



Sen. Kwame Raoul

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1 AMENDMENT TO HOUSE BILL 1698

2 AMENDMENT NO. _____. Amend House Bill 1698 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Department of Central Management Services
5 Law of the Civil Administrative Code of Illinois is amended by
6 changing Sections 405-105 and 405-411 as follows:

7 (20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

8 Sec. 405-105. Fidelity, surety, property, and casualty
9 insurance. The Department shall establish and implement a
10 program to coordinate the handling of all fidelity, surety,
11 property, and casualty insurance exposures of the State and the
12 departments, divisions, agencies, branches, and universities
13 of the State. In performing this responsibility, the Department
14 shall have the power and duty to do the following:

15 (1) Develop and maintain loss and exposure data on all
16 State property.

1 (2) Study the feasibility of establishing a
2 self-insurance plan for State property and prepare
3 estimates of the costs of reinsurance for risks beyond the
4 realistic limits of the self-insurance.

5 (3) Prepare a plan for centralizing the purchase of
6 property and casualty insurance on State property under a
7 master policy or policies and purchase the insurance
8 contracted for as provided in the Illinois Purchasing Act.

9 (4) Evaluate existing provisions for fidelity bonds
10 required of State employees and recommend changes that are
11 appropriate commensurate with risk experience and the
12 determinations respecting self-insurance or reinsurance so
13 as to permit reduction of costs without loss of coverage.

14 (5) Investigate procedures for inclusion of school
15 districts, public community college districts, and other
16 units of local government in programs for the centralized
17 purchase of insurance.

18 (6) Implement recommendations of the State Property
19 Insurance Study Commission that the Department finds
20 necessary or desirable in the performance of its powers and
21 duties under this Section to achieve efficient and
22 comprehensive risk management.

23 (7) Prepare and, in the discretion of the Director,
24 implement a plan providing for the purchase of public
25 liability insurance or for self-insurance for public
26 liability or for a combination of purchased insurance and

1 self-insurance for public liability (i) covering the State
2 and drivers of motor vehicles owned, leased, or controlled
3 by the State of Illinois pursuant to the provisions and
4 limitations contained in the Illinois Vehicle Code, (ii)
5 covering other public liability exposures of the State and
6 its employees within the scope of their employment, and
7 (iii) covering drivers of motor vehicles not owned, leased,
8 or controlled by the State but used by a State employee on
9 State business, in excess of liability covered by an
10 insurance policy obtained by the owner of the motor vehicle
11 or in excess of the dollar amounts that the Department
12 shall determine to be reasonable. Any contract of insurance
13 let under this Law shall be by bid in accordance with the
14 procedure set forth in the Illinois Purchasing Act. Any
15 provisions for self-insurance shall conform to subdivision
16 (11).

17 The term "employee" as used in this subdivision (7) and
18 in subdivision (11) means a person while in the employ of
19 the State who is a member of the staff or personnel of a
20 State agency, bureau, board, commission, committee,
21 department, university, or college or who is a State
22 officer, elected official, commissioner, member of or ex
23 officio member of a State agency, bureau, board,
24 commission, committee, department, university, or college,
25 or a member of the National Guard while on active duty
26 pursuant to orders of the Governor of the State of

1 Illinois, or any other person while using a licensed motor
2 vehicle owned, leased, or controlled by the State of
3 Illinois with the authorization of the State of Illinois,
4 provided the actual use of the motor vehicle is within the
5 scope of that authorization and within the course of State
6 service.

7 Subsequent to payment of a claim on behalf of an
8 employee pursuant to this Section and after reasonable
9 advance written notice to the employee, the Director may
10 exclude the employee from future coverage or limit the
11 coverage under the plan if (i) the Director determines that
12 the claim resulted from an incident in which the employee
13 was grossly negligent or had engaged in willful and wanton
14 misconduct or (ii) the Director determines that the
15 employee is no longer an acceptable risk based on a review
16 of prior accidents in which the employee was at fault and
17 for which payments were made pursuant to this Section.

18 The Director is authorized to promulgate
19 administrative rules that may be necessary to establish and
20 administer the plan.

21 Appropriations from the Road Fund shall be used to pay
22 auto liability claims and related expenses involving
23 employees of the Department of Transportation, the
24 Illinois State Police, and the Secretary of State.

25 (8) Charge, collect, and receive from all other
26 agencies of the State government fees or monies equivalent

1 to the cost of purchasing the insurance.

2 (9) Establish, through the Director, charges for risk
3 management services rendered to State agencies by the
4 Department. The State agencies so charged shall reimburse
5 the Department by vouchers drawn against their respective
6 appropriations. The reimbursement shall be determined by
7 the Director as amounts sufficient to reimburse the
8 Department for expenditures incurred in rendering the
9 service.

10 The Department shall charge the employing State agency
11 or university for workers' compensation payments for
12 temporary total disability paid to any employee after the
13 employee has received temporary total disability payments
14 for 120 days if the employee's treating physician has
15 issued a release to return to work with restrictions and
16 the employee is able to perform modified duty work but the
17 employing State agency or university does not return the
18 employee to work at modified duty. Modified duty shall be
19 duties assigned that may or may not be delineated as part
20 of the duties regularly performed by the employee. Modified
21 duties shall be assigned within the prescribed
22 restrictions established by the treating physician and the
23 physician who performed the independent medical
24 examination. The amount of all reimbursements shall be
25 deposited into the Workers' Compensation Revolving Fund
26 which is hereby created as a revolving fund in the State

1 treasury. In addition to any other purpose authorized by
2 law, moneys in the Fund shall be used, subject to
3 appropriation, to pay these or other temporary total
4 disability claims of employees of State agencies and
5 universities.

6 Beginning with fiscal year 1996, all amounts recovered
7 by the Department through subrogation in workers'
8 compensation and workers' occupational disease cases shall
9 be deposited into the Workers' Compensation Revolving Fund
10 created under this subdivision (9).

11 (10) Establish rules, procedures, and forms to be used
12 by State agencies in the administration and payment of
13 workers' compensation claims. The Department shall
14 initially evaluate and determine the compensability of any
15 injury that is the subject of a workers' compensation claim
16 and provide for the administration and payment of such a
17 claim for all State agencies. The Director may delegate to
18 any agency with the agreement of the agency head the
19 responsibility for evaluation, administration, and payment
20 of that agency's claims.

21 (10a) If the Director determines it would be in the
22 best interests of the State and its employees, prepare and
23 implement a plan providing for: (i) the purchase of
24 workers' compensation insurance for workers' compensation
25 liability; (ii) third-party administration of
26 self-insurance, in whole or in part, for workers'

1 compensation liability; or (iii) a combination of
2 purchased insurance and self-insurance for workers'
3 compensation liability, including reinsurance or stop-loss
4 insurance. Any contract for insurance or third-party
5 administration shall be on terms consistent with State
6 policy; awarded in compliance with the Illinois
7 Procurement Code; and based on, but not limited to, the
8 following criteria: administrative cost, service
9 capabilities of the carrier or other contractor and
10 premiums, fees, or charges. By April 1 of each year, the
11 Director must report and provide information to the State
12 Workers' Compensation Program Advisory Board concerning
13 the status of the State workers' compensation program for
14 the next fiscal year. Information includes, but is not
15 limited to, documents, reports of negotiations, bid
16 invitations, requests for proposals, specifications,
17 copies of proposed and final contracts or agreements, and
18 any other materials concerning contracts or agreements for
19 the program. By the first of each month thereafter, the
20 Director must provide updated, and any new, information to
21 the State Workers' Compensation Program Advisory Board
22 until the State workers' compensation program for the next
23 fiscal year is determined.

24 (11) Any plan for public liability self-insurance
25 implemented under this Section shall provide that (i) the
26 Department shall attempt to settle and may settle any

1 public liability claim filed against the State of Illinois
2 or any public liability claim filed against a State
3 employee on the basis of an occurrence in the course of the
4 employee's State employment; (ii) any settlement of such a
5 claim is not subject to fiscal year limitations and must be
6 approved by the Director and, in cases of settlements
7 exceeding \$100,000, by the Governor; and (iii) a settlement
8 of any public liability claim against the State or a State
9 employee shall require an unqualified release of any right
10 of action against the State and the employee for acts
11 within the scope of the employee's employment giving rise
12 to the claim.

13 Whenever and to the extent that a State employee
14 operates a motor vehicle or engages in other activity
15 covered by self-insurance under this Section, the State of
16 Illinois shall defend, indemnify, and hold harmless the
17 employee against any claim in tort filed against the
18 employee for acts or omissions within the scope of the
19 employee's employment in any proper judicial forum and not
20 settled pursuant to this subdivision (11), provided that
21 this obligation of the State of Illinois shall not exceed a
22 maximum liability of \$2,000,000 for any single occurrence
23 in connection with the operation of a motor vehicle or
24 \$100,000 per person per occurrence for any other single
25 occurrence, or \$500,000 for any single occurrence in
26 connection with the provision of medical care by a licensed

1 physician employee.

2 Any claims against the State of Illinois under a
3 self-insurance plan that are not settled pursuant to this
4 subdivision (11) shall be heard and determined by the Court
5 of Claims and may not be filed or adjudicated in any other
6 forum. The Attorney General of the State of Illinois or the
7 Attorney General's designee shall be the attorney with
8 respect to all public liability self-insurance claims that
9 are not settled pursuant to this subdivision (11) and
10 therefore result in litigation. The payment of any award of
11 the Court of Claims entered against the State relating to
12 any public liability self-insurance claim shall act as a
13 release against any State employee involved in the
14 occurrence.

15 (12) Administer a plan the purpose of which is to make
16 payments on final settlements or final judgments in
17 accordance with the State Employee Indemnification Act.
18 The plan shall be funded through appropriations from the
19 General Revenue Fund specifically designated for that
20 purpose, except that indemnification expenses for
21 employees of the Department of Transportation, the
22 Illinois State Police, and the Secretary of State shall be
23 paid from the Road Fund. The term "employee" as used in
24 this subdivision (12) has the same meaning as under
25 subsection (b) of Section 1 of the State Employee
26 Indemnification Act. Subject to sufficient appropriation,

1 the Director shall approve payment of any claim, without
2 regard to fiscal year limitations, presented to the
3 Director that is supported by a final settlement or final
4 judgment when the Attorney General and the chief officer of
5 the public body against whose employee the claim or cause
6 of action is asserted certify to the Director that the
7 claim is in accordance with the State Employee
8 Indemnification Act and that they approve of the payment.
9 In no event shall an amount in excess of \$150,000 be paid
10 from this plan to or for the benefit of any claimant.

11 (13) Administer a plan the purpose of which is to make
12 payments on final settlements or final judgments for
13 employee wage claims in situations where there was an
14 appropriation relevant to the wage claim, the fiscal year
15 and lapse period have expired, and sufficient funds were
16 available to pay the claim. The plan shall be funded
17 through appropriations from the General Revenue Fund
18 specifically designated for that purpose.

19 Subject to sufficient appropriation, the Director is
20 authorized to pay any wage claim presented to the Director
21 that is supported by a final settlement or final judgment
22 when the chief officer of the State agency employing the
23 claimant certifies to the Director that the claim is a
24 valid wage claim and that the fiscal year and lapse period
25 have expired. Payment for claims that are properly
26 submitted and certified as valid by the Director shall

1 include interest accrued at the rate of 7% per annum from
2 the forty-fifth day after the claims are received by the
3 Department or 45 days from the date on which the amount of
4 payment is agreed upon, whichever is later, until the date
5 the claims are submitted to the Comptroller for payment.
6 When the Attorney General has filed an appearance in any
7 proceeding concerning a wage claim settlement or judgment,
8 the Attorney General shall certify to the Director that the
9 wage claim is valid before any payment is made. In no event
10 shall an amount in excess of \$150,000 be paid from this
11 plan to or for the benefit of any claimant.

12 Nothing in Public Act 84-961 shall be construed to
13 affect in any manner the jurisdiction of the Court of
14 Claims concerning wage claims made against the State of
15 Illinois.

16 (14) Prepare and, in the discretion of the Director,
17 implement a program for self-insurance for official
18 fidelity and surety bonds for officers and employees as
19 authorized by the Official Bond Act.

20 (Source: P.A. 96-928, eff. 6-15-10.)

21 (20 ILCS 405/405-411)

22 Sec. 405-411. Consolidation of workers' compensation
23 functions.

24 (a) Notwithstanding any other law to the contrary, the
25 Director of Central Management Services, working in

1 cooperation with the Director of any other agency, department,
2 board, or commission directly responsible to the Governor, may
3 direct the consolidation, within the Department of Central
4 Management Services, of those workers' compensation functions
5 at that agency, department, board, or commission that are
6 suitable for centralization.

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

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

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

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

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

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

1 This Section does not affect any act done, ratified, or
2 cancelled or any right occurring or established or any action
3 or proceeding had or commenced in an administrative, civil, or
4 criminal cause regarding the functions transferred, but those
5 proceedings may be continued by the Department of Central
6 Management Services.

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

14 (e) There is hereby created within the Department of
15 Central Management Services an advisory body to be known as the
16 State Workers' Compensation Program Advisory Board to review,
17 assess, and provide recommendations to improve the State
18 workers' compensation program and to ensure that the State
19 manages the program in the interests of injured workers and
20 taxpayers. The Governor shall appoint one person to the Board,
21 who shall serve as the Chairperson. The Speaker of the House of
22 Representatives, the Minority Leader of the House of
23 Representatives, the President of the Senate, and the Minority
24 Leader of the Senate shall each appoint one person to the
25 Board. Each member initially appointed to the Board shall serve
26 a term ending December 31, 2013, and each Board member

1 appointed thereafter shall serve a 3-year term. A Board member
2 shall continue to serve on the Board until his or her successor
3 is appointed. In addition, the Director of the Department of
4 Central Management Services, the Attorney General, the
5 Director of the Department of Insurance, the Secretary of the
6 Department of Transportation, the Director of the Department of
7 Corrections, the Secretary of the Department of Human Services,
8 the Director of the Department of Revenue, and the Chairman of
9 the Illinois Workers' Compensation Commission, or their
10 designees, shall serve as ex officio, non-voting members of the
11 Board. Members of the Board shall not receive compensation but
12 shall be reimbursed from the Workers' Compensation Revolving
13 Fund for reasonable expenses incurred in the necessary
14 performance of their duties, and the Department of Central
15 Management Services shall provide administrative support to
16 the Board. The Board shall meet at least 3 times per year or
17 more often if the Board deems it necessary or proper. By
18 September 30, 2011, the Board shall issue a written report, to
19 be delivered to the Governor, the Director of the Department of
20 Central Management Services, and the General Assembly, with a
21 recommended set of best practices for the State workers'
22 compensation program. By July 1 of each year thereafter, the
23 Board shall issue a written report, to be delivered to those
24 same persons or entities, with recommendations on how to
25 improve upon such practices.

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

1 Section 10. The Code of Civil Procedure is amended by
2 changing Section 8-802 as follows:

3 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

4 Sec. 8-802. Physician and patient. No physician or surgeon
5 shall be permitted to disclose any information he or she may
6 have acquired in attending any patient in a professional
7 character, necessary to enable him or her professionally to
8 serve the patient, except only (1) in trials for homicide when
9 the disclosure relates directly to the fact or immediate
10 circumstances of the homicide, (2) in actions, civil or
11 criminal, against the physician for malpractice, (3) with the
12 expressed consent of the patient, or in case of his or her
13 death or disability, of his or her personal representative or
14 other person authorized to sue for personal injury or of the
15 beneficiary of an insurance policy on his or her life, health,
16 or physical condition, (4) in all actions brought by or against
17 the patient, his or her personal representative, a beneficiary
18 under a policy of insurance, or the executor or administrator
19 of his or her estate wherein the patient's physical or mental
20 condition is an issue, (5) upon an issue as to the validity of
21 a document as a will of the patient, (6) in any criminal action
22 where the charge is either first degree murder by abortion,
23 attempted abortion or abortion, (7) in actions, civil or
24 criminal, arising from the filing of a report in compliance

1 with the Abused and Neglected Child Reporting Act, (8) to any
2 department, agency, institution or facility which has custody
3 of the patient pursuant to State statute or any court order of
4 commitment, (9) in prosecutions where written results of blood
5 alcohol tests are admissible pursuant to Section 11-501.4 of
6 the Illinois Vehicle Code, (10) in prosecutions where written
7 results of blood alcohol tests are admissible under Section
8 5-11a of the Boat Registration and Safety Act, (11) in criminal
9 actions arising from the filing of a report of suspected
10 terrorist offense in compliance with Section 29D-10(p)(7) of
11 the Criminal Code of 1961, or (12) upon the issuance of a
12 subpoena pursuant to Section 38 of the Medical Practice Act of
13 1987; the issuance of a subpoena pursuant to Section 25.1 of
14 the Illinois Dental Practice Act; ~~or~~ the issuance of a subpoena
15 pursuant to Section 22 of the Nursing Home Administrators
16 Licensing and Disciplinary Act; or the issuance of a subpoena
17 pursuant to Section 25.5 of the Workers' Compensation Act.

18 In the event of a conflict between the application of this
19 Section and the Mental Health and Developmental Disabilities
20 Confidentiality Act to a specific situation, the provisions of
21 the Mental Health and Developmental Disabilities
22 Confidentiality Act shall control.

23 (Source: P.A. 95-478, eff. 8-27-07.)

24 Section 15. The Workers' Compensation Act is amended by
25 changing Sections 1, 4, 8, 8.2, 8.7, 11, 13, 13.1, 14, 18, 19,

1 and 25.5 and by adding Sections 1.1, 4b, 8.1a, 8.1b, 8.2a, 16b,
2 18.1, 29.1, and 29.2 as follows:

3 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

4 Sec. 1. This Act may be cited as the Workers' Compensation
5 Act.

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

7 1. The State and each county, city, town, township,
8 incorporated village, school district, body politic, or
9 municipal corporation therein.

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

22 3. Any one engaging in any business or enterprise referred
23 to in subsections 1 and 2 of Section 3 of this Act who
24 undertakes to do any work enumerated therein, is liable to pay
25 compensation to his own immediate employees in accordance with

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

14 In the event any such person pays compensation under this
15 subsection he may recover the amount thereof from the
16 contractor or sub-contractor, if any, and in the event the
17 contractor pays compensation under this subsection he may
18 recover the amount thereof from the sub-contractor, if any.

