



Sen. Randall M. Hultgren

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1 AMENDMENT TO SENATE BILL 1416

2 AMENDMENT NO. _____. Amend Senate Bill 1416 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Pension Code is amended by
5 changing Sections 3-114.5 and 4-114.2 as follows:

6 (40 ILCS 5/3-114.5) (from Ch. 108 1/2, par. 3-114.5)

7 Sec. 3-114.5. Waiver of temporary total disability
8 benefits and reduction ~~Reduction~~ of disability and survivor's
9 benefits for corresponding benefits payable under Workers'
10 Compensation and Workers' Occupational Diseases Acts.

11 (a) Whenever a person is entitled to a disability or
12 survivor's benefit under this Article and to benefits under the
13 Workers' Compensation Act or the Workers' Occupational
14 Diseases Act for the same injury or disease, the benefits
15 payable under this Article shall act as a waiver of temporary
16 total disability benefits under paragraph (b) of Section 8 of

1 the Workers' Compensation Act, effective as of the first date
2 for which benefits are payable under this Article. Other than
3 temporary total disability benefits under paragraph (b) of
4 Section 8 of the Workers' Compensation Act, the benefits
5 payable under this Article shall be reduced by an amount
6 computed in accordance with subsection (b) of this Section.
7 There shall be no reduction, however, for any of the following:
8 payments for medical, surgical and hospital services,
9 non-medical remedial care and treatment rendered in accordance
10 with a religious method of healing recognized by the laws of
11 this State and for artificial appliances; payments made for
12 scheduled losses for the loss of or permanent and complete or
13 permanent and partial loss of the use of any bodily member or
14 the body taken as a whole under subdivision (d)2 or subsection
15 (e) of Section 8 of the Workers' Compensation Act or Section 7
16 of the Workers' Occupational Diseases Act; payments made for
17 statutorily prescribed losses under subdivision (d)2 of
18 Section 8 of the Workers' Compensation Act or Section 7 of the
19 Workers' Occupational Diseases Act; and that portion of the
20 payments which is utilized to pay attorneys' fees and the costs
21 of securing the workers' compensation benefits under either the
22 Workers' Compensation Act or Workers' Occupational Diseases
23 Act.

24 (b) The reduction prescribed by this Section shall be
25 computed as follows:

26 (1) In the event that a person entitled to benefits

1 under this Article incurs costs or attorneys' fees in order
2 to establish his entitlement, the reduction prescribed by
3 this Section shall itself be reduced by the amount of such
4 costs and attorneys' fees.

5 (2) If the benefits deductible under this Section are
6 stated in a weekly amount, the monthly amount for the
7 purpose of this Section shall be 52 times the weekly
8 amount, divided by 12.

9 (Source: P.A. 84-1472.)

10 (40 ILCS 5/4-114.2) (from Ch. 108 1/2, par. 4-114.2)

11 Sec. 4-114.2. Waiver of temporary total disability
12 benefits and reduction ~~Reduction~~ of disability and survivor's
13 benefits for corresponding benefits payable under Workers'
14 Compensation and Workers' Occupational Diseases Acts.

15 (a) Whenever a person is entitled to a disability or
16 survivor's benefit under this Article and to benefits under the
17 Workers' Compensation Act or the Workers' Occupational
18 Diseases Act for the same injury or disease, the benefits
19 payable under this Article shall act as a waiver of temporary
20 total disability benefits under paragraph (b) of Section 8 of
21 the Workers' Compensation Act, effective as of the first date
22 for which benefits are payable under this Article. Other than
23 temporary total disability benefits under paragraph (b) of
24 Section 8 of the Workers' Compensation Act, the benefits
25 payable under this Article shall be reduced by an amount

1 computed in accordance with subsection (b) of this Section.
2 There shall be no reduction, however, for any of the following:
3 payments for medical, surgical and hospital services,
4 non-medical remedial care and treatment rendered in accordance
5 with a religious method of healing recognized by the laws of
6 this State and for artificial appliances; payments made for
7 scheduled losses for the loss of or permanent and complete or
8 permanent and partial loss of the use of any bodily member or
9 the body taken as a whole under subdivision (d)2 or subsection
10 (e) of Section 8 of the Workers' Compensation Act or Section 7
11 of the Workers' Occupational Diseases Act; payments made for
12 statutorily prescribed losses under subdivision (d)2 of
13 Section 8 of the Workers' Compensation Act or Section 7 of the
14 Workers' Occupational Diseases Act; and that portion of the
15 payments which is utilized to pay attorneys' fees and the costs
16 of securing the workers' compensation benefits under either the
17 Workers' Compensation Act or Workers' Occupational Diseases
18 Act.

