17 to issue judgments as a means to evaluating knowledge and  
18 writing ability;

19           (g) writing skills.

20           A formal and ongoing professional development program  
21 including, but not limited to, the above-noted areas shall be  
22 implemented to keep arbitrators informed of recent  
23 developments and issues and to assist them in maintaining and  
24 enhancing their professional competence.

25           Each arbitrator shall devote full time to his or her duties  
26 and shall serve when assigned as an acting Commissioner when a

1 Commissioner is unavailable in accordance with the provisions  
2 of Section 13 of this Act. Any arbitrator who is an  
3 attorney-at-law shall not engage in the practice of law, nor  
4 shall any arbitrator hold any other office or position of  
5 profit under the United States or this State or any municipal  
6 corporation or political subdivision of this State.  
7 Notwithstanding any other provision of this Act to the  
8 contrary, an arbitrator who serves as an acting Commissioner in  
9 accordance with the provisions of Section 13 of this Act shall  
10 continue to serve in the capacity of Commissioner until a  
11 decision is reached in every case heard by that arbitrator  
12 while serving as an acting Commissioner.

13 Arbitrators shall weigh the evidence impartially without  
14 giving the benefit of the doubt to any party when weighing  
15 evidence and resolving factual conflicts.

16 Each arbitrator appointed after the effective date of this  
17 amendatory Act of 1989 shall be appointed for a term of 6  
18 years. Each arbitrator shall be appointed for a subsequent term  
19 unless the Chairman makes a recommendation to the Commission,  
20 no later than 60 days prior to the expiration of the term, not  
21 to reappoint the arbitrator. Notice of such a recommendation  
22 shall also be given to the arbitrator no later than 60 days  
23 prior to the expiration of the term. Upon such recommendation  
24 by the Chairman, the arbitrator shall be appointed for a  
25 subsequent term unless 8 of 10 members of the Commission,  
26 including the Chairman, vote not to reappoint the arbitrator.

1 All arbitrators shall be subject to the provisions of the  
2 Personnel Code, and the performance of all arbitrators shall be  
3 reviewed by the Chairman on an annual basis. The Chairman shall  
4 allow input from the Commissioners in all such reviews.

5 The Secretary and each arbitrator shall receive a per annum  
6 salary of \$4,000 less than the per annum salary of members of  
7 The Illinois Workers' Compensation Commission as provided in  
8 Section 13 of this Act, payable in equal monthly installments.

9 The members of the Commission, Arbitrators and other  
10 employees whose duties require them to travel, shall have  
11 reimbursed to them their actual traveling expenses and  
12 disbursements made or incurred by them in the discharge of  
13 their official duties while away from their place of residence  
14 in the performance of their duties.

15 The Commission shall provide itself with a seal for the  
16 authentication of its orders, awards and proceedings upon which  
17 shall be inscribed the name of the Commission and the words  
18 "Illinois--Seal".

19 The Secretary or Assistant Secretary, under the direction  
20 of the Commission, shall have charge and custody of the seal of  
21 the Commission and also have charge and custody of all records,  
22 files, orders, proceedings, decisions, awards and other  
23 documents on file with the Commission. He shall furnish  
24 certified copies, under the seal of the Commission, of any such  
25 records, files, orders, proceedings, decisions, awards and  
26 other documents on file with the Commission as may be required.

1 Certified copies so furnished by the Secretary or Assistant  
2 Secretary shall be received in evidence before the Commission  
3 or any Arbitrator thereof, and in all courts, provided that the  
4 original of such certified copy is otherwise competent and  
5 admissible in evidence. The Secretary or Assistant Secretary  
6 shall perform such other duties as may be prescribed from time  
7 to time by the Commission.

8 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

9 Section 99. Effective date. This Act takes effect upon  
10 becoming law.