19 This subsection does not apply in any case where the
20 accident occurs elsewhere than on, in or about the immediate
21 premises on which the principal has contracted that the work be
22 done.

23 4. Where an employer operating under and subject to the
24 provisions of this Act loans an employee to another such
25 employer and such loaned employee sustains a compensable
26 accidental injury in the employment of such borrowing employer

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

17 Where an employee files an Application for Adjustment of
18 Claim with the Illinois Workers' Compensation Commission
19 alleging that his claim is covered by the provisions of the
20 preceding paragraph, and joining both the alleged loaning and
21 borrowing employers, they and each of them, upon written demand
22 by the employee and within 7 days after receipt of such demand,
23 shall have the duty of filing with the Illinois Workers'
24 Compensation Commission a written admission or denial of the
25 allegation that the claim is covered by the provisions of the
26 preceding paragraph and in default of such filing or if any

1 such denial be ultimately determined not to have been bona fide
2 then the provisions of Paragraph K of Section 19 of this Act
3 shall apply.

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

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

13 1. Every person in the service of the State, including
14 members of the General Assembly, members of the Commerce
15 Commission, members of the Illinois Workers' Compensation
16 Commission, and all persons in the service of the University of
17 Illinois, county, including deputy sheriffs and assistant
18 state's attorneys, city, town, township, incorporated village
19 or school district, body politic, or municipal corporation
20 therein, whether by election, under appointment or contract of
21 hire, express or implied, oral or written, including all
22 members of the Illinois National Guard while on active duty in
23 the service of the State, and all probation personnel of the
24 Juvenile Court appointed pursuant to Article VI of the Juvenile
25 Court Act of 1987, and including any official of the State, any
26 county, city, town, township, incorporated village, school

1 district, body politic or municipal corporation therein except
2 any duly appointed member of a police department in any city
3 whose population exceeds 200,000 according to the last Federal
4 or State census, and except any member of a fire insurance
5 patrol maintained by a board of underwriters in this State. A
6 duly appointed member of a fire department in any city, the
7 population of which exceeds 200,000 according to the last
8 federal or State census, is an employee under this Act only
9 with respect to claims brought under paragraph (c) of Section
10 8.

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

18 2. Every person in the service of another under any
19 contract of hire, express or implied, oral or written,
20 including persons whose employment is outside of the State of
21 Illinois where the contract of hire is made within the State of
22 Illinois, persons whose employment results in fatal or
23 non-fatal injuries within the State of Illinois where the
24 contract of hire is made outside of the State of Illinois, and
25 persons whose employment is principally localized within the
26 State of Illinois, regardless of the place of the accident or

1 the place where the contract of hire was made, and including
2 aliens, and minors who, for the purpose of this Act are
3 considered the same and have the same power to contract,
4 receive payments and give quittances therefor, as adult
5 employees.

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

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

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

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

25 (c) "Commission" means the Industrial Commission created
26 by Section 5 of "The Civil Administrative Code of Illinois",

1 approved March 7, 1917, as amended, or the Illinois Workers'
2 Compensation Commission created by Section 13 of this Act.

3 (d) To obtain compensation under this Act, an employee
4 bears the burden of showing, by a preponderance of the
5 evidence, that he or she has sustained accidental injuries
6 arising out of and in the course of the employment.

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

8 (820 ILCS 305/1.1 new)

9 Sec. 1.1. Standards of conduct.

10 (a) Commissioners and arbitrators shall dispose of all
11 Workers' Compensation matters promptly, officially and fairly,
12 without bias or prejudice. Commissioners and arbitrators shall
13 be faithful to the law and maintain professional competence in
14 it. They shall be unswayed by partisan interests, public
15 clamor, or fear of criticism. Commissioners and arbitrators
16 shall take appropriate action or initiate appropriate
17 disciplinary measures against a Commissioner, arbitrator,
18 lawyer, or others for unprofessional conduct of which the
19 Commissioner or arbitrator may become aware.

20 (b) Except as otherwise provided in this Act, the Canons of
21 the Code of Judicial Conduct as adopted by the Supreme Court of
22 Illinois govern the hearing and non-hearing conduct of members
23 of the Commission and arbitrators under this Act. The
24 Commission may set additional rules and standards, not less
25 stringent than those rules and standards established by the

1 Code of Judicial Conduct, for the conduct of arbitrators.

2 (c) The following provisions of the Code of Judicial
3 Conduct do not apply under this Section:

4 (1) Canon 3(B), relating to administrative
5 responsibilities of Judges.

6 (2) Canon 6(C), relating to annual filings of economic
7 interests. Instead of filing declarations of economic
8 interests with the Clerk of the Illinois Supreme Court
9 under Illinois Supreme Court Rule 68, members of the
10 Commission and arbitrators shall make filings
11 substantially similar to those required by Rule 68 with the
12 Chairman, and such filings shall be made available for
13 examination by the public.

14 (d) An arbitrator or a Commissioner may accept an
15 uncompensated appointment to a governmental committee,
16 commission or other position that is concerned with issues of
17 policy on matters which may come before the arbitrator or
18 Commissioner if such appointment neither affects his or her
19 independent professional judgment nor the conduct of his or her
20 duties.

21 (e) Decisions of an arbitrator or a Commissioner shall be
22 based exclusively on evidence in the record of the proceeding
23 and material that has been officially noticed. Any findings of
24 fact made by the arbitrator based on inquiries, investigations,
25 examinations, or inspections undertaken by the arbitrator
26 shall be entered into the record of the proceeding.

1 (f) Nothing in this Section shall prohibit an arbitrator
2 from holding a pre-trial conference in accordance with the
3 rules of the Commission.

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

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

10 (1) File with the Commission annually an application
11 for approval as a self-insurer which shall include a
12 current financial statement, and annually, thereafter, an
13 application for renewal of self-insurance, which shall
14 include a current financial statement. Said application
15 and financial statement shall be signed and sworn to by the
16 president or vice president and secretary or assistant
17 secretary of the employer if it be a corporation, or by all
18 of the partners, if it be a copartnership, or by the owner
19 if it be neither a copartnership nor a corporation. All
20 initial applications and all applications for renewal of
21 self-insurance must be submitted at least 60 days prior to
22 the requested effective date of self-insurance. An
23 employer may elect to provide and pay compensation as
24 provided for in this Act as a member of a group workers'
25 compensation pool under Article V 3/4 of the Illinois

1 Insurance Code. If an employer becomes a member of a group
2 workers' compensation pool, the employer shall not be
3 relieved of any obligations imposed by this Act.

4 If the sworn application and financial statement of any
5 such employer does not satisfy the Commission of the
6 financial ability of the employer who has filed it, the
7 Commission shall require such employer to,

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

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

1 1, 2, or 4 for the remainder of his or her liability to pay
2 such compensation, subject to the following two
3 provisions:

4 Firstly, the entire compensation liability of the
5 employer to employees working at or from one location
6 shall be insured in one such insurance carrier or shall
7 be self-insured, and

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

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

19 (4) Make some other provision, satisfactory to the
20 Commission, for the securing of the payment of compensation
21 provided for in this Act, and

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

26 (a-1) Regardless of its state of domicile or its principal

1 place of business, an employer shall make payments to its
2 insurance carrier or group self-insurance fund, where
3 applicable, based upon the premium rates of the situs where the
4 work or project is located in Illinois if:

5 (A) the employer is engaged primarily in the building
6 and construction industry; and

7 (B) subdivision (a)(3) of this Section applies to the
8 employer or the employer is a member of a group
9 self-insurance plan as defined in subsection (1) of Section
10 4a.

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

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

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

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

26 Any penalty under this subsection (a-1) must be imposed not

1 later than one year after the expiration of the applicable
2 limitation period specified in subsection (d) of Section 6 of
3 this Act. Penalties imposed under this subsection (a-1) shall
4 be deposited into the Illinois Workers' Compensation
5 Commission Operations Fund, a special fund that is created in
6 the State treasury. Subject to appropriation, moneys in the
7 Fund shall be used solely for the operations of the Illinois
8 Workers' Compensation Commission and by the Department of
9 Insurance ~~Financial and Professional Regulation~~ for the
10 purposes authorized in subsection (c) of Section 25.5 of this
11 Act.

12 (a-2) Every Employee Leasing Company (ELC), as defined in
13 Section 15 of the Employee Leasing Company Act, shall at a
14 minimum provide the following information to the Commission or
15 any entity designated by the Commission regarding each workers'
16 compensation insurance policy issued to the ELC:

17 (1) Any client company of the ELC listed as an
18 additional named insured.

19 (2) Any informational schedule attached to the master
20 policy that identifies any individual client company's
21 name, FEIN, and job location.

22 (3) Any certificate of insurance coverage document
23 issued to a client company specifying its rights and
24 obligations under the master policy that establishes both
25 the identity and status of the client, as well as the dates
26 of inception and termination of coverage, if applicable.

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

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

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

1 least 10 days after receipt by the Illinois Workers'
2 Compensation Commission of notice of the cancellation or
3 termination of said insurance; provided, however, that if the
4 employer has secured insurance from another insurance carrier,
5 or has otherwise secured the payment of compensation in
6 accordance with this Section, and such insurance or other
7 security becomes effective prior to the expiration of the 10
8 days, cancellation or termination may, at the option of the
9 insurance carrier indicated in such notice, be effective as of
10 the effective date of such other insurance or security.

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

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

18 Whenever the Commission finds that any self-insured
19 employer has practiced or is practicing delay or unfairness
20 toward employees in the adjustment, settlement or payment of
21 benefits due such employees, the Commission may, after
22 reasonable notice and hearing, order and direct that after a
23 date fixed in the order such self-insured employer shall be
24 disqualified to operate as a self-insurer and shall be required
25 to insure his entire liability to pay compensation in some
26 insurance carrier authorized, licensed and permitted to do such

1 insurance business in this State, as provided in subparagraph 3
2 of paragraph (a) of this Section.

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

18 (d) Whenever a panel of 3 Commissioners comprised of one
19 member of the employing class, one member of the employee
20 class, and one member not identified with either the employing
21 or employee class, with due process and after a hearing,
22 determines an employer has knowingly failed to provide coverage
23 as required by paragraph (a) of this Section, the failure shall
24 be deemed an immediate serious danger to public health, safety,
25 and welfare sufficient to justify service by the Commission of
26 a work-stop order on such employer, requiring the cessation of

1 all business operations of such employer at the place of
2 employment or job site. Any law enforcement agency in the State
3 shall, at the request of the Commission, render any assistance
4 necessary to carry out the provisions of this Section,
5 including, but not limited to, preventing any employee of such
6 employer from remaining at a place of employment or job site
7 after a work-stop order has taken effect. Any work-stop order
8 shall be lifted upon proof of insurance as required by this
9 Act. Any orders under this Section are appealable under Section
10 19(f) to the Circuit Court.

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

24 Any individual employer, corporate officer or director of a
25 corporate employer, partner of an employer partnership, or
26 member of an employer limited liability company who negligently

1 fails to provide coverage as required by paragraph (a) of this
2 Section is guilty of a Class A misdemeanor. This provision
3 shall not apply to any corporate officer or director of any
4 publicly-owned corporation. Each day's violation constitutes a
5 separate offense. The State's Attorney of the county in which
6 the violation occurred, or the Attorney General, shall bring
7 such actions in the name of the People of the State of
8 Illinois.

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

14 Employers who are subject to and who knowingly fail to
15 comply with this Section shall not be entitled to the benefits
16 of this Act during the period of noncompliance, but shall be
17 liable in an action under any other applicable law of this
18 State. In the action, such employer shall not avail himself or
19 herself of the defenses of assumption of risk or negligence or
20 that the injury was due to a co-employee. In the action, proof
21 of the injury shall constitute prima facie evidence of
22 negligence on the part of such employer and the burden shall be
23 on such employer to show freedom of negligence resulting in the
24 injury. The employer shall not join any other defendant in any
25 such civil action. Nothing in this amendatory Act of the 94th
26 General Assembly shall affect the employee's rights under

1 subdivision (a)3 of Section 1 of this Act. Any employer or
2 carrier who makes payments under subdivision (a)3 of Section 1
3 of this Act shall have a right of reimbursement from the
4 proceeds of any recovery under this Section.

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

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

15 An investigator with the Illinois Workers' Compensation
16 Commission Insurance Compliance Division may issue a citation
17 to any employer that is not in compliance with its obligation
18 to have workers' compensation insurance under this Act. The
19 amount of the fine shall be based on the period of time the
20 employer was in non-compliance, but shall be no less than \$500,
21 and shall not exceed \$2,500. An employer that has been issued a
22 citation shall pay the fine to the Commission and provide to
23 the Commission proof that it obtained the required workers'
24 compensation insurance within 10 days after the citation was
25 issued. This Section does not affect any other obligations this
26 Act imposes on employers.

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

1 Commission within 30 days after the final order of the
2 Commission, then the named corporate officers, directors,
3 partners, or members who have been found to have knowingly and
4 willfully refused or failed to comply with this Section shall
5 be liable for the unpaid penalty or any unpaid portion of the
6 penalty. Upon investigation by the insurance non-compliance
7 unit of the Commission, the Attorney General shall have the
8 authority to prosecute all proceedings to enforce the civil and
9 administrative provisions of this Section before the
10 Commission. The Commission shall promulgate procedural rules
11 for enforcing this Section.

12 Upon the failure or refusal of any employer, service or
13 adjustment company or insurance carrier to comply with the
14 provisions of this Section and with the orders of the
15 Commission under this Section, or the order of the court on
16 review after final adjudication, the Commission may bring a
17 civil action to recover the amount of the penalty in Cook
18 County or in Sangamon County in which litigation the Commission
19 shall be represented by the Attorney General. The Commission
20 shall send notice of its finding of non-compliance and
21 assessment of the civil penalty to the Attorney General. It
22 shall be the duty of the Attorney General within 30 days after
23 receipt of the notice, to institute prosecutions and promptly
24 prosecute all reported violations of this Section.

25 Any individual employer, corporate officer or director of a
26 corporate employer, partner of an employer partnership, or

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

8 Penalties and fines collected pursuant to this paragraph
9 (d) shall be deposited upon receipt into a special fund which
10 shall be designated the Injured Workers' Benefit Fund, of which
11 the State Treasurer is ex-officio custodian, such special fund
12 to be held and disbursed in accordance with this paragraph (d)
13 for the purposes hereinafter stated in this paragraph (d), upon
14 the final order of the Commission. The Injured Workers' Benefit
15 Fund shall be deposited the same as are State funds and any
16 interest accruing thereon shall be added thereto every 6
17 months. The Injured Workers' Benefit Fund is subject to audit
18 the same as State funds and accounts and is protected by the
19 general bond given by the State Treasurer. The Injured Workers'
20 Benefit Fund is considered always appropriated for the purposes
21 of disbursements as provided in this paragraph, and shall be
22 paid out and disbursed as herein provided and shall not at any
23 time be appropriated or diverted to any other use or purpose.
24 Moneys in the Injured Workers' Benefit Fund shall be used only
25 for payment of workers' compensation benefits for injured
26 employees when the employer has failed to provide coverage as

1 determined under this paragraph (d) and has failed to pay the
2 benefits due to the injured employee. The Commission shall have
3 the right to obtain reimbursement from the employer for
4 compensation obligations paid by the Injured Workers' Benefit
5 Fund. Any such amounts obtained shall be deposited by the
6 Commission into the Injured Workers' Benefit Fund. If an
7 injured employee or his or her personal representative receives
8 payment from the Injured Workers' Benefit Fund, the State of
9 Illinois has the same rights under paragraph (b) of Section 5
10 that the employer who failed to pay the benefits due to the
11 injured employee would have had if the employer had paid those
12 benefits, and any moneys recovered by the State as a result of
13 the State's exercise of its rights under paragraph (b) of
14 Section 5 shall be deposited into the Injured Workers' Benefit
15 Fund. The custodian of the Injured Workers' Benefit Fund shall
16 be joined with the employer as a party respondent in the
17 application for adjustment of claim. After July 1, 2006, the
18 Commission shall make disbursements from the Fund once each
19 year to each eligible claimant. An eligible claimant is an
20 injured worker who has within the previous fiscal year obtained
21 a final award for benefits from the Commission against the
22 employer and the Injured Workers' Benefit Fund and has notified
23 the Commission within 90 days of receipt of such award. Within
24 a reasonable time after the end of each fiscal year, the
25 Commission shall make a disbursement to each eligible claimant.
26 At the time of disbursement, if there are insufficient moneys

1 in the Fund to pay all claims, each eligible claimant shall
2 receive a pro-rata share, as determined by the Commission, of
3 the available moneys in the Fund for that year. Payment from
4 the Injured Workers' Benefit Fund to an eligible claimant
5 pursuant to this provision shall discharge the obligations of
6 the Injured Workers' Benefit Fund regarding the award entered
7 by the Commission.

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

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

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

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

24 (h) It shall be unlawful for any employer, insurance
25 company or service or adjustment company to interfere with,
26 restrain or coerce an employee in any manner whatsoever in the

1 exercise of the rights or remedies granted to him or her by
2 this Act or to discriminate, attempt to discriminate, or
3 threaten to discriminate against an employee in any way because
4 of his or her exercise of the rights or remedies granted to him
5 or her by this Act.

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

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

17 (j) Within 45 days of receipt of an initial application or
18 application to renew self-insurance privileges the
19 Self-Insurers Advisory Board shall review and submit for
20 approval by the Chairman of the Commission recommendations of
21 disposition of all initial applications to self-insure and all
22 applications to renew self-insurance privileges filed by
23 private self-insurers pursuant to the provisions of this
24 Section and Section 4a-9 of this Act. Each private self-insurer
25 shall submit with its initial and renewal applications the
26 application fee required by Section 4a-4 of this Act.

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

10 If an employer is denied a renewal of self-insurance
11 privileges pursuant to application it shall retain said
12 privilege for 120 days after receipt of a notice of
13 cancellation of the privilege from the Chairman of the
14 Commission.

15 All orders made by the Chairman under this Section shall be
16 subject to review by the courts, such review to be taken in the
17 same manner and within the same time as provided by subsection
18 (f) of Section 19 of this Act for review of awards and
19 decisions of the Commission, upon the party seeking the review
20 filing with the clerk of the court to which such review is
21 taken a bond in an amount to be fixed and approved by the court
22 to which the review is taken, conditioned upon the payment of
23 all compensation awarded against the person taking such review
24 pending a decision thereof and further conditioned upon such
25 other obligations as the court may impose. Upon the review the
26 Circuit Court shall have power to review all questions of fact

1 as well as of law.