19 (b) The reduction prescribed by this Section shall be
20 computed as follows:

21 (1) In the event that a person entitled to benefits
22 under this Article incurs costs or attorneys' fees in order
23 to establish his entitlement, the reduction prescribed by
24 this Section shall itself be reduced by the amount of such
25 costs and attorneys' fees.

26 (2) If the benefits deductible under this Section are

1 stated in a weekly amount, the monthly amount for the
2 purpose of this Section shall be 52 times the weekly
3 amount, divided by 12.

4 (Source: P.A. 84-1039.)

5 Section 10. The Workers' Compensation Act is amended by
6 changing Section 8 as follows:

7 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

11 (a) The employer shall provide and pay the negotiated rate,
12 if applicable, or the lesser of the health care provider's
13 actual charges or according to a fee schedule, subject to
14 Section 8.2, in effect at the time the service was rendered for
15 all the necessary first aid, medical and surgical services, and
16 all necessary medical, surgical and hospital services
17 thereafter incurred, limited, however, to that which is
18 reasonably required to cure or relieve from the effects of the
19 accidental injury. If the employer does not dispute payment of
20 first aid, medical, surgical, and hospital services, the
21 employer shall make such payment to the provider on behalf of
22 the employee. The employer shall also pay for treatment,
23 instruction and training necessary for the physical, mental and
24 vocational rehabilitation of the employee, including all

1 maintenance costs and expenses incidental thereto. If as a
2 result of the injury the employee is unable to be
3 self-sufficient the employer shall further pay for such
4 maintenance or institutional care as shall be required.

5 The employee may at any time elect to secure his own
6 physician, surgeon and hospital services at the employer's
7 expense, or,

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

1 field for which treatment is required. If the employee refuses
2 to make such change the Commission may relieve the employer of
3 his obligation to pay the doctor's charges from the date of
4 refusal to the date of compliance.

5 Any vocational rehabilitation counselors who provide
6 service under this Act shall have appropriate certifications
7 which designate the counselor as qualified to render opinions
8 relating to vocational rehabilitation. Vocational
9 rehabilitation may include, but is not limited to, counseling
10 for job searches, supervising a job search program, and
11 vocational retraining including education at an accredited
12 learning institution. The employee or employer may petition to
13 the Commission to decide disputes relating to vocational
14 rehabilitation and the Commission shall resolve any such
15 dispute, including payment of the vocational rehabilitation
16 program by the employer.

17 The maintenance benefit shall not be less than the
18 temporary total disability rate determined for the employee. In
19 addition, maintenance shall include costs and expenses
20 incidental to the vocational rehabilitation program.

21 When the employee is working light duty on a part-time
22 basis or full-time basis and earns less than he or she would be
23 earning if employed in the full capacity of the job or jobs,
24 then the employee shall be entitled to temporary partial
25 disability benefits. Temporary partial disability benefits
26 shall be equal to two-thirds of the difference between the

1 average amount that the employee would be able to earn in the
2 full performance of his or her duties in the occupation in
3 which he or she was engaged at the time of accident and the net
4 amount which he or she is earning in the modified job provided
5 to the employee by the employer or in any other job that the
6 employee is working.

7 Every hospital, physician, surgeon or other person
8 rendering treatment or services in accordance with the
9 provisions of this Section shall upon written request furnish
10 full and complete reports thereof to, and permit their records
11 to be copied by, the employer, the employee or his dependents,
12 as the case may be, or any other party to any proceeding for
13 compensation before the Commission, or their attorneys.

14 Notwithstanding the foregoing, the employer's liability to
15 pay for such medical services selected by the employee shall be
16 limited to:

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

18 (2) all medical, surgical and hospital services
19 provided by the physician, surgeon or hospital initially
20 chosen by the employee or by any other physician,
21 consultant, expert, institution or other provider of
22 services recommended by said initial service provider or
23 any subsequent provider of medical services in the chain of
24 referrals from said initial service provider; plus

25 (3) all medical, surgical and hospital services
26 provided by any second physician, surgeon or hospital

1 subsequently chosen by the employee or by any other
2 physician, consultant, expert, institution or other
3 provider of services recommended by said second service
4 provider or any subsequent provider of medical services in
5 the chain of referrals from said second service provider.
6 Thereafter the employer shall select and pay for all
7 necessary medical, surgical and hospital treatment and the
8 employee may not select a provider of medical services at
9 the employer's expense unless the employer agrees to such
10 selection. At any time the employee may obtain any medical
11 treatment he desires at his own expense. This paragraph
12 shall not affect the duty to pay for rehabilitation
13 referred to above.

