



Rep. John E. Bradley

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1 AMENDMENT TO SENATE BILL 1066

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1066, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Department of Central Management Services  
6 Law of the Civil Administrative Code of Illinois is amended by  
7 changing Section 405-411 as follows:

8 (20 ILCS 405/405-411)

9 Sec. 405-411. Consolidation of workers' compensation  
10 functions.

11 (a) Notwithstanding any other law to the contrary, the  
12 Director of Central Management Services, working in  
13 cooperation with the Director of any other agency, department,  
14 board, or commission directly responsible to the Governor, may  
15 direct the consolidation, within the Department of Central  
16 Management Services, of those workers' compensation functions

1 at that agency, department, board, or commission that are  
2 suitable for centralization.

3 Upon receipt of the written direction to transfer workers'  
4 compensation functions to the Department of Central Management  
5 Services, the personnel, equipment, and property (both real and  
6 personal) directly relating to the transferred functions shall  
7 be transferred to the Department of Central Management  
8 Services, and the relevant documents, records, and  
9 correspondence shall be transferred or copied, as the Director  
10 may prescribe.

11 (b) Upon receiving written direction from the Director of  
12 Central Management Services, the Comptroller and Treasurer are  
13 authorized to transfer the unexpended balance of any  
14 appropriations related to the workers' compensation functions  
15 transferred to the Department of Central Management Services  
16 and shall make the necessary fund transfers from the General  
17 Revenue Fund, any special fund in the State treasury, or any  
18 other federal or State trust fund held by the Treasurer to the  
19 Workers' Compensation Revolving Fund for use by the Department  
20 of Central Management Services in support of workers'  
21 compensation functions or any other related costs or expenses  
22 of the Department of Central Management Services.

23 (c) The rights of employees and the State and its agencies  
24 under the Personnel Code and applicable collective bargaining  
25 agreements or under any pension, retirement, or annuity plan  
26 shall not be affected by any transfer under this Section.

1           (d) The functions transferred to the Department of Central  
2 Management Services by this Section shall be vested in and  
3 shall be exercised by the Department of Central Management  
4 Services. Each act done in the exercise of those functions  
5 shall have the same legal effect as if done by the agencies,  
6 offices, divisions, departments, bureaus, boards and  
7 commissions from which they were transferred.

8           Every person or other entity shall be subject to the same  
9 obligations and duties and any penalties, civil or criminal,  
10 arising therefrom, and shall have the same rights arising from  
11 the exercise of such rights, powers, and duties as had been  
12 exercised by the agencies, offices, divisions, departments,  
13 bureaus, boards, and commissions from which they were  
14 transferred.

15           Whenever reports or notices are now required to be made or  
16 given or papers or documents furnished or served by any person  
17 in regards to the functions transferred to or upon the  
18 agencies, offices, divisions, departments, bureaus, boards,  
19 and commissions from which the functions were transferred, the  
20 same shall be made, given, furnished or served in the same  
21 manner to or upon the Department of Central Management  
22 Services.

23           This Section does not affect any act done, ratified, or  
24 cancelled or any right occurring or established or any action  
25 or proceeding had or commenced in an administrative, civil, or  
26 criminal cause regarding the functions transferred, but those

1 proceedings may be continued by the Department of Central  
2 Management Services.

3 This Section does not affect the legality of any rules in  
4 the Illinois Administrative Code regarding the functions  
5 transferred in this Section that are in force on the effective  
6 date of this Section. If necessary, however, the affected  
7 agencies shall propose, adopt, or repeal rules, rule  
8 amendments, and rule recodifications as appropriate to  
9 effectuate this Section.

10 (e) There is hereby created within the Department of  
11 Central Management Services an advisory body to be known as the  
12 Workers' Compensation Advisory Board to review, assess, and  
13 provide recommendations to improve the State workers'  
14 compensation program and to ensure that the State manages the  
15 program in the interests of injured workers and taxpayers. The  
16 Governor, the Speaker of the House of Representatives, the  
17 Minority Leader of the House of Representatives, the President  
18 of the Senate, and the Minority Leader of the Senate shall each  
19 appoint one person to the Board. Each Board member initially  
20 appointed to the Board shall serve a term ending December 31,  
21 2013. Each Board member appointed thereafter shall serve a  
22 3-year term, and a Board member shall continue to serve on the  
23 Board until his or her successor is appointed. In addition, the  
24 Director of the Department of Central Management Services, the  
25 Attorney General, the Director of the Department of Insurance,  
26 the Director of the Department of Corrections, the Secretary of

1 the Department of Transportation, the Secretary of the  
2 Department of Human Services, the Director of the Department of  
3 Revenue, and the Commissioner of the Illinois Workers'  
4 Compensation Commission, or their designees, shall serve on the  
5 Board. The Board shall select one of its members to serve as  
6 Chairperson. Members of the Board shall not receive  
7 compensation but shall be reimbursed from the Workers'  
8 Compensation Revolving Fund for reasonable expenses incurred  
9 in the necessary performance of their duties, and the  
10 Department of Central Management Services shall provide  
11 administrative support to the Board. The Board shall meet at  
12 least 3 times per year, or more often if the Board deems it  
13 necessary or proper. By July 1, 2011, the Board shall issue a  
14 written report, to be delivered to the Governor, the Director  
15 of the Department of Central Management Services, and the  
16 General Assembly, with a recommended set of best practices for  
17 the State workers' compensation program. By July 1st of each  
18 year thereafter, the Board shall issue a written report, to be  
19 delivered to those same persons or entities, with  
20 recommendations on how to improve upon such practices.

21 (Source: P.A. 93-839, eff. 7-30-04.)

22 Section 10. The Workers' Compensation Act is amended by  
23 changing Sections 4, 8, 8.2, 8.3, 8.7, 11, 14, and 25.5 and  
24 adding Sections 16b, 29.1, and 29.2 as follows:

1 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

2 Sec. 4. (a) Any employer, including but not limited to  
3 general contractors and their subcontractors, who shall come  
4 within the provisions of Section 3 of this Act, and any other  
5 employer who shall elect to provide and pay the compensation  
6 provided for in this Act shall:

7 (1) File with the Commission annually an application  
8 for approval as a self-insurer which shall include a  
9 current financial statement, and annually, thereafter, an  
10 application for renewal of self-insurance, which shall  
11 include a current financial statement. Said application  
12 and financial statement shall be signed and sworn to by the  
13 president or vice president and secretary or assistant  
14 secretary of the employer if it be a corporation, or by all  
15 of the partners, if it be a copartnership, or by the owner  
16 if it be neither a copartnership nor a corporation. All  
17 initial applications and all applications for renewal of  
18 self-insurance must be submitted at least 60 days prior to  
19 the requested effective date of self-insurance. An  
20 employer may elect to provide and pay compensation as  
21 provided for in this Act as a member of a group workers'  
22 compensation pool under Article V 3/4 of the Illinois  
23 Insurance Code. If an employer becomes a member of a group  
24 workers' compensation pool, the employer shall not be  
25 relieved of any obligations imposed by this Act.

26 If the sworn application and financial statement of any

1 such employer does not satisfy the Commission of the  
2 financial ability of the employer who has filed it, the  
3 Commission shall require such employer to,

4 (2) Furnish security, indemnity or a bond guaranteeing  
5 the payment by the employer of the compensation provided  
6 for in this Act, provided that any such employer whose  
7 application and financial statement shall not have  
8 satisfied the commission of his or her financial ability  
9 and who shall have secured his liability in part by excess  
10 liability insurance shall be required to furnish to the  
11 Commission security, indemnity or bond guaranteeing his or  
12 her payment up to the effective limits of the excess  
13 coverage, or

14 (3) Insure his entire liability to pay such  
15 compensation in some insurance carrier authorized,  
16 licensed, or permitted to do such insurance business in  
17 this State. Every policy of an insurance carrier, insuring  
18 the payment of compensation under this Act shall cover all  
19 the employees and the entire compensation liability of the  
20 insured: Provided, however, that any employer may insure  
21 his or her compensation liability with 2 or more insurance  
22 carriers or may insure a part and qualify under subsection  
23 1, 2, or 4 for the remainder of his or her liability to pay  
24 such compensation, subject to the following two  
25 provisions:

26 Firstly, the entire compensation liability of the

1 employer to employees working at or from one location  
2 shall be insured in one such insurance carrier or shall  
3 be self-insured, and

4 Secondly, the employer shall submit evidence  
5 satisfactorily to the Commission that his or her entire  
6 liability for the compensation provided for in this Act  
7 will be secured. Any provisions in any policy, or in  
8 any endorsement attached thereto, attempting to limit  
9 or modify in any way, the liability of the insurance  
10 carriers issuing the same except as otherwise provided  
11 herein shall be wholly void.

12 Nothing herein contained shall apply to policies of  
13 excess liability carriage secured by employers who have  
14 been approved by the Commission as self-insurers, or

15 (4) Make some other provision, satisfactory to the  
16 Commission, for the securing of the payment of compensation  
17 provided for in this Act, and

18 (5) Upon becoming subject to this Act and thereafter as  
19 often as the Commission may in writing demand, file with  
20 the Commission in form prescribed by it evidence of his or  
21 her compliance with the provision of this Section.

22 (a-1) Regardless of its state of domicile or its principal  
23 place of business, an employer shall make payments to its  
24 insurance carrier or group self-insurance fund, where  
25 applicable, based upon the premium rates of the situs where the  
26 work or project is located in Illinois if:

1 (A) the employer is engaged primarily in the building  
2 and construction industry; and

3 (B) subdivision (a)(3) of this Section applies to the  
4 employer or the employer is a member of a group  
5 self-insurance plan as defined in subsection (1) of Section  
6 4a.

7 The Illinois Workers' Compensation Commission shall impose  
8 a penalty upon an employer for violation of this subsection  
9 (a-1) if:

10 (i) the employer is given an opportunity at a hearing  
11 to present evidence of its compliance with this subsection  
12 (a-1); and

13 (ii) after the hearing, the Commission finds that the  
14 employer failed to make payments upon the premium rates of  
15 the situs where the work or project is located in Illinois.

16 The penalty shall not exceed \$1,000 for each day of work  
17 for which the employer failed to make payments upon the premium  
18 rates of the situs where the work or project is located in  
19 Illinois, but the total penalty shall not exceed \$50,000 for  
20 each project or each contract under which the work was  
21 performed.

22 Any penalty under this subsection (a-1) must be imposed not  
23 later than one year after the expiration of the applicable  
24 limitation period specified in subsection (d) of Section 6 of  
25 this Act. Penalties imposed under this subsection (a-1) shall  
26 be deposited into the Illinois Workers' Compensation

1 Commission Operations Fund, a special fund that is created in  
2 the State treasury. Subject to appropriation, moneys in the  
3 Fund shall be used solely for the operations of the Illinois  
4 Workers' Compensation Commission and by the Department of  
5 Financial and Professional Regulation for the purposes  
6 authorized in subsection (c) of Section 25.5 of this Act.

7 (a-2) For purposes of this subsection, "Professional  
8 Employer Organization" or "PEO" means an entity or group of  
9 entities that provides the services of its workers to its  
10 client or clients through an arrangement for a fee pursuant to  
11 an agreement, written or otherwise. "Professional Employer  
12 Organization" or "PEO" also includes an employee leasing  
13 company or other similarly administered arrangement. Any  
14 workers' compensation insurance policy issued to a PEO shall at  
15 a minimum provide the following information to the Commission  
16 or any entity designated by the Commission regarding each  
17 policy issued to the PEO:

18 (1) Each client company of the PEO listed as an  
19 additional named insured.

20 (2) Information schedules attached to the master  
21 policy to identify each individual company's name, FEIN,  
22 and job location.

23 (3) A certificate of insurance coverage document  
24 issued to each client company specifying its rights and  
25 obligations under the master policy that clearly  
26 establishes both the identity and status of the client, as

1       well as the dates of inception and termination of coverage,  
2       if applicable.

3       (b) The sworn application and financial statement, or  
4       security, indemnity or bond, or amount of insurance, or other  
5       provisions, filed, furnished, carried, or made by the employer,  
6       as the case may be, shall be subject to the approval of the  
7       Commission.

8       Deposits under escrow agreements shall be cash, negotiable  
9       United States government bonds or negotiable general  
10      obligation bonds of the State of Illinois. Such cash or bonds  
11      shall be deposited in escrow with any State or National Bank or  
12      Trust Company having trust authority in the State of Illinois.

13      Upon the approval of the sworn application and financial  
14      statement, security, indemnity or bond or amount of insurance,  
15      filed, furnished or carried, as the case may be, the Commission  
16      shall send to the employer written notice of its approval  
17      thereof. The certificate of compliance by the employer with the  
18      provisions of subparagraphs (2) and (3) of paragraph (a) of  
19      this Section shall be delivered by the insurance carrier to the  
20      Illinois Workers' Compensation Commission within five days  
21      after the effective date of the policy so certified. The  
22      insurance so certified shall cover all compensation liability  
23      occurring during the time that the insurance is in effect and  
24      no further certificate need be filed in case such insurance is  
25      renewed, extended or otherwise continued by such carrier. The  
26      insurance so certified shall not be cancelled or in the event

1 that such insurance is not renewed, extended or otherwise  
2 continued, such insurance shall not be terminated until at  
3 least 10 days after receipt by the Illinois Workers'  
4 Compensation Commission of notice of the cancellation or  
5 termination of said insurance; provided, however, that if the  
6 employer has secured insurance from another insurance carrier,  
7 or has otherwise secured the payment of compensation in  
8 accordance with this Section, and such insurance or other  
9 security becomes effective prior to the expiration of the 10  
10 days, cancellation or termination may, at the option of the  
11 insurance carrier indicated in such notice, be effective as of  
12 the effective date of such other insurance or security.

13 (c) Whenever the Commission shall find that any  
14 corporation, company, association, aggregation of individuals,  
15 reciprocal or interinsurers exchange, or other insurer  
16 effecting workers' compensation insurance in this State shall  
17 be insolvent, financially unsound, or unable to fully meet all  
18 payments and liabilities assumed or to be assumed for  
19 compensation insurance in this State, or shall practice a  
20 policy of delay or unfairness toward employees in the  
21 adjustment, settlement, or payment of benefits due such  
22 employees, the Commission may after reasonable notice and  
23 hearing order and direct that such corporation, company,  
24 association, aggregation of individuals, reciprocal or  
25 interinsurers exchange, or insurer, shall from and after a date  
26 fixed in such order discontinue the writing of any such

1 workers' compensation insurance in this State. Subject to such  
2 modification of the order as the Commission may later make on  
3 review of the order, as herein provided, it shall thereupon be  
4 unlawful for any such corporation, company, association,  
5 aggregation of individuals, reciprocal or interinsurers  
6 exchange, or insurer to effect any workers' compensation  
7 insurance in this State. A copy of the order shall be served  
8 upon the Director of Insurance by registered mail. Whenever the  
9 Commission finds that any service or adjustment company used or  
10 employed by a self-insured employer or by an insurance carrier  
11 to process, adjust, investigate, compromise or otherwise  
12 handle claims under this Act, has practiced or is practicing a  
13 policy of delay or unfairness toward employees in the  
14 adjustment, settlement or payment of benefits due such  
15 employees, the Commission may after reasonable notice and  
16 hearing order and direct that such service or adjustment  
17 company shall from and after a date fixed in such order be  
18 prohibited from processing, adjusting, investigating,  
19 compromising or otherwise handling claims under this Act.