2 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
3 94-839, eff. 6-6-06.)

4 (820 ILCS 305/4b new)

5 Sec. 4b. Collective bargaining pilot program.

6 (a) The Director of the Department of Labor shall adopt a
7 selection process to designate 2 labor organizations to
8 participate in the collective bargaining process provided for
9 in this Section.

10 (a-5) For purposes of this Section, the term "construction
11 employer" means any person or legal entity or group of persons
12 or legal entities engaging in or planning to engage in any
13 constructing, altering, reconstructing, repairing,
14 rehabilitating, refinishing, refurbishing, remodeling,
15 remediating, renovating, custom fabricating, maintaining,
16 landscaping, improving, wrecking, painting, decorating,
17 demolishing, and adding to or subtracting from any building,
18 structure, airport facility, highway, roadway, street, alley,
19 bridge, sewer, drain, ditch, sewage disposal plant, water
20 works, parking facility, railroad, excavation or other
21 project, structure, development, real property or improvement,
22 or to do any part thereof, whether or not the performance of
23 the work herein described involves the addition to, or
24 fabrication into, any project, structure, development, real
25 property or improvement herein described, and shall also

1 include any moving of construction-related materials on the job
2 site or to or from the job site.

3 For purposes of this Section, "labor organization" means
4 the exclusive representative of a construction employer's
5 employees recognized or certified pursuant to the National
6 Labor Relations Act.

7 (b) Upon appropriate filing, the Commission and the courts
8 of this State shall recognize as valid and binding any
9 provision in a collective bargaining agreement between any
10 construction employer or group of construction employers and a
11 labor organization, which contains certain obligations and
12 procedures relating to workers' compensation. This agreement
13 must be limited to, but need not include, all of the following:

14 (1) An alternative dispute resolution ("ADR") system
15 to supplement, modify or replace the procedural or dispute
16 resolution provisions of this Act. The system may include
17 mediation, arbitration, or other dispute resolution
18 proceedings, the results of which shall be final and
19 binding upon the parties;

20 (2) An agreed list of medical treatment providers that
21 may be the exclusive source of all medical and related
22 treatment provided under this Act;

23 (3) The use of a limited list of impartial physicians
24 to conduct independent medical examinations;

25 (4) The creation of a light duty, modified job, or
26 return to work program;

1 (5) The use of a limited list of individuals and
2 companies for the establishment of vocational
3 rehabilitation or retraining programs that may be the
4 exclusive source of rehabilitation and retraining services
5 provided under this Act; or

6 (6) The establishment of joint labor management safety
7 committees and safety procedures.

8 (c) Void agreements. Nothing in this Section shall be
9 construed to authorize any provision in a collective bargaining
10 agreement that diminishes or increases a construction
11 employer's entitlements under this Act or an employee's
12 entitlement to benefits as otherwise set forth in this Act. For
13 the purposes of this Section, the procedural rights and dispute
14 resolution agreements under subparagraphs (1) through (6) of
15 subsection (b) of this Section are not agreements which
16 diminish or increase a construction employer's entitlements
17 under this Act or an employee's entitlement to benefits under
18 this Act. Any agreement that diminishes or increases a
19 construction employer's entitlements under this Act or an
20 employee's entitlement to benefits as set forth in this Act is
21 null and void. Nothing in this Section shall be construed as
22 creating a mandatory subject of bargaining.

23 (d) Form of agreement. The agreement reached herein shall
24 demonstrate that:

25 (1) The construction employer or group of construction
26 employers and the recognized or certified exclusive

1 bargaining representative have entered into a binding
2 collective bargaining agreement adopting the ADR plan for a
3 period of no less than 2 years;

4 (2) Contractual agreements have been reached with the
5 construction employer's workers' compensation carrier,
6 group self-insurance fund, and any excess carriers
7 relating to the ADR plan;

8 (3) Procedures have been established by which claims
9 for benefits by employees will be lodged, administered, and
10 decided while affording procedural due process;

11 (4) The plan has designated forms upon which claims for
12 benefits shall be made;

13 (5) The system and means by which the construction
14 employer's obligation to furnish medical services and
15 vocational rehabilitation and retraining benefits shall be
16 fulfilled and provider selected;

17 (6) The method by which mediators or arbitrators are to
18 be selected.

19 (e) Filing. A copy of the agreement and a statement
20 identifying the parties to the agreement shall be filed with
21 the Commission. Within 21 days of receipt of an agreement, the
22 Chairman shall review the agreement for compliance with this
23 Section and notify the parties of its acceptance or notify the
24 parties of any additional information required or any
25 recommended modification that would bring the agreement into
26 compliance. If no additional information or modification is

1 required, the agreement shall be valid and binding from the
2 time the parties receive acceptance of the agreement from the
3 Chairman. Upon receipt of any requested information or
4 modification, the Chairman shall notify the parties within 21
5 days whether the agreement is in compliance with this Section.
6 All rejections made by the Chairman under this subsection shall
7 be subject to review by the courts of this State, said review
8 to be taken in the same manner and within the same time as
9 provided by Section 19 of this Act for review of awards and
10 decisions of the Commission. Upon the review, the Circuit Court
11 shall have power to review all questions of fact as well as of
12 law.

13 (f) Notice to insurance carrier. If the construction
14 employer is insured under this Act, it shall provide notice to
15 and obtain consent from its insurance carrier, in the manner
16 provided in the insurance contract, of its intent to enter into
17 an agreement as provided in this Section with its employees.

18 (g) Employees' claims for workers' compensation benefits.

19 (1) Claims for benefits shall be filed with the ADR
20 plan administrator within those periods of limitation
21 prescribed by this Act. Within 10 days of the filing of a
22 claim, the ADR plan administrator shall serve a copy of the
23 claim application upon the Commission, which shall
24 maintain records of all ADR claims and resolutions.

25 (2) Settlements of claims presented to the ADR plan
26 administrator shall be evidenced by a settlement

1 agreement. All such settlements shall be filed with the ADR
2 plan administrator, who within 10 days shall forward a copy
3 to the Commission for recording.

4 (3) Upon assignment of claims, unless settled,
5 mediators and arbitrators shall render final orders
6 containing essential findings of fact, rulings of law and
7 referring to other matters as pertinent to the questions at
8 issue. The ADR plan administrator shall maintain a record
9 of the proceedings.

10 (h) Reporting requirements. Annually, each ADR plan
11 administrator shall submit a report to the Commission
12 containing the following information:

13 (1) The number of employees within the ADR program;

14 (2) The number of occurrences of work-related injuries
15 or diseases;

16 (3) The breakdown within the ADR program of injuries
17 and diseases treated;

18 (4) The total amount of disability benefits paid within
19 the ADR program;

20 (5) The total medical treatment cost paid within the
21 ADR program;

22 (6) The number of claims filed within the ADR program;
23 and

24 (7) The disposition of all claims.

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

4 (a) The employer shall provide and pay the negotiated rate,
5 if applicable, or the lesser of the health care provider's
6 actual charges or according to a fee schedule, subject to
7 Section 8.2, in effect at the time the service was rendered for
8 all the necessary first aid, medical and surgical services, and
9 all necessary medical, surgical and hospital services
10 thereafter incurred, limited, however, to that which is
11 reasonably required to cure or relieve from the effects of the
12 accidental injury, even if a health care provider sells,
13 transfers, or otherwise assigns an account receivable for
14 procedures, treatments, or services covered under this Act. If
15 the employer does not dispute payment of first aid, medical,
16 surgical, and hospital services, the employer shall make such
17 payment to the provider on behalf of the employee. The employer
18 shall also pay for treatment, instruction and training
19 necessary for the physical, mental and vocational
20 rehabilitation of the employee, including all maintenance
21 costs and expenses incidental thereto. If as a result of the
22 injury the employee is unable to be self-sufficient the
23 employer shall further pay for such maintenance or
24 institutional care as shall be required.

25 The employee may at any time elect to secure his own
26 physician, surgeon and hospital services at the employer's

1 expense, or,

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

25 Any vocational rehabilitation counselors who provide
26 service under this Act shall have appropriate certifications

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

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

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

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

8 Notwithstanding the foregoing, the employer's liability to
9 pay for such medical services selected by an ~~the~~ employee of an
10 employer without an approved preferred provider program
11 pursuant to Section 8.1a on the date the employee sustained his
12 or her accidental injuries shall be limited to:

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

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

21 (3) all medical, surgical and hospital services
22 provided by any second physician, surgeon or hospital
23 subsequently chosen by the employee or by any other
24 physician, consultant, expert, institution or other
25 provider of services recommended by said second service
26 provider or any subsequent provider of medical services in

1 the chain of referrals from said second service provider.
2 Thereafter the employer shall select and pay for all
3 necessary medical, surgical and hospital treatment and the
4 employee may not select a provider of medical services at
5 the employer's expense unless the employer agrees to such
6 selection. At any time the employee may obtain any medical
7 treatment he desires at his own expense. This paragraph
8 shall not affect the duty to pay for rehabilitation
9 referred to above.

10 (4) The following shall apply for injuries occurring on
11 or after the effective date of this amendatory Act of the
12 97th General Assembly and only when an employer has an
13 approved preferred provider program pursuant to Section
14 8.1a on the date the employee sustained his or her
15 accidental injuries:

16 (A) The employer shall, in writing, on a form
17 promulgated by the Commission, inform the employee of
18 the preferred provider program;

19 (B) Subsequent to the report of an injury by an
20 employee, the employee may choose in writing at any
21 time to decline the preferred provider program, in
22 which case that would constitute one of the two choices
23 of medical providers to which the employee is entitled
24 under subsection (a) (2) or (a) (3); and

25 (C) Prior to the report of an injury by an
26 employee, when an employee chooses non-emergency

1 treatment from a provider not within the preferred
2 provider program, that would constitute the employee's
3 one choice of medical providers to which the employee
4 is entitled under subsection (a) (2) or (a) (3).

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

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

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

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

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

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

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

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

24 2.1. The compensation rate in all cases of serious and
25 permanent disfigurement under paragraph (c) and of
26 permanent partial disability under subparagraph (2) of

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

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

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

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

24 The maximum weekly compensation rate from July 1, 1975,
25 except as hereinafter provided, shall be 100% of the
26 State's average weekly wage in covered industries under the

1 Unemployment Insurance Act, that being the wage that most
2 closely approximates the State's average weekly wage.

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

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

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

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

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

19 4.1. Any provision herein to the contrary
20 notwithstanding, the weekly compensation rate for
21 compensation payments under subparagraph 18 of paragraph
22 (e) of this Section and under paragraph (f) of this Section
23 and under paragraph (a) of Section 7 and for amputation of
24 a member or enucleation of an eye under paragraph (e) of
25 this Section, shall in no event be less than 50% of the
26 State's average weekly wage in covered industries under the

1 Unemployment Insurance Act.

2 4.2. Any provision to the contrary notwithstanding,
3 the total compensation payable under Section 7 shall not
4 exceed the greater of \$500,000 or 25 years.

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

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

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

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

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

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

25 (d) 1. If, after the accidental injury has been sustained,
26 the employee as a result thereof becomes partially

1 incapacitated from pursuing his usual and customary line of
2 employment, he shall, except in cases compensated under the
3 specific schedule set forth in paragraph (e) of this Section,
4 receive compensation for the duration of his disability,
5 subject to the limitations as to maximum amounts fixed in
6 paragraph (b) of this Section, equal to 66-2/3% of the
7 difference between the average amount which he would be able to
8 earn in the full performance of his duties in the occupation in
9 which he was engaged at the time of the accident and the
10 average amount which he is earning or is able to earn in some
11 suitable employment or business after the accident. For
12 accidental injuries that occur on or after September 1, 2011,
13 an award for wage differential under this subsection shall be
14 effective only until the employee reaches the age of 67 or 5
15 years from the date the award becomes final, whichever is
16 later.

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

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

1 provided in this paragraph shall not affect the employee's
2 right to compensation payable under paragraphs (b), (c) and (e)
3 of this Section for the disabilities therein covered.

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

14 1. Thumb-

15 70 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 76 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 2. First, or index finger-

21 40 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 43 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 3. Second, or middle finger-

1 35 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 38 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 4. Third, or ring finger-

7 25 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 27 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 5. Fourth, or little finger-

13 20 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 22 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 6. Great toe-

19 35 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

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

24 7. Each toe other than great toe-

25 12 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 13 weeks if the accidental injury occurs on or
3 after February 1, 2006.

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

13 9. Hand-

14 190 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.

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

19 190 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 97th General Assembly and if the accidental injury
22 involves carpal tunnel syndrome due to repetitive or
23 cumulative trauma, in which case the permanent partial
24 disability shall not exceed 15% loss of use of the
25 hand, except for cause shown by clear and convincing
26 evidence and in which case the award shall not exceed

1 30% loss of use of the hand.

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

8 10. Arm-

9 235 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.

12 253 weeks if the accidental injury occurs on or
13 after February 1, 2006.

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

1 case compensation for an additional 65 weeks (if the
2 accidental injury occurs on or after the effective date of
3 this amendatory Act of the 94th General Assembly but before
4 February 1, 2006) or an additional 70 weeks (if the
5 accidental injury occurs on or after February 1, 2006)
6 shall be paid.

7 11. Foot-

8 155 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.

11 167 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 12. Leg-

14 200 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.

17 215 weeks if the accidental injury occurs on or
18 after February 1, 2006.

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

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

11 13. Eye-

12 150 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.

15 162 weeks if the accidental injury occurs on or
16 after February 1, 2006.

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

24 14. Loss of hearing of one ear-

25 50 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 54 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Total and permanent loss of hearing of both ears-

5 200 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

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

10 15. Testicle-

11 50 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 54 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 Both testicles-

17 150 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 162 weeks if the accidental injury occurs on or
21 after February 1, 2006.

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

1 loss of use thereof bears to the total loss of use of such
2 member, or sight of eye, or hearing of an ear.

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

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

24 (c) In measuring hearing impairment, the lowest
25 measured losses in each of the 3 frequencies shall be
26 added together and divided by 3 to determine the

1 average decibel loss. For every decibel of loss
2 exceeding 30 decibels an allowance of 1.82% shall be
3 made up to the maximum of 100% which is reached at 85
4 decibels.

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

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

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

19 Sound Level DBA

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

1	105	1
2	110	1/2
3	115	1/4

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

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

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

25 Any employee who has previously suffered the loss or
26 permanent and complete loss of the use of any of such

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

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

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

1 reduced to \$300,000, payment of the full amounts required by
2 paragraph (f) of Section 7 shall be resumed, in the manner
3 herein provided. The Commission shall make the changes in
4 payment effective by general order, and the changes in payment
5 become immediately effective for all cases coming before the
6 Commission thereafter either by settlement agreement or final
7 order, irrespective of the date of the accidental injury.

8 On August 1, 1996 and on February 1 and August 1 of each
9 subsequent year, the Commission shall examine the special fund
10 designated as the "Rate Adjustment Fund" and when, after
11 deducting all advances or loans made to said fund, the amount
12 therein is \$4,000,000, the amount required to be paid by
13 employers pursuant to paragraph (f) of Section 7 shall be
14 reduced by one-half. When the Rate Adjustment Fund reaches the
15 sum of \$5,000,000 the payment therein shall cease entirely.
16 However, when said Rate Adjustment Fund has been reduced to
17 \$3,000,000 the amounts required by paragraph (f) of Section 7
18 shall be resumed in the manner herein provided.

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

25 An employee entitled to benefits under paragraph (f) of
26 this Section shall also be entitled to receive from the Rate

1 Adjustment Fund provided in paragraph (f) of Section 7 of the
2 supplementary benefits provided in paragraph (g) of this
3 Section 8.

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

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

19 If an employee who had previously incurred loss or the
20 permanent and complete loss of use of one member, through the
21 loss or the permanent and complete loss of the use of one hand,
22 one arm, one foot, one leg, or one eye, incurs permanent and
23 complete disability through the loss or the permanent and
24 complete loss of the use of another member, he shall receive,
25 in addition to the compensation payable by the employer and
26 after such payments have ceased, an amount from the Second

1 Injury Fund provided for in paragraph (f) of Section 7, which,
2 together with the compensation payable from the employer in
3 whose employ he was when the last accidental injury was
4 incurred, will equal the amount payable for permanent and
5 complete disability as provided in this paragraph of this
6 Section.

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

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

1 receipt to be executed by the injured employee and returned to
2 the Commission. The endorsed warrant and receipt is a full and
3 complete acquittance to the Commission for the payment out of
4 the Second Injury Fund. No other appropriation or warrant is
5 necessary for payment out of the Second Injury Fund. The Second
6 Injury Fund is appropriated for the purpose of making payments
7 according to the terms of the awards.

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

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

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

1 Commission.

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

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

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

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

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

1 (h-1) In case an injured employee is under legal disability
2 at the time when any right or privilege accrues to him or her
3 under this Act, a guardian may be appointed pursuant to law,
4 and may, on behalf of such person under legal disability, claim
5 and exercise any such right or privilege with the same effect
6 as if the employee himself or herself had claimed or exercised
7 the right or privilege. No limitations of time provided by this
8 Act run so long as the employee who is under legal disability
9 is without a conservator or guardian.

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

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

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

24 (j) 1. In the event the injured employee receives benefits,
25 including medical, surgical or hospital benefits under any
26 group plan covering non-occupational disabilities contributed

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

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

1 credit.

2 2. Nothing contained in this Act shall be construed to give
3 the employer or the insurance carrier the right to credit for
4 any benefits or payments received by the employee other than
5 compensation payments provided by this Act, and where the
6 employee receives payments other than compensation payments,
7 whether as full or partial salary, group insurance benefits,
8 bonuses, annuities or any other payments, the employer or
9 insurance carrier shall receive credit for each such payment
10 only to the extent of the compensation that would have been
11 payable during the period covered by such payment.

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

20 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
21 94-695, eff. 11-16-05.)

22 (820 ILCS 305/8.1a new)

23 Sec. 8.1a. Preferred provider programs. Starting on the
24 effective date of this amendatory Act of the 97th General
25 Assembly, to satisfy its liabilities under this Act for the

1 provision of medical treatment to injured employees, an
2 employer may utilize a preferred provider program approved by
3 the Illinois Department of Insurance as in compliance with
4 Sections 370k, 370l, 370m, and 370p of Article XX-1/2 of the
5 Illinois Insurance Code. For the purposes of compliance with
6 these Sections, the employee shall be considered the
7 "beneficiary" and the employer shall be considered the
8 "insured". Employers and insurers contracting directly with
9 providers or utilizing multiple preferred provider programs to
10 implement a preferred provider program providing workers'
11 compensation benefits shall be subject to the above
12 requirements of Article XX-1/2 applicable to administrators
13 with regard to such program, with the exception of Section 370l
14 of the Illinois Insurance Code.

