



Rep. Tom Cross

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1 AMENDMENT TO SENATE BILL 2148

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2148 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 international, national, or  
8 statewide organizations made up of affiliates who are the  
9 exclusive representatives of construction employer employees  
10 recognized or certified pursuant to the National Labor  
11 Relations Act to participate in the collective bargaining pilot  
12 program provided for in this Section.

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

1 the work herein described involves the addition to, or  
2 fabrication into, any project, structure, development, real  
3 property or improvement herein described, and shall also  
4 include any moving of construction-related materials on the job  
5 site or to or from the job site.

6 For purposes of this Section, "labor organization" means an  
7 affiliate of an international, national, or statewide  
8 organization that has been selected by the Department of Labor  
9 to participate in the collective bargaining pilot program as  
10 provided for in this Section.

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

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

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

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

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

5           (5) The use of a limited list of individuals and  
6           companies for the establishment of vocational  
7           rehabilitation or retraining programs that may be the  
8           exclusive source of rehabilitation and retraining services  
9           provided under this Act; or

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

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



1       (d) Form of agreement. The agreement reached herein shall  
2 demonstrate that:

3           (1) The construction employer or group of construction  
4 employers and the recognized or certified exclusive  
5 bargaining representative have entered into a binding  
6 collective bargaining agreement adopting the ADR plan for a  
7 period of no less than 2 years;

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

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

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

17           (5) The system and means by which the construction  
18 employer's obligation to furnish medical services and  
19 vocational rehabilitation and retraining benefits shall be  
20 fulfilled and provider selected;

21           (6) The method by which mediators or arbitrators are to  
22 be selected.

23       (e) Filing. A copy of the agreement and a statement  
24 identifying the parties to the agreement shall be filed with  
25 the Commission. Within 21 days of receipt of an agreement, the  
26 Chairman shall review the agreement for compliance with this

1 Section and notify the parties of its acceptance or notify the  
2 parties of any additional information required or any  
3 recommended modification that would bring the agreement into  
4 compliance. If no additional information or modification is  
5 required, the agreement shall be valid and binding from the  
6 time the parties receive acceptance of the agreement from the  
7 Chairman. Upon receipt of any requested information or  
8 modification, the Chairman shall notify the parties within 21  
9 days whether the agreement is in compliance with this Section.  
10 All rejections made by the Chairman under this subsection shall  
11 be subject to review by the courts of this State, said review  
12 to be taken in the same manner and within the same time as  
13 provided by Section 19 of this Act for review of awards and  
14 decisions of the Commission. Upon the review, the Circuit Court  
15 shall have power to review all questions of fact as well as of  
16 law.

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

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

23 (1) Claims for benefits shall be filed with the ADR  
24 plan administrator within those periods of limitation  
25 prescribed by this Act. Within 10 days of the filing of a  
26 claim, the ADR plan administrator shall serve a copy of the

1 claim application upon the Commission, which shall  
2 maintain records of all ADR claims and resolutions.

3 (2) Settlements of claims presented to the ADR plan  
4 administrator shall be evidenced by a settlement  
5 agreement. All such settlements shall be filed with the ADR  
6 plan administrator, who within 10 days shall forward a copy  
7 to the Commission for recording.

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

14 (h) Reporting requirements. Annually, each ADR plan  
15 administrator shall submit a report to the Commission  
16 containing the following information:

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

18 (2) The number of occurrences of work-related injuries  
19 or diseases;

20 (3) The breakdown within the ADR program of injuries  
21 and diseases treated;

22 (4) The total amount of disability benefits paid within  
23 the ADR program;

24 (5) The total medical treatment cost paid within the  
25 ADR program;

26 (6) The number of claims filed within the ADR program;

1           and

2           (7) The disposition of all claims.

3           (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

1 employer shall further pay for such maintenance or  
2 institutional care as shall be required.

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

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

1 his obligation to pay the doctor's charges from the date of  
2 refusal to the date of compliance.

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

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

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

1 which he or she was engaged at the time of accident and the  
2 gross net amount which he or she is earning in the modified job  
3 provided to the employee by the employer or in any other job  
4 that the employee is working.

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

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

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

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

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

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

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

26          Where the accidental injury results in the amputation of an



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 covered industries under the Unemployment Insurance Act.