20 Whenever the Commission finds that any self-insured  
21 employer has practiced or is practicing delay or unfairness  
22 toward employees in the adjustment, settlement or payment of  
23 benefits due such employees, the Commission may, after  
24 reasonable notice and hearing, order and direct that after a  
25 date fixed in the order such self-insured employer shall be  
26 disqualified to operate as a self-insurer and shall be required

1 to insure his entire liability to pay compensation in some  
2 insurance carrier authorized, licensed and permitted to do such  
3 insurance business in this State, as provided in subparagraph 3  
4 of paragraph (a) of this Section.

5 All orders made by the Commission under this Section shall  
6 be subject to review by the courts, said review to be taken in  
7 the same manner and within the same time as provided by Section  
8 19 of this Act for review of awards and decisions of the  
9 Commission, upon the party seeking the review filing with the  
10 clerk of the court to which said review is taken a bond in an  
11 amount to be fixed and approved by the court to which the  
12 review is taken, conditioned upon the payment of all  
13 compensation awarded against the person taking said review  
14 pending a decision thereof and further conditioned upon such  
15 other obligations as the court may impose. Upon the review the  
16 Circuit Court shall have power to review all questions of fact  
17 as well as of law. The penalty hereinafter provided for in this  
18 paragraph shall not attach and shall not begin to run until the  
19 final determination of the order of the Commission.

20 (d) Whenever a panel of 3 Commissioners comprised of one  
21 member of the employing class, one member of the employee  
22 class, and one member not identified with either the employing  
23 or employee class, with due process and after a hearing,  
24 determines: (1) an employer has knowingly failed to provide  
25 coverage as required by paragraph (a) of this Section, and (2)  
26 that the failure is ~~shall be deemed~~ an immediate serious danger

1 to public health, safety, and welfare sufficient to justify  
2 service by the Commission of a work-stop order on such  
3 employer, then that panel of 3 Commissioners may enter a  
4 work-stop order requiring the cessation of all business  
5 operations of such employer at the place of employment or job  
6 site. Any law enforcement agency in the State shall, at the  
7 request of the Commission, render any assistance necessary to  
8 carry out the provisions of this Section, including, but not  
9 limited to, preventing any employee of such employer from  
10 remaining at a place of employment or job site after a  
11 work-stop order has taken effect. Any work-stop order shall be  
12 lifted immediately upon proof of insurance as required by this  
13 Act and payment of any applicable fines or penalties. Any  
14 orders under this Section are appealable under Section 19(f) to  
15 the Circuit Court.

16 Any individual employer, corporate officer or director of a  
17 corporate employer, partner of an employer partnership, or  
18 member of an employer limited liability company who knowingly  
19 fails to provide coverage as required by paragraph (a) of this  
20 Section is guilty of a Class 4 felony. This provision shall not  
21 apply to any corporate officer or director of any  
22 publicly-owned corporation. Each day's violation constitutes a  
23 separate offense. The State's Attorney of the county in which  
24 the violation occurred, or the Attorney General, shall bring  
25 such actions in the name of the People of the State of  
26 Illinois, or may, in addition to other remedies provided in

1 this Section, bring an action for an injunction to restrain the  
2 violation or to enjoin the operation of any such employer.

3 Any individual employer, corporate officer or director of a  
4 corporate employer, partner of an employer partnership, or  
5 member of an employer limited liability company who negligently  
6 fails to provide coverage as required by paragraph (a) of this  
7 Section is guilty of a Class A misdemeanor. This provision  
8 shall not apply to any corporate officer or director of any  
9 publicly-owned corporation. Each day's violation constitutes a  
10 separate offense. The State's Attorney of the county in which  
11 the violation occurred, or the Attorney General, shall bring  
12 such actions in the name of the People of the State of  
13 Illinois.

14 The criminal penalties in this subsection (d) shall not  
15 apply where there exists a good faith dispute as to the  
16 existence of an employment relationship. Evidence of good faith  
17 shall include, but not be limited to, compliance with the  
18 definition of employee as used by the Internal Revenue Service.

19 Employers who are subject to and who knowingly fail to  
20 comply with this Section shall not be entitled to the benefits  
21 of this Act during the period of noncompliance, but shall be  
22 liable in an action under any other applicable law of this  
23 State. In the action, such employer shall not avail himself or  
24 herself of the defenses of assumption of risk or negligence or  
25 that the injury was due to a co-employee. In the action, proof  
26 of the injury shall constitute prima facie evidence of

1 negligence on the part of such employer and the burden shall be  
2 on such employer to show freedom of negligence resulting in the  
3 injury. The employer shall not join any other defendant in any  
4 such civil action. Nothing in this amendatory Act of the 94th  
5 General Assembly shall affect the employee's rights under  
6 subdivision (a)3 of Section 1 of this Act. Any employer or  
7 carrier who makes payments under subdivision (a)3 of Section 1  
8 of this Act shall have a right of reimbursement from the  
9 proceeds of any recovery under this Section.

10 An employee of an uninsured employer, or the employee's  
11 dependents in case death ensued, may, instead of proceeding  
12 against the employer in a civil action in court, file an  
13 application for adjustment of claim with the Commission in  
14 accordance with the provisions of this Act and the Commission  
15 shall hear and determine the application for adjustment of  
16 claim in the manner in which other claims are heard and  
17 determined before the Commission.

18 All proceedings under this subsection (d) shall be reported  
19 on an annual basis to the Workers' Compensation Advisory Board.

20 An investigator with the Illinois Workers' Compensation  
21 Commission Insurance Compliance Division may issue a citation  
22 to any employer that is not in compliance with its obligation  
23 to have workers' compensation insurance under this Act. The  
24 amount of the fine shall be based on the period of time the  
25 employer was in non-compliance, but shall be no less than \$500,  
26 and shall not exceed \$2,500. An employer that has been issued a

1 citation shall pay the fine to the Commission and provide to  
2 the Commission proof that it obtained the required workers'  
3 compensation insurance within 10 days after the citation was  
4 issued. This Section does not affect any other obligations this  
5 Act imposes on employers.

6       Upon a finding by the Commission, after reasonable notice  
7 and hearing, of the knowing and wilful failure or refusal of an  
8 employer to comply with any of the provisions of paragraph (a)  
9 of this Section, ~~or~~ the failure or refusal of an employer,  
10 service or adjustment company, or an insurance carrier to  
11 comply with any order of the Illinois Workers' Compensation  
12 Commission pursuant to paragraph (c) of this Section  
13 disqualifying him or her to operate as a self insurer and  
14 requiring him or her to insure his or her liability, or the  
15 knowing and willful failure of an employer to comply with a  
16 citation issued by an investigator with the Illinois Workers'  
17 Compensation Commission Insurance Compliance Division, the  
18 Commission may assess a civil penalty of up to \$500 per day for  
19 each day of such failure or refusal after the effective date of  
20 this amendatory Act of 1989. The minimum penalty under this  
21 Section shall be the sum of \$10,000. Each day of such failure  
22 or refusal shall constitute a separate offense. The Commission  
23 may assess the civil penalty personally and individually  
24 against the corporate officers and directors of a corporate  
25 employer, the partners of an employer partnership, and the  
26 members of an employer limited liability company, after a

1 finding of a knowing and willful refusal or failure of each  
2 such named corporate officer, director, partner, or member to  
3 comply with this Section. The liability for the assessed  
4 penalty shall be against the named employer first, and if the  
5 named employer fails or refuses to pay the penalty to the  
6 Commission within 30 days after the final order of the  
7 Commission, then the named corporate officers, directors,  
8 partners, or members who have been found to have knowingly and  
9 willfully refused or failed to comply with this Section shall  
10 be liable for the unpaid penalty or any unpaid portion of the  
11 penalty. Upon investigation by the insurance non-compliance  
12 unit of the Commission, the Attorney General shall have the  
13 authority to prosecute all proceedings to enforce the civil and  
14 administrative provisions of this Section before the  
15 Commission. The Commission shall promulgate procedural rules  
16 for enforcing this Section.

17 Upon the failure or refusal of any employer, service or  
18 adjustment company or insurance carrier to comply with the  
19 provisions of this Section and with the orders of the  
20 Commission under this Section, or the order of the court on  
21 review after final adjudication, the Commission may bring a  
22 civil action to recover the amount of the penalty in Cook  
23 County or in Sangamon County in which litigation the Commission  
24 shall be represented by the Attorney General. The Commission  
25 shall send notice of its finding of non-compliance and  
26 assessment of the civil penalty to the Attorney General. It

1 shall be the duty of the Attorney General within 30 days after  
2 receipt of the notice, to institute prosecutions and promptly  
3 prosecute all reported violations of this Section.

4 Any individual employer, corporate officer or director of a  
5 corporate employer, partner of an employer partnership, or  
6 member of an employer limited liability company who, with the  
7 intent to avoid payment of compensation under this Act to an  
8 injured employee or the employee's dependents, knowingly  
9 transfers, sells, encumbers, assigns, or in any manner disposes  
10 of, conceals, secretes, or destroys any property belonging to  
11 the employer, officer, director, partner, or member is guilty  
12 of a Class 4 felony.

13 Penalties and fines collected pursuant to this paragraph  
14 (d) shall be deposited upon receipt into a special fund which  
15 shall be designated the Injured Workers' Benefit Fund, of which  
16 the State Treasurer is ex-officio custodian, such special fund  
17 to be held and disbursed in accordance with this paragraph (d)  
18 for the purposes hereinafter stated in this paragraph (d), upon  
19 the final order of the Commission. The Injured Workers' Benefit  
20 Fund shall be deposited the same as are State funds and any  
21 interest accruing thereon shall be added thereto every 6  
22 months. The Injured Workers' Benefit Fund is subject to audit  
23 the same as State funds and accounts and is protected by the  
24 general bond given by the State Treasurer. The Injured Workers'  
25 Benefit Fund is considered always appropriated for the purposes  
26 of disbursements as provided in this paragraph, and shall be

1 paid out and disbursed as herein provided and shall not at any  
2 time be appropriated or diverted to any other use or purpose.  
3 Moneys in the Injured Workers' Benefit Fund shall be used only  
4 for payment of workers' compensation benefits for injured  
5 employees when the employer has failed to provide coverage as  
6 determined under this paragraph (d) and has failed to pay the  
7 benefits due to the injured employee. The Commission shall have  
8 the right to obtain reimbursement from the employer for  
9 compensation obligations paid by the Injured Workers' Benefit  
10 Fund. Any such amounts obtained shall be deposited by the  
11 Commission into the Injured Workers' Benefit Fund. If an  
12 injured employee or his or her personal representative receives  
13 payment from the Injured Workers' Benefit Fund, the State of  
14 Illinois has the same rights under paragraph (b) of Section 5  
15 that the employer who failed to pay the benefits due to the  
16 injured employee would have had if the employer had paid those  
17 benefits, and any moneys recovered by the State as a result of  
18 the State's exercise of its rights under paragraph (b) of  
19 Section 5 shall be deposited into the Injured Workers' Benefit  
20 Fund. The custodian of the Injured Workers' Benefit Fund shall  
21 be joined with the employer as a party respondent in the  
22 application for adjustment of claim. After July 1, 2006, the  
23 Commission shall make disbursements from the Fund once each  
24 year to each eligible claimant. An eligible claimant is an  
25 injured worker who has within the previous fiscal year obtained  
26 a final award for benefits from the Commission against the

1 employer and the Injured Workers' Benefit Fund and has notified  
2 the Commission within 90 days of receipt of such award. Within  
3 a reasonable time after the end of each fiscal year, the  
4 Commission shall make a disbursement to each eligible claimant.  
5 At the time of disbursement, if there are insufficient moneys  
6 in the Fund to pay all claims, each eligible claimant shall  
7 receive a pro-rata share, as determined by the Commission, of  
8 the available moneys in the Fund for that year. Payment from  
9 the Injured Workers' Benefit Fund to an eligible claimant  
10 pursuant to this provision shall discharge the obligations of  
11 the Injured Workers' Benefit Fund regarding the award entered  
12 by the Commission.

13 (e) This Act shall not affect or disturb the continuance of  
14 any existing insurance, mutual aid, benefit, or relief  
15 association or department, whether maintained in whole or in  
16 part by the employer or whether maintained by the employees,  
17 the payment of benefits of such association or department being  
18 guaranteed by the employer or by some person, firm or  
19 corporation for him or her: Provided, the employer contributes  
20 to such association or department an amount not less than the  
21 full compensation herein provided, exclusive of the cost of the  
22 maintenance of such association or department and without any  
23 expense to the employee. This Act shall not prevent the  
24 organization and maintaining under the insurance laws of this  
25 State of any benefit or insurance company for the purpose of  
26 insuring against the compensation provided for in this Act, the

1 expense of which is maintained by the employer. This Act shall  
2 not prevent the organization or maintaining under the insurance  
3 laws of this State of any voluntary mutual aid, benefit or  
4 relief association among employees for the payment of  
5 additional accident or sick benefits.

6 (f) No existing insurance, mutual aid, benefit or relief  
7 association or department shall, by reason of anything herein  
8 contained, be authorized to discontinue its operation without  
9 first discharging its obligations to any and all persons  
10 carrying insurance in the same or entitled to relief or  
11 benefits therein.

12 (g) Any contract, oral, written or implied, of employment  
13 providing for relief benefit, or insurance or any other device  
14 whereby the employee is required to pay any premium or premiums  
15 for insurance against the compensation provided for in this Act  
16 shall be null and void. Any employer withholding from the wages  
17 of any employee any amount for the purpose of paying any such  
18 premium shall be guilty of a Class B misdemeanor.

19 In the event the employer does not pay the compensation for  
20 which he or she is liable, then an insurance company,  
21 association or insurer which may have insured such employer  
22 against such liability shall become primarily liable to pay to  
23 the employee, his or her personal representative or beneficiary  
24 the compensation required by the provisions of this Act to be  
25 paid by such employer. The insurance carrier may be made a  
26 party to the proceedings in which the employer is a party and

1 an award may be entered jointly against the employer and the  
2 insurance carrier.

3 (h) It shall be unlawful for any employer, insurance  
4 company or service or adjustment company to interfere with,  
5 restrain or coerce an employee in any manner whatsoever in the  
6 exercise of the rights or remedies granted to him or her by  
7 this Act or to discriminate, attempt to discriminate, or  
8 threaten to discriminate against an employee in any way because  
9 of his or her exercise of the rights or remedies granted to him  
10 or her by this Act.