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

26 Where the accidental injury results in the amputation of an

1 arm, hand, leg or foot, or the enucleation of an eye, or the
2 loss of any of the natural teeth, the employer shall furnish an
3 artificial of any such members lost or damaged in accidental
4 injury arising out of and in the course of employment, and
5 shall also furnish the necessary braces in all proper and
6 necessary cases. In cases of the loss of a member or members by
7 amputation, the employer shall, whenever necessary, maintain
8 in good repair, refit or replace the artificial limbs during
9 the lifetime of the employee. Where the accidental injury
10 accompanied by physical injury results in damage to a denture,
11 eye glasses or contact eye lenses, or where the accidental
12 injury results in damage to an artificial member, the employer
13 shall replace or repair such denture, glasses, lenses, or
14 artificial member.

15 The furnishing by the employer of any such services or
16 appliances is not an admission of liability on the part of the
17 employer to pay compensation.

18 The furnishing of any such services or appliances or the
19 servicing thereof by the employer is not the payment of
20 compensation.

21 (b) If the period of temporary total incapacity for work
22 lasts more than 3 working days, weekly compensation as
23 hereinafter provided shall be paid beginning on the 4th day of
24 such temporary total incapacity and continuing as long as the
25 total temporary incapacity lasts. In cases where the temporary
26 total incapacity for work continues for a period of 14 days or

1 more from the day of the accident compensation shall commence
2 on the day after the accident.

3 1. The compensation rate for temporary total
4 incapacity under this paragraph (b) of this Section shall
5 be equal to 66 2/3% of the employee's average weekly wage
6 computed in accordance with Section 10, provided that it
7 shall be not less than 66 2/3% of the sum of the Federal
8 minimum wage under the Fair Labor Standards Act, or the
9 Illinois minimum wage under the Minimum Wage Law, whichever
10 is more, multiplied by 40 hours. This percentage rate shall
11 be increased by 10% for each spouse and child, not to
12 exceed 100% of the total minimum wage calculation,
13 nor exceed the employee's average weekly wage computed in
14 accordance with the provisions of Section 10, whichever is
15 less.

16 2. The compensation rate in all cases other than for
17 temporary total disability under this paragraph (b), and
18 other than for serious and permanent disfigurement under
19 paragraph (c) and other than for permanent partial
20 disability under subparagraph (2) of paragraph (d) or under
21 paragraph (e), of this Section shall be equal to 66 2/3% of
22 the employee's average weekly wage computed in accordance
23 with the provisions of Section 10, provided that it shall
24 be not less than 66 2/3% of the sum of the Federal minimum
25 wage under the Fair Labor Standards Act, or the Illinois
26 minimum wage under the Minimum Wage Law, whichever is more,

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

7 2.1. The compensation rate in all cases of serious and
8 permanent disfigurement under paragraph (c) and of
9 permanent partial disability under subparagraph (2) of
10 paragraph (d) or under paragraph (e) of this Section shall
11 be equal to 60% of the employee's average weekly wage
12 computed in accordance with the provisions of Section 10,
13 provided that it shall be not less than $66 \frac{2}{3}\%$ of the sum
14 of the Federal minimum wage under the Fair Labor Standards
15 Act, or the Illinois minimum wage under the Minimum Wage
16 Law, whichever is more, multiplied by 40 hours. This
17 percentage rate shall be increased by 10% for each spouse
18 and child, not to exceed 100% of the total minimum wage
19 calculation,
20 nor exceed the employee's average weekly wage computed in
21 accordance with the provisions of Section 10, whichever is
22 less.

23 3. As used in this Section the term "child" means a
24 child of the employee including any child legally adopted
25 before the accident or whom at the time of the accident the
26 employee was under legal obligation to support or to whom

1 the employee stood in loco parentis, and who at the time of
2 the accident was under 18 years of age and not emancipated.
3 The term "children" means the plural of "child".

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

7 The maximum weekly compensation rate from July 1, 1975,
8 except as hereinafter provided, shall be 100% of the
9 State's average weekly wage in covered industries under the
10 Unemployment Insurance Act, that being the wage that most
11 closely approximates the State's average weekly wage.

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

25 The maximum weekly compensation rate, for the period
26 January 1, 1981 through December 31, 1983, except as

1 hereinafter provided, shall be 100% of the State's average
2 weekly wage in covered industries under the Unemployment
3 Insurance Act in effect on January 1, 1981. Effective
4 January 1, 1984 and on January 1, of each year thereafter
5 the maximum weekly compensation rate, except as
6 hereinafter provided, shall be determined as follows: if
7 during the preceding 12 month period there shall have been
8 an increase in the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act, the
10 weekly compensation rate shall be proportionately
11 increased by the same percentage as the percentage of
12 increase in the State's average weekly wage in covered
13 industries under the Unemployment Insurance Act during
14 such period.