15 (a) In addition to the above requirements of Article XX-1/2
16 of the Illinois Insurance Code, all preferred provider programs
17 under this Section shall meet the following requirements:

18 (1) The provider network shall include an adequate
19 number of occupational and non-occupational providers.

20 (2) The provider network shall include an adequate
21 number and type of physicians or other providers to treat
22 common injuries experienced by injured workers in the
23 geographic area where the employees reside.

24 (3) Medical treatment for injuries shall be readily
25 available at reasonable times to all employees. To the
26 extent feasible, all medical treatment for injuries shall

1 be readily accessible to all employees.

2 (4) Physician compensation shall not be structured in
3 order to achieve the goal of inappropriately reducing,
4 delaying, or denying medical treatment or restricting
5 access to medical treatment.

6 (5) Before entering into any agreement under this
7 Section, a program shall establish terms and conditions
8 that must be met by noninstitutional providers wishing to
9 enter into an agreement with the program. These terms and
10 conditions may not discriminate unreasonably against or
11 among noninstitutional providers. Neither difference in
12 prices among noninstitutional providers produced by a
13 process of individual negotiation nor price differences
14 among other noninstitutional providers in different
15 geographical areas or different specialties constitutes
16 unreasonable discrimination.

17 (b) The administrator of any preferred provider program
18 under this Act that uses economic evaluation shall file with
19 the Director of Insurance a description of any policies and
20 procedures related to economic evaluation utilized by the
21 program. The filing shall describe how these policies and
22 procedures are used in utilization review, peer review,
23 incentive and penalty programs, and in provider retention and
24 termination decisions. The Director of Insurance may deny
25 approval of any preferred provider program that uses any policy
26 or procedure of economic evaluation to inappropriately reduce,

1 delay or deny medical treatment, or to restrict access to
2 medical treatment. Evaluation of providers based upon
3 objective medical quality and patient outcome measurements,
4 appropriate use of best clinical practices and evidence based
5 medicine, and use of health information technology shall be
6 permitted. If approved, the employer shall provide a copy of
7 the filing to all participating providers.

8 (1) The Director of the Department of Insurance shall
9 make each administrator's filing available to the public
10 upon request. The Director of the Department of Insurance
11 may not publicly disclose any information submitted
12 pursuant to this Section that is determined by the Director
13 of the Department of Insurance to be confidential,
14 proprietary, or trade secret information pursuant to State
15 or federal law.

16 (2) For the purposes of this subsection (b), "economic
17 evaluation" shall mean any evaluation of a particular
18 physician, provider, medical group, or individual practice
19 association based in whole or in part on the economic costs
20 or utilization of services associated with medical care
21 provided or authorized by the physician, provider, medical
22 group, or individual practice association. Economic
23 evaluation shall not include negotiated rates with a
24 provider.

25 (c) Except for the provisions of subsection (a) of Section
26 8 and for injuries occurring on or after the effective date of

1 this amendatory Act of the 97th General Assembly, an employee
2 of an employer utilizing a preferred provider program shall
3 only be allowed to select a participating network provider from
4 the network. An employer shall be responsible for: (i) all
5 first aid and emergency treatment; (ii) all medical, surgical,
6 and hospital services provided by the participating network
7 provider initially selected by the employee or by any other
8 participating network provider recommended by the initial
9 participating network provider or any subsequent participating
10 network provider in the chain of referrals from the initial
11 participating network provider; and (iii) all medical,
12 surgical, and hospital services provided by the participating
13 network provider subsequently chosen by the employee or by any
14 other participating network provider recommended by the
15 subsequent participating network provider or any subsequent
16 participating network provider in the chain of referrals from
17 the second participating network provider. An employer shall
18 not be liable for services determined by the Commission not to
19 be compensable. An employer shall not be liable for medical
20 services provided by a non-authorized provider when proper
21 notice is provided to the injured worker.

22 (1) When the injured employee notifies the employer of
23 the injury or files a claim for workers' compensation with
24 the employer, the employer shall notify the employee of his
25 or her right to be treated by a physician of his or her
26 choice from the preferred provider network established

1 pursuant to this Section, and the method by which the list
2 of participating network providers may be accessed by the
3 employee, except as provided in subsection (a)(4) of
4 Section 8.

5 (2) Consistent with Article XX-1/2 of the Illinois
6 Insurance Code, treatment by a specialist who is not a
7 member of the preferred provider network shall be permitted
8 on a case-by-case basis if the medical provider network
9 does not contain a physician who can provide the approved
10 treatment, and if the employee has complied with any
11 pre-authorization requirements of the preferred provider
12 network. Consent for the employee to visit an
13 out-of-network provider may not be unreasonably withheld.
14 When a non-network provider is authorized pursuant to this
15 subparagraph (2), the non-network provider shall not hold
16 an employee liable for costs except as provided in
17 subsection (e) of Section 8.2.

18 (3) The Director shall not approve, and may withdraw
19 prior approval of, a preferred provider program that fails
20 to provide an injured employee with sufficient access to
21 necessary treating physicians, surgeons, and specialists.

22 (d) Except as provided in subsection (a)(4) of Section 8,
23 upon a finding by the Commission that the care being rendered
24 by the employee's second choice of provider within the
25 employer's network is improper or inadequate, the employee may
26 then choose a provider outside of the network at the employer's

1 expense. The Commission shall issue a decision on any petition
2 filed pursuant to this Section within 5 working days.

3 (e) The Director of the Department of Insurance may
4 promulgate such rules as are necessary to carry out the
5 provisions of this Section relating to approval and regulation
6 of preferred provider programs.

7 (820 ILCS 305/8.1b new)

8 Sec. 8.1b. Determination of permanent partial disability.
9 For accidental injuries that occur on or after September 1,
10 2011, permanent partial disability shall be established using
11 the following criteria:

12 (a) A physician licensed to practice medicine in all of its
13 branches preparing a permanent partial disability impairment
14 report shall report the level of impairment in writing. The
15 report shall include an evaluation of medically defined and
16 professionally appropriate measurements of impairment that
17 include, but are not limited to: loss of range of motion; loss
18 of strength; measured atrophy of tissue mass consistent with
19 the injury; and any other measurements that establish the
20 nature and extent of the impairment. The most current edition
21 of the American Medical Association's "Guides to the Evaluation
22 of Permanent Impairment" shall be used by the physician in
23 determining the level of impairment.

24 (b) In determining the level of permanent partial
25 disability, the Commission shall base its determination on the

1 following factors: (i) the reported level of impairment
2 pursuant to subsection (a); (ii) the occupation of the injured
3 employee; (iii) the age of the employee at the time of the
4 injury; (iv) the employee's future earning capacity; and (v)
5 evidence of disability corroborated by the treating medical
6 records. No single enumerated factor shall be the sole
7 determinant of disability. In determining the level of
8 disability, the relevance and weight of any factors used in
9 addition to the level of impairment as reported by the
10 physician must be explained in a written order.

11 (820 ILCS 305/8.2)

12 Sec. 8.2. Fee schedule.

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

1 at most 20% are above or equal to that point. The Commission
2 shall adjust these historical charges and fees as of August 1,
3 2004 by the Consumer Price Index-U for the period August 1,
4 2004 through September 30, 2005. The Commission shall establish
5 fee schedules for procedures, treatments, or services for
6 hospital inpatient, hospital outpatient, emergency room and
7 trauma, ambulatory surgical treatment centers, and
8 professional services. These charges and fees shall be
9 designated by geozip or any smaller geographic unit. The data
10 shall in no way identify or tend to identify any patient,
11 employer, or health care provider. As used in this Section,
12 "geozip" means a three-digit zip code based on data
13 similarities, geographical similarities, and frequencies. A
14 geozip does not cross state boundaries. As used in this
15 Section, "three-digit zip code" means a geographic area in
16 which all zip codes have the same first 3 digits. If a geozip
17 does not have the necessary number of charges and fees to
18 calculate a valid percentile for a specific procedure,
19 treatment, or service, the Commission may combine data from the
20 geozip with up to 4 other geozips that are demographically and
21 economically similar and exhibit similarities in data and
22 frequencies until the Commission reaches 9 charges or fees for
23 that specific procedure, treatment, or service. In cases where
24 the compiled data contains less than 9 charges or fees for a
25 procedure, treatment, or service, reimbursement shall occur at
26 76% of charges and fees as determined by the Commission in a

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

24 (a-1) Notwithstanding the provisions of subsection (a) and
25 unless otherwise indicated, the following provisions shall
26 apply to the medical fee schedule starting on September 1,

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 surgical treatment facilities,
7 prescriptions filled and dispensed outside of a licensed
8 pharmacy, dental services, and professional services. This
9 fee schedule shall be based on the fee schedule amounts
10 already established by the Commission pursuant to
11 subsection (a) of this Section. However, starting on
12 January 1, 2012, these fee schedule amounts shall be
13 grouped into geographic regions in the following manner:

14 (A) Four regions for non-hospital fee schedule
15 amounts shall be utilized:

16 (i) Cook County;

17 (ii) DuPage, Kane, Lake, and Will Counties;

18 (iii) Bond, Calhoun, Clinton, Jersey,
19 Macoupin, Madison, Monroe, Montgomery, Randolph,
20 St. Clair, and Washington Counties; and

21 (iv) All other counties of the State.

22 (B) Fourteen regions for hospital fee schedule
23 amounts shall be utilized:

24 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,
25 Kendall, and Grundy Counties;

26 (ii) Kankakee County;

1 (iii) Madison, St. Clair, Macoupin, Clinton,
2 Monroe, Jersey, Bond, and Calhoun Counties;

3 (iv) Winnebago and Boone Counties;

4 (v) Peoria, Tazewell, Woodford, Marshall, and
5 Stark Counties;

6 (vi) Champaign, Piatt, and Ford Counties;

7 (vii) Rock Island, Henry, and Mercer Counties;

8 (viii) Sangamon and Menard Counties;

9 (ix) McLean County;

10 (x) Lake County;

11 (xi) Macon County;

12 (xii) Vermilion County;

13 (xiii) Alexander County; and

14 (xiv) All other counties of the State.

15 (2) If a geozip, as defined in subsection (a) of this
16 Section, overlaps into one or more of the regions set forth
17 in this Section, then the Commission shall average or
18 repeat the charges and fees in a geozip in order to
19 designate charges and fees for each region.

20 (3) In cases where the compiled data contains less than
21 9 charges or fees for a procedure, treatment, product,
22 supply, or service or where the fee schedule amount cannot
23 be determined by the non-discounted charge data,
24 non-Medicare relative values and conversion factors
25 derived from established fee schedule amounts, coding
26 crosswalks, or other data as determined by the Commission,

1 reimbursement shall occur at 76% of charges and fees until
2 September 1, 2011 and 53.2% of charges and fees thereafter
3 as determined by the Commission in a manner consistent with
4 the provisions of this paragraph.

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

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

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

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

9 (a-2) For procedures, treatments, services, or supplies
10 covered under this Act and rendered or to be rendered on or
11 after September 1, 2011, the maximum allowable payment shall be
12 70% of the fee schedule amounts, which shall be adjusted yearly
13 by the Consumer Price Index-U, as described in subsection (a)
14 of this Section.

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

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

1 geographic limitation on access to health care to address that
2 limitation.

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

8 (d) When a patient notifies a provider that the treatment,
9 procedure, or service being sought is for a work-related
10 illness or injury and furnishes the provider the name and
11 address of the responsible employer, the provider shall bill
12 the employer directly. The employer shall make payment and
13 providers shall submit bills and records in accordance with the
14 provisions of this Section.

15 (1) All payments to providers for treatment provided
16 pursuant to this Act shall be made within 30 ~~60~~ days of
17 receipt of the bills as long as the claim contains
18 substantially all the required data elements necessary to
19 adjudicate the bills.

20 (2) If the claim does not contain substantially all the
21 required data elements necessary to adjudicate the bill, or
22 the claim is denied for any other reason, in whole or in
23 part, the employer or insurer shall provide written
24 notification, explaining the basis for the denial and
25 describing any additional necessary data elements, to the
26 provider within 30 days of receipt of the bill.

1 (3) In the case of nonpayment to a provider within 30
2 ~~60~~ days of receipt of the bill which contained
3 substantially all of the required data elements necessary
4 to adjudicate the bill or nonpayment to a provider of a
5 portion of such a bill up to the lesser of the actual
6 charge or the payment level set by the Commission in the
7 fee schedule established in this Section, the bill, or
8 portion of the bill, shall incur interest at a rate of 1%
9 per month payable to the provider. Any required interest
10 payments shall be made within 30 days after payment.

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

1 injury, or for medical services or treatment determined by the
2 Commission to be excessive or unnecessary.

3 (e-5) If an employer notifies a provider that the employer
4 does not consider the illness or injury to be compensable under
5 this Act, the provider may seek payment of the provider's
6 actual charges from the employee for any procedure, treatment,
7 or service rendered. Once an employee informs the provider that
8 there is an application filed with the Commission to resolve a
9 dispute over payment of such charges, the provider shall cease
10 any and all efforts to collect payment for the services that
11 are the subject of the dispute. Any statute of limitations or
12 statute of repose applicable to the provider's efforts to
13 collect payment from the employee shall be tolled from the date
14 that the employee files the application with the Commission
15 until the date that the provider is permitted to resume
16 collection efforts under the provisions of this Section.

17 (e-10) If an employer notifies a provider that the employer
18 will pay only a portion of a bill for any procedure, treatment,
19 or service rendered in connection with a compensable illness or
20 disease, the provider may seek payment from the employee for
21 the remainder of the amount of the bill up to the lesser of the
22 actual charge, negotiated rate, if applicable, or the payment
23 level set by the Commission in the fee schedule established in
24 this Section. Once an employee informs the provider that there
25 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-15) When there is a dispute over the compensability of
9 or amount of payment for a procedure, treatment, or service,
10 and a case is pending or proceeding before an Arbitrator or the
11 Commission, the provider may mail the employee reminders that
12 the employee will be responsible for payment of any procedure,
13 treatment or service rendered by the provider. The reminders
14 must state that they are not bills, to the extent practicable
15 include itemized information, and state that the employee need
16 not pay until such time as the provider is permitted to resume
17 collection efforts under this Section. The reminders shall not
18 be provided to any credit rating agency. The reminders may
19 request that the employee furnish the provider with information
20 about the proceeding under this Act, such as the file number,
21 names of parties, and status of the case. If an employee fails
22 to respond to such request for information or fails to furnish
23 the information requested within 90 days of the date of the
24 reminder, the provider is entitled to resume any and all
25 efforts to collect payment from the employee for the services
26 rendered to the employee and the employee shall be responsible

1 for payment of any outstanding bills for a procedure,
2 treatment, or service rendered by a provider.

3 (e-20) Upon a final award or judgment by an Arbitrator or
4 the Commission, or a settlement agreed to by the employer and
5 the employee, a provider may resume any and all efforts to
6 collect payment from the employee for the services rendered to
7 the employee and the employee shall be responsible for payment
8 of any outstanding bills for a procedure, treatment, or service
9 rendered by a provider as well as the interest awarded under
10 subsection (d) of this Section. In the case of a procedure,
11 treatment, or service deemed compensable, the provider shall
12 not require a payment rate, excluding the interest provisions
13 under subsection (d), greater than the lesser of the actual
14 charge or the payment level set by the Commission in the fee
15 schedule established in this Section. Payment for services
16 deemed not covered or not compensable under this Act is the
17 responsibility of the employee unless a provider and employee
18 have agreed otherwise in writing. Services not covered or not
19 compensable under this Act are not subject to the fee schedule
20 in this Section.

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

25 (g) On or before January 1, 2010 the Commission shall
26 provide to the Governor and General Assembly a report regarding

1 the implementation of the medical fee schedule and the index
2 used for annual adjustment to that schedule as described in
3 this Section.

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

5 (820 ILCS 305/8.2a new)

6 Sec. 8.2a. Electronic claims.

7 (a) The Director of Insurance shall adopt rules to do all
8 of the following:

9 (1) Ensure that all health care providers and
10 facilities submit medical bills for payment on
11 standardized forms.

12 (2) Require acceptance by employers and insurers of
13 electronic claims for payment of medical services.

14 (3) Ensure confidentiality of medical information
15 submitted on electronic claims for payment of medical
16 services.

17 (b) To the extent feasible, standards adopted pursuant to
18 subdivision (a) shall be consistent with existing standards
19 under the federal Health Insurance Portability and
20 Accountability Act of 1996 and standards adopted under the
21 Illinois Health Information Exchange and Technology Act.

22 (c) The rules requiring employers and insurers to accept
23 electronic claims for payment of medical services shall be
24 proposed on or before January 1, 2012, and shall require all
25 employers and insurers to accept electronic claims for payment

1 of medical services on or before June 30, 2012.

2 (d) The Director of Insurance shall by rule establish
3 criteria for granting exceptions to employers, insurance
4 carriers, and health care providers who are unable to submit or
5 accept medical bills electronically.

6 (820 ILCS 305/8.7)

7 Sec. 8.7. Utilization review programs.

8 (a) As used in this Section:

9 "Utilization review" means the evaluation of proposed or
10 provided health care services to determine the appropriateness
11 of both the level of health care services medically necessary
12 and the quality of health care services provided to a patient,
13 including evaluation of their efficiency, efficacy, and
14 appropriateness of treatment, hospitalization, or office
15 visits based on medically accepted standards. The evaluation
16 must be accomplished by means of a system that identifies the
17 utilization of health care services based on standards of care
18 of ~~or~~ nationally recognized peer review guidelines as well as
19 nationally recognized treatment guidelines and evidence-based
20 medicine ~~evidence~~ based upon standards as provided in this Act.
21 Utilization techniques may include prospective review, second
22 opinions, concurrent review, discharge planning, peer review,
23 independent medical examinations, and retrospective review
24 (for purposes of this sentence, retrospective review shall be
25 applicable to services rendered on or after July 20, 2005).