11 It shall be unlawful for any employer, individually or  
12 through any insurance company or service or adjustment company,  
13 to discharge or to threaten to discharge, or to refuse to  
14 rehire or recall to active service in a suitable capacity an  
15 employee because of the exercise of his or her rights or  
16 remedies granted to him or her by this Act.

17 (i) If an employer elects to obtain a life insurance policy  
18 on his employees, he may also elect to apply such benefits in  
19 satisfaction of all or a portion of the death benefits payable  
20 under this Act, in which case, the employer's compensation  
21 premium shall be reduced accordingly.

22 (j) Within 45 days of receipt of an initial application or  
23 application to renew self-insurance privileges the  
24 Self-Insurers Advisory Board shall review and submit for  
25 approval by the Chairman of the Commission recommendations of  
26 disposition of all initial applications to self-insure and all

1 applications to renew self-insurance privileges filed by  
2 private self-insurers pursuant to the provisions of this  
3 Section and Section 4a-9 of this Act. Each private self-insurer  
4 shall submit with its initial and renewal applications the  
5 application fee required by Section 4a-4 of this Act.

6 The Chairman of the Commission shall promptly act upon all  
7 initial applications and applications for renewal in full  
8 accordance with the recommendations of the Board or, should the  
9 Chairman disagree with any recommendation of disposition of the  
10 Self-Insurer's Advisory Board, he shall within 30 days of  
11 receipt of such recommendation provide to the Board in writing  
12 the reasons supporting his decision. The Chairman shall also  
13 promptly notify the employer of his decision within 15 days of  
14 receipt of the recommendation of the Board.

15 If an employer is denied a renewal of self-insurance  
16 privileges pursuant to application it shall retain said  
17 privilege for 120 days after receipt of a notice of  
18 cancellation of the privilege from the Chairman of the  
19 Commission.

20 All orders made by the Chairman under this Section shall be  
21 subject to review by the courts, such review to be taken in the  
22 same manner and within the same time as provided by subsection  
23 (f) of Section 19 of this Act for review of awards and  
24 decisions of the Commission, upon the party seeking the review  
25 filing with the clerk of the court to which such review is  
26 taken a bond in an amount to be fixed and approved by the court

1 to which the review is taken, conditioned upon the payment of  
2 all compensation awarded against the person taking such review  
3 pending a decision thereof and further conditioned upon such  
4 other obligations as the court may impose. Upon the review the  
5 Circuit Court shall have power to review all questions of fact  
6 as well as of law.

7 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;  
8 94-839, eff. 6-6-06.)

9 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

10 Sec. 8. The amount of compensation which shall be paid to  
11 the employee for an accidental injury not resulting in death  
12 is:

13 (a) The employer shall provide and pay the employer's  
14 negotiated rate, if applicable, or the lesser of the health  
15 care provider's actual charges or according to a fee schedule,  
16 subject to Section 8.2, in effect at the time the service was  
17 rendered for all the necessary first aid, medical and surgical  
18 services, and all necessary medical, surgical and hospital  
19 services thereafter incurred, limited, however, to that which  
20 is reasonably required to cure or relieve from the effects of  
21 the accidental injury, even if a health care provider sells,  
22 transfers, or otherwise assigns an account receivable for  
23 procedures, treatments, or services covered under this Act. If  
24 the employer does not dispute payment of first aid, medical,  
25 surgical, and hospital services, the employer shall make such

1 payment to the provider on behalf of the employee. The employer  
2 shall also pay for treatment, instruction and training  
3 necessary for the physical, mental and vocational  
4 rehabilitation of the employee, including all maintenance  
5 costs and expenses incidental thereto. If as a result of the  
6 injury the employee is unable to be self-sufficient the  
7 employer shall further pay for such maintenance or  
8 institutional care as shall be required.

9 The employer shall select the employee's first physician,  
10 surgeon, or provider of hospital services at the employer's  
11 expense. However, in the event the employer fails to exercise  
12 his, her, or its right to select the first physician, surgeon,  
13 or provider of hospital services or where it is impracticable  
14 for the employer to exercise this right, the selection shall be  
15 made by the employee at the employer's expense. In the event  
16 the employee is dissatisfied with the first physician, surgeon,  
17 or provider of hospital services, the employee has an absolute  
18 right to select a second physician, surgeon, or provider of  
19 hospital services at the employer's expense. Emergency  
20 services and "chains-of-referral" shall not constitute a  
21 choice of physician, surgeon, or provider of hospital services  
22 by the employer or employee. ~~The employee may at any time elect~~  
23 ~~to secure his own physician, surgeon and hospital services at~~  
24 ~~the employer's expense, or,~~

25 Notwithstanding the foregoing, upon ~~Upon~~ agreement between  
26 the employer and the employees, or the employees' exclusive

1 representative, and subject to the approval of the Illinois  
2 Workers' Compensation Commission, the employer shall maintain  
3 a list of physicians, to be known as a Panel of Physicians, who  
4 are accessible to the employees. The employer shall post this  
5 list in a place or places easily accessible to his employees.  
6 The employee shall have the right to make an alternative choice  
7 of physician from such Panel if he is not satisfied with the  
8 physician first selected. If, due to the nature of the injury  
9 or its occurrence away from the employer's place of business,  
10 the employee is unable to make a selection from the Panel, the  
11 selection process from the Panel shall not apply. The physician  
12 selected from the Panel may arrange for any consultation,  
13 referral or other specialized medical services outside the  
14 Panel at the employer's expense. Provided that, in the event  
15 the Commission shall find that a doctor selected by the  
16 employee is rendering improper or inadequate care, the  
17 Commission may order the employee to select another doctor  
18 certified or qualified in the medical field for which treatment  
19 is required. If the employee refuses to make such change the  
20 Commission may relieve the employer of his obligation to pay  
21 the doctor's charges from the date of refusal to the date of  
22 compliance.

23 Any vocational rehabilitation counselors who provide  
24 service under this Act shall have appropriate certifications  
25 which designate the counselor as qualified to render opinions  
26 relating to vocational rehabilitation. Vocational

1 rehabilitation may include, but is not limited to, counseling  
2 for job searches, supervising a job search program, and  
3 vocational retraining including education at an accredited  
4 learning institution. The employee or employer may petition to  
5 the Commission to decide disputes relating to vocational  
6 rehabilitation and the Commission shall resolve any such  
7 dispute, including payment of the vocational rehabilitation  
8 program by the employer.

9 The maintenance benefit shall not be less than the  
10 temporary total disability rate determined for the employee. In  
11 addition, maintenance shall include costs and expenses  
12 incidental to the vocational rehabilitation program.

13 When the employee is working light duty on a part-time  
14 basis or full-time basis and earns less than he or she would be  
15 earning if employed in the full capacity of the job or jobs,  
16 then the employee shall be entitled to temporary partial  
17 disability benefits. Temporary partial disability benefits  
18 shall be equal to two-thirds of the difference between the  
19 average amount that the employee would be able to earn in the  
20 full performance of his or her duties in the occupation in  
21 which he or she was engaged at the time of accident and the net  
22 amount which he or she is earning in the modified job provided  
23 to the employee by the employer or in any other job that the  
24 employee is working.

25 Every hospital, physician, surgeon or other person  
26 rendering treatment or services in accordance with the

1 provisions of this Section shall upon written request furnish  
2 full and complete reports thereof to, and permit their records  
3 to be copied by, the employer, the employee or his dependents,  
4 as the case may be, or any other party to any proceeding for  
5 compensation before the Commission, or their attorneys.

6 Notwithstanding the foregoing, the employer's liability to  
7 pay for such medical services ~~selected by the employee~~ shall be  
8 limited to:

9 (1) all first aid and emergency treatment; plus

10 (2) all medical, surgical and hospital services  
11 provided by the first physician, surgeon or hospital  
12 ~~initially chosen by the employee~~ or by any other physician,  
13 consultant, expert, institution or other provider of  
14 services recommended by said initial service provider or  
15 any subsequent provider of medical services in the chain of  
16 referrals from said initial service provider; plus

17 (3) all medical, surgical and hospital services  
18 provided by any second physician, surgeon or hospital  
19 subsequently chosen by the employee or by any other  
20 physician, consultant, expert, institution or other  
21 provider of services recommended by said second service  
22 provider or any subsequent provider of medical services in  
23 the chain of referrals from said second service provider.

24 Thereafter the employer shall select and pay for all  
25 necessary medical, surgical and hospital treatment and the  
26 employee may not select a provider of medical services at

1           the employer's expense unless the employer agrees to such  
2           selection.

3           At any time the employee may obtain any medical treatment  
4           he desires at his own expense. This paragraph shall not affect  
5           the duty to pay for rehabilitation referred to above.

6           When an employer and employee so agree in writing, nothing  
7           in this Act prevents an employee whose injury or disability has  
8           been established under this Act, from relying in good faith, on  
9           treatment by prayer or spiritual means alone, in accordance  
10          with the tenets and practice of a recognized church or  
11          religious denomination, by a duly accredited practitioner  
12          thereof, and having nursing services appropriate therewith,  
13          without suffering loss or diminution of the compensation  
14          benefits under this Act. However, the employee shall submit to  
15          all physical examinations required by this Act. The cost of  
16          such treatment and nursing care shall be paid by the employee  
17          unless the employer agrees to make such payment.

18          Where the accidental injury results in the amputation of an  
19          arm, hand, leg or foot, or the enucleation of an eye, or the  
20          loss of any of the natural teeth, the employer shall furnish an  
21          artificial of any such members lost or damaged in accidental  
22          injury arising out of and in the course of employment, and  
23          shall also furnish the necessary braces in all proper and  
24          necessary cases. In cases of the loss of a member or members by  
25          amputation, the employer shall, whenever necessary, maintain  
26          in good repair, refit or replace the artificial limbs during

1 the lifetime of the employee. Where the accidental injury  
2 accompanied by physical injury results in damage to a denture,  
3 eye glasses or contact eye lenses, or where the accidental  
4 injury results in damage to an artificial member, the employer  
5 shall replace or repair such denture, glasses, lenses, or  
6 artificial member.

7 The furnishing by the employer of any such services or  
8 appliances is not an admission of liability on the part of the  
9 employer to pay compensation.

10 The furnishing of any such services or appliances or the  
11 servicing thereof by the employer is not the payment of  
12 compensation.

13 (b) If the period of temporary total incapacity for work  
14 lasts more than 3 working days, weekly compensation as  
15 hereinafter provided shall be paid beginning on the 4th day of  
16 such temporary total incapacity and continuing as long as the  
17 total temporary incapacity lasts. In cases where the temporary  
18 total incapacity for work continues for a period of 14 days or  
19 more from the day of the accident compensation shall commence  
20 on the day after the accident.

21 1. The compensation rate for temporary total  
22 incapacity under this paragraph (b) of this Section shall  
23 be equal to 66 2/3% of the employee's average weekly wage  
24 computed in accordance with Section 10, provided that it  
25 shall be not less than 66 2/3% of the sum of the Federal  
26 minimum wage under the Fair Labor Standards Act, or the

1 Illinois minimum wage under the Minimum Wage Law, whichever  
2 is more, multiplied by 40 hours. This percentage rate shall  
3 be increased by 10% for each spouse and child, not to  
4 exceed 100% of the total minimum wage calculation,  
5 nor exceed the employee's average weekly wage computed in  
6 accordance with the provisions of Section 10, whichever is  
7 less.

8 2. The compensation rate in all cases other than for  
9 temporary total disability under this paragraph (b), and  
10 other than for serious and permanent disfigurement under  
11 paragraph (c) and other than for permanent partial  
12 disability under subparagraph (2) of paragraph (d) or under  
13 paragraph (e), of this Section shall be equal to 66 2/3% of  
14 the employee's average weekly wage computed in accordance  
15 with the provisions of Section 10, provided that it shall  
16 be not less than 66 2/3% of the sum of the Federal minimum  
17 wage under the Fair Labor Standards Act, or the Illinois  
18 minimum wage under the Minimum Wage Law, whichever is more,  
19 multiplied by 40 hours. This percentage rate shall be  
20 increased by 10% for each spouse and child, not to exceed  
21 100% of the total minimum wage calculation,  
22 nor exceed the employee's average weekly wage computed in  
23 accordance with the provisions of Section 10, whichever is  
24 less.

25 2.1. The compensation rate in all cases of serious and  
26 permanent disfigurement under paragraph (c) and of

1 permanent partial disability under subparagraph (2) of  
2 paragraph (d) or under paragraph (e) of this Section shall  
3 be equal to 60% of the employee's average weekly wage  
4 computed in accordance with the provisions of Section 10,  
5 provided that it shall be not less than 66 2/3% of the sum  
6 of the Federal minimum wage under the Fair Labor Standards  
7 Act, or the Illinois minimum wage under the Minimum Wage  
8 Law, whichever is more, multiplied by 40 hours. This  
9 percentage rate shall be increased by 10% for each spouse  
10 and child, not to exceed 100% of the total minimum wage  
11 calculation,

12 nor exceed the employee's average weekly wage computed in  
13 accordance with the provisions of Section 10, whichever is  
14 less.

15 3. As used in this Section the term "child" means a  
16 child of the employee including any child legally adopted  
17 before the accident or whom at the time of the accident the  
18 employee was under legal obligation to support or to whom  
19 the employee stood in loco parentis, and who at the time of  
20 the accident was under 18 years of age and not emancipated.  
21 The term "children" means the plural of "child".

22 4. All weekly compensation rates provided under  
23 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this  
24 Section shall be subject to the following limitations:

25 The maximum weekly compensation rate from July 1, 1975,  
26 except as hereinafter provided, shall be 100% of the

1 State's average weekly wage in covered industries under the  
2 Unemployment Insurance Act, that being the wage that most  
3 closely approximates the State's average weekly wage.

4 The maximum weekly compensation rate, for the period  
5 July 1, 1984, through June 30, 1987, except as hereinafter  
6 provided, shall be \$293.61. Effective July 1, 1987 and on  
7 July 1 of each year thereafter the maximum weekly  
8 compensation rate, except as hereinafter provided, shall  
9 be determined as follows: if during the preceding 12 month  
10 period there shall have been an increase in the State's  
11 average weekly wage in covered industries under the  
12 Unemployment Insurance Act, the weekly compensation rate  
13 shall be proportionately increased by the same percentage  
14 as the percentage of increase in the State's average weekly  
15 wage in covered industries under the Unemployment  
16 Insurance Act during such period.

17 The maximum weekly compensation rate, for the period  
18 January 1, 1981 through December 31, 1983, except as  
19 hereinafter provided, shall be 100% of the State's average  
20 weekly wage in covered industries under the Unemployment  
21 Insurance Act in effect on January 1, 1981. Effective  
22 January 1, 1984 and on January 1, of each year thereafter  
23 the maximum weekly compensation rate, except as  
24 hereinafter provided, shall be determined as follows: if  
25 during the preceding 12 month period there shall have been  
26 an increase in the State's average weekly wage in covered

1 industries under the Unemployment Insurance Act, the  
2 weekly compensation rate shall be proportionately  
3 increased by the same percentage as the percentage of  
4 increase in the State's average weekly wage in covered  
5 industries under the Unemployment Insurance Act during  
6 such period.