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

24 For injuries occurring on or after February 1, 2006,
25 the maximum weekly benefit under paragraph (d)1 of this
26 Section shall be 100% of the State's average weekly wage in

1 covered industries under the Unemployment Insurance Act.

2 4.1. Any provision herein to the contrary
3 notwithstanding, the weekly compensation rate for
4 compensation payments under subparagraph 18 of paragraph
5 (e) of this Section and under paragraph (f) of this Section
6 and under paragraph (a) of Section 7 and for amputation of
7 a member or enucleation of an eye under paragraph (e) of
8 this Section, shall in no event be less than 50% of the
9 State's average weekly wage in covered industries under the
10 Unemployment Insurance Act.

11 4.2. Any provision to the contrary notwithstanding,
12 the total compensation payable under Section 7 shall not
13 exceed the greater of \$500,000 or 25 years.

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

20 6. The Department of Employment Security of the State
21 shall on or before the first day of December, 1977, and on
22 or before the first day of June, 1978, and on the first day
23 of each December and June of each year thereafter, publish
24 the State's average weekly wage in covered industries under
25 the Unemployment Insurance Act and the Illinois Workers'
26 Compensation Commission shall on the 15th day of January,

1 1978 and on the 15th day of July, 1978 and on the 15th day
2 of each January and July of each year thereafter, post and
3 publish the State's average weekly wage in covered
4 industries under the Unemployment Insurance Act as last
5 determined and published by the Department of Employment
6 Security. The amount when so posted and published shall be
7 conclusive and shall be applicable as the basis of
8 computation of compensation rates until the next posting
9 and publication as aforesaid.

10 7. The payment of compensation by an employer or his
11 insurance carrier to an injured employee shall not
12 constitute an admission of the employer's liability to pay
13 compensation.

14 Compensation under this paragraph (b) is subject to the
15 provisions of Sections 3-114.5 and 4-114.2 of the Illinois
16 Pension Code.

17 (c) For any serious and permanent disfigurement to the
18 hand, head, face, neck, arm, leg below the knee or the chest
19 above the axillary line, the employee is entitled to
20 compensation for such disfigurement, the amount determined by
21 agreement at any time or by arbitration under this Act, at a
22 hearing not less than 6 months after the date of the accidental
23 injury, which amount shall not exceed 150 weeks (if the
24 accidental injury occurs on or after the effective date of this
25 amendatory Act of the 94th General Assembly but before February
26 1, 2006) or 162 weeks (if the accidental injury occurs on or

1 after February 1, 2006) at the applicable rate provided in
2 subparagraph 2.1 of paragraph (b) of this Section.

3 No compensation is payable under this paragraph where
4 compensation is payable under paragraphs (d), (e) or (f) of
5 this Section.

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

11 (d) 1. If, after the accidental injury has been sustained,
12 the employee as a result thereof becomes partially
13 incapacitated from pursuing his usual and customary line of
14 employment, he shall, except in cases compensated under the
15 specific schedule set forth in paragraph (e) of this Section,
16 receive compensation for the duration of his disability,
17 subject to the limitations as to maximum amounts fixed in
18 paragraph (b) of this Section, equal to 66-2/3% of the
19 difference between the average amount which he would be able to
20 earn in the full performance of his duties in the occupation in
21 which he was engaged at the time of the accident and the
22 average amount which he is earning or is able to earn in some
23 suitable employment or business after the accident.

24 2. If, as a result of the accident, the employee sustains
25 serious and permanent injuries not covered by paragraphs (c)
26 and (e) of this Section or having sustained injuries covered by

1 the aforesaid paragraphs (c) and (e), he shall have sustained
2 in addition thereto other injuries which injuries do not
3 incapacitate him from pursuing the duties of his employment but
4 which would disable him from pursuing other suitable
5 occupations, or which have otherwise resulted in physical
6 impairment; or if such injuries partially incapacitate him from
7 pursuing the duties of his usual and customary line of
8 employment but do not result in an impairment of earning
9 capacity, or having resulted in an impairment of earning
10 capacity, the employee elects to waive his right to recover
11 under the foregoing subparagraph 1 of paragraph (d) of this
12 Section then in any of the foregoing events, he shall receive
13 in addition to compensation for temporary total disability
14 under paragraph (b) of this Section, compensation at the rate
15 provided in subparagraph 2.1 of paragraph (b) of this Section
16 for that percentage of 500 weeks that the partial disability
17 resulting from the injuries covered by this paragraph bears to
18 total disability. If the employee shall have sustained a
19 fracture of one or more vertebra or fracture of the skull, the
20 amount of compensation allowed under this Section shall be not
21 less than 6 weeks for a fractured skull and 6 weeks for each
22 fractured vertebra, and in the event the employee shall have
23 sustained a fracture of any of the following facial bones:
24 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
25 mandible, the amount of compensation allowed under this Section
26 shall be not less than 2 weeks for each such fractured bone,

1 and for a fracture of each transverse process not less than 3
2 weeks. In the event such injuries shall result in the loss of a
3 kidney, spleen or lung, the amount of compensation allowed
4 under this Section shall be not less than 10 weeks for each
5 such organ. Compensation awarded under this subparagraph 2
6 shall not take into consideration injuries covered under
7 paragraphs (c) and (e) of this Section and the compensation
8 provided in this paragraph shall not affect the employee's
9 right to compensation payable under paragraphs (b), (c) and (e)
10 of this Section for the disabilities therein covered.