1 Nothing in this Section applies to prospective review of
2 necessary first aid or emergency treatment.

3 (b) No person may conduct a utilization review program for
4 workers' compensation services in this State unless once every
5 2 years the person registers the utilization review program
6 with the Department of Insurance ~~Financial and Professional~~
7 ~~Regulation~~ and certifies compliance with the Workers'
8 Compensation Utilization Management standards or Health
9 Utilization Management Standards of URAC sufficient to achieve
10 URAC accreditation or submits evidence of accreditation by URAC
11 for its Workers' Compensation Utilization Management Standards
12 or Health Utilization Management Standards. Nothing in this Act
13 shall be construed to require an employer or insurer or its
14 subcontractors to become URAC accredited.

15 (c) In addition, the Director ~~Secretary~~ of Insurance
16 ~~Financial and Professional Regulation~~ may certify alternative
17 utilization review standards of national accreditation
18 organizations or entities in order for plans to comply with
19 this Section. Any alternative utilization review standards
20 shall meet or exceed those standards required under subsection
21 (b).

22 (d) This registration shall include submission of all of
23 the following information regarding utilization review program
24 activities:

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

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

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

5 (4) Hours of operation of each utilization review
6 program.

7 (5) Description of the grievance process for each
8 utilization review program.

9 (6) Number of covered lives for which utilization
10 review was conducted for the previous calendar year for
11 each utilization review program.

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

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

18 (1) kept confidential in accordance with applicable
19 State and federal laws; and

20 (2) shared only with the employee, the employee's
21 designee, and the employee's health care provider, and
22 those who are authorized by law to receive the information.
23 Summary data shall not be considered confidential if it
24 does not provide information to allow identification of
25 individual patients or health care providers.

26 Only a health care professional may make determinations

1 regarding the medical necessity of health care services during
2 the course of utilization review.

3 When making retrospective reviews, utilization review
4 programs shall base reviews solely on the medical information
5 available to the attending physician or ordering provider at
6 the time the health care services were provided.

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

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

25 (h) The Department of Insurance ~~Secretary of Financial and~~
26 ~~Professional Regulation~~ may by rule establish a registration

1 fee for each person conducting a utilization review program.

2 (i) Upon receipt of written notice that the employer or the
3 employer's agent or insurer wishes to invoke the utilization
4 review process, the provider of medical, surgical, or hospital
5 services shall submit to the utilization review, following
6 accredited procedural guidelines.

7 (1) The provider shall make reasonable efforts to
8 provide timely and complete reports of clinical
9 information needed to support a request for treatment. If
10 the provider fails to make such reasonable efforts, the
11 charges for the treatment or service may not be compensable
12 nor collectible by the provider or claimant from the
13 employer, the employer's agent, or the employee. The
14 reporting obligations of providers shall not be
15 unreasonable or unduly burdensome.

16 (2) Written notice of utilization review decisions,
17 including the clinical rationale for certification or
18 non-certification and references to applicable standards
19 of care or evidence-based medical guidelines, shall be
20 furnished to the provider and employee.

21 (3) An employer may only deny payment of or refuse to
22 authorize payment of medical services rendered or proposed
23 to be rendered on the grounds that the extent and scope of
24 medical treatment is excessive and unnecessary in
25 compliance with an accredited utilization review program
26 under this Section.

1 (4) When a payment for medical services has been denied
2 or not authorized by an employer or when authorization for
3 medical services is denied pursuant to utilization review,
4 the employee has the burden of proof to show by a
5 preponderance of the evidence that a variance from the
6 standards of care used by the person or entity performing
7 the utilization review pursuant to subsection (a) is
8 reasonably required to cure or relieve the effects of his
9 or her injury.

10 (5) The medical professional responsible for review in
11 the final stage of utilization review or appeal must be
12 available in this State for interview or deposition; or
13 must be available for deposition by telephone, video
14 conference, or other remote electronic means. A medical
15 professional who works or resides in this State or outside
16 of this State may comply with this requirement by making
17 himself or herself available for an interview or deposition
18 in person or by making himself or herself available by
19 telephone, video conference, or other remote electronic
20 means. The remote interview or deposition shall be
21 conducted in a fair, open, and cost-effective manner. The
22 expense of interview and the deposition method shall be
23 paid by the employer. The deponent shall be in the presence
24 of the officer administering the oath and recording the
25 deposition, unless otherwise agreed by the parties. Any
26 exhibits or other demonstrative evidence to be presented to

1 the deponent by any party at the deposition shall be
2 provided to the officer administering the oath and all
3 other parties within a reasonable period of time prior to
4 the deposition. Nothing shall prohibit any party from being
5 with the deponent during the deposition, at that party's
6 expense; provided, however, that a party attending a
7 deposition shall give written notice of that party's
8 intention to appear at the deposition to all other parties
9 within a reasonable time prior to the deposition.

10 An admissible A utilization review shall will be considered
11 by the Commission, along with all other evidence and in the
12 same manner as all other evidence, and must be addressed along
13 with all other evidence in the determination of the
14 reasonableness and necessity of the medical bills or treatment.
15 Nothing in this Section shall be construed to diminish the
16 rights of employees to reasonable and necessary medical
17 treatment or employee choice of health care provider under
18 Section 8(a) or the rights of employers to medical examinations
19 under Section 12.

20 (j) When an employer denies payment of or refuses to
21 authorize payment of first aid, medical, surgical, or hospital
22 services under Section 8(a) of this Act, if that denial or
23 refusal to authorize complies with a utilization review program
24 registered under this Section and complies with all other
25 requirements of this Section, then there shall be a rebuttable
26 presumption that the employer shall not be responsible for

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

10 The changes to this Section made by this amendatory Act of
11 the 97th General Assembly apply only to health care services
12 provided or proposed to be provided on or after September 1,
13 2011.

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

15 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

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

1 employees as provided for in this Act.

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

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

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

26 No compensation shall be payable if (i) the employee's

1 intoxication is the proximate cause of the employee's
2 accidental injury or (ii) at the time the employee incurred the
3 accidental injury, the employee was so intoxicated that the
4 intoxication constituted a departure from the employment.
5 Admissible evidence of the concentration of (1) alcohol, (2)
6 cannabis as defined in the Cannabis Control Act, (3) a
7 controlled substance listed in the Illinois Controlled
8 Substances Act, or (4) an intoxicating compound listed in the
9 Use of Intoxicating Compounds Act in the employee's blood,
10 breath, or urine at the time the employee incurred the
11 accidental injury shall be considered in any hearing under this
12 Act to determine whether the employee was intoxicated at the
13 time the employee incurred the accidental injuries. If at the
14 time of the accidental injuries, there was 0.08% or more by
15 weight of alcohol in the employee's blood, breath, or urine or
16 if there is any evidence of impairment due to the unlawful or
17 unauthorized use of (1) cannabis as defined in the Cannabis
18 Control Act, (2) a controlled substance listed in the Illinois
19 Controlled Substances Act, or (3) an intoxicating compound
20 listed in the Use of Intoxicating Compounds Act or if the
21 employee refuses to submit to testing of blood, breath, or
22 urine, then there shall be a rebuttable presumption that the
23 employee was intoxicated and that the intoxication was the
24 proximate cause of the employee's injury. The employee may
25 overcome the rebuttable presumption by the preponderance of the
26 admissible evidence that the intoxication was not the sole

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

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

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

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

23 (3) that split testing procedures are utilized;

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

26 (A) the labeling of samples in a manner so as to

1 reasonably preclude the probability of erroneous
2 identification of test result; and

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

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

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

17 The changes to this Section made by this amendatory Act of
18 the 97th General Assembly apply only to accidental injuries
19 that occur on or after September 1, 2011.

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

21 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

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

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

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

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

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

26 (a) substantive and procedural aspects of the office of

1 Commissioner;

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

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

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

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

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

16 (g) writing skills; -

17 (h) professional and ethical standards pursuant to
18 Section 1.1 of this Act;

19 (i) detection of workers' compensation fraud and
20 reporting obligations of Commission employees and
21 appointees;

22 (j) standards of evidence-based medical treatment and
23 best practices for measuring and improving quality and
24 health care outcomes in the workers' compensation system,
25 including but not limited to the use of the American
26 Medical Association's "Guides to the Evaluation of

1 Permanent Impairment" and the practice of utilization
2 review; and

3 (k) substantive and procedural aspects of coal
4 workers' pneumoconiosis (black lung) cases.

5 A formal and ongoing professional development program
6 including, but not limited to, the above-noted areas shall be
7 implemented to keep Commissioners informed of recent
8 developments and issues and to assist them in maintaining and
9 enhancing their professional competence. Each Commissioner
10 shall complete 20 hours of training in the above-noted areas
11 during every 2 years such Commissioner shall remain in office.

12 The Commissioner candidates, other than the Chairman, must
13 meet one of the following qualifications: (a) licensed to
14 practice law in the State of Illinois; or (b) served as an
15 arbitrator at the Illinois Workers' Compensation Commission
16 for at least 3 years; or (c) has at least 4 years of
17 professional labor relations experience. The Chairman
18 candidate must have public or private sector management and
19 budget experience, as determined by the Governor.

20 Each Commissioner shall devote full time to his duties and
21 any Commissioner who is an attorney-at-law shall not engage in
22 the practice of law, nor shall any Commissioner hold any other
23 office or position of profit under the United States or this
24 State or any municipal corporation or political subdivision of
25 this State, nor engage in any other business, employment, or
26 vocation.

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

6 The Illinois Workers' Compensation Commission shall
7 administer this Act.

8 In the promulgation of procedural rules, the determination
9 of cases heard en banc, and other matters determined by the
10 full Commission, the Chairman's vote shall break a tie in the
11 event of a tie vote.

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

14 (a) After the effective date of this amendatory Act of
15 1989, 3 members, at least one of each political party, and
16 one of whom shall be a representative citizen of the
17 employing class operating under this Act, one of whom shall
18 be a representative citizen of the class of employees
19 covered under this Act, and one of whom shall be a
20 representative citizen not identified with either the
21 employing or employee classes, shall be appointed to hold
22 office until the third Monday in January of 1993, and until
23 their successors are appointed and qualified, and 4
24 members, one of whom shall be a representative citizen of
25 the employing class operating under this Act, one of whom
26 shall be a representative citizen of the class of employees

1 covered in this Act, and two of whom shall be
2 representative citizens not identified with either the
3 employing or employee classes, one of whom shall be
4 designated by the Governor as Chairman (at least one of
5 each of the two major political parties) shall be appointed
6 to hold office until the third Monday of January in 1991,
7 and until their successors are appointed and qualified.

8 (a-5) Notwithstanding any other provision of this
9 Section, the term of each member of the Commission who was
10 appointed by the Governor and is in office on June 30, 2003
11 shall terminate at the close of business on that date or
12 when all of the successor members to be appointed pursuant
13 to this amendatory Act of the 93rd General Assembly have
14 been appointed by the Governor, whichever occurs later. As
15 soon as possible, the Governor shall appoint persons to
16 fill the vacancies created by this amendatory Act. Of the
17 initial commissioners appointed pursuant to this
18 amendatory Act of the 93rd General Assembly, 3 shall be
19 appointed for terms ending on the third Monday in January,
20 2005, and 4 shall be appointed for terms ending on the
21 third Monday in January, 2007.

22 (a-10) After the effective date of this amendatory Act
23 of the 94th General Assembly, the Commission shall be
24 increased to 10 members. As soon as possible after the
25 effective date of this amendatory Act of the 94th General
26 Assembly, the Governor shall appoint, by and with the

1 consent of the Senate, the 3 members added to the
2 Commission under this amendatory Act of the 94th General
3 Assembly, one of whom shall be a representative citizen of
4 the employing class operating under this Act, one of whom
5 shall be a representative of the class of employees covered
6 under this Act, and one of whom shall be a representative
7 citizen not identified with either the employing or
8 employee classes. Of the members appointed under this
9 amendatory Act of the 94th General Assembly, one shall be
10 appointed for a term ending on the third Monday in January,
11 2007, and 2 shall be appointed for terms ending on the
12 third Monday in January, 2009, and until their successors
13 are appointed and qualified.

14 (b) Members shall thereafter be appointed to hold
15 office for terms of 4 years from the third Monday in
16 January of the year of their appointment, and until their
17 successors are appointed and qualified. All such
18 appointments shall be made so that the composition of the
19 Commission is in accordance with the provisions of the
20 first paragraph of this Section.

21 The Chairman shall receive an annual salary of \$42,500, or
22 a salary set by the Compensation Review Board, whichever is
23 greater, and each other member shall receive an annual salary
24 of \$38,000, or a salary set by the Compensation Review Board,
25 whichever is greater.

26 In case of a vacancy in the office of a Commissioner during

1 the recess of the Senate, the Governor shall make a temporary
2 appointment until the next meeting of the Senate, when he shall
3 nominate some person to fill such office. Any person so
4 nominated who is confirmed by the Senate shall hold office
5 during the remainder of the term and until his successor is
6 appointed and qualified.

7 The Illinois Workers' Compensation Commission created by
8 this amendatory Act of 1989 shall succeed to all the rights,
9 powers, duties, obligations, records and other property and
10 employees of the Industrial Commission which it replaces as
11 modified by this amendatory Act of 1989 and all applications
12 and reports to actions and proceedings of such prior Industrial
13 Commission shall be considered as applications and reports to
14 actions and proceedings of the Illinois Workers' Compensation
15 Commission created by this amendatory Act of 1989.

16 Notwithstanding any other provision of this Act, in the
17 event the Chairman shall make a finding that a member is or
18 will be unavailable to fulfill the responsibilities of his or
19 her office, the Chairman shall advise the Governor and the
20 member in writing and shall designate a certified arbitrator to
21 serve as acting Commissioner. The certified arbitrator shall
22 act as a Commissioner until the member resumes the duties of
23 his or her office or until a new member is appointed by the
24 Governor, by and with the consent of the Senate, if a vacancy
25 occurs in the office of the Commissioner, but in no event shall
26 a certified arbitrator serve in the capacity of Commissioner

1 for more than 6 months from the date of appointment by the
2 Chairman. A finding by the Chairman that a member is or will be
3 unavailable to fulfill the responsibilities of his or her
4 office shall be based upon notice to the Chairman by a member
5 that he or she will be unavailable or facts and circumstances
6 made known to the Chairman which lead him to reasonably find
7 that a member is unavailable to fulfill the responsibilities of
8 his or her office. The designation of a certified arbitrator to
9 act as a Commissioner shall be considered representative of
10 citizens not identified with either the employing or employee
11 classes and the arbitrator shall serve regardless of his or her
12 political affiliation. A certified arbitrator who serves as an
13 acting Commissioner shall have all the rights and powers of a
14 Commissioner, including salary.

15 Notwithstanding any other provision of this Act, the
16 Governor shall appoint a special panel of Commissioners
17 comprised of 3 members who shall be chosen by the Governor, by
18 and with the consent of the Senate, from among the current
19 ranks of certified arbitrators. Three members shall hold office
20 until the Commission in consultation with the Governor
21 determines that the caseload on review has been reduced
22 sufficiently to allow cases to proceed in a timely manner or
23 for a term of 18 months from the effective date of their
24 appointment by the Governor, whichever shall be earlier. The 3
25 members shall be considered representative of citizens not
26 identified with either the employing or employee classes and

1 shall serve regardless of political affiliation. Each of the 3
2 members shall have only such rights and powers of a
3 Commissioner necessary to dispose of those cases assigned to
4 the special panel. Each of the 3 members appointed to the
5 special panel shall receive the same salary as other
6 Commissioners for the duration of the panel.

7 The Commission may have an Executive Director; if so, the
8 Executive Director shall be appointed by the Governor with the
9 advice and consent of the Senate. The salary and duties of the
10 Executive Director shall be fixed by the Commission.

11 On the effective date of this amendatory Act of the 93rd
12 General Assembly, the name of the Industrial Commission is
13 changed to the Illinois Workers' Compensation Commission.
14 References in any law, appropriation, rule, form, or other
15 document: (i) to the Industrial Commission are deemed, in
16 appropriate contexts, to be references to the Illinois Workers'
17 Compensation Commission for all purposes; (ii) to the
18 Industrial Commission Operations Fund are deemed, in
19 appropriate contexts, to be references to the Illinois Workers'
20 Compensation Commission Operations Fund for all purposes;
21 (iii) to the Industrial Commission Operations Fund Fee are
22 deemed, in appropriate contexts, to be references to the
23 Illinois Workers' Compensation Commission Operations Fund Fee
24 for all purposes; and (iv) to the Industrial Commission
25 Operations Fund Surcharge are deemed, in appropriate contexts,
26 to be references to the Illinois Workers' Compensation

1 Commission Operations Fund Surcharge for all purposes.

2 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;
3 94-277, eff. 7-20-05.)

4 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

5 Sec. 13.1. (a) There is created a Workers' Compensation
6 Advisory Board hereinafter referred to as the Advisory Board.
7 After the effective date of this amendatory Act of the 94th
8 General Assembly, the Advisory Board shall consist of 12
9 members appointed by the Governor with the advice and consent
10 of the Senate. Six members of the Advisory Board shall be
11 representative citizens chosen from the employee class, and 6
12 members shall be representative citizens chosen from the
13 employing class. The Chairman of the Commission shall serve as
14 the ex officio Chairman of the Advisory Board. After the
15 effective date of this amendatory Act of the 94th General
16 Assembly, each member of the Advisory Board shall serve a term
17 ending on the third Monday in January 2007 and shall continue
18 to serve until his or her successor is appointed and qualified.
19 Members of the Advisory Board shall thereafter be appointed for
20 4 year terms from the third Monday in January of the year of
21 their appointment, and until their successors are appointed and
22 qualified. Seven members of the Advisory Board shall constitute
23 a quorum to do business, but in no case shall there be less
24 than one representative from each class. A vacancy on the
25 Advisory Board shall be filled by the Governor for the

1 unexpired term.

2 (b) Members of the Advisory Board shall receive no
3 compensation for their services but shall be reimbursed for
4 expenses incurred in the performance of their duties by the
5 Commission from appropriations made to the Commission for such
6 purpose.

7 (c) The Advisory Board shall aid the Commission in
8 formulating policies, discussing problems, setting priorities
9 of expenditures, reviewing advisory rates filed by an advisory
10 organization as defined in Section 463 of the Illinois
11 Insurance Code, and establishing short and long range
12 administrative goals. Prior to making the (1) initial set of
13 arbitrator appointments pursuant to this amendatory Act of the
14 97th General Assembly and (2) appointment of Commissioners,
15 ~~appointments to the Commission,~~ the Governor shall request that
16 the Advisory Board make recommendations as to candidates to
17 consider for appointment and the Advisory Board may then make
18 such recommendations.