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

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

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

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

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

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

14 (c) For any serious and permanent disfigurement to the  
15 hand, head, face, neck, arm, leg below the knee or the chest  
16 above the axillary line, the employee is entitled to  
17 compensation for such disfigurement, the amount determined by  
18 agreement at any time or by arbitration under this Act, at a  
19 hearing not less than 6 months after the date of the accidental  
20 injury, which amount shall not exceed 150 weeks (if the  
21 accidental injury occurs on or after the effective date of this  
22 amendatory Act of the 94th General Assembly but before February  
23 1, 2006) or 162 weeks (if the accidental injury occurs on or  
24 after February 1, 2006) at the applicable rate provided in  
25 subparagraph 2.1 of paragraph (b) of this Section.

26 No compensation is payable under this paragraph where

1 compensation is payable under paragraphs (d), (e) or (f) of  
2 this Section.

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

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

26 2. If, as a result of the accident, the employee sustains



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

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

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

23 1. Thumb-

24 70 weeks if the accidental injury occurs on or  
25 after the effective date of this amendatory Act of the  
26 94th General Assembly but before February 1, 2006.

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

3           2. First, or index finger-

4           40 weeks if the accidental injury occurs on or  
5 after the effective date of this amendatory Act of the  
6 94th General Assembly but before February 1, 2006.

7           43 weeks if the accidental injury occurs on or  
8 after February 1, 2006.

9           3. Second, or middle finger-

10          35 weeks if the accidental injury occurs on or  
11 after the effective date of this amendatory Act of the  
12 94th General Assembly but before February 1, 2006.

13          38 weeks if the accidental injury occurs on or  
14 after February 1, 2006.

15          4. Third, or ring finger-

16          25 weeks if the accidental injury occurs on or  
17 after the effective date of this amendatory Act of the  
18 94th General Assembly but before February 1, 2006.

19          27 weeks if the accidental injury occurs on or  
20 after February 1, 2006.

21          5. Fourth, or little finger-

22          20 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

25          22 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

1           6. Great toe-

2                 35 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 94th General Assembly but before February 1, 2006.

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

7           7. Each toe other than great toe-

8                 12 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                 13 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

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

22           9. Hand-

23                 190 weeks if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the  
25 94th General Assembly but before February 1, 2006.

26                 205 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 190 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 97th General Assembly and if the accidental injury  
5 involves carpal tunnel syndrome due to repetitive or  
6 cumulative trauma, in which case the permanent partial  
7 disability shall not exceed 15% loss of use of the  
8 hand, except for cause shown by clear and convincing  
9 evidence and in which case the award shall not exceed  
10 30% loss of use of the hand.

11 The loss of 2 or more digits, or one or more phalanges  
12 of 2 or more digits, of a hand may be compensated on the  
13 basis of partial loss of use of a hand, provided, further,  
14 that the loss of 4 digits, or the loss of use of 4 digits,  
15 in the same hand shall constitute the complete loss of a  
16 hand.

17 10. Arm-

18 235 weeks if the accidental injury occurs on or  
19 after the effective date of this amendatory Act of the  
20 94th General Assembly but before February 1, 2006.

21 253 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

23 Where an accidental injury results in the amputation of  
24 an arm below the elbow, such injury shall be compensated as  
25 a loss of an arm. Where an accidental injury results in the  
26 amputation of an arm above the elbow, compensation for an

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

16 11. Foot-

17 155 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.

20 167 weeks if the accidental injury occurs on or  
21 after February 1, 2006.

22 12. Leg-

23 200 weeks if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the  
25 94th General Assembly but before February 1, 2006.

26 215 weeks if the accidental injury occurs on or

1 after February 1, 2006.

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

20 13. Eye-

21 150 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.

24 162 weeks if the accidental injury occurs on or  
25 after February 1, 2006.

26 Where an accidental injury results in the enucleation

1 of an eye, compensation for an additional 10 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 11 weeks (if the  
5 accidental injury occurs on or after February 1, 2006)  
6 shall be paid.

7 14. Loss of hearing of one ear-

8 50 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 54 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13 Total and permanent loss of hearing of both ears-

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 15. Testicle-

20 50 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23 54 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25 Both testicles-

26 150 weeks if the accidental injury occurs on or



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

3 162 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 16. For the permanent partial loss of use of a member  
6 or sight of an eye, or hearing of an ear, compensation  
7 during that proportion of the number of weeks in the  
8 foregoing schedule provided for the loss of such member or  
9 sight of an eye, or hearing of an ear, which the partial  
10 loss of use thereof bears to the total loss of use of such  
11 member, or sight of eye, or hearing of an ear.