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

21 1. Thumb-

22 70 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 76 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 2. First, or index finger-

2 40 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 43 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 3. Second, or middle finger-

8 35 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 38 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 4. Third, or ring finger-

14 25 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 27 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 5. Fourth, or little finger-

20 20 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 22 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 6. Great toe-

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 7. Each toe other than great toe-

6 12 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 13 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 8. The loss of the first or distal phalanx of the thumb
12 or of any finger or toe shall be considered to be equal to
13 the loss of one-half of such thumb, finger or toe and the
14 compensation payable shall be one-half of the amount above
15 specified. The loss of more than one phalanx shall be
16 considered as the loss of the entire thumb, finger or toe.
17 In no case shall the amount received for more than one
18 finger exceed the amount provided in this schedule for the
19 loss of a hand.

20 9. Hand-

21 190 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.

24 205 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 The loss of 2 or more digits, or one or more phalanges

1 of 2 or more digits, of a hand may be compensated on the
2 basis of partial loss of use of a hand, provided, further,
3 that the loss of 4 digits, or the loss of use of 4 digits,
4 in the same hand shall constitute the complete loss of a
5 hand.

6 10. Arm-

7 235 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.

10 253 weeks if the accidental injury occurs on or
11 after February 1, 2006.

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

1 this amendatory Act of the 94th General Assembly but before
2 February 1, 2006) or an additional 70 weeks (if the
3 accidental injury occurs on or after February 1, 2006)
4 shall be paid.

5 11. Foot-

6 155 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.

9 167 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 12. Leg-

12 200 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.

15 215 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 Where an accidental injury results in the amputation of
18 a leg below the knee, such injury shall be compensated as
19 loss of a leg. Where an accidental injury results in the
20 amputation of a leg above the knee, compensation for an
21 additional 25 weeks (if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the 94th
23 General Assembly but before February 1, 2006) or an
24 additional 27 weeks (if the accidental injury occurs on or
25 after February 1, 2006) shall be paid, except where the
26 accidental injury results in the amputation of a leg at the

1 hip joint, or so close to the hip joint that an artificial
2 leg cannot be used, or results in the disarticulation of a
3 leg at the hip joint, in which case compensation for an
4 additional 75 weeks (if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the 94th
6 General Assembly but before February 1, 2006) or an
7 additional 81 weeks (if the accidental injury occurs on or
8 after February 1, 2006) shall be paid.

9 13. Eye-

10 150 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 162 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 Where an accidental injury results in the enucleation
16 of an eye, compensation for an additional 10 weeks (if the
17 accidental injury occurs on or after the effective date of
18 this amendatory Act of the 94th General Assembly but before
19 February 1, 2006) or an additional 11 weeks (if the
20 accidental injury occurs on or after February 1, 2006)
21 shall be paid.

22 14. Loss of hearing of one ear-

23 50 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 54 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 Total and permanent loss of hearing of both ears-

3 200 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 215 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 15. Testicle-

9 50 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 54 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 Both testicles-

15 150 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.

18 162 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 16. For the permanent partial loss of use of a member
21 or sight of an eye, or hearing of an ear, compensation
22 during that proportion of the number of weeks in the
23 foregoing schedule provided for the loss of such member or
24 sight of an eye, or hearing of an ear, which the partial
25 loss of use thereof bears to the total loss of use of such
26 member, or sight of eye, or hearing of an ear.

1 (a) Loss of hearing for compensation purposes
2 shall be confined to the frequencies of 1,000, 2,000
3 and 3,000 cycles per second. Loss of hearing ability
4 for frequency tones above 3,000 cycles per second are
5 not to be considered as constituting disability for
6 hearing.

7 (b) The percent of hearing loss, for purposes of
8 the determination of compensation claims for
9 occupational deafness, shall be calculated as the
10 average in decibels for the thresholds of hearing for
11 the frequencies of 1,000, 2,000 and 3,000 cycles per
12 second. Pure tone air conduction audiometric
13 instruments, approved by nationally recognized
14 authorities in this field, shall be used for measuring
15 hearing loss. If the losses of hearing average 30
16 decibels or less in the 3 frequencies, such losses of
17 hearing shall not then constitute any compensable
18 hearing disability. If the losses of hearing average 85
19 decibels or more in the 3 frequencies, then the same
20 shall constitute and be total or 100% compensable
21 hearing loss.