7 From July 1, 1977 and thereafter such maximum weekly  
8 compensation rate in death cases under Section 7, and  
9 permanent total disability cases under paragraph (f) or  
10 subparagraph 18 of paragraph (3) of this Section and for  
11 temporary total disability under paragraph (b) of this  
12 Section and for amputation of a member or enucleation of an  
13 eye under paragraph (e) of this Section shall be increased  
14 to 133-1/3% of the State's average weekly wage in covered  
15 industries under the Unemployment Insurance Act.

16 For injuries occurring on or after February 1, 2006,  
17 the maximum weekly benefit under paragraph (d)1 of this  
18 Section shall be 100% of the State's average weekly wage in  
19 covered industries under the Unemployment Insurance Act.

20 4.1. Any provision herein to the contrary  
21 notwithstanding, the weekly compensation rate for  
22 compensation payments under subparagraph 18 of paragraph  
23 (e) of this Section and under paragraph (f) of this Section  
24 and under paragraph (a) of Section 7 and for amputation of  
25 a member or enucleation of an eye under paragraph (e) of  
26 this Section, shall in no event be less than 50% of the

1 State's average weekly wage in covered industries under the  
2 Unemployment Insurance Act.

3 4.2. Any provision to the contrary notwithstanding,  
4 the total compensation payable under Section 7 shall not  
5 exceed the greater of \$500,000 or 25 years.

6 5. For the purpose of this Section this State's average  
7 weekly wage in covered industries under the Unemployment  
8 Insurance Act on July 1, 1975 is hereby fixed at \$228.16  
9 per week and the computation of compensation rates shall be  
10 based on the aforesaid average weekly wage until modified  
11 as hereinafter provided.

12 6. The Department of Employment Security of the State  
13 shall on or before the first day of December, 1977, and on  
14 or before the first day of June, 1978, and on the first day  
15 of each December and June of each year thereafter, publish  
16 the State's average weekly wage in covered industries under  
17 the Unemployment Insurance Act and the Illinois Workers'  
18 Compensation Commission shall on the 15th day of January,  
19 1978 and on the 15th day of July, 1978 and on the 15th day  
20 of each January and July of each year thereafter, post and  
21 publish the State's average weekly wage in covered  
22 industries under the Unemployment Insurance Act as last  
23 determined and published by the Department of Employment  
24 Security. The amount when so posted and published shall be  
25 conclusive and shall be applicable as the basis of  
26 computation of compensation rates until the next posting

1 and publication as aforesaid.

2 7. The payment of compensation by an employer or his  
3 insurance carrier to an injured employee shall not  
4 constitute an admission of the employer's liability to pay  
5 compensation.

6 (c) For any serious and permanent disfigurement to the  
7 hand, head, face, neck, arm, leg below the knee or the chest  
8 above the axillary line, the employee is entitled to  
9 compensation for such disfigurement, the amount determined by  
10 agreement at any time or by arbitration under this Act, at a  
11 hearing not less than 6 months after the date of the accidental  
12 injury, which amount shall not exceed 150 weeks (if the  
13 accidental injury occurs on or after the effective date of this  
14 amendatory Act of the 94th General Assembly but before February  
15 1, 2006) or 162 weeks (if the accidental injury occurs on or  
16 after February 1, 2006) at the applicable rate provided in  
17 subparagraph 2.1 of paragraph (b) of this Section.

18 No compensation is payable under this paragraph where  
19 compensation is payable under paragraphs (d), (e) or (f) of  
20 this Section.

21 A duly appointed member of a fire department in a city, the  
22 population of which exceeds 200,000 according to the last  
23 federal or State census, is eligible for compensation under  
24 this paragraph only where such serious and permanent  
25 disfigurement results from burns.

26 (d) 1. If, after the accidental injury has been sustained,

1 the employee as a result thereof becomes partially  
2 incapacitated from pursuing his usual and customary line of  
3 employment, he shall, except in cases compensated under the  
4 specific schedule set forth in paragraph (e) of this Section,  
5 receive compensation for the duration of his disability,  
6 subject to the limitations as to maximum amounts fixed in  
7 paragraph (b) of this Section, equal to 66-2/3% of the  
8 difference between the average amount which he would be able to  
9 earn in the full performance of his duties in the occupation in  
10 which he was engaged at the time of the accident and the  
11 average amount which he is earning or is able to earn in some  
12 suitable employment or business after the accident. An award  
13 for wage differential under this subsection shall be effective  
14 only until the employee reaches the age of 67 or 5 years from  
15 the date the award becomes final, whichever is later.

16 2. If, as a result of the accident, the employee sustains  
17 serious and permanent injuries not covered by paragraphs (c)  
18 and (e) of this Section or having sustained injuries covered by  
19 the aforesaid paragraphs (c) and (e), he shall have sustained  
20 in addition thereto other injuries which injuries do not  
21 incapacitate him from pursuing the duties of his employment but  
22 which would disable him from pursuing other suitable  
23 occupations, or which have otherwise resulted in physical  
24 impairment; or if such injuries partially incapacitate him from  
25 pursuing the duties of his usual and customary line of  
26 employment but do not result in an impairment of earning

1 capacity, or having resulted in an impairment of earning  
2 capacity, the employee elects to waive his right to recover  
3 under the foregoing subparagraph 1 of paragraph (d) of this  
4 Section then in any of the foregoing events, he shall receive  
5 in addition to compensation for temporary total disability  
6 under paragraph (b) of this Section, compensation at the rate  
7 provided in subparagraph 2.1 of paragraph (b) of this Section  
8 for that percentage of 500 weeks that the partial disability  
9 resulting from the injuries covered by this paragraph bears to  
10 total disability. If the employee shall have sustained a  
11 fracture of one or more vertebra or fracture of the skull, the  
12 amount of compensation allowed under this Section shall be not  
13 less than 6 weeks for a fractured skull and 6 weeks for each  
14 fractured vertebra, and in the event the employee shall have  
15 sustained a fracture of any of the following facial bones:  
16 nasal, lachrymal, vomer, zygoma, maxilla, palatine or  
17 mandible, the amount of compensation allowed under this Section  
18 shall be not less than 2 weeks for each such fractured bone,  
19 and for a fracture of each transverse process not less than 3  
20 weeks. In the event such injuries shall result in the loss of a  
21 kidney, spleen or lung, the amount of compensation allowed  
22 under this Section shall be not less than 10 weeks for each  
23 such organ. Compensation awarded under this subparagraph 2  
24 shall not take into consideration injuries covered under  
25 paragraphs (c) and (e) of this Section and the compensation  
26 provided in this paragraph shall not affect the employee's

1 right to compensation payable under paragraphs (b), (c) and (e)  
2 of this Section for the disabilities therein covered.

3 (e) For accidental injuries in the following schedule, the  
4 employee shall receive compensation for the period of temporary  
5 total incapacity for work resulting from such accidental  
6 injury, under subparagraph 1 of paragraph (b) of this Section,  
7 and shall receive in addition thereto compensation for a  
8 further period for the specific loss herein mentioned, but  
9 shall not receive any compensation under any other provisions  
10 of this Act. The following listed amounts apply to either the  
11 loss of or the permanent and complete loss of use of the member  
12 specified, such compensation for the length of time as follows:

13 1. Thumb-

14 70 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

17 76 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19 2. First, or index finger-

20 40 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23 43 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25 3. Second, or middle finger-

26 35 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

3 38 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 4. Third, or ring finger-

6 25 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 27 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 5. Fourth, or little finger-

12 20 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 22 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 6. Great toe-

18 35 weeks if the accidental injury occurs on or  
19 after the effective date of this amendatory Act of the  
20 94th General Assembly but before February 1, 2006.

21 38 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

23 7. Each toe other than great toe-

24 12 weeks if the accidental injury occurs on or  
25 after the effective date of this amendatory Act of the  
26 94th General Assembly but before February 1, 2006.

1           13 weeks if the accidental injury occurs on or  
2           after February 1, 2006.

3           8. The loss of the first or distal phalanx of the thumb  
4           or of any finger or toe shall be considered to be equal to  
5           the loss of one-half of such thumb, finger or toe and the  
6           compensation payable shall be one-half of the amount above  
7           specified. The loss of more than one phalanx shall be  
8           considered as the loss of the entire thumb, finger or toe.  
9           In no case shall the amount received for more than one  
10          finger exceed the amount provided in this schedule for the  
11          loss of a hand.

12          9. Hand-

13           190 weeks if the accidental injury occurs on or  
14           after the effective date of this amendatory Act of the  
15           94th General Assembly but before February 1, 2006.

16           205 weeks if the accidental injury occurs on or  
17           after February 1, 2006.

18          The loss of 2 or more digits, or one or more phalanges  
19          of 2 or more digits, of a hand may be compensated on the  
20          basis of partial loss of use of a hand, provided, further,  
21          that the loss of 4 digits, or the loss of use of 4 digits,  
22          in the same hand shall constitute the complete loss of a  
23          hand.

24          10. Arm-

25           235 weeks if the accidental injury occurs on or  
26           after the effective date of this amendatory Act of the

1           94th General Assembly but before February 1, 2006.

2           253 weeks if the accidental injury occurs on or  
3           after February 1, 2006.

4           Where an accidental injury results in the amputation of  
5           an arm below the elbow, such injury shall be compensated as  
6           a loss of an arm. Where an accidental injury results in the  
7           amputation of an arm above the elbow, compensation for an  
8           additional 15 weeks (if the accidental injury occurs on or  
9           after the effective date of this amendatory Act of the 94th  
10          General Assembly but before February 1, 2006) or an  
11          additional 17 weeks (if the accidental injury occurs on or  
12          after February 1, 2006) shall be paid, except where the  
13          accidental injury results in the amputation of an arm at  
14          the shoulder joint, or so close to shoulder joint that an  
15          artificial arm cannot be used, or results in the  
16          disarticulation of an arm at the shoulder joint, in which  
17          case compensation for an additional 65 weeks (if the  
18          accidental injury occurs on or after the effective date of  
19          this amendatory Act of the 94th General Assembly but before  
20          February 1, 2006) or an additional 70 weeks (if the  
21          accidental injury occurs on or after February 1, 2006)  
22          shall be paid.

23          11. Foot-

24                 155 weeks if the accidental injury occurs on or  
25                 after the effective date of this amendatory Act of the  
26                 94th General Assembly but before February 1, 2006.

1           167 weeks if the accidental injury occurs on or  
2           after February 1, 2006.

3           12. Leg-

4           200 weeks if the accidental injury occurs on or  
5           after the effective date of this amendatory Act of the  
6           94th General Assembly but before February 1, 2006.

7           215 weeks if the accidental injury occurs on or  
8           after February 1, 2006.

9           Where an accidental injury results in the amputation of  
10          a leg below the knee, such injury shall be compensated as  
11          loss of a leg. Where an accidental injury results in the  
12          amputation of a leg above the knee, compensation for an  
13          additional 25 weeks (if the accidental injury occurs on or  
14          after the effective date of this amendatory Act of the 94th  
15          General Assembly but before February 1, 2006) or an  
16          additional 27 weeks (if the accidental injury occurs on or  
17          after February 1, 2006) shall be paid, except where the  
18          accidental injury results in the amputation of a leg at the  
19          hip joint, or so close to the hip joint that an artificial  
20          leg cannot be used, or results in the disarticulation of a  
21          leg at the hip joint, in which case compensation for an  
22          additional 75 weeks (if the accidental injury occurs on or  
23          after the effective date of this amendatory Act of the 94th  
24          General Assembly but before February 1, 2006) or an  
25          additional 81 weeks (if the accidental injury occurs on or  
26          after February 1, 2006) shall be paid.

1           13. Eye-

2                   150 weeks if the accidental injury occurs on or  
3                   after the effective date of this amendatory Act of the  
4                   94th General Assembly but before February 1, 2006.

5                   162 weeks if the accidental injury occurs on or  
6                   after February 1, 2006.

7                   Where an accidental injury results in the enucleation  
8                   of an eye, compensation for an additional 10 weeks (if the  
9                   accidental injury occurs on or after the effective date of  
10                  this amendatory Act of the 94th General Assembly but before  
11                  February 1, 2006) or an additional 11 weeks (if the  
12                  accidental injury occurs on or after February 1, 2006)  
13                  shall be paid.

14           14. Loss of hearing of one ear-

15                   50 weeks if the accidental injury occurs on or  
16                   after the effective date of this amendatory Act of the  
17                   94th General Assembly but before February 1, 2006.

18                   54 weeks if the accidental injury occurs on or  
19                   after February 1, 2006.

20           Total and permanent loss of hearing of both ears-

21                   200 weeks if the accidental injury occurs on or  
22                   after the effective date of this amendatory Act of the  
23                   94th General Assembly but before February 1, 2006.

24                   215 weeks if the accidental injury occurs on or  
25                   after February 1, 2006.

26           15. Testicle-

1           50 weeks if the accidental injury occurs on or  
2 after the effective date of this amendatory Act of the  
3 94th General Assembly but before February 1, 2006.

4           54 weeks if the accidental injury occurs on or  
5 after February 1, 2006.

6 Both testicles-

7           150 weeks if the accidental injury occurs on or  
8 after the effective date of this amendatory Act of the  
9 94th General Assembly but before February 1, 2006.

10           162 weeks if the accidental injury occurs on or  
11 after February 1, 2006.

12           16. For the permanent partial loss of use of a member  
13 or sight of an eye, or hearing of an ear, compensation  
14 during that proportion of the number of weeks in the  
15 foregoing schedule provided for the loss of such member or  
16 sight of an eye, or hearing of an ear, which the partial  
17 loss of use thereof bears to the total loss of use of such  
18 member, or sight of eye, or hearing of an ear.

19           (a) Loss of hearing for compensation purposes  
20 shall be confined to the frequencies of 1,000, 2,000  
21 and 3,000 cycles per second. Loss of hearing ability  
22 for frequency tones above 3,000 cycles per second are  
23 not to be considered as constituting disability for  
24 hearing.

25           (b) The percent of hearing loss, for purposes of  
26 the determination of compensation claims for

1 occupational deafness, shall be calculated as the  
2 average in decibels for the thresholds of hearing for  
3 the frequencies of 1,000, 2,000 and 3,000 cycles per  
4 second. Pure tone air conduction audiometric  
5 instruments, approved by nationally recognized  
6 authorities in this field, shall be used for measuring  
7 hearing loss. If the losses of hearing average 30  
8 decibels or less in the 3 frequencies, such losses of  
9 hearing shall not then constitute any compensable  
10 hearing disability. If the losses of hearing average 85  
11 decibels or more in the 3 frequencies, then the same  
12 shall constitute and be total or 100% compensable  
13 hearing loss.