19 (d) The terms of all Advisory Board members serving on the
20 effective date of this amendatory Act of the 97th General
21 Assembly are terminated. The Governor shall appoint new members
22 to the Advisory Board within 30 days after the effective date
23 of the amendatory Act of the 97th General Assembly, subject to
24 the advice and consent of the Senate.

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

1 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

2 Sec. 14. The Commission shall appoint a secretary, an
3 assistant secretary, and arbitrators and shall employ such
4 assistants and clerical help as may be necessary. Arbitrators
5 shall be appointed pursuant to this Section, notwithstanding
6 any provision of the Personnel Code.

7 Each arbitrator appointed after November 22, 1977 shall be
8 required to demonstrate in writing and in accordance with the
9 rules and regulations of the Illinois Department of Central
10 Management Services his or her knowledge of and expertise in
11 the law of and judicial processes of the Workers' Compensation
12 Act and the Occupational Diseases Act.

13 A formal training program for newly-hired arbitrators
14 shall be implemented. The training program shall include the
15 following:

16 (a) substantive and procedural aspects of the
17 arbitrator position;

18 (b) current issues in workers' compensation law and
19 practice;

20 (c) medical lectures by specialists in areas such as
21 orthopedics, ophthalmology, psychiatry, rehabilitation
22 counseling;

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

25 (e) observation of experienced arbitrators conducting
26 hearings of cases, combined with the opportunity to discuss

1 evidence presented and rulings made;

2 (f) the use of hypothetical cases requiring the trainee
3 to issue judgments as a means to evaluating knowledge and
4 writing ability;

5 (g) writing skills; -

6 (h) professional and ethical standards pursuant to
7 Section 1.1 of this Act;

8 (i) detection of workers' compensation fraud and
9 reporting obligations of Commission employees and
10 appointees;

11 (j) standards of evidence-based medical treatment and
12 best practices for measuring and improving quality and
13 health care outcomes in the workers' compensation system,
14 including but not limited to the use of the American
15 Medical Association's "Guides to the Evaluation of
16 Permanent Impairment" and the practice of utilization
17 review; and

18 (k) substantive and procedural aspects of coal
19 workers' pneumoconiosis (black lung) cases.

20 A formal and ongoing professional development program
21 including, but not limited to, the above-noted areas shall be
22 implemented to keep arbitrators informed of recent
23 developments and issues and to assist them in maintaining and
24 enhancing their professional competence. Each arbitrator shall
25 complete 20 hours of training in the above-noted areas during
26 every 2 years such arbitrator shall remain in office.

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

15 Notwithstanding any other provision of this Section, the
16 term of all arbitrators serving on the effective date of this
17 amendatory Act of the 97th General Assembly, including any
18 arbitrators on administrative leave, shall terminate at the
19 close of business on July 1, 2011, but the incumbents shall
20 continue to exercise all of their duties until they are
21 reappointed or their successors are appointed.

22 On and after the effective date of this amendatory Act of
23 the 97th General Assembly, arbitrators shall be appointed to
24 3-year terms by the full Commission, except that initial
25 appointments made on and after the effective date of this
26 amendatory Act of the 97th General Assembly shall be made as

1 follows:

2 (1) All appointments shall be made by the Governor with
3 the advice and consent of the Senate.

4 (2) 12 arbitrators shall be appointed to terms expiring
5 July 1, 2012; 12 arbitrators shall be appointed to terms
6 expiring July 1, 2013; and all additional arbitrators shall
7 be appointed to terms expiring July 1, 2014.

8 Upon the expiration of a term, the Chairman shall evaluate
9 the performance of the arbitrator and may recommend that he or
10 she be reappointed to a second or subsequent term by the full
11 Commission.

12 Each arbitrator appointed on or after the effective date of
13 this amendatory Act of the 97th General Assembly and who has
14 not previously served as an arbitrator for the Commission shall
15 be required to be authorized to practice law in this State by
16 the Supreme Court, and to maintain this authorization
17 throughout his or her term of employment.

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

1 ~~subsequent term unless 8 of 10 members of the Commission,~~
2 ~~including the Chairman, vote not to reappoint the arbitrator.~~

3 All arbitrators shall be subject to the provisions of the
4 Personnel Code, and the performance of all arbitrators shall be
5 reviewed by the Chairman on an annual basis. The changes made
6 to this Section by this amendatory Act of the 97th General
7 Assembly shall prevail over any conflict with the Personnel
8 Code. The Chairman shall allow input from the Commissioners in
9 all such reviews.

10 The Commission shall assign no fewer than 3 arbitrators to
11 each hearing site. The Commission shall establish a procedure
12 to ensure that the arbitrators assigned to each hearing site
13 are assigned cases on a random basis. No arbitrator shall hear
14 cases in any county, other than Cook County, for more than 2
15 years in each 3-year term.

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

20 The members of the Commission, Arbitrators and other
21 employees whose duties require them to travel, shall have
22 reimbursed to them their actual traveling expenses and
23 disbursements made or incurred by them in the discharge of
24 their official duties while away from their place of residence
25 in the performance of their duties.

26 The Commission shall provide itself with a seal for the

1 authentication of its orders, awards and proceedings upon which
2 shall be inscribed the name of the Commission and the words
3 "Illinois--Seal".

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

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

20 (820 ILCS 305/16b new)

21 Sec. 16b. Gift ban.

22 (a) An attorney appearing before the Commission shall not
23 provide compensation or any gift to any person in exchange for
24 the referral of a client involving a matter to be heard before
25 the Commission except for a division of a fee between lawyers

1 who are not in the same firm in accordance with Rule 1.5 of the
2 Code of Professional Responsibility. For purposes of this
3 Section, "gift" means any gratuity, discount, entertainment,
4 hospitality, loan, forbearance, or any other tangible or
5 intangible item having monetary value including, but not
6 limited to, cash, food and drink, and honoraria except for food
7 or refreshments not exceeding \$75 per person in value on a
8 single calendar day, provided that the food or refreshments are
9 (1) consumed on the premises from which they were purchased or
10 prepared or (2) catered. "Catered" means food or refreshments
11 that are purchased ready to eat and delivered by any means.

12 (b) Violation of this Section is a Class A misdemeanor.

13 (820 ILCS 305/18) (from Ch. 48, par. 138.18)

14 Sec. 18. All questions arising under this Act, if not
15 settled by agreement of the parties interested therein, shall,
16 except as otherwise provided, be determined by the Commission.
17 Claims from current and former employees of the Commission
18 shall be determined in accordance with Section 18.1 of this
19 Act.

20 (Source: Laws 1951, p. 1060.)

21 (820 ILCS 305/18.1 new)

22 Sec. 18.1. Claims by former and current employees of the
23 Commission. All claims by current and former employees and
24 appointees of the Commission shall be assigned to a certified

1 independent arbitrator not employed by the Commission
2 designated by the Chairman. The Chairman shall designate an
3 arbitrator from a list of approved certified arbitrators
4 provided by the Commission Review Board. If the Chairman is the
5 claimant, then the independent arbitrator from the approved
6 list shall be designated by the longest serving Commissioner.
7 The designated independent arbitrator shall have the authority
8 of arbitrators of the Commission regarding settlement and
9 adjudication of the claim of the current and former employees
10 and appointees of the Commission. The decision of the
11 independent arbitrator shall become the decision of the
12 Commission. An appeal of the independent arbitrator's decision
13 shall be subject to judicial review in accordance with
14 subsection (f) of Section 19.

15 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

16 Sec. 19. Any disputed questions of law or fact shall be
17 determined as herein provided.

18 (a) It shall be the duty of the Commission upon
19 notification that the parties have failed to reach an
20 agreement, to designate an Arbitrator.

21 1. Whenever any claimant misconceives his remedy and
22 files an application for adjustment of claim under this Act
23 and it is subsequently discovered, at any time before final
24 disposition of such cause, that the claim for disability or
25 death which was the basis for such application should

1 properly have been made under the Workers' Occupational
2 Diseases Act, then the provisions of Section 19, paragraph
3 (a-1) of the Workers' Occupational Diseases Act having
4 reference to such application shall apply.

5 2. Whenever any claimant misconceives his remedy and
6 files an application for adjustment of claim under the
7 Workers' Occupational Diseases Act and it is subsequently
8 discovered, at any time before final disposition of such
9 cause that the claim for injury or death which was the
10 basis for such application should properly have been made
11 under this Act, then the application so filed under the
12 Workers' Occupational Diseases Act may be amended in form,
13 substance or both to assert claim for such disability or
14 death under this Act and it shall be deemed to have been so
15 filed as amended on the date of the original filing
16 thereof, and such compensation may be awarded as is
17 warranted by the whole evidence pursuant to this Act. When
18 such amendment is submitted, further or additional
19 evidence may be heard by the Arbitrator or Commission when
20 deemed necessary. Nothing in this Section contained shall
21 be construed to be or permit a waiver of any provisions of
22 this Act with reference to notice but notice if given shall
23 be deemed to be a notice under the provisions of this Act
24 if given within the time required herein.

25 (b) The Arbitrator shall make such inquiries and
26 investigations as he or they shall deem necessary and may

1 examine and inspect all books, papers, records, places, or
2 premises relating to the questions in dispute and hear such
3 proper evidence as the parties may submit.

4 The hearings before the Arbitrator shall be held in the
5 vicinity where the injury occurred after 10 days' notice of the
6 time and place of such hearing shall have been given to each of
7 the parties or their attorneys of record.

8 The Arbitrator may find that the disabling condition is
9 temporary and has not yet reached a permanent condition and may
10 order the payment of compensation up to the date of the
11 hearing, which award shall be reviewable and enforceable in the
12 same manner as other awards, and in no instance be a bar to a
13 further hearing and determination of a further amount of
14 temporary total compensation or of compensation for permanent
15 disability, but shall be conclusive as to all other questions
16 except the nature and extent of said disability.

17 The decision of the Arbitrator shall be filed with the
18 Commission which Commission shall immediately send to each
19 party or his attorney a copy of such decision, together with a
20 notification of the time when it was filed. As of the effective
21 date of this amendatory Act of the 94th General Assembly, all
22 decisions of the Arbitrator shall set forth in writing findings
23 of fact and conclusions of law, separately stated, if requested
24 by either party. Unless a petition for review is filed by
25 either party within 30 days after the receipt by such party of
26 the copy of the decision and notification of time when filed,

1 and unless such party petitioning for a review shall within 35
2 days after the receipt by him of the copy of the decision, file
3 with the Commission either an agreed statement of the facts
4 appearing upon the hearing before the Arbitrator, or if such
5 party shall so elect a correct transcript of evidence of the
6 proceedings at such hearings, then the decision shall become
7 the decision of the Commission and in the absence of fraud
8 shall be conclusive. The Petition for Review shall contain a
9 statement of the petitioning party's specific exceptions to the
10 decision of the arbitrator. The jurisdiction of the Commission
11 to review the decision of the arbitrator shall not be limited
12 to the exceptions stated in the Petition for Review. The
13 Commission, or any member thereof, may grant further time not
14 exceeding 30 days, in which to file such agreed statement or
15 transcript of evidence. Such agreed statement of facts or
16 correct transcript of evidence, as the case may be, shall be
17 authenticated by the signatures of the parties or their
18 attorneys, and in the event they do not agree as to the
19 correctness of the transcript of evidence it shall be
20 authenticated by the signature of the Arbitrator designated by
21 the Commission.

22 Whether the employee is working or not, if the employee is
23 not receiving or has not received medical, surgical, or
24 hospital services or other services or compensation as provided
25 in paragraph (a) of Section 8, or compensation as provided in
26 paragraph (b) of Section 8, the employee may at any time

1 petition for an expedited hearing by an Arbitrator on the issue
2 of whether or not he or she is entitled to receive payment of
3 the services or compensation. Provided the employer continues
4 to pay compensation pursuant to paragraph (b) of Section 8, the
5 employer may at any time petition for an expedited hearing on
6 the issue of whether or not the employee is entitled to receive
7 medical, surgical, or hospital services or other services or
8 compensation as provided in paragraph (a) of Section 8, or
9 compensation as provided in paragraph (b) of Section 8. When an
10 employer has petitioned for an expedited hearing, the employer
11 shall continue to pay compensation as provided in paragraph (b)
12 of Section 8 unless the arbitrator renders a decision that the
13 employee is not entitled to the benefits that are the subject
14 of the expedited hearing or unless the employee's treating
15 physician has released the employee to return to work at his or
16 her regular job with the employer or the employee actually
17 returns to work at any other job. If the arbitrator renders a
18 decision that the employee is not entitled to the benefits that
19 are the subject of the expedited hearing, a petition for review
20 filed by the employee shall receive the same priority as if the
21 employee had filed a petition for an expedited hearing by an
22 Arbitrator. Neither party shall be entitled to an expedited
23 hearing when the employee has returned to work and the sole
24 issue in dispute amounts to less than 12 weeks of unpaid
25 compensation pursuant to paragraph (b) of Section 8.

26 Expedited hearings shall have priority over all other

1 petitions and shall be heard by the Arbitrator and Commission
2 with all convenient speed. Any party requesting an expedited
3 hearing shall give notice of a request for an expedited hearing
4 under this paragraph. A copy of the Application for Adjustment
5 of Claim shall be attached to the notice. The Commission shall
6 adopt rules and procedures under which the final decision of
7 the Commission under this paragraph is filed not later than 180
8 days from the date that the Petition for Review is filed with
9 the Commission.

10 Where 2 or more insurance carriers, private self-insureds,
11 or a group workers' compensation pool under Article V 3/4 of
12 the Illinois Insurance Code dispute coverage for the same
13 injury, any such insurance carrier, private self-insured, or
14 group workers' compensation pool may request an expedited
15 hearing pursuant to this paragraph to determine the issue of
16 coverage, provided coverage is the only issue in dispute and
17 all other issues are stipulated and agreed to and further
18 provided that all compensation benefits including medical
19 benefits pursuant to Section 8(a) continue to be paid to or on
20 behalf of petitioner. Any insurance carrier, private
21 self-insured, or group workers' compensation pool that is
22 determined to be liable for coverage for the injury in issue
23 shall reimburse any insurance carrier, private self-insured,
24 or group workers' compensation pool that has paid benefits to
25 or on behalf of petitioner for the injury.

26 (b-1) If the employee is not receiving medical, surgical or

1 hospital services as provided in paragraph (a) of Section 8 or
2 compensation as provided in paragraph (b) of Section 8, the
3 employee, in accordance with Commission Rules, may file a
4 petition for an emergency hearing by an Arbitrator on the issue
5 of whether or not he is entitled to receive payment of such
6 compensation or services as provided therein. Such petition
7 shall have priority over all other petitions and shall be heard
8 by the Arbitrator and Commission with all convenient speed.

9 Such petition shall contain the following information and
10 shall be served on the employer at least 15 days before it is
11 filed:

12 (i) the date and approximate time of accident;

13 (ii) the approximate location of the accident;

14 (iii) a description of the accident;

15 (iv) the nature of the injury incurred by the employee;

16 (v) the identity of the person, if known, to whom the
17 accident was reported and the date on which it was
18 reported;

19 (vi) the name and title of the person, if known,
20 representing the employer with whom the employee conferred
21 in any effort to obtain compensation pursuant to paragraph
22 (b) of Section 8 of this Act or medical, surgical or
23 hospital services pursuant to paragraph (a) of Section 8 of
24 this Act and the date of such conference;

25 (vii) a statement that the employer has refused to pay
26 compensation pursuant to paragraph (b) of Section 8 of this

1 Act or for medical, surgical or hospital services pursuant
2 to paragraph (a) of Section 8 of this Act;

3 (viii) the name and address, if known, of each witness
4 to the accident and of each other person upon whom the
5 employee will rely to support his allegations;

6 (ix) the dates of treatment related to the accident by
7 medical practitioners, and the names and addresses of such
8 practitioners, including the dates of treatment related to
9 the accident at any hospitals and the names and addresses
10 of such hospitals, and a signed authorization permitting
11 the employer to examine all medical records of all
12 practitioners and hospitals named pursuant to this
13 paragraph;

14 (x) a copy of a signed report by a medical
15 practitioner, relating to the employee's current inability
16 to return to work because of the injuries incurred as a
17 result of the accident or such other documents or
18 affidavits which show that the employee is entitled to
19 receive compensation pursuant to paragraph (b) of Section 8
20 of this Act or medical, surgical or hospital services
21 pursuant to paragraph (a) of Section 8 of this Act. Such
22 reports, documents or affidavits shall state, if possible,
23 the history of the accident given by the employee, and
24 describe the injury and medical diagnosis, the medical
25 services for such injury which the employee has received
26 and is receiving, the physical activities which the

1 employee cannot currently perform as a result of any
2 impairment or disability due to such injury, and the
3 prognosis for recovery;

4 (xi) complete copies of any reports, records,
5 documents and affidavits in the possession of the employee
6 on which the employee will rely to support his allegations,
7 provided that the employer shall pay the reasonable cost of
8 reproduction thereof;

9 (xii) a list of any reports, records, documents and
10 affidavits which the employee has demanded by subpoena and
11 on which he intends to rely to support his allegations;

12 (xiii) a certification signed by the employee or his
13 representative that the employer has received the petition
14 with the required information 15 days before filing.

15 Fifteen days after receipt by the employer of the petition
16 with the required information the employee may file said
17 petition and required information and shall serve notice of the
18 filing upon the employer. The employer may file a motion
19 addressed to the sufficiency of the petition. If an objection
20 has been filed to the sufficiency of the petition, the
21 arbitrator shall rule on the objection within 2 working days.
22 If such an objection is filed, the time for filing the final
23 decision of the Commission as provided in this paragraph shall
24 be tolled until the arbitrator has determined that the petition
25 is sufficient.

26 The employer shall, within 15 days after receipt of the

1 notice that such petition is filed, file with the Commission
2 and serve on the employee or his representative a written
3 response to each claim set forth in the petition, including the
4 legal and factual basis for each disputed allegation and the
5 following information: (i) complete copies of any reports,
6 records, documents and affidavits in the possession of the
7 employer on which the employer intends to rely in support of
8 his response, (ii) a list of any reports, records, documents
9 and affidavits which the employer has demanded by subpoena and
10 on which the employer intends to rely in support of his
11 response, (iii) the name and address of each witness on whom
12 the employer will rely to support his response, and (iv) the
13 names and addresses of any medical practitioners selected by
14 the employer pursuant to Section 12 of this Act and the time
15 and place of any examination scheduled to be made pursuant to
16 such Section.