22 (c) In measuring hearing impairment, the lowest
23 measured losses in each of the 3 frequencies shall be
24 added together and divided by 3 to determine the
25 average decibel loss. For every decibel of loss
26 exceeding 30 decibels an allowance of 1.82% shall be

1 made up to the maximum of 100% which is reached at 85
2 decibels.

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

8 (e) No consideration shall be given to the question
9 of whether or not the ability of an employee to
10 understand speech is improved by the use of a hearing
11 aid.

12 (f) No claim for loss of hearing due to industrial
13 noise shall be brought against an employer or allowed
14 unless the employee has been exposed for a period of
15 time sufficient to cause permanent impairment to noise
16 levels in excess of the following:

17 Sound Level DBA

18	Slow Response	Hours Per Day
19	90	8
20	92	6
21	95	4
22	97	3
23	100	2
24	102	1-1/2
25	105	1
26	110	1/2

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

17. In computing the compensation to be paid to any employee who, before the accident for which he claims compensation, had before that time sustained an injury resulting in the loss by amputation or partial loss by amputation of any member, including hand, arm, thumb or fingers, leg, foot or any toes, such loss or partial loss of any such member shall be deducted from any award made for the subsequent injury. For the permanent loss of use or the permanent partial loss of use of any such member or the partial loss of sight of an eye, for which compensation has been paid, then such loss shall be taken into consideration and deducted from any award for the subsequent injury.

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

Any employee who has previously suffered the loss or permanent and complete loss of the use of any of such members, and in a subsequent independent accident loses another or suffers the permanent and complete loss of the

1 use of any one of such members the employer for whom the
2 injured employee is working at the time of the last
3 independent accident is liable to pay compensation only for
4 the loss or permanent and complete loss of the use of the
5 member occasioned by the last independent accident.

6 19. In a case of specific loss and the subsequent death
7 of such injured employee from other causes than such injury
8 leaving a widow, widower, or dependents surviving before
9 payment or payment in full for such injury, then the amount
10 due for such injury is payable to the widow or widower and,
11 if there be no widow or widower, then to such dependents,
12 in the proportion which such dependency bears to total
13 dependency.

14 Beginning July 1, 1980, and every 6 months thereafter, the
15 Commission shall examine the Second Injury Fund and when, after
16 deducting all advances or loans made to such Fund, the amount
17 therein is \$500,000 then the amount required to be paid by
18 employers pursuant to paragraph (f) of Section 7 shall be
19 reduced by one-half. When the Second Injury Fund reaches the
20 sum of \$600,000 then the payments shall cease entirely.
21 However, when the Second Injury Fund has been reduced to
22 \$400,000, payment of one-half of the amounts required by
23 paragraph (f) of Section 7 shall be resumed, in the manner
24 herein provided, and when the Second Injury Fund has been
25 reduced to \$300,000, payment of the full amounts required by
26 paragraph (f) of Section 7 shall be resumed, in the manner

1 herein provided. The Commission shall make the changes in
2 payment effective by general order, and the changes in payment
3 become immediately effective for all cases coming before the
4 Commission thereafter either by settlement agreement or final
5 order, irrespective of the date of the accidental injury.

6 On August 1, 1996 and on February 1 and August 1 of each
7 subsequent year, the Commission shall examine the special fund
8 designated as the "Rate Adjustment Fund" and when, after
9 deducting all advances or loans made to said fund, the amount
10 therein is \$4,000,000, the amount required to be paid by
11 employers pursuant to paragraph (f) of Section 7 shall be
12 reduced by one-half. When the Rate Adjustment Fund reaches the
13 sum of \$5,000,000 the payment therein shall cease entirely.
14 However, when said Rate Adjustment Fund has been reduced to
15 \$3,000,000 the amounts required by paragraph (f) of Section 7
16 shall be resumed in the manner herein provided.

17 (f) In case of complete disability, which renders the
18 employee wholly and permanently incapable of work, or in the
19 specific case of total and permanent disability as provided in
20 subparagraph 18 of paragraph (e) of this Section, compensation
21 shall be payable at the rate provided in subparagraph 2 of
22 paragraph (b) of this Section for life.