14 (c) In measuring hearing impairment, the lowest  
15 measured losses in each of the 3 frequencies shall be  
16 added together and divided by 3 to determine the  
17 average decibel loss. For every decibel of loss  
18 exceeding 30 decibels an allowance of 1.82% shall be  
19 made up to the maximum of 100% which is reached at 85  
20 decibels.

21 (d) If a hearing loss is established to have  
22 existed on July 1, 1975 by audiometric testing the  
23 employer shall not be liable for the previous loss so  
24 established nor shall he be liable for any loss for  
25 which compensation has been paid or awarded.

26 (e) No consideration shall be given to the question

1 of whether or not the ability of an employee to  
2 understand speech is improved by the use of a hearing  
3 aid.

4 (f) No claim for loss of hearing due to industrial  
5 noise shall be brought against an employer or allowed  
6 unless the employee has been exposed for a period of  
7 time sufficient to cause permanent impairment to noise  
8 levels in excess of the following:

9 Sound Level DBA

10	Slow Response	Hours Per Day
11	90	8
12	92	6
13	95	4
14	97	3
15	100	2
16	102	1-1/2
17	105	1
18	110	1/2
19	115	1/4

20 This subparagraph (f) shall not be applied in cases of  
21 hearing loss resulting from trauma or explosion.

22 17. In computing the compensation to be paid to any  
23 employee who, before the accident for which he claims  
24 compensation, had before that time sustained an injury  
25 resulting in the loss by amputation or partial loss by  
26 amputation of any member, including hand, arm, thumb or

1 fingers, leg, foot or any toes, such loss or partial loss  
2 of any such member shall be deducted from any award made  
3 for the subsequent injury. For the permanent loss of use or  
4 the permanent partial loss of use of any such member or the  
5 partial loss of sight of an eye, for which compensation has  
6 been paid, then such loss shall be taken into consideration  
7 and deducted from any award for the subsequent injury.

8 18. The specific case of loss of both hands, both arms,  
9 or both feet, or both legs, or both eyes, or of any two  
10 thereof, or the permanent and complete loss of the use  
11 thereof, constitutes total and permanent disability, to be  
12 compensated according to the compensation fixed by  
13 paragraph (f) of this Section. These specific cases of  
14 total and permanent disability do not exclude other cases.

15 Any employee who has previously suffered the loss or  
16 permanent and complete loss of the use of any of such  
17 members, and in a subsequent independent accident loses  
18 another or suffers the permanent and complete loss of the  
19 use of any one of such members the employer for whom the  
20 injured employee is working at the time of the last  
21 independent accident is liable to pay compensation only for  
22 the loss or permanent and complete loss of the use of the  
23 member occasioned by the last independent accident.

24 19. In a case of specific loss and the subsequent death  
25 of such injured employee from other causes than such injury  
26 leaving a widow, widower, or dependents surviving before

1 payment or payment in full for such injury, then the amount  
2 due for such injury is payable to the widow or widower and,  
3 if there be no widow or widower, then to such dependents,  
4 in the proportion which such dependency bears to total  
5 dependency.

6 Beginning July 1, 1980, and every 6 months thereafter, the  
7 Commission shall examine the Second Injury Fund and when, after  
8 deducting all advances or loans made to such Fund, the amount  
9 therein is \$500,000 then the amount required to be paid by  
10 employers pursuant to paragraph (f) of Section 7 shall be  
11 reduced by one-half. When the Second Injury Fund reaches the  
12 sum of \$600,000 then the payments shall cease entirely.  
13 However, when the Second Injury Fund has been reduced to  
14 \$400,000, payment of one-half of the amounts required by  
15 paragraph (f) of Section 7 shall be resumed, in the manner  
16 herein provided, and when the Second Injury Fund has been  
17 reduced to \$300,000, payment of the full amounts required by  
18 paragraph (f) of Section 7 shall be resumed, in the manner  
19 herein provided. The Commission shall make the changes in  
20 payment effective by general order, and the changes in payment  
21 become immediately effective for all cases coming before the  
22 Commission thereafter either by settlement agreement or final  
23 order, irrespective of the date of the accidental injury.

24 On August 1, 1996 and on February 1 and August 1 of each  
25 subsequent year, the Commission shall examine the special fund  
26 designated as the "Rate Adjustment Fund" and when, after

1 deducting all advances or loans made to said fund, the amount  
2 therein is \$4,000,000, the amount required to be paid by  
3 employers pursuant to paragraph (f) of Section 7 shall be  
4 reduced by one-half. When the Rate Adjustment Fund reaches the  
5 sum of \$5,000,000 the payment therein shall cease entirely.  
6 However, when said Rate Adjustment Fund has been reduced to  
7 \$3,000,000 the amounts required by paragraph (f) of Section 7  
8 shall be resumed in the manner herein provided.

9 (f) In case of complete disability, which renders the  
10 employee wholly and permanently incapable of work, or in the  
11 specific case of total and permanent disability as provided in  
12 subparagraph 18 of paragraph (e) of this Section, compensation  
13 shall be payable at the rate provided in subparagraph 2 of  
14 paragraph (b) of this Section for life.

15 An employee entitled to benefits under paragraph (f) of  
16 this Section shall also be entitled to receive from the Rate  
17 Adjustment Fund provided in paragraph (f) of Section 7 of the  
18 supplementary benefits provided in paragraph (g) of this  
19 Section 8.

20 If any employee who receives an award under this paragraph  
21 afterwards returns to work or is able to do so, and earns or is  
22 able to earn as much as before the accident, payments under  
23 such award shall cease. If such employee returns to work, or is  
24 able to do so, and earns or is able to earn part but not as much  
25 as before the accident, such award shall be modified so as to  
26 conform to an award under paragraph (d) of this Section. If

1 such award is terminated or reduced under the provisions of  
2 this paragraph, such employees have the right at any time  
3 within 30 months after the date of such termination or  
4 reduction to file petition with the Commission for the purpose  
5 of determining whether any disability exists as a result of the  
6 original accidental injury and the extent thereof.

7 Disability as enumerated in subdivision 18, paragraph (e)  
8 of this Section is considered complete disability.

9 If an employee who had previously incurred loss or the  
10 permanent and complete loss of use of one member, through the  
11 loss or the permanent and complete loss of the use of one hand,  
12 one arm, one foot, one leg, or one eye, incurs permanent and  
13 complete disability through the loss or the permanent and  
14 complete loss of the use of another member, he shall receive,  
15 in addition to the compensation payable by the employer and  
16 after such payments have ceased, an amount from the Second  
17 Injury Fund provided for in paragraph (f) of Section 7, which,  
18 together with the compensation payable from the employer in  
19 whose employ he was when the last accidental injury was  
20 incurred, will equal the amount payable for permanent and  
21 complete disability as provided in this paragraph of this  
22 Section.

23 The custodian of the Second Injury Fund provided for in  
24 paragraph (f) of Section 7 shall be joined with the employer as  
25 a party respondent in the application for adjustment of claim.  
26 The application for adjustment of claim shall state briefly and

1 in general terms the approximate time and place and manner of  
2 the loss of the first member.

3 In its award the Commission or the Arbitrator shall  
4 specifically find the amount the injured employee shall be  
5 weekly paid, the number of weeks compensation which shall be  
6 paid by the employer, the date upon which payments begin out of  
7 the Second Injury Fund provided for in paragraph (f) of Section  
8 7 of this Act, the length of time the weekly payments continue,  
9 the date upon which the pension payments commence and the  
10 monthly amount of the payments. The Commission shall 30 days  
11 after the date upon which payments out of the Second Injury  
12 Fund have begun as provided in the award, and every month  
13 thereafter, prepare and submit to the State Comptroller a  
14 voucher for payment for all compensation accrued to that date  
15 at the rate fixed by the Commission. The State Comptroller  
16 shall draw a warrant to the injured employee along with a  
17 receipt to be executed by the injured employee and returned to  
18 the Commission. The endorsed warrant and receipt is a full and  
19 complete acquittance to the Commission for the payment out of  
20 the Second Injury Fund. No other appropriation or warrant is  
21 necessary for payment out of the Second Injury Fund. The Second  
22 Injury Fund is appropriated for the purpose of making payments  
23 according to the terms of the awards.

24 As of July 1, 1980 to July 1, 1982, all claims against and  
25 obligations of the Second Injury Fund shall become claims  
26 against and obligations of the Rate Adjustment Fund to the

1 extent there is insufficient money in the Second Injury Fund to  
2 pay such claims and obligations. In that case, all references  
3 to "Second Injury Fund" in this Section shall also include the  
4 Rate Adjustment Fund.

5 (g) Every award for permanent total disability entered by  
6 the Commission on and after July 1, 1965 under which  
7 compensation payments shall become due and payable after the  
8 effective date of this amendatory Act, and every award for  
9 death benefits or permanent total disability entered by the  
10 Commission on and after the effective date of this amendatory  
11 Act shall be subject to annual adjustments as to the amount of  
12 the compensation rate therein provided. Such adjustments shall  
13 first be made on July 15, 1977, and all awards made and entered  
14 prior to July 1, 1975 and on July 15 of each year thereafter.  
15 In all other cases such adjustment shall be made on July 15 of  
16 the second year next following the date of the entry of the  
17 award and shall further be made on July 15 annually thereafter.  
18 If during the intervening period from the date of the entry of  
19 the award, or the last periodic adjustment, there shall have  
20 been an increase in the State's average weekly wage in covered  
21 industries under the Unemployment Insurance Act, the weekly  
22 compensation rate shall be proportionately increased by the  
23 same percentage as the percentage of increase in the State's  
24 average weekly wage in covered industries under the  
25 Unemployment Insurance Act. The increase in the compensation  
26 rate under this paragraph shall in no event bring the total

1 compensation rate to an amount greater than the prevailing  
2 maximum rate at the time that the annual adjustment is made.  
3 Such increase shall be paid in the same manner as herein  
4 provided for payments under the Second Injury Fund to the  
5 injured employee, or his dependents, as the case may be, out of  
6 the Rate Adjustment Fund provided in paragraph (f) of Section 7  
7 of this Act. Payments shall be made at the same intervals as  
8 provided in the award or, at the option of the Commission, may  
9 be made in quarterly payment on the 15th day of January, April,  
10 July and October of each year. In the event of a decrease in  
11 such average weekly wage there shall be no change in the then  
12 existing compensation rate. The within paragraph shall not  
13 apply to cases where there is disputed liability and in which a  
14 compromise lump sum settlement between the employer and the  
15 injured employee, or his dependents, as the case may be, has  
16 been duly approved by the Illinois Workers' Compensation  
17 Commission.

18        Provided, that in cases of awards entered by the Commission  
19 for injuries occurring before July 1, 1975, the increases in  
20 the compensation rate adjusted under the foregoing provision of  
21 this paragraph (g) shall be limited to increases in the State's  
22 average weekly wage in covered industries under the  
23 Unemployment Insurance Act occurring after July 1, 1975.

24        For every accident occurring on or after July 20, 2005 but  
25 before the effective date of this amendatory Act of the 94th  
26 General Assembly (Senate Bill 1283 of the 94th General

1 Assembly), the annual adjustments to the compensation rate in  
2 awards for death benefits or permanent total disability, as  
3 provided in this Act, shall be paid by the employer. The  
4 adjustment shall be made by the employer on July 15 of the  
5 second year next following the date of the entry of the award  
6 and shall further be made on July 15 annually thereafter. If  
7 during the intervening period from the date of the entry of the  
8 award, or the last periodic adjustment, there shall have been  
9 an increase in the State's average weekly wage in covered  
10 industries under the Unemployment Insurance Act, the employer  
11 shall increase the weekly compensation rate proportionately by  
12 the same percentage as the percentage of increase in the  
13 State's average weekly wage in covered industries under the  
14 Unemployment Insurance Act. The increase in the compensation  
15 rate under this paragraph shall in no event bring the total  
16 compensation rate to an amount greater than the prevailing  
17 maximum rate at the time that the annual adjustment is made. In  
18 the event of a decrease in such average weekly wage there shall  
19 be no change in the then existing compensation rate. Such  
20 increase shall be paid by the employer in the same manner and  
21 at the same intervals as the payment of compensation in the  
22 award. This paragraph shall not apply to cases where there is  
23 disputed liability and in which a compromise lump sum  
24 settlement between the employer and the injured employee, or  
25 his or her dependents, as the case may be, has been duly  
26 approved by the Illinois Workers' Compensation Commission.

1           The annual adjustments for every award of death benefits or  
2 permanent total disability involving accidents occurring  
3 before July 20, 2005 and accidents occurring on or after the  
4 effective date of this amendatory Act of the 94th General  
5 Assembly (Senate Bill 1283 of the 94th General Assembly) shall  
6 continue to be paid from the Rate Adjustment Fund pursuant to  
7 this paragraph and Section 7(f) of this Act.

8           (h) In case death occurs from any cause before the total  
9 compensation to which the employee would have been entitled has  
10 been paid, then in case the employee leaves any widow, widower,  
11 child, parent (or any grandchild, grandparent or other lineal  
12 heir or any collateral heir dependent at the time of the  
13 accident upon the earnings of the employee to the extent of 50%  
14 or more of total dependency) such compensation shall be paid to  
15 the beneficiaries of the deceased employee and distributed as  
16 provided in paragraph (g) of Section 7.

17           (h-1) In case an injured employee is under legal disability  
18 at the time when any right or privilege accrues to him or her  
19 under this Act, a guardian may be appointed pursuant to law,  
20 and may, on behalf of such person under legal disability, claim  
21 and exercise any such right or privilege with the same effect  
22 as if the employee himself or herself had claimed or exercised  
23 the right or privilege. No limitations of time provided by this  
24 Act run so long as the employee who is under legal disability  
25 is without a conservator or guardian.

26           (i) In case the injured employee is under 16 years of age

1 at the time of the accident and is illegally employed, the  
2 amount of compensation payable under paragraphs (b), (c), (d),  
3 (e) and (f) of this Section is increased 50%.

4 However, where an employer has on file an employment  
5 certificate issued pursuant to the Child Labor Law or work  
6 permit issued pursuant to the Federal Fair Labor Standards Act,  
7 as amended, or a birth certificate properly and duly issued,  
8 such certificate, permit or birth certificate is conclusive  
9 evidence as to the age of the injured minor employee for the  
10 purposes of this Section.

11 Nothing herein contained repeals or amends the provisions  
12 of the Child Labor Law relating to the employment of minors  
13 under the age of 16 years.

14 (j) 1. In the event the injured employee receives benefits,  
15 including medical, surgical or hospital benefits under any  
16 group plan covering non-occupational disabilities contributed  
17 to wholly or partially by the employer, which benefits should  
18 not have been payable if any rights of recovery existed under  
19 this Act, then such amounts so paid to the employee from any  
20 such group plan as shall be consistent with, and limited to,  
21 the provisions of paragraph 2 hereof, shall be credited to or  
22 against any compensation payment for temporary total  
23 incapacity for work or any medical, surgical or hospital  
24 benefits made or to be made under this Act. In such event, the  
25 period of time for giving notice of accidental injury and  
26 filing application for adjustment of claim does not commence to

1 run until the termination of such payments. This paragraph does  
2 not apply to payments made under any group plan which would  
3 have been payable irrespective of an accidental injury under  
4 this Act. Any employer receiving such credit shall keep such  
5 employee safe and harmless from any and all claims or  
6 liabilities that may be made against him by reason of having  
7 received such payments only to the extent of such credit.