17 Any employer who does not timely file and serve a written
18 response without good cause may not introduce any evidence to
19 dispute any claim of the employee but may cross examine the
20 employee or any witness brought by the employee and otherwise
21 be heard.

22 No document or other evidence not previously identified by
23 either party with the petition or written response, or by any
24 other means before the hearing, may be introduced into evidence
25 without good cause. If, at the hearing, material information is
26 discovered which was not previously disclosed, the Arbitrator

1 may extend the time for closing proof on the motion of a party
2 for a reasonable period of time which may be more than 30 days.
3 No evidence may be introduced pursuant to this paragraph as to
4 permanent disability. No award may be entered for permanent
5 disability pursuant to this paragraph. Either party may
6 introduce into evidence the testimony taken by deposition of
7 any medical practitioner.

8 The Commission shall adopt rules, regulations and
9 procedures whereby the final decision of the Commission is
10 filed not later than 90 days from the date the petition for
11 review is filed but in no event later than 180 days from the
12 date the petition for an emergency hearing is filed with the
13 Illinois Workers' Compensation Commission.

14 All service required pursuant to this paragraph (b-1) must
15 be by personal service or by certified mail and with evidence
16 of receipt. In addition for the purposes of this paragraph, all
17 service on the employer must be at the premises where the
18 accident occurred if the premises are owned or operated by the
19 employer. Otherwise service must be at the employee's principal
20 place of employment by the employer. If service on the employer
21 is not possible at either of the above, then service shall be
22 at the employer's principal place of business. After initial
23 service in each case, service shall be made on the employer's
24 attorney or designated representative.

25 (c) (1) At a reasonable time in advance of and in
26 connection with the hearing under Section 19(e) or 19(h), the

1 Commission may on its own motion order an impartial physical or
2 mental examination of a petitioner whose mental or physical
3 condition is in issue, when in the Commission's discretion it
4 appears that such an examination will materially aid in the
5 just determination of the case. The examination shall be made
6 by a member or members of a panel of physicians chosen for
7 their special qualifications by the Illinois State Medical
8 Society. The Commission shall establish procedures by which a
9 physician shall be selected from such list.

10 (2) Should the Commission at any time during the hearing
11 find that compelling considerations make it advisable to have
12 an examination and report at that time, the commission may in
13 its discretion so order.

14 (3) A copy of the report of examination shall be given to
15 the Commission and to the attorneys for the parties.

16 (4) Either party or the Commission may call the examining
17 physician or physicians to testify. Any physician so called
18 shall be subject to cross-examination.

19 (5) The examination shall be made, and the physician or
20 physicians, if called, shall testify, without cost to the
21 parties. The Commission shall determine the compensation and
22 the pay of the physician or physicians. The compensation for
23 this service shall not exceed the usual and customary amount
24 for such service.

25 (6) The fees and payment thereof of all attorneys and
26 physicians for services authorized by the Commission under this

1 Act shall, upon request of either the employer or the employee
2 or the beneficiary affected, be subject to the review and
3 decision of the Commission.

4 (d) If any employee shall persist in insanitary or
5 injurious practices which tend to either imperil or retard his
6 recovery or shall refuse to submit to such medical, surgical,
7 or hospital treatment as is reasonably essential to promote his
8 recovery, the Commission may, in its discretion, reduce or
9 suspend the compensation of any such injured employee. However,
10 when an employer and employee so agree in writing, the
11 foregoing provision shall not be construed to authorize the
12 reduction or suspension of compensation of an employee who is
13 relying in good faith, on treatment by prayer or spiritual
14 means alone, in accordance with the tenets and practice of a
15 recognized church or religious denomination, by a duly
16 accredited practitioner thereof.

17 (e) This paragraph shall apply to all hearings before the
18 Commission. Such hearings may be held in its office or
19 elsewhere as the Commission may deem advisable. The taking of
20 testimony on such hearings may be had before any member of the
21 Commission. If a petition for review and agreed statement of
22 facts or transcript of evidence is filed, as provided herein,
23 the Commission shall promptly review the decision of the
24 Arbitrator and all questions of law or fact which appear from
25 the statement of facts or transcript of evidence.

26 In all cases in which the hearing before the arbitrator is

1 held after December 18, 1989, no additional evidence shall be
2 introduced by the parties before the Commission on review of
3 the decision of the Arbitrator. In reviewing decisions of an
4 arbitrator the Commission shall award such temporary
5 compensation, permanent compensation and other payments as are
6 due under this Act. The Commission shall file in its office its
7 decision thereon, and shall immediately send to each party or
8 his attorney a copy of such decision and a notification of the
9 time when it was filed. Decisions shall be filed within 60 days
10 after the Statement of Exceptions and Supporting Brief and
11 Response thereto are required to be filed or oral argument
12 whichever is later.

13 In the event either party requests oral argument, such
14 argument shall be had before a panel of 3 members of the
15 Commission (or before all available members pursuant to the
16 determination of 7 members of the Commission that such argument
17 be held before all available members of the Commission)
18 pursuant to the rules and regulations of the Commission. A
19 panel of 3 members, which shall be comprised of not more than
20 one representative citizen of the employing class and not more
21 than one representative citizen of the employee class, shall
22 hear the argument; provided that if all the issues in dispute
23 are solely the nature and extent of the permanent partial
24 disability, if any, a majority of the panel may deny the
25 request for such argument and such argument shall not be held;
26 and provided further that 7 members of the Commission may

1 determine that the argument be held before all available
2 members of the Commission. A decision of the Commission shall
3 be approved by a majority of Commissioners present at such
4 hearing if any; provided, if no such hearing is held, a
5 decision of the Commission shall be approved by a majority of a
6 panel of 3 members of the Commission as described in this
7 Section. The Commission shall give 10 days' notice to the
8 parties or their attorneys of the time and place of such taking
9 of testimony and of such argument.

10 In any case the Commission in its decision may find
11 specially upon any question or questions of law or fact which
12 shall be submitted in writing by either party whether ultimate
13 or otherwise; provided that on issues other than nature and
14 extent of the disability, if any, the Commission in its
15 decision shall find specially upon any question or questions of
16 law or fact, whether ultimate or otherwise, which are submitted
17 in writing by either party; provided further that not more than
18 5 such questions may be submitted by either party. Any party
19 may, within 20 days after receipt of notice of the Commission's
20 decision, or within such further time, not exceeding 30 days,
21 as the Commission may grant, file with the Commission either an
22 agreed statement of the facts appearing upon the hearing, or,
23 if such party shall so elect, a correct transcript of evidence
24 of the additional proceedings presented before the Commission,
25 in which report the party may embody a correct statement of
26 such other proceedings in the case as such party may desire to

1 have reviewed, such statement of facts or transcript of
2 evidence to be authenticated by the signature of the parties or
3 their attorneys, and in the event that they do not agree, then
4 the authentication of such transcript of evidence shall be by
5 the signature of any member of the Commission.

6 If a reporter does not for any reason furnish a transcript
7 of the proceedings before the Arbitrator in any case for use on
8 a hearing for review before the Commission, within the
9 limitations of time as fixed in this Section, the Commission
10 may, in its discretion, order a trial de novo before the
11 Commission in such case upon application of either party. The
12 applications for adjustment of claim and other documents in the
13 nature of pleadings filed by either party, together with the
14 decisions of the Arbitrator and of the Commission and the
15 statement of facts or transcript of evidence hereinbefore
16 provided for in paragraphs (b) and (c) shall be the record of
17 the proceedings of the Commission, and shall be subject to
18 review as hereinafter provided.

19 At the request of either party or on its own motion, the
20 Commission shall set forth in writing the reasons for the
21 decision, including findings of fact and conclusions of law
22 separately stated. The Commission shall by rule adopt a format
23 for written decisions for the Commission and arbitrators. The
24 written decisions shall be concise and shall succinctly state
25 the facts and reasons for the decision. The Commission may
26 adopt in whole or in part, the decision of the arbitrator as

1 the decision of the Commission. When the Commission does so
2 adopt the decision of the arbitrator, it shall do so by order.
3 Whenever the Commission adopts part of the arbitrator's
4 decision, but not all, it shall include in the order the
5 reasons for not adopting all of the arbitrator's decision. When
6 a majority of a panel, after deliberation, has arrived at its
7 decision, the decision shall be filed as provided in this
8 Section without unnecessary delay, and without regard to the
9 fact that a member of the panel has expressed an intention to
10 dissent. Any member of the panel may file a dissent. Any
11 dissent shall be filed no later than 10 days after the decision
12 of the majority has been filed.

13 Decisions rendered by the Commission and dissents, if any,
14 shall be published together by the Commission. The conclusions
15 of law set out in such decisions shall be regarded as
16 precedents by arbitrators for the purpose of achieving a more
17 uniform administration of this Act.

18 (f) The decision of the Commission acting within its
19 powers, according to the provisions of paragraph (e) of this
20 Section shall, in the absence of fraud, be conclusive unless
21 reviewed as in this paragraph hereinafter provided. However,
22 the Arbitrator or the Commission may on his or its own motion,
23 or on the motion of either party, correct any clerical error or
24 errors in computation within 15 days after the date of receipt
25 of any award by such Arbitrator or any decision on review of
26 the Commission and shall have the power to recall the original

1 award on arbitration or decision on review, and issue in lieu
2 thereof such corrected award or decision. Where such correction
3 is made the time for review herein specified shall begin to run
4 from the date of the receipt of the corrected award or
5 decision.

6 (1) Except in cases of claims against the State of
7 Illinois, in which case the decision of the Commission
8 shall not be subject to judicial review except as otherwise
9 provided in Section 18.1, the Circuit Court of the county
10 where any of the parties defendant may be found, or if none
11 of the parties defendant can be found in this State then
12 the Circuit Court of the county where the accident
13 occurred, shall by summons to the Commission have power to
14 review all questions of law and fact presented by such
15 record.

16 A proceeding for review shall be commenced within 20
17 days of the receipt of notice of the decision of the
18 Commission. The summons shall be issued by the clerk of
19 such court upon written request returnable on a designated
20 return day, not less than 10 or more than 60 days from the
21 date of issuance thereof, and the written request shall
22 contain the last known address of other parties in interest
23 and their attorneys of record who are to be served by
24 summons. Service upon any member of the Commission or the
25 Secretary or the Assistant Secretary thereof shall be
26 service upon the Commission, and service upon other parties

1 in interest and their attorneys of record shall be by
2 summons, and such service shall be made upon the Commission
3 and other parties in interest by mailing notices of the
4 commencement of the proceedings and the return day of the
5 summons to the office of the Commission and to the last
6 known place of residence of other parties in interest or
7 their attorney or attorneys of record. The clerk of the
8 court issuing the summons shall on the day of issue mail
9 notice of the commencement of the proceedings which shall
10 be done by mailing a copy of the summons to the office of
11 the Commission, and a copy of the summons to the other
12 parties in interest or their attorney or attorneys of
13 record and the clerk of the court shall make certificate
14 that he has so sent said notices in pursuance of this
15 Section, which shall be evidence of service on the
16 Commission and other parties in interest.

17 The Commission shall not be required to certify the
18 record of their proceedings to the Circuit Court, unless
19 the party commencing the proceedings for review in the
20 Circuit Court as above provided, shall pay to the
21 Commission the sum of 80¢ per page of testimony taken
22 before the Commission, and 35¢ per page of all other
23 matters contained in such record, except as otherwise
24 provided by Section 20 of this Act. Payment for photostatic
25 copies of exhibit shall be extra. It shall be the duty of
26 the Commission upon such payment, or failure to pay as

1 permitted under Section 20 of this Act, to prepare a true
2 and correct typewritten copy of such testimony and a true
3 and correct copy of all other matters contained in such
4 record and certified to by the Secretary or Assistant
5 Secretary thereof.

6 In its decision on review the Commission shall
7 determine in each particular case the amount of the
8 probable cost of the record to be filed as a part of the
9 summons in that case and no request for a summons may be
10 filed and no summons shall issue unless the party seeking
11 to review the decision of the Commission shall exhibit to
12 the clerk of the Circuit Court proof of payment by filing a
13 receipt showing payment or an affidavit of the attorney
14 setting forth that payment has been made of the sums so
15 determined to the Secretary or Assistant Secretary of the
16 Commission, except as otherwise provided by Section 20 of
17 this Act.

18 (2) No such summons shall issue unless the one against
19 whom the Commission shall have rendered an award for the
20 payment of money shall upon the filing of his written
21 request for such summons file with the clerk of the court a
22 bond conditioned that if he shall not successfully
23 prosecute the review, he will pay the award and the costs
24 of the proceedings in the courts. The amount of the bond
25 shall be fixed by any member of the Commission and the
26 surety or sureties of the bond shall be approved by the

1 clerk of the court. The acceptance of the bond by the clerk
2 of the court shall constitute evidence of his approval of
3 the bond.

4 Every county, city, town, township, incorporated
5 village, school district, body politic or municipal
6 corporation against whom the Commission shall have
7 rendered an award for the payment of money shall not be
8 required to file a bond to secure the payment of the award
9 and the costs of the proceedings in the court to authorize
10 the court to issue such summons.

11 The court may confirm or set aside the decision of the
12 Commission. If the decision is set aside and the facts
13 found in the proceedings before the Commission are
14 sufficient, the court may enter such decision as is
15 justified by law, or may remand the cause to the Commission
16 for further proceedings and may state the questions
17 requiring further hearing, and give such other
18 instructions as may be proper. Appeals shall be taken to
19 the Appellate Court in accordance with Supreme Court Rules
20 22(g) and 303. Appeals shall be taken from the Appellate
21 Court to the Supreme Court in accordance with Supreme Court
22 Rule 315.

23 It shall be the duty of the clerk of any court
24 rendering a decision affecting or affirming an award of the
25 Commission to promptly furnish the Commission with a copy
26 of such decision, without charge.

1 The decision of a majority of the members of the panel
2 of the Commission, shall be considered the decision of the
3 Commission.

4 (g) Except in the case of a claim against the State of
5 Illinois, either party may present a certified copy of the
6 award of the Arbitrator, or a certified copy of the decision of
7 the Commission when the same has become final, when no
8 proceedings for review are pending, providing for the payment
9 of compensation according to this Act, to the Circuit Court of
10 the county in which such accident occurred or either of the
11 parties are residents, whereupon the court shall enter a
12 judgment in accordance therewith. In a case where the employer
13 refuses to pay compensation according to such final award or
14 such final decision upon which such judgment is entered the
15 court shall in entering judgment thereon, tax as costs against
16 him the reasonable costs and attorney fees in the arbitration
17 proceedings and in the court entering the judgment for the
18 person in whose favor the judgment is entered, which judgment
19 and costs taxed as therein provided shall, until and unless set
20 aside, have the same effect as though duly entered in an action
21 duly tried and determined by the court, and shall with like
22 effect, be entered and docketed. The Circuit Court shall have
23 power at any time upon application to make any such judgment
24 conform to any modification required by any subsequent decision
25 of the Supreme Court upon appeal, or as the result of any
26 subsequent proceedings for review, as provided in this Act.

1 Judgment shall not be entered until 15 days' notice of the
2 time and place of the application for the entry of judgment
3 shall be served upon the employer by filing such notice with
4 the Commission, which Commission shall, in case it has on file
5 the address of the employer or the name and address of its
6 agent upon whom notices may be served, immediately send a copy
7 of the notice to the employer or such designated agent.

8 (h) An agreement or award under this Act providing for
9 compensation in installments, may at any time within 18 months
10 after such agreement or award be reviewed by the Commission at
11 the request of either the employer or the employee, on the
12 ground that the disability of the employee has subsequently
13 recurred, increased, diminished or ended.

14 However, as to accidents occurring subsequent to July 1,
15 1955, which are covered by any agreement or award under this
16 Act providing for compensation in installments made as a result
17 of such accident, such agreement or award may at any time
18 within 30 months, or 60 months in the case of an award under
19 Section 8(d)1, after such agreement or award be reviewed by the
20 Commission at the request of either the employer or the
21 employee on the ground that the disability of the employee has
22 subsequently recurred, increased, diminished or ended.

23 On such review, compensation payments may be
24 re-established, increased, diminished or ended. The Commission
25 shall give 15 days' notice to the parties of the hearing for
26 review. Any employee, upon any petition for such review being

1 filed by the employer, shall be entitled to one day's notice
2 for each 100 miles necessary to be traveled by him in attending
3 the hearing of the Commission upon the petition, and 3 days in
4 addition thereto. Such employee shall, at the discretion of the
5 Commission, also be entitled to 5 cents per mile necessarily
6 traveled by him within the State of Illinois in attending such
7 hearing, not to exceed a distance of 300 miles, to be taxed by
8 the Commission as costs and deposited with the petition of the
9 employer.

10 When compensation which is payable in accordance with an
11 award or settlement contract approved by the Commission, is
12 ordered paid in a lump sum by the Commission, no review shall
13 be had as in this paragraph mentioned.

14 (i) Each party, upon taking any proceedings or steps
15 whatsoever before any Arbitrator, Commission or court, shall
16 file with the Commission his address, or the name and address
17 of any agent upon whom all notices to be given to such party
18 shall be served, either personally or by registered mail,
19 addressed to such party or agent at the last address so filed
20 with the Commission. In the event such party has not filed his
21 address, or the name and address of an agent as above provided,
22 service of any notice may be had by filing such notice with the
23 Commission.

24 (j) Whenever in any proceeding testimony has been taken or
25 a final decision has been rendered and after the taking of such
26 testimony or after such decision has become final, the injured

1 employee dies, then in any subsequent proceedings brought by
2 the personal representative or beneficiaries of the deceased
3 employee, such testimony in the former proceeding may be
4 introduced with the same force and effect as though the witness
5 having so testified were present in person in such subsequent
6 proceedings and such final decision, if any, shall be taken as
7 final adjudication of any of the issues which are the same in
8 both proceedings.

9 (k) In case where there has been any unreasonable or
10 vexatious delay of payment or intentional underpayment of
11 compensation, or proceedings have been instituted or carried on
12 by the one liable to pay the compensation, which do not present
13 a real controversy, but are merely frivolous or for delay, then
14 the Commission may award compensation additional to that
15 otherwise payable under this Act equal to 50% of the amount
16 payable at the time of such award. Failure to pay compensation
17 in accordance with the provisions of Section 8, paragraph (b)
18 of this Act, shall be considered unreasonable delay.