23 An employee entitled to benefits under paragraph (f) of
24 this Section shall also be entitled to receive from the Rate
25 Adjustment Fund provided in paragraph (f) of Section 7 of the
26 supplementary benefits provided in paragraph (g) of this

1 Section 8.

2 If any employee who receives an award under this paragraph
3 afterwards returns to work or is able to do so, and earns or is
4 able to earn as much as before the accident, payments under
5 such award shall cease. If such employee returns to work, or is
6 able to do so, and earns or is able to earn part but not as much
7 as before the accident, such award shall be modified so as to
8 conform to an award under paragraph (d) of this Section. If
9 such award is terminated or reduced under the provisions of
10 this paragraph, such employees have the right at any time
11 within 30 months after the date of such termination or
12 reduction to file petition with the Commission for the purpose
13 of determining whether any disability exists as a result of the
14 original accidental injury and the extent thereof.

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

17 If an employee who had previously incurred loss or the
18 permanent and complete loss of use of one member, through the
19 loss or the permanent and complete loss of the use of one hand,
20 one arm, one foot, one leg, or one eye, incurs permanent and
21 complete disability through the loss or the permanent and
22 complete loss of the use of another member, he shall receive,
23 in addition to the compensation payable by the employer and
24 after such payments have ceased, an amount from the Second
25 Injury Fund provided for in paragraph (f) of Section 7, which,
26 together with the compensation payable from the employer in

1 whose employ he was when the last accidental injury was
2 incurred, will equal the amount payable for permanent and
3 complete disability as provided in this paragraph of this
4 Section.

5 The custodian of the Second Injury Fund provided for in
6 paragraph (f) of Section 7 shall be joined with the employer as
7 a party respondent in the application for adjustment of claim.
8 The application for adjustment of claim shall state briefly and
9 in general terms the approximate time and place and manner of
10 the loss of the first member.

11 In its award the Commission or the Arbitrator shall
12 specifically find the amount the injured employee shall be
13 weekly paid, the number of weeks compensation which shall be
14 paid by the employer, the date upon which payments begin out of
15 the Second Injury Fund provided for in paragraph (f) of Section
16 7 of this Act, the length of time the weekly payments continue,
17 the date upon which the pension payments commence and the
18 monthly amount of the payments. The Commission shall 30 days
19 after the date upon which payments out of the Second Injury
20 Fund have begun as provided in the award, and every month
21 thereafter, prepare and submit to the State Comptroller a
22 voucher for payment for all compensation accrued to that date
23 at the rate fixed by the Commission. The State Comptroller
24 shall draw a warrant to the injured employee along with a
25 receipt to be executed by the injured employee and returned to
26 the Commission. The endorsed warrant and receipt is a full and

1 complete acquittance to the Commission for the payment out of
2 the Second Injury Fund. No other appropriation or warrant is
3 necessary for payment out of the Second Injury Fund. The Second
4 Injury Fund is appropriated for the purpose of making payments
5 according to the terms of the awards.

6 As of July 1, 1980 to July 1, 1982, all claims against and
7 obligations of the Second Injury Fund shall become claims
8 against and obligations of the Rate Adjustment Fund to the
9 extent there is insufficient money in the Second Injury Fund to
10 pay such claims and obligations. In that case, all references
11 to "Second Injury Fund" in this Section shall also include the
12 Rate Adjustment Fund.

13 (g) Every award for permanent total disability entered by
14 the Commission on and after July 1, 1965 under which
15 compensation payments shall become due and payable after the
16 effective date of this amendatory Act, and every award for
17 death benefits or permanent total disability entered by the
18 Commission on and after the effective date of this amendatory
19 Act shall be subject to annual adjustments as to the amount of
20 the compensation rate therein provided. Such adjustments shall
21 first be made on July 15, 1977, and all awards made and entered
22 prior to July 1, 1975 and on July 15 of each year thereafter.
23 In all other cases such adjustment shall be made on July 15 of
24 the second year next following the date of the entry of the
25 award and shall further be made on July 15 annually thereafter.
26 If during the intervening period from the date of the entry of

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

26 Provided, that in cases of awards entered by the Commission

1 for injuries occurring before July 1, 1975, the increases in
2 the compensation rate adjusted under the foregoing provision of
3 this paragraph (g) shall be limited to increases in the State's
4 average weekly wage in covered industries under the
5 Unemployment Insurance Act occurring after July 1, 1975.