8 Any excess benefits paid to or on behalf of a State  
9 employee by the State Employees' Retirement System under  
10 Article 14 of the Illinois Pension Code on a death claim or  
11 disputed disability claim shall be credited against any  
12 payments made or to be made by the State of Illinois to or on  
13 behalf of such employee under this Act, except for payments for  
14 medical expenses which have already been incurred at the time  
15 of the award. The State of Illinois shall directly reimburse  
16 the State Employees' Retirement System to the extent of such  
17 credit.

18 2. Nothing contained in this Act shall be construed to give  
19 the employer or the insurance carrier the right to credit for  
20 any benefits or payments received by the employee other than  
21 compensation payments provided by this Act, and where the  
22 employee receives payments other than compensation payments,  
23 whether as full or partial salary, group insurance benefits,  
24 bonuses, annuities or any other payments, the employer or  
25 insurance carrier shall receive credit for each such payment  
26 only to the extent of the compensation that would have been

1 payable during the period covered by such payment.

2 3. The extension of time for the filing of an Application  
3 for Adjustment of Claim as provided in paragraph 1 above shall  
4 not apply to those cases where the time for such filing had  
5 expired prior to the date on which payments or benefits  
6 enumerated herein have been initiated or resumed. Provided  
7 however that this paragraph 3 shall apply only to cases wherein  
8 the payments or benefits hereinabove enumerated shall be  
9 received after July 1, 1969.

10 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;  
11 94-695, eff. 11-16-05.)

12 (820 ILCS 305/8.2)

13 Sec. 8.2. Fee schedule.

14 (a) Except as provided for in subsection (c), for  
15 procedures, treatments, or services covered under this Act and  
16 rendered or to be rendered on and after February 1, 2006, the  
17 maximum allowable payment shall be 90% of the 80th percentile  
18 of charges and fees as determined by the Commission utilizing  
19 information provided by employers' and insurers' national  
20 databases, with a minimum of 12,000,000 Illinois line item  
21 charges and fees comprised of health care provider and hospital  
22 charges and fees as of August 1, 2004 but not earlier than  
23 August 1, 2002. These charges and fees are provider billed  
24 amounts and shall not include discounted charges. The 80th  
25 percentile is the point on an ordered data set from low to high

1 such that 80% of the cases are below or equal to that point and  
2 at most 20% are above or equal to that point. The Commission  
3 shall adjust these historical charges and fees as of August 1,  
4 2004 by the Consumer Price Index-U for the period August 1,  
5 2004 through September 30, 2005. The Commission shall establish  
6 fee schedules for procedures, treatments, or services for  
7 hospital inpatient, hospital outpatient, emergency room and  
8 trauma, ambulatory surgical treatment centers, and  
9 professional services. These charges and fees shall be  
10 designated by geozip or any smaller geographic unit. The data  
11 shall in no way identify or tend to identify any patient,  
12 employer, or health care provider. As used in this Section,  
13 "geozip" means a three-digit zip code based on data  
14 similarities, geographical similarities, and frequencies. A  
15 geozip does not cross state boundaries. As used in this  
16 Section, "three-digit zip code" means a geographic area in  
17 which all zip codes have the same first 3 digits. If a geozip  
18 does not have the necessary number of charges and fees to  
19 calculate a valid percentile for a specific procedure,  
20 treatment, or service, the Commission may combine data from the  
21 geozip with up to 4 other geozips that are demographically and  
22 economically similar and exhibit similarities in data and  
23 frequencies until the Commission reaches 9 charges or fees for  
24 that specific procedure, treatment, or service. In cases where  
25 the compiled data contains less than 9 charges or fees for a  
26 procedure, treatment, or service, reimbursement shall occur at

1 76% of charges and fees as determined by the Commission in a  
2 manner consistent with the provisions of this paragraph.  
3 Providers of out-of-state procedures, treatments, services,  
4 products, or supplies shall be reimbursed at the lesser of that  
5 state's fee schedule amount or the fee schedule amount that  
6 would apply to Cook County, Illinois. If no fee schedule exists  
7 in that state, the provider shall be reimbursed at the lesser  
8 of the actual charge or the fee schedule amount in Cook County,  
9 Illinois ~~The Commission has the authority to set the maximum~~  
10 ~~allowable payment to providers of out-of-state procedures,~~  
11 ~~treatments, or services covered under this Act in a manner~~  
12 ~~consistent with this Section.~~ Not later than September 30 in  
13 2006 and each year thereafter, the Commission shall  
14 automatically increase or decrease the maximum allowable  
15 payment for a procedure, treatment, or service established and  
16 in effect on January 1 of that year by the percentage change in  
17 the Consumer Price Index-U for the 12 month period ending  
18 August 31 of that year. The increase or decrease shall become  
19 effective on January 1 of the following year. As used in this  
20 Section, "Consumer Price Index-U" means the index published by  
21 the Bureau of Labor Statistics of the U.S. Department of Labor,  
22 that measures the average change in prices of all goods and  
23 services purchased by all urban consumers, U.S. city average,  
24 all items, 1982-84=100.

25 (a-1) Notwithstanding the provisions of subsection (a),  
26 the following provisions shall apply to the medical fee

1 schedule starting on April 1, 2011:

2 (1) The Commission shall establish and maintain fee  
3 schedules for procedures, treatments, products, services,  
4 or supplies for hospital inpatient, hospital outpatient,  
5 emergency room, ambulatory surgical treatment centers,  
6 accredited ambulatory treatment facilities, prescriptions  
7 filled and dispensed outside of a licensed pharmacy, dental  
8 services, and professional services. This fee schedule  
9 shall be based on the fee schedule amounts already  
10 established by the Commission pursuant to subsection (a) of  
11 this Section. However, these fee schedule amounts shall be  
12 grouped into regions consistent with nationally recognized  
13 reimbursement zip codes in Illinois.

14 (2) In cases where the compiled data contains less than  
15 9 charges or fees for a procedure, treatment, product,  
16 supply, or service or where the fee schedule amount cannot  
17 be determined by the non-discounted charge data,  
18 non-Medicare relative values and conversion factors  
19 derived from established fee schedule amounts, coding  
20 crosswalks, or other data as determined by the Commission,  
21 reimbursement shall occur at 76% of charges and fees until  
22 April 1, 2011 and 64.6% of charges and fees thereafter as  
23 determined by the Commission in a manner consistent with  
24 the provisions of this paragraph. If a geozip, as defined  
25 in subsection (a) of this Section, overlaps into one or  
26 more of the regions set forth in paragraph (1) of this

1 subsection (a-1), then the Commission shall average or  
2 repeat the charges and fees in a geozip in order to  
3 designate charges and fees for each region.

4 (3) To establish additional fee schedule amounts, the  
5 Commission shall utilize provider non-discounted charge  
6 data, non-Medicare relative values and conversion factors  
7 derived from established fee schedule amounts, and coding  
8 crosswalks. The Commission may establish additional fee  
9 schedule amounts based on either the charge or cost of the  
10 procedure, treatment, product, supply, or service.

11 (4) Implants shall be reimbursed at 25% above the net  
12 manufacturer's invoice price less rebates, plus actual  
13 reasonable and customary shipping charges whether or not  
14 the implant charge is submitted by a provider in  
15 conjunction with a bill for all other services associated  
16 with the implant, submitted by a provider on a separate  
17 claim form, submitted by a distributor, or submitted by the  
18 manufacturer of the implant. "Implants" include the  
19 following codes or any substantially similar updated code  
20 as determined by the Commission: 0274  
21 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens  
22 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624  
23 (investigational devices); and 0636 (drugs requiring  
24 detailed coding). Non-implantable devices or supplies  
25 within these codes shall be reimbursed at 65% of actual  
26 charge, which is the provider's normal rates under its

1       standard chargemaster. A standard chargemaster is the  
2       provider's list of charges for procedures, treatments,  
3       products, supplies, or services used to bill payers in a  
4       consistent manner.

5       (5) The Commission shall automatically update all  
6       codes and associated rules with the version of the codes  
7       and rules valid on January 1 of that year.

8       (a-2) For procedures, treatments, services, or supplies  
9       covered under this Act and rendered or to be rendered on or  
10       after April 1, 2011, the maximum allowable payment shall be 85%  
11       of the fee schedule amounts and any reimbursements for charges  
12       and fees pursuant to paragraph (2) of subsection (a-1) in  
13       effect on April 1, 2011 and thereafter be adjusted yearly by  
14       the Consumer Price Index-U, as described in subsection (a) of  
15       this Section.

16       (a-3) Prescriptions filled and dispensed outside of a  
17       licensed pharmacy shall be subject to a fee schedule that shall  
18       not exceed the Average Wholesale Price (AWP) plus a dispensing  
19       fee of \$4.18. AWP or its equivalent as registered by the  
20       National Drug Code shall be set forth for that drug on that  
21       date as published in Medispan.

22       (b) Notwithstanding the provisions of subsection (a), if  
23       the Commission finds that there is a significant limitation on  
24       access to quality health care in either a specific field of  
25       health care services or a specific geographic limitation on  
26       access to health care, it may change the Consumer Price Index-U

1 increase or decrease for that specific field or specific  
2 geographic limitation on access to health care to address that  
3 limitation.

4 (c) The Commission shall establish by rule a process to  
5 review those medical cases or outliers that involve  
6 extra-ordinary treatment to determine whether to make an  
7 additional adjustment to the maximum payment within a fee  
8 schedule for a procedure, treatment, or service.

9 (d) When a patient notifies a provider that the treatment,  
10 procedure, or service being sought is for a work-related  
11 illness or injury and furnishes the provider the name and  
12 address of the responsible employer, the provider shall bill  
13 the employer directly. The employer shall make payment and  
14 providers shall submit bills and records in accordance with the  
15 provisions of this Section. All payments to providers for  
16 treatment provided pursuant to this Act shall be made within 60  
17 days of receipt of the bills as long as the claim contains  
18 substantially all the required data elements necessary to  
19 adjudicate the bills. In the case of nonpayment to a provider  
20 within 60 days of receipt of the bill which contained  
21 substantially all of the required data elements necessary to  
22 adjudicate the bill or nonpayment to a provider of a portion of  
23 such a bill up to the lesser of the actual charge or the  
24 payment level set by the Commission in the fee schedule  
25 established in this Section, the bill, or portion of the bill,  
26 shall incur interest at a rate of 1% per month payable to the

1 provider.

2 (e) Except as provided in subsections (e-5), (e-10), and  
3 (e-15), a provider shall not hold an employee liable for costs  
4 related to a non-disputed procedure, treatment, or service  
5 rendered in connection with a compensable injury. The  
6 provisions of subsections (e-5), (e-10), (e-15), and (e-20)  
7 shall not apply if an employee provides information to the  
8 provider regarding participation in a group health plan. If the  
9 employee participates in a group health plan, the provider may  
10 submit a claim for services to the group health plan. If the  
11 claim for service is covered by the group health plan, the  
12 employee's responsibility shall be limited to applicable  
13 deductibles, co-payments, or co-insurance. Except as provided  
14 under subsections (e-5), (e-10), (e-15), and (e-20), a provider  
15 shall not bill or otherwise attempt to recover from the  
16 employee the difference between the provider's charge and the  
17 amount paid by the employer or the insurer on a compensable  
18 injury, or for medical services or treatment determined by the  
19 Commission to be excessive or unnecessary.

20 (e-5) If an employer notifies a provider that the employer  
21 does not consider the illness or injury to be compensable under  
22 this Act, the provider may seek payment of the provider's  
23 actual charges from the employee for any procedure, treatment,  
24 or service rendered. Once an employee informs the provider that  
25 there is an application filed with the Commission to resolve a  
26 dispute over payment of such charges, the provider shall cease

1 any and all efforts to collect payment for the services that  
2 are the subject of the dispute. Any statute of limitations or  
3 statute of repose applicable to the provider's efforts to  
4 collect payment from the employee shall be tolled from the date  
5 that the employee files the application with the Commission  
6 until the date that the provider is permitted to resume  
7 collection efforts under the provisions of this Section.

8 (e-10) If an employer notifies a provider that the employer  
9 will pay only a portion of a bill for any procedure, treatment,  
10 or service rendered in connection with a compensable illness or  
11 disease, the provider may seek payment from the employee for  
12 the remainder of the amount of the bill up to the lesser of the  
13 actual charge, negotiated rate, if applicable, or the payment  
14 level set by the Commission in the fee schedule established in  
15 this Section. Once an employee informs the provider that there  
16 is an application filed with the Commission to resolve a  
17 dispute over payment of such charges, the provider shall cease  
18 any and all efforts to collect payment for the services that  
19 are the subject of the dispute. Any statute of limitations or  
20 statute of repose applicable to the provider's efforts to  
21 collect payment from the employee shall be tolled from the date  
22 that the employee files the application with the Commission  
23 until the date that the provider is permitted to resume  
24 collection efforts under the provisions of this Section.

25 (e-15) When there is a dispute over the compensability of  
26 or amount of payment for a procedure, treatment, or service,

1 and a case is pending or proceeding before an Arbitrator or the  
2 Commission, the provider may mail the employee reminders that  
3 the employee will be responsible for payment of any procedure,  
4 treatment or service rendered by the provider. The reminders  
5 must state that they are not bills, to the extent practicable  
6 include itemized information, and state that the employee need  
7 not pay until such time as the provider is permitted to resume  
8 collection efforts under this Section. The reminders shall not  
9 be provided to any credit rating agency. The reminders may  
10 request that the employee furnish the provider with information  
11 about the proceeding under this Act, such as the file number,  
12 names of parties, and status of the case. If an employee fails  
13 to respond to such request for information or fails to furnish  
14 the information requested within 90 days of the date of the  
15 reminder, the provider is entitled to resume any and all  
16 efforts to collect payment from the employee for the services  
17 rendered to the employee and the employee shall be responsible  
18 for payment of any outstanding bills for a procedure,  
19 treatment, or service rendered by a provider.

20 (e-20) Upon a final award or judgment by an Arbitrator or  
21 the Commission, or a settlement agreed to by the employer and  
22 the employee, a provider may resume any and all efforts to  
23 collect payment from the employee for the services rendered to  
24 the employee and the employee shall be responsible for payment  
25 of any outstanding bills for a procedure, treatment, or service  
26 rendered by a provider as well as the interest awarded under

1 subsection (d) of this Section. In the case of a procedure,  
2 treatment, or service deemed compensable, the provider shall  
3 not require a payment rate, excluding the interest provisions  
4 under subsection (d), greater than the lesser of the actual  
5 charge or the payment level set by the Commission in the fee  
6 schedule established in this Section. Payment for services  
7 deemed not covered or not compensable under this Act is the  
8 responsibility of the employee unless a provider and employee  
9 have agreed otherwise in writing. Services not covered or not  
10 compensable under this Act are not subject to the fee schedule  
11 in this Section.