19 When determining whether this subsection (k) shall apply,
20 the Commission shall consider whether an Arbitrator has
21 determined that the claim is not compensable or whether the
22 employer has made payments under Section 8(j).

23 (l) If the employee has made written demand for payment of
24 benefits under Section 8(a) or Section 8(b), the employer shall
25 have 14 days after receipt of the demand to set forth in
26 writing the reason for the delay. In the case of demand for

1 payment of medical benefits under Section 8(a), the time for
2 the employer to respond shall not commence until the expiration
3 of the allotted 30 ~~60~~ days specified under Section 8.2(d). In
4 case the employer or his or her insurance carrier shall without
5 good and just cause fail, neglect, refuse, or unreasonably
6 delay the payment of benefits under Section 8(a) or Section
7 8(b), the Arbitrator or the Commission shall allow to the
8 employee additional compensation in the sum of \$30 per day for
9 each day that the benefits under Section 8(a) or Section 8(b)
10 have been so withheld or refused, not to exceed \$10,000. A
11 delay in payment of 14 days or more shall create a rebuttable
12 presumption of unreasonable delay.

13 (m) If the commission finds that an accidental injury was
14 directly and proximately caused by the employer's wilful
15 violation of a health and safety standard under the Health and
16 Safety Act in force at the time of the accident, the arbitrator
17 or the Commission shall allow to the injured employee or his
18 dependents, as the case may be, additional compensation equal
19 to 25% of the amount which otherwise would be payable under the
20 provisions of this Act exclusive of this paragraph. The
21 additional compensation herein provided shall be allowed by an
22 appropriate increase in the applicable weekly compensation
23 rate.

24 (n) After June 30, 1984, decisions of the Illinois Workers'
25 Compensation Commission reviewing an award of an arbitrator of
26 the Commission shall draw interest at a rate equal to the yield

1 on indebtedness issued by the United States Government with a
2 26-week maturity next previously auctioned on the day on which
3 the decision is filed. Said rate of interest shall be set forth
4 in the Arbitrator's Decision. Interest shall be drawn from the
5 date of the arbitrator's award on all accrued compensation due
6 the employee through the day prior to the date of payments.
7 However, when an employee appeals an award of an Arbitrator or
8 the Commission, and the appeal results in no change or a
9 decrease in the award, interest shall not further accrue from
10 the date of such appeal.

11 The employer or his insurance carrier may tender the
12 payments due under the award to stop the further accrual of
13 interest on such award notwithstanding the prosecution by
14 either party of review, certiorari, appeal to the Supreme Court
15 or other steps to reverse, vacate or modify the award.

16 (o) By the 15th day of each month each insurer providing
17 coverage for losses under this Act shall notify each insured
18 employer of any compensable claim incurred during the preceding
19 month and the amounts paid or reserved on the claim including a
20 summary of the claim and a brief statement of the reasons for
21 compensability. A cumulative report of all claims incurred
22 during a calendar year or continued from the previous year
23 shall be furnished to the insured employer by the insurer
24 within 30 days after the end of that calendar year.

25 The insured employer may challenge, in proceeding before
26 the Commission, payments made by the insurer without

1 arbitration and payments made after a case is determined to be
2 noncompensable. If the Commission finds that the case was not
3 compensable, the insurer shall purge its records as to that
4 employer of any loss or expense associated with the claim,
5 reimburse the employer for attorneys' fees arising from the
6 challenge and for any payment required of the employer to the
7 Rate Adjustment Fund or the Second Injury Fund, and may not
8 reflect the loss or expense for rate making purposes. The
9 employee shall not be required to refund the challenged
10 payment. The decision of the Commission may be reviewed in the
11 same manner as in arbitrated cases. No challenge may be
12 initiated under this paragraph more than 3 years after the
13 payment is made. An employer may waive the right of challenge
14 under this paragraph on a case by case basis.

15 (p) After filing an application for adjustment of claim but
16 prior to the hearing on arbitration the parties may voluntarily
17 agree to submit such application for adjustment of claim for
18 decision by an arbitrator under this subsection (p) where such
19 application for adjustment of claim raises only a dispute over
20 temporary total disability, permanent partial disability or
21 medical expenses. Such agreement shall be in writing in such
22 form as provided by the Commission. Applications for adjustment
23 of claim submitted for decision by an arbitrator under this
24 subsection (p) shall proceed according to rule as established
25 by the Commission. The Commission shall promulgate rules
26 including, but not limited to, rules to ensure that the parties

1 are adequately informed of their rights under this subsection
2 (p) and of the voluntary nature of proceedings under this
3 subsection (p). The findings of fact made by an arbitrator
4 acting within his or her powers under this subsection (p) in
5 the absence of fraud shall be conclusive. However, the
6 arbitrator may on his own motion, or the motion of either
7 party, correct any clerical errors or errors in computation
8 within 15 days after the date of receipt of such award of the
9 arbitrator and shall have the power to recall the original
10 award on arbitration, and issue in lieu thereof such corrected
11 award. The decision of the arbitrator under this subsection (p)
12 shall be considered the decision of the Commission and
13 proceedings for review of questions of law arising from the
14 decision may be commenced by either party pursuant to
15 subsection (f) of Section 19. The Advisory Board established
16 under Section 13.1 shall compile a list of certified Commission
17 arbitrators, each of whom shall be approved by at least 7
18 members of the Advisory Board. The chairman shall select 5
19 persons from such list to serve as arbitrators under this
20 subsection (p). By agreement, the parties shall select one
21 arbitrator from among the 5 persons selected by the chairman
22 except that if the parties do not agree on an arbitrator from
23 among the 5 persons, the parties may, by agreement, select an
24 arbitrator of the American Arbitration Association, whose fee
25 shall be paid by the State in accordance with rules promulgated
26 by the Commission. Arbitration under this subsection (p) shall

1 be voluntary.

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

3 (820 ILCS 305/25.5)

4 Sec. 25.5. Unlawful acts; penalties.

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

7 (1) Intentionally present or cause to be presented any
8 false or fraudulent claim for the payment of any workers'
9 compensation benefit.

10 (2) Intentionally make or cause to be made any false or
11 fraudulent material statement or material representation
12 for the purpose of obtaining or denying any workers'
13 compensation benefit.

14 (3) Intentionally make or cause to be made any false or
15 fraudulent statements with regard to entitlement to
16 workers' compensation benefits with the intent to prevent
17 an injured worker from making a legitimate claim for any
18 workers' compensation benefits.

19 (4) Intentionally prepare or provide an invalid,
20 false, or counterfeit certificate of insurance as proof of
21 workers' compensation insurance.

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

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

8 (7) Intentionally make or cause to be made any false or
9 fraudulent material statement to the Department ~~Division~~
10 of Insurance's fraud and insurance non-compliance unit in
11 the course of an investigation of fraud or insurance
12 non-compliance.

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

17 (9) Intentionally present a bill or statement for the
18 payment for medical services that were not provided.

19 For the purposes of paragraphs (2), (3), (5), (6), ~~and~~ (7),
20 and (9), the term "statement" includes any writing, notice,
21 proof of injury, bill for services, hospital or doctor records
22 and reports, or X-ray and test results.

23 (b) Sentences for violations of subsection (a) are as
24 follows: Any person violating subsection (a) is guilty of a
25 Class 4 felony. Any person or entity convicted of any violation
26 of this Section shall be ordered to pay complete restitution to

1 ~~any person or entity so defrauded in addition to any fine or~~
2 ~~sentence imposed as a result of the conviction.~~

3 (1) A violation in which the value of the property
4 obtained or attempted to be obtained is \$300 or less is a
5 Class A misdemeanor.

6 (2) A violation in which the value of the property
7 obtained or attempted to be obtained is more than \$300 but
8 not more than \$10,000 is a Class 3 felony.

9 (3) A violation in which the value of the property
10 obtained or attempted to be obtained is more than \$10,000
11 but not more than \$100,000 is a Class 2 felony.

12 (4) A violation in which the value of the property
13 obtained or attempted to be obtained is more than \$100,000
14 is a Class 1 felony.

15 (5) A person convicted under this Section shall be
16 ordered to pay monetary restitution to the insurance
17 company or self-insured entity or any other person for any
18 financial loss sustained as a result of a violation of this
19 Section, including any court costs and attorney fees. An
20 order of restitution also includes expenses incurred and
21 paid by the State of Illinois or an insurance company or
22 self-insured entity in connection with any medical
23 evaluation or treatment services.

24 For the purposes of this Section, where the exact value of
25 property obtained or attempted to be obtained is either not
26 alleged or is not specifically set by the terms of a policy of

1 insurance, the value of the property shall be the fair market
2 replacement value of the property claimed to be lost, the
3 reasonable costs of reimbursing a vendor or other claimant for
4 services to be rendered, or both. Notwithstanding the
5 foregoing, an insurance company, self-insured entity, or any
6 other person suffering financial loss sustained as a result of
7 violation of this Section may seek restitution, including court
8 costs and attorney's fees in a civil action in a court of
9 competent jurisdiction.

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

1 With respect to the subject of any investigation being
2 conducted, the fraud and insurance non-compliance unit shall
3 have the general power of subpoena of the Department ~~Division~~
4 of Insurance, including the authority to issue a subpoena to a
5 medical provider, pursuant to section 8-802 of the Code of
6 Civil Procedure.

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

26 (e) In order for the fraud and insurance non-compliance

1 unit to investigate a report of fraud related to an employee's
2 claim ~~by an employee~~, (i) the employee must have filed with the
3 Commission an Application for Adjustment of Claim and the
4 employee must have either received or attempted to receive
5 benefits under this Act that are related to the reported fraud
6 or (ii) the employee must have made a written demand for the
7 payment of benefits that are related to the reported fraud.
8 ~~Upon receipt of a report of fraud, the employee or employer~~
9 ~~shall receive immediate notice of the reported conduct,~~
10 ~~including the verified name and address of the complainant if~~
11 ~~that complainant is connected to the case and the nature of the~~
12 ~~reported conduct. The fraud and insurance non-compliance unit~~
13 ~~shall resolve all reports of fraud against employees or~~
14 ~~employers within 120 days of receipt of the report. There shall~~
15 ~~be no immunity, under this Act or otherwise, for any person who~~
16 ~~files a false report or who files a report without good and~~
17 ~~just cause. Confidentiality of medical information shall be~~
18 ~~strictly maintained. Investigations that are not referred for~~
19 ~~prosecution shall be~~ destroyed upon the expiration of the
20 statute of limitations for the acts under investigation
21 ~~immediately expunged~~ and shall not be disclosed except that the
22 ~~employee or employer who was the subject of the report and the~~
23 ~~person making the report shall be notified that the~~
24 ~~investigation is being closed, at which time the name of any~~
25 ~~complainant not connected to the case shall be disclosed to the~~
26 ~~employee or the employer. It is unlawful for any employer,~~

1 insurance carrier, ~~or~~ service adjustment company, third party
2 administrator, self-insured, or similar entity to file or
3 threaten to file a report of fraud against an employee because
4 of the exercise by the employee of the rights and remedies
5 granted to the employee by this Act.

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

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 (f) Any person convicted of fraud related to workers'
4 compensation pursuant to this Section shall be subject to the
5 penalties prescribed in the Criminal Code of 1961 and shall be
6 ineligible to receive or retain any compensation, disability,
7 or medical benefits as defined in this Act if the compensation,
8 disability, or medical benefits were owed or received as a
9 result of fraud for which the recipient of the compensation,
10 disability, or medical benefit was convicted. This subsection
11 applies to accidental injuries or diseases that occur on or
12 after the effective date of this amendatory Act of the 94th
13 General Assembly.

14 (g) Civil liability. Any person convicted of fraud who
15 knowingly obtains, attempts to obtain, or causes to be obtained
16 any benefits under this Act by the making of a false claim or
17 who knowingly misrepresents any material fact shall be civilly
18 liable to the payor of benefits or the insurer or the payor's
19 or insurer's subrogee or assignee in an amount equal to 3 times
20 the value of the benefits or insurance coverage wrongfully
21 obtained or twice the value of the benefits or insurance
22 coverage attempted to be obtained, plus reasonable attorney's
23 fees and expenses incurred by the payor or the payor's subrogee
24 or assignee who successfully brings a claim under this
25 subsection. This subsection applies to accidental injuries or
26 diseases that occur on or after the effective date of this

1 amendatory Act of the 94th General Assembly.

2 (h) ~~The All proceedings under this Section shall be~~
3 ~~reported by the~~ fraud and insurance non-compliance unit shall
4 submit a written report on an annual basis to the Chairman of
5 the Commission, the Workers' Compensation Advisory Board, the
6 General Assembly, the Governor, and the Attorney General by
7 January 1 and July 1 of each year. This report shall include,
8 at the minimum, the following information:

9 (1) The number of allegations of insurance
10 non-compliance and fraud reported to the fraud and
11 insurance non-compliance unit.

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

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

16 (4) The number of criminal referrals made in accordance
17 with this Section and the entity to which the referral was
18 made.

19 (5) All proceedings under this Section.

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

21 (820 ILCS 305/29.1 new)

22 Sec. 29.1. Recalculation of premiums. On the effective date
23 of this amendatory Act of the 97th General Assembly, the
24 Director of Insurance shall immediately direct in writing any
25 workers' compensation rate setting advisory organization to

1 recalculate workers' compensation advisory premium rates and
2 assigned risk pool premium rates so that those premiums
3 incorporate the provisions of this amendatory Act of the 97th
4 General Assembly, and to publish such rates on or before
5 September 1, 2011.

6 (820 ILCS 305/29.2 new)

7 Sec. 29.2. Insurance oversight.

8 (a) The Department of Insurance shall annually submit to
9 the Governor, the Chairman of the Commission, the President of
10 the Senate, the Speaker of the House of Representatives, the
11 Minority Leader of the Senate, and the Minority Leader of the
12 House of Representatives a written report that details the
13 state of the workers' compensation insurance market in
14 Illinois. The report shall be completed by April 1 of each
15 year, beginning in 2012, or later if necessary data or analyses
16 are only available to the Department at a later date. The
17 report shall be posted on the Department of Insurance's
18 Internet website. Information to be included in the report
19 shall be for the preceding calendar year. The report shall
20 include, at a minimum, the following:

21 (1) Gross premiums collected by workers' compensation
22 carriers in Illinois and the national rank of Illinois
23 based on premium volume.

24 (2) The number of insurance companies actively engaged
25 in Illinois in the workers' compensation insurance market,

1 including both holding companies and subsidiaries or
2 affiliates, and the national rank of Illinois based on
3 number of competing insurers.

4 (3) The total number of insured participants in the
5 Illinois workers' compensation assigned risk insurance
6 pool, and the size of the assigned risk pool as a
7 proportion of the total Illinois workers' compensation
8 insurance market.

9 (4) The advisory organization premium rate for
10 workers' compensation insurance in Illinois for the
11 previous year.

12 (5) The advisory organization prescribed assigned risk
13 pool premium rate.

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

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

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

23 (9) The loss ratio of workers' compensation insurers in
24 Illinois and the national rank of Illinois based on the
25 loss ratio of workers' compensation insurers. For purposes
26 of this loss ratio calculation, the denominator shall

1 include all premiums and other fees collected by workers'
2 compensation insurers and the numerator shall include the
3 total amount paid by the insurer for care or compensation
4 to injured workers.

5 (10) The growth of total paid indemnity benefits by
6 temporary total disability, scheduled and non-scheduled
7 permanent partial disability, and total disability.

8 (11) The number of injured workers receiving wage loss
9 differential awards and the average wage loss differential
10 award payout.

11 (12) Illinois' rank, relative to other states, for:

12 (i) the maximum and minimum temporary total
13 disability benefit level;

14 (ii) the maximum and minimum scheduled and
15 non-scheduled permanent partial disability benefit
16 level;

17 (iii) the maximum and minimum total disability
18 benefit level; and

19 (iv) the maximum and minimum death benefit level.

20 (13) The aggregate growth of medical benefit payout by
21 non-hospital providers and hospitals.

22 (14) The aggregate growth of medical utilization for
23 the top 10 most common injuries to specific body parts by
24 non-hospital providers and hospitals.

25 (15) The percentage of injured workers filing claims at
26 the Commission that are represented by an attorney.

1 (16) The total amount paid by injured workers for
2 attorney representation.

3 (b) The Director of Insurance shall promulgate rules
4 requiring each insurer licensed to write workers' compensation
5 coverage in the State to record and report the following
6 information on an aggregate basis to the Department of
7 Insurance before March 1 of each year, relating to claims in
8 the State opened within the prior calendar year:

9 (1) The number of claims opened.

10 (2) The number of reported medical only claims.

11 (3) The number of contested claims.

12 (4) The number of claims for which the employee has
13 attorney representation.

14 (5) The number of claims with lost time and the number
15 of claims for which temporary total disability was paid.

16 (6) The number of claim adjusters employed to adjust
17 workers' compensation claims.

18 (7) The number of claims for which temporary total
19 disability was not paid within 14 days from the first full
20 day off, regardless of reason.

21 (8) The number of medical bills paid 60 days or later
22 from date of service and the average days paid on those
23 paid after 60 days for the previous calendar year.

24 (9) The number of claims in which in-house defense
25 counsel participated, and the total amount spent on
26 in-house legal services.

1 (10) The number of claims in which outside defense
2 counsel participated, and the total amount paid to outside
3 defense counsel.

4 (11) The total amount billed to employers for bill
5 review.

6 (12) The total amount billed to employers for fee
7 schedule savings.

8 (13) The total amount charged to employers for any and
9 all managed care fees.

10 (14) The number of claims involving in-house medical
11 nurse case management, and the total amount spent on
12 in-house medical nurse case management.

13 (15) The number of claims involving outside medical
14 nurse case management, and the total amount paid for
15 outside medical nurse case management.

16 (16) The total amount paid for Independent Medical
17 exams.

18 (17) The total amount spent on in-house Utilization
19 Review for the previous calendar year.

20 (18) The total amount paid for outside Utilization
21 Review for the previous calendar year.

22 The Department shall make the submitted information
23 publicly available on the Department's Internet website or such
24 other media as appropriate in a form useful for consumers.

25 Section 97. Severability. The provisions of this Act are

1 severable under Section 1.31 of the Statute on Statutes.

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