6 For every accident occurring on or after July 20, 2005 but
7 before the effective date of this amendatory Act of the 94th
8 General Assembly (Senate Bill 1283 of the 94th General
9 Assembly), the annual adjustments to the compensation rate in
10 awards for death benefits or permanent total disability, as
11 provided in this Act, shall be paid by the employer. The
12 adjustment shall be made by the employer on July 15 of the
13 second year next following the date of the entry of the award
14 and shall further be made on July 15 annually thereafter. If
15 during the intervening period from the date of the entry of the
16 award, or the last periodic adjustment, there shall have been
17 an increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act, the employer
19 shall increase the weekly compensation rate proportionately by
20 the same percentage as the percentage of increase in the
21 State's average weekly wage in covered industries under the
22 Unemployment Insurance Act. The increase in the compensation
23 rate under this paragraph shall in no event bring the total
24 compensation rate to an amount greater than the prevailing
25 maximum rate at the time that the annual adjustment is made. In
26 the event of a decrease in such average weekly wage there shall

1 be no change in the then existing compensation rate. Such
2 increase shall be paid by the employer in the same manner and
3 at the same intervals as the payment of compensation in the
4 award. This paragraph shall not apply to cases where there is
5 disputed liability and in which a compromise lump sum
6 settlement between the employer and the injured employee, or
7 his or her dependents, as the case may be, has been duly
8 approved by the Illinois Workers' Compensation Commission.

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

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

25 (h-1) In case an injured employee is under legal disability
26 at the time when any right or privilege accrues to him or her

1 under this Act, a guardian may be appointed pursuant to law,
2 and may, on behalf of such person under legal disability, claim
3 and exercise any such right or privilege with the same effect
4 as if the employee himself or herself had claimed or exercised
5 the right or privilege. No limitations of time provided by this
6 Act run so long as the employee who is under legal disability
7 is without a conservator or guardian.

8 (i) In case the injured employee is under 16 years of age
9 at the time of the accident and is illegally employed, the
10 amount of compensation payable under paragraphs (b), (c), (d),
11 (e) and (f) of this Section is increased 50%.

12 However, where an employer has on file an employment
13 certificate issued pursuant to the Child Labor Law or work
14 permit issued pursuant to the Federal Fair Labor Standards Act,
15 as amended, or a birth certificate properly and duly issued,
16 such certificate, permit or birth certificate is conclusive
17 evidence as to the age of the injured minor employee for the
18 purposes of this Section.

19 Nothing herein contained repeals or amends the provisions
20 of the Child Labor Law relating to the employment of minors
21 under the age of 16 years.

22 (j) 1. In the event the injured employee receives benefits,
23 including medical, surgical or hospital benefits under any
24 group plan covering non-occupational disabilities contributed
25 to wholly or partially by the employer, which benefits should
26 not have been payable if any rights of recovery existed under

1 this Act, then such amounts so paid to the employee from any
2 such group plan as shall be consistent with, and limited to,
3 the provisions of paragraph 2 hereof, shall be credited to or
4 against any compensation payment for temporary total
5 incapacity for work or any medical, surgical or hospital
6 benefits made or to be made under this Act. In such event, the
7 period of time for giving notice of accidental injury and
8 filing application for adjustment of claim does not commence to
9 run until the termination of such payments. This paragraph does
10 not apply to payments made under any group plan which would
11 have been payable irrespective of an accidental injury under
12 this Act. Any employer receiving such credit shall keep such
13 employee safe and harmless from any and all claims or
14 liabilities that may be made against him by reason of having
15 received such payments only to the extent of such credit.

16 Any excess benefits paid to or on behalf of a State
17 employee by the State Employees' Retirement System under
18 Article 14 of the Illinois Pension Code on a death claim or
19 disputed disability claim shall be credited against any
20 payments made or to be made by the State of Illinois to or on
21 behalf of such employee under this Act, except for payments for
22 medical expenses which have already been incurred at the time
23 of the award. The State of Illinois shall directly reimburse
24 the State Employees' Retirement System to the extent of such
25 credit.

26 2. Nothing contained in this Act shall be construed to give

1 the employer or the insurance carrier the right to credit for
2 any benefits or payments received by the employee other than
3 compensation payments provided by this Act, and where the
4 employee receives payments other than compensation payments,
5 whether as full or partial salary, group insurance benefits,
6 bonuses, annuities or any other payments, the employer or
7 insurance carrier shall receive credit for each such payment
8 only to the extent of the compensation that would have been
9 payable during the period covered by such payment.

10 3. The extension of time for the filing of an Application
11 for Adjustment of Claim as provided in paragraph 1 above shall
12 not apply to those cases where the time for such filing had
13 expired prior to the date on which payments or benefits
14 enumerated herein have been initiated or resumed. Provided
15 however that this paragraph 3 shall apply only to cases wherein
16 the payments or benefits hereinabove enumerated shall be
17 received after July 1, 1969.

18 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
19 94-695, eff. 11-16-05.)

20 Section 90. The State Mandates Act is amended by adding
21 Section 8.33 as follows:

22 (30 ILCS 805/8.33 new)

23 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
24 of this Act, no reimbursement by the State is required for the

1 implementation of any mandate created by this amendatory Act of
2 the 96th General Assembly.

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.".