12 (f) Nothing in this Act shall prohibit an employer or  
13 insurer from contracting with a health care provider or group  
14 of health care providers for reimbursement levels for benefits  
15 under this Act different from those provided in this Section.

16 (g) On or before January 1, 2010 the Commission shall  
17 provide to the Governor and General Assembly a report regarding  
18 the implementation of the medical fee schedule and the index  
19 used for annual adjustment to that schedule as described in  
20 this Section.

21 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

22 (820 ILCS 305/8.3)

23 Sec. 8.3. Workers' Compensation Medical Fee Advisory  
24 Board. There is created a Workers' Compensation Medical Fee  
25 Advisory Board consisting of 9 members appointed by the

1 Governor with the advice and consent of the Senate. Three  
2 members of the Advisory Board shall be representative citizens  
3 chosen from the employee class, 3 members shall be  
4 representative citizens chosen from the employing class, and 3  
5 members shall be representative citizens chosen from the  
6 medical provider class. Each member shall serve a 4-year term  
7 and shall continue to serve until a successor is appointed. A  
8 vacancy on the Advisory Board shall be filled by the Governor  
9 for the unexpired term.

10 Members of the Advisory Board shall receive no compensation  
11 for their services but shall be reimbursed for expenses  
12 incurred in the performance of their duties by the Commission  
13 from appropriations made to the Commission for that purpose.

14 The Advisory Board shall advise the Commission on  
15 establishment of fees for medical services and accessibility of  
16 medical treatment. Additionally, by April 1, 2011, the Board  
17 shall issue a written report, to be delivered to the Chairman  
18 of the Commission and the General Assembly, containing (i)  
19 recommendations on how to streamline the process under which  
20 workers' compensation insurers process and issue payments and  
21 health care providers receive such payments and (ii) a  
22 recommended set of best practices for workers' compensation  
23 insurers to transition from a paper-based payment system to an  
24 electronic-based payment system.

25 (Source: P.A. 94-277, eff. 7-20-05.)

1 (820 ILCS 305/8.7)

2 Sec. 8.7. Utilization review programs.

3 (a) As used in this Section:

4 "Utilization review" means the evaluation of proposed or  
5 provided health care services to determine the appropriateness  
6 of both the level of health care services medically necessary  
7 and the quality of health care services provided to a patient,  
8 including evaluation of their efficiency, efficacy, and  
9 appropriateness of treatment, hospitalization, or office  
10 visits based on medically accepted standards. The evaluation  
11 must be accomplished by means of a system that identifies the  
12 utilization of health care services based on standards of care  
13 of or nationally recognized peer review guidelines as well as  
14 nationally recognized treatment guidelines and evidence-based  
15 medicine ~~evidence~~ based upon standards as provided in this Act.  
16 Utilization techniques may include prospective review, second  
17 opinions, concurrent review, discharge planning, peer review,  
18 independent medical examinations, and retrospective review  
19 (for purposes of this sentence, retrospective review shall be  
20 applicable to services rendered on or after July 20, 2005).  
21 Nothing in this Section applies to prospective review of  
22 necessary first aid or emergency treatment.

23 (b) No person may conduct a utilization review program for  
24 workers' compensation services in this State unless once every  
25 2 years the person registers the utilization review program  
26 with the Department of Insurance ~~Financial and Professional~~

1 ~~Regulation~~ and certifies compliance with the Workers'  
2 Compensation Utilization Management standards or Health  
3 Utilization Management Standards of URAC sufficient to achieve  
4 URAC accreditation or submits evidence of accreditation by URAC  
5 for its Workers' Compensation Utilization Management Standards  
6 or Health Utilization Management Standards. Nothing in this Act  
7 shall be construed to require an employer or insurer or its  
8 subcontractors to become URAC accredited.

9 (c) In addition, the Director ~~Secretary~~ of Insurance  
10 ~~Financial and Professional Regulation~~ may certify alternative  
11 utilization review standards of national accreditation  
12 organizations or entities in order for plans to comply with  
13 this Section. Any alternative utilization review standards  
14 shall meet or exceed those standards required under subsection  
15 (b).

16 (d) This registration shall include submission of all of  
17 the following information regarding utilization review program  
18 activities:

19 (1) The name, address, and telephone number of the  
20 utilization review programs.

21 (2) The organization and governing structure of the  
22 utilization review programs.

23 (3) The number of lives for which utilization review is  
24 conducted by each utilization review program.

25 (4) Hours of operation of each utilization review  
26 program.

1           (5) Description of the grievance process for each  
2 utilization review program.

3           (6) Number of covered lives for which utilization  
4 review was conducted for the previous calendar year for  
5 each utilization review program.

6           (7) Written policies and procedures for protecting  
7 confidential information according to applicable State and  
8 federal laws for each utilization review program.

9           (e) A utilization review program shall have written  
10 procedures to ensure that patient-specific information  
11 obtained during the process of utilization review will be:

12           (1) kept confidential in accordance with applicable  
13 State and federal laws; and

14           (2) shared only with the employee, the employee's  
15 designee, and the employee's health care provider, and  
16 those who are authorized by law to receive the information.  
17 Summary data shall not be considered confidential if it  
18 does not provide information to allow identification of  
19 individual patients or health care providers.

20           Only a health care professional may make determinations  
21 regarding the medical necessity of health care services during  
22 the course of utilization review.

23           When making retrospective reviews, utilization review  
24 programs shall base reviews solely on the medical information  
25 available to the attending physician or ordering provider at  
26 the time the health care services were provided.

1 (f) If the Department of Insurance ~~Financial and~~  
2 ~~Professional Regulation~~ finds that a utilization review  
3 program is not in compliance with this Section, the Department  
4 shall issue a corrective action plan and allow a reasonable  
5 amount of time for compliance with the plan. If the utilization  
6 review program does not come into compliance, the Department  
7 may issue a cease and desist order. Before issuing a cease and  
8 desist order under this Section, the Department shall provide  
9 the utilization review program with a written notice of the  
10 reasons for the order and allow a reasonable amount of time to  
11 supply additional information demonstrating compliance with  
12 the requirements of this Section and to request a hearing. The  
13 hearing notice shall be sent by certified mail, return receipt  
14 requested, and the hearing shall be conducted in accordance  
15 with the Illinois Administrative Procedure Act.

16 (g) A utilization review program subject to a corrective  
17 action may continue to conduct business until a final decision  
18 has been issued by the Department.

19 (h) The Department of Insurance ~~Secretary of Financial and~~  
20 ~~Professional Regulation~~ may by rule establish a registration  
21 fee for each person conducting a utilization review program.

22 (i) Upon receipt of written notice that the employer or the  
23 employer's agent or insurer wishes to invoke the utilization  
24 review process, the provider of medical, surgical or hospital  
25 services shall submit to the utilization review, following URAC  
26 procedural guidelines and appeal process. If the provider fails

1 to submit to utilization review of proposed treatment or  
2 services, the charges for the treatment or service shall not be  
3 compensable or collectible against the employer, the  
4 employer's agent or insurer, or the employee. When an employer  
5 denies payment of or refuses to authorize payment of first aid,  
6 medical, surgical, or hospital services under Section 8(a) of  
7 this Act that complies with subsection (b) of this Section,  
8 that denial or refusal to authorize shall create a rebuttable  
9 presumption that the extent and scope of medical treatment is  
10 excessive and unnecessary. That presumption may be rebutted by  
11 establishing by a preponderance of the evidence that a variance  
12 from the standards of care or guidelines used pursuant to  
13 subsection (a) of this Section is reasonably required to cure  
14 or relieve the employee from the effects of his or her injury  
15 or that the utilization review did not comply with subsection  
16 (b) of this Section. A utilization review will be considered by  
17 the Commission, along with all other evidence and in the same  
18 manner as all other evidence, in the determination of the  
19 reasonableness and necessity of the medical bills or treatment.  
20 Nothing in this Section shall be construed to diminish the  
21 rights of employees to reasonable and necessary medical  
22 treatment or employee choice of health care provider under  
23 Section 8(a) or the rights of employers to medical examinations  
24 under Section 12.

25 (j) When an employer denies payment of or refuses to  
26 authorize payment of first aid, medical, surgical, or hospital

1 services under Section 8(a) of this Act, if that denial or  
2 refusal to authorize complies with a utilization review program  
3 registered under this Section and complies with all other  
4 requirements of this Section, then there shall be a rebuttable  
5 presumption that the employer shall not be responsible for  
6 payment of additional compensation pursuant to Section 19(k) of  
7 this Act and if that denial or refusal to authorize does not  
8 comply with a utilization review program registered under this  
9 Section and does not comply with all other requirements of this  
10 Section, then that will be considered by the Commission, along  
11 with all other evidence and in the same manner as all other  
12 evidence, in the determination of whether the employer may be  
13 responsible for the payment of additional compensation  
14 pursuant to Section 19(k) of this Act.

15 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

16 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

17 Sec. 11. The compensation herein provided, together with  
18 the provisions of this Act, shall be the measure of the  
19 responsibility of any employer engaged in any of the  
20 enterprises or businesses enumerated in Section 3 of this Act,  
21 or of any employer who is not engaged in any such enterprises  
22 or businesses, but who has elected to provide and pay  
23 compensation for accidental injuries sustained by any employee  
24 arising out of and in the course of the employment according to  
25 the provisions of this Act, and whose election to continue

1 under this Act, has not been nullified by any action of his  
2 employees as provided for in this Act.

3 Accidental injuries incurred while participating in  
4 voluntary recreational programs including but not limited to  
5 athletic events, parties and picnics do not arise out of and in  
6 the course of the employment even though the employer pays some  
7 or all of the cost thereof. This exclusion shall not apply in  
8 the event that the injured employee was ordered or assigned by  
9 his employer to participate in the program.

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

14 Any injury to or disease or death of an employee arising  
15 from the administration of a vaccine, including without  
16 limitation smallpox vaccine, to prepare for, or as a response  
17 to, a threatened or potential bioterrorist incident to the  
18 employee as part of a voluntary inoculation program in  
19 connection with the person's employment or in connection with  
20 any governmental program or recommendation for the inoculation  
21 of workers in the employee's occupation, geographical area, or  
22 other category that includes the employee is deemed to arise  
23 out of and in the course of the employment for all purposes  
24 under this Act. This paragraph added by this amendatory Act of  
25 the 93rd General Assembly is declarative of existing law and is  
26 not a new enactment.

1       No compensation shall be payable if (i) the employee's  
2 intoxication is the proximate cause of the employee's  
3 accidental injury or (ii) at the time the employee incurred  
4 accidental injury, the employee was so intoxicated that the  
5 intoxication constituted a departure from the employment.  
6 Admissible evidence of the concentration of (1) alcohol, (2)  
7 cannabis as defined in the Cannabis Control Act, (3) a  
8 controlled substance listed in the Illinois Controlled  
9 Substances Act, or (4) an intoxicating compound listed in the  
10 Use of Intoxicating Compounds Act in the employee's blood,  
11 breath, or urine at the time the employee incurred the  
12 accidental injury shall be considered in any hearing under this  
13 Act to determine whether the employee was intoxicated at the  
14 time the employee incurred the accidental injuries. If at the  
15 time of the accidental injuries, there was 0.08% or more by  
16 weight of alcohol in the employee's blood, breath, or urine or  
17 if there is any evidence of impairment due to the unlawful or  
18 unauthorized use of (1) cannabis as defined in the Cannabis  
19 Control Act, (2) a controlled substance listed in the Illinois  
20 Controlled Substances Act, or (3) an intoxicating compound  
21 listed in the Use of Intoxicating Compounds Act or if the  
22 employee refuses to submit to testing of blood, breath, or  
23 urine, then there shall be a rebuttable presumption that the  
24 employee was intoxicated and that the intoxication was the  
25 proximate cause of the employee's injury. The employee may  
26 overcome the rebuttable presumption by the preponderance of the

1 admissible evidence that the intoxication was not the sole  
2 proximate cause or proximate cause of the accidental injuries.  
3 Percentage by weight of alcohol in the blood shall be based on  
4 grams of alcohol per 100 milliliters of blood. Percentage by  
5 weight of alcohol in the breath shall be based upon grams of  
6 alcohol per 210 liters of breath. Any testing that has not been  
7 performed by an accredited or certified testing laboratory  
8 shall not be admissible in any hearing under this Act to  
9 determine whether the employee was intoxicated at the time the  
10 employee incurred the accidental injury.

11 All sample collection and testing for alcohol and drugs  
12 under this Section shall be performed in accordance with rules  
13 to be adopted by the Commission. These rules shall ensure:

14 (1) compliance with the National Labor Relations Act  
15 regarding collective bargaining agreements or regulations  
16 promulgated by the United States Department of  
17 Transportation;

18 (2) that samples are collected and tested in  
19 conformance with national and State legal and regulatory  
20 standards for the privacy of the individual being tested,  
21 and in a manner reasonably calculated to prevent  
22 substitutions or interference with the collection or  
23 testing of reliable sample;

24 (3) that split testing procedures are utilized;

25 (4) sample collection is documented, and the  
26 documentation procedures include:

1           (A) the labeling of samples in a manner so as to  
2           reasonably preclude the probability of erroneous  
3           identification of test result; and

4           (B) an opportunity for the employee to provide  
5           notification of any information which he or she  
6           considers relevant to the test, including  
7           identification of currently or recently used  
8           prescription or nonprescription drugs and other  
9           relevant medical information;

10          (5) that sample collection, storage, and  
11          transportation to the place of testing is performed in a  
12          manner so as to reasonably preclude the probability of  
13          sample contamination or adulteration; and

14          (6) that chemical analyses of blood, urine, breath, or  
15          other bodily substance are performed according to  
16          nationally scientifically accepted analytical methods and  
17          procedures.

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

19           (820 ILCS 305/14) (from Ch. 48, par. 138.14)

20           Sec. 14. The Commission shall appoint a secretary, an  
21           assistant secretary, and arbitrators and shall employ such  
22           assistants and clerical help as may be necessary.

23           Each arbitrator appointed after November 22, 1977 shall be  
24           required to demonstrate in writing and in accordance with the  
25           rules and regulations of the Illinois Department of Central

1 Management Services his or her knowledge of and expertise in  
2 the law of and judicial processes of the Workers' Compensation  
3 Act and the Occupational Diseases Act.

4 A formal training program for newly-hired arbitrators  
5 shall be implemented. The training program shall include the  
6 following:

7 (a) substantive and procedural aspects of the  
8 arbitrator position;

9 (b) current issues in workers' compensation law and  
10 practice;

11 (c) medical lectures by specialists in areas such as  
12 orthopedics, ophthalmology, psychiatry, rehabilitation  
13 counseling;

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

16 (e) observation of experienced arbitrators conducting  
17 hearings of cases, combined with the opportunity to discuss  
18 evidence presented and rulings made;

19 (f) the use of hypothetical cases requiring the trainee  
20 to issue judgments as a means to evaluating knowledge and  
21 writing ability;

22 (g) writing skills.

23 A formal and ongoing professional development program  
24 including, but not limited to, the above-noted areas shall be  
25 implemented to keep arbitrators informed of recent  
26 developments and issues and to assist them in maintaining and

1 enhancing their professional competence.

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

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       Each arbitrator appointed to a first term on or after the  
2 effective date of this amendatory Act of the 96th General  
3 Assembly shall be required to be authorized to practice law in  
4 this State by the Supreme Court.

5       All arbitrators shall be subject to the provisions of the  
6 Personnel Code, and the performance of all arbitrators shall be  
7 reviewed by the Chairman on an annual basis. The Chairman shall  
8 allow input from the Commissioners in all such reviews.

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

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

19       The Commission shall provide itself with a seal for the  
20 authentication of its orders, awards and proceedings upon which  
21 shall be inscribed the name of the Commission and the words  
22 "Illinois--Seal".

23       The Secretary or Assistant Secretary, under the direction  
24 of the Commission, shall have charge and custody of the seal of  
25 the Commission and also have charge and custody of all records,  
26 files, orders, proceedings, decisions, awards and other

1 documents on file with the Commission. He shall furnish  
2 certified copies, under the seal of the Commission, of any such  
3 records, files, orders, proceedings, decisions, awards and  
4 other documents on file with the Commission as may be required.  
5 Certified copies so furnished by the Secretary or Assistant  
6 Secretary shall be received in evidence before the Commission  
7 or any Arbitrator thereof, and in all courts, provided that the  
8 original of such certified copy is otherwise competent and  
9 admissible in evidence. The Secretary or Assistant Secretary  
10 shall perform such other duties as may be prescribed from time  
11 to time by the Commission.

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

13 (820 ILCS 305/16b new)

14 Sec. 16b. Signature constitutes certification. The  
15 signature of a petitioner or respondent or his, her, or its  
16 attorney or group of attorneys on any petition, motion, or  
17 other paper filed with the Commission constitutes a  
18 certification by him, her, or it that he, she, or it has read  
19 the petition, motion, or other paper, and, that to the best of  
20 his, her, or its knowledge, information, and belief formed  
21 after reasonable inquiry that it is well grounded in fact, that  
22 it is warranted by existing law or a good faith argument for an  
23 extension, modification, or reversal of existing law, and that  
24 it is not interposed for any improper purpose, such as to  
25 harass or to cause unnecessary delay or needless increase in

1 the cost of litigation. If a petition, motion, or other paper  
2 is signed in violation of this Section, the Commission, upon  
3 motion or upon its own initiative, may impose upon the  
4 petitioner or respondent or his, her, or its attorney or group  
5 of attorneys an appropriate penalty or may order him, her, or  
6 it to pay the other party the amount of reasonable expenses  
7 incurred because of the filing of the petition, motion, or  
8 other paper, including reasonable attorneys' fees.

9 (820 ILCS 305/25.5)

10 Sec. 25.5. Unlawful acts; penalties.

11 (a) It is unlawful for any person, company, corporation,  
12 insurance carrier, healthcare provider, or other entity to:

13 (1) Intentionally present or cause to be presented any  
14 false or fraudulent claim for the payment of any workers'  
15 compensation benefit.

16 (2) Intentionally make or cause to be made any false or  
17 fraudulent material statement or material representation  
18 for the purpose of obtaining or denying any workers'  
19 compensation benefit.

20 (3) Intentionally make or cause to be made any false or  
21 fraudulent statements with regard to entitlement to  
22 workers' compensation benefits with the intent to prevent  
23 an injured worker from making a legitimate claim for any  
24 workers' compensation benefits.

25 (4) Intentionally prepare or provide an invalid,

1 false, or counterfeit certificate of insurance as proof of  
2 workers' compensation insurance.

3 (5) Intentionally make or cause to be made any false or  
4 fraudulent material statement or material representation  
5 for the purpose of obtaining workers' compensation  
6 insurance at less than the proper rate for that insurance.

7 (6) Intentionally make or cause to be made any false or  
8 fraudulent material statement or material representation  
9 on an initial or renewal self-insurance application or  
10 accompanying financial statement for the purpose of  
11 obtaining self-insurance status or reducing the amount of  
12 security that may be required to be furnished pursuant to  
13 Section 4 of this Act.

14 (7) Intentionally make or cause to be made any false or  
15 fraudulent material statement to the Department ~~Division~~  
16 of Insurance's fraud and insurance non-compliance unit in  
17 the course of an investigation of fraud or insurance  
18 non-compliance.

19 (8) Intentionally assist, abet, solicit, or conspire  
20 with any person, company, or other entity to commit any of  
21 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)  
22 of this subsection (a).

23 For the purposes of paragraphs (2), (3), (5), (6), and (7),  
24 the term "statement" includes any writing, notice, proof of  
25 injury, bill for services, hospital or doctor records and  
26 reports, or X-ray and test results.

1 (b) Any person violating subsection (a) is guilty of a  
2 Class 4 felony. Any person or entity convicted of any violation  
3 of this Section shall be ordered to pay complete restitution to  
4 any person or entity so defrauded in addition to any fine or  
5 sentence imposed as a result of the conviction.

6 (c) The Department Division of Insurance ~~of the Department~~  
7 ~~of Financial and Professional Regulation~~ shall establish a  
8 fraud and insurance non-compliance unit responsible for  
9 investigating incidences of fraud and insurance non-compliance  
10 pursuant to this Section. The size of the staff of the unit  
11 shall be subject to appropriation by the General Assembly. It  
12 shall be the duty of the fraud and insurance non-compliance  
13 unit to determine the identity of insurance carriers,  
14 employers, employees, or other persons or entities who have  
15 violated the fraud and insurance non-compliance provisions of  
16 this Section. The fraud and insurance non-compliance unit shall  
17 report violations of the fraud and insurance non-compliance  
18 provisions of this Section to the Special Prosecutions Bureau  
19 of the Criminal Division of the Office of the Attorney General  
20 or to the State's Attorney of the county in which the offense  
21 allegedly occurred, either of whom has the authority to  
22 prosecute violations under this Section.

23 With respect to the subject of any investigation being  
24 conducted, the fraud and insurance non-compliance unit shall  
25 have the general power of subpoena of the Department Division  
26 of Insurance.

1           (d) Any person may report allegations of insurance  
2 non-compliance and fraud pursuant to this Section to the  
3 Department ~~Division~~ of Insurance's fraud and insurance  
4 non-compliance unit whose duty it shall be to investigate the  
5 report. The unit shall notify the Commission of reports of  
6 insurance non-compliance. Any person reporting an allegation  
7 of insurance non-compliance or fraud against either an employee  
8 or employer under this Section must identify himself. Except as  
9 provided in this subsection and in subsection (e), all reports  
10 shall remain confidential except to refer an investigation to  
11 the Attorney General or State's Attorney for prosecution or if  
12 the fraud and insurance non-compliance unit's investigation  
13 reveals that the conduct reported may be in violation of other  
14 laws or regulations of the State of Illinois, the unit may  
15 report such conduct to the appropriate governmental agency  
16 charged with administering such laws and regulations. Any  
17 person who intentionally makes a false report under this  
18 Section to the fraud and insurance non-compliance unit is  
19 guilty of a Class A misdemeanor.

20           (e) In order for the fraud and insurance non-compliance  
21 unit to investigate a report of fraud by an employee, (i) the  
22 employee must have filed with the Commission an Application for  
23 Adjustment of Claim and the employee must have either received  
24 or attempted to receive benefits under this Act that are  
25 related to the reported fraud or (ii) the employee must have  
26 made a written demand for the payment of benefits that are

1 related to the reported fraud. Upon receipt of a report of  
2 fraud, the employee or employer shall receive immediate notice  
3 of the reported conduct, including the verified name and  
4 address of the complainant if that complainant is connected to  
5 the case and the nature of the reported conduct. The fraud and  
6 insurance non-compliance unit shall resolve all reports of  
7 fraud against employees or employers within 120 days of receipt  
8 of the report. There shall be no immunity, under this Act or  
9 otherwise, for any person who files a false report or who files  
10 a report without good and just cause. Confidentiality of  
11 medical information shall be strictly maintained.  
12 Investigations that are not referred for prosecution shall be  
13 immediately expunged and shall not be disclosed except that the  
14 employee or employer who was the subject of the report and the  
15 person making the report shall be notified that the  
16 investigation is being closed, at which time the name of any  
17 complainant not connected to the case shall be disclosed to the  
18 employee or the employer. It is unlawful for any employer,  
19 insurance carrier, or service adjustment company to file or  
20 threaten to file a report of fraud against an employee because  
21 of the exercise by the employee of the rights and remedies  
22 granted to the employee by this Act.

23 For purposes of this subsection (e), "employer" means any  
24 employer, insurance carrier, third party administrator,  
25 self-insured, or similar entity.

26 For purposes of this subsection (e), "complainant" refers

1 to the person contacting the fraud and insurance non-compliance  
2 unit to initiate the complaint.

3 (e-5) The fraud and insurance non-compliance unit shall  
4 procure and implement a system utilizing advanced analytics  
5 inclusive of predictive modeling, data mining, social network  
6 analysis, and scoring algorithms for the detection and  
7 prevention of fraud, waste, and abuse on or before July 1,  
8 2011. The fraud and insurance non-compliance unit shall procure  
9 this system using a request for proposals process governed by  
10 the Illinois Procurement Code and rules adopted under that  
11 Code. The fraud and insurance non-compliance unit shall provide  
12 a report to the President of the Senate, Speaker of the House  
13 of Representatives, Minority Leader of the House of  
14 Representatives, Minority Leader of the Senate, Governor, and  
15 Director of Insurance on or before July 1, 2012 and annually  
16 thereafter detailing its activities and providing  
17 recommendations regarding opportunities for additional fraud  
18 waste and abuse detection and prevention.

19 (f) Any person convicted of fraud related to workers'  
20 compensation pursuant to this Section shall be subject to the  
21 penalties prescribed in the Criminal Code of 1961 and shall be  
22 ineligible to receive or retain any compensation, disability,  
23 or medical benefits as defined in this Act if the compensation,  
24 disability, or medical benefits were owed or received as a  
25 result of fraud for which the recipient of the compensation,  
26 disability, or medical benefit was convicted. This subsection

1 applies to accidental injuries or diseases that occur on or  
2 after the effective date of this amendatory Act of the 94th  
3 General Assembly.

4 (g) Civil liability. Any person convicted of fraud who  
5 knowingly obtains, attempts to obtain, or causes to be obtained  
6 any benefits under this Act by the making of a false claim or  
7 who knowingly misrepresents any material fact shall be civilly  
8 liable to the payor of benefits or the insurer or the payor's  
9 or insurer's subrogee or assignee in an amount equal to 3 times  
10 the value of the benefits or insurance coverage wrongfully  
11 obtained or twice the value of the benefits or insurance  
12 coverage attempted to be obtained, plus reasonable attorney's  
13 fees and expenses incurred by the payor or the payor's subrogee  
14 or assignee who successfully brings a claim under this  
15 subsection. This subsection applies to accidental injuries or  
16 diseases that occur on or after the effective date of this  
17 amendatory Act of the 94th General Assembly.

18 (h) ~~The All proceedings under this Section shall be~~  
19 ~~reported by the~~ fraud and insurance non-compliance unit shall  
20 submit a written report on an annual basis to the Workers'  
21 Compensation Advisory Board, the General Assembly, the  
22 Governor, and the Attorney General by January 1st and July 1st  
23 of each year. This report shall include, at the minimum, the  
24 following information:

25 (1) The number of allegations of insurance  
26 non-compliance and fraud reported to the fraud and

1       insurance non-compliance unit.

2           (2) The source of the reported allegations  
3       (individual, employer, or other).

4           (3) The number of allegations investigated by the fraud  
5       and insurance non-compliance unit.

6           (4) The number of criminal referrals made in accordance  
7       with this Section and the entity to which the referral was  
8       made.

9           (5) All proceedings under this Section.

10       (Source: P.A. 94-277, eff. 7-20-05.)

11       (820 ILCS 305/29.1 new)

12       Sec. 29.1. Recalculation of premiums. On the effective date  
13       of this amendatory Act of the 96th General Assembly, the  
14       Director of Insurance shall immediately direct in writing any  
15       workers' compensation rate setting advisory organization to  
16       recalculate workers' compensation advisory premium rates and  
17       assigned risk pool premium rates so that those premiums  
18       incorporate the provisions of this amendatory Act of the 96th  
19       General Assembly.

20       (820 ILCS 305/29.2 new)

21       Sec. 29.2. Insurance oversight. The Department of  
22       Insurance shall annually submit to the Governor, the President  
23       of the Senate, the Speaker of the House of Representatives, the  
24       Minority Leader of the Senate, and the Minority Leader of the

1 House of Representatives a written report that details the  
2 state of the workers' compensation insurance market in  
3 Illinois. The report shall be completed by April 1 of each  
4 year, beginning in 2012, or later if necessary data or analyses  
5 are only available to the Department at a later date. The  
6 report shall be posted on the Department of Insurance's  
7 Internet website. Information to be included in the report  
8 shall be for the preceding calendar year. The report shall  
9 include, at a minimum, the following:

10 (1) Gross premiums collected by workers' compensation  
11 carriers in Illinois and the national rank of Illinois  
12 based on premium volume.

13 (2) The number of insurance companies actively engaged  
14 in Illinois in the workers' compensation insurance market,  
15 including both holding companies and subsidiaries or  
16 affiliates, and the national rank of Illinois based on  
17 number of competing insurers.

18 (3) The total number of insured participants in the  
19 Illinois workers' compensation assigned risk insurance  
20 pool, and the size of the assigned risk pool as a  
21 proportion of the total Illinois workers' compensation  
22 insurance market.

23 (4) The advisory organization premium rate for  
24 workers' compensation insurance in Illinois for the  
25 previous year.

26 (5) The advisory organization prescribed assigned risk

1       pool premium rate.

2       (6) The total amount of indemnity payments made by  
3       workers' compensation insurers in Illinois.

4       (7) The total amount of medical payments made by  
5       workers' compensation insurers in Illinois, and the  
6       national rank of Illinois based on average cost of medical  
7       claims per injured worker.

8       (8) The gross profitability of workers' compensation  
9       insurers in Illinois, and the national rank of Illinois  
10       based on profitability of workers' compensation insurers.

11       (9) The loss ratio of workers' compensation insurers in  
12       Illinois and the national rank of Illinois based on the  
13       loss ratio of workers' compensation insurers. For purposes  
14       of this loss ratio calculation, the denominator shall  
15       include all premiums and other fees collected by workers'  
16       compensation insurers and the numerator shall include the  
17       total amount paid by the insurer for care or compensation  
18       to injured workers.

19       Section 99. Effective date. This Act takes effect upon  
20       becoming law.".