12 (a) Loss of hearing for compensation purposes  
13 shall be confined to the frequencies of 1,000, 2,000  
14 and 3,000 cycles per second. Loss of hearing ability  
15 for frequency tones above 3,000 cycles per second are  
16 not to be considered as constituting disability for  
17 hearing.

18 (b) The percent of hearing loss, for purposes of  
19 the determination of compensation claims for  
20 occupational deafness, shall be calculated as the  
21 average in decibels for the thresholds of hearing for  
22 the frequencies of 1,000, 2,000 and 3,000 cycles per  
23 second. Pure tone air conduction audiometric  
24 instruments, approved by nationally recognized  
25 authorities in this field, shall be used for measuring  
26 hearing loss. If the losses of hearing average 30

1           decibels or less in the 3 frequencies, such losses of  
2           hearing shall not then constitute any compensable  
3           hearing disability. If the losses of hearing average 85  
4           decibels or more in the 3 frequencies, then the same  
5           shall constitute and be total or 100% compensable  
6           hearing loss.

7           (c) In measuring hearing impairment, the lowest  
8           measured losses in each of the 3 frequencies shall be  
9           added together and divided by 3 to determine the  
10          average decibel loss. For every decibel of loss  
11          exceeding 30 decibels an allowance of 1.82% shall be  
12          made up to the maximum of 100% which is reached at 85  
13          decibels.

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

19          (e) No consideration shall be given to the question  
20          of whether or not the ability of an employee to  
21          understand speech is improved by the use of a hearing  
22          aid.

23          (f) No claim for loss of hearing due to industrial  
24          noise shall be brought against an employer or allowed  
25          unless the employee has been exposed for a period of  
26          time sufficient to cause permanent impairment to noise

1 levels in excess of the following:

2 Sound Level DBA

3 Slow Response Hours Per Day

4 90 8

5 92 6

6 95 4

7 97 3

8 100 2

9 102 1-1/2

10 105 1

11 110 1/2

12 115 1/4

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

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

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

8           Any employee who has previously suffered the loss or  
9           permanent and complete loss of the use of any of such  
10          members, and in a subsequent independent accident loses  
11          another or suffers the permanent and complete loss of the  
12          use of any one of such members the employer for whom the  
13          injured employee is working at the time of the last  
14          independent accident is liable to pay compensation only for  
15          the loss or permanent and complete loss of the use of the  
16          member occasioned by the last independent accident.

17          19. In a case of specific loss and the subsequent death  
18          of such injured employee from other causes than such injury  
19          leaving a widow, widower, or dependents surviving before  
20          payment or payment in full for such injury, then the amount  
21          due for such injury is payable to the widow or widower and,  
22          if there be no widow or widower, then to such dependents,  
23          in the proportion which such dependency bears to total  
24          dependency.

25          Beginning July 1, 1980, and every 6 months thereafter, the  
26          Commission shall examine the Second Injury Fund and when, after

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

17 On August 1, 1996 and on February 1 and August 1 of each  
18 subsequent year, the Commission shall examine the special fund  
19 designated as the "Rate Adjustment Fund" and when, after  
20 deducting all advances or loans made to said fund, the amount  
21 therein is \$4,000,000, the amount required to be paid by  
22 employers pursuant to paragraph (f) of Section 7 shall be  
23 reduced by one-half. When the Rate Adjustment Fund reaches the  
24 sum of \$5,000,000 the payment therein shall cease entirely.  
25 However, when said Rate Adjustment Fund has been reduced to  
26 \$3,000,000 the amounts required by paragraph (f) of Section 7

1 shall be resumed in the manner herein provided.

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

8 An employee entitled to benefits under paragraph (f) of  
9 this Section shall also be entitled to receive from the Rate  
10 Adjustment Fund provided in paragraph (f) of Section 7 of the  
11 supplementary benefits provided in paragraph (g) of this  
12 Section 8.

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

26 Disability as enumerated in subdivision 18, paragraph (e)

1 of this Section is considered complete disability.

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

16 The custodian of the Second Injury Fund provided for in  
17 paragraph (f) of Section 7 shall be joined with the employer as  
18 a party respondent in the application for adjustment of claim.  
19 The application for adjustment of claim shall state briefly and  
20 in general terms the approximate time and place and manner of  
21 the loss of the first member.

22 In its award the Commission or the Arbitrator shall  
23 specifically find the amount the injured employee shall be  
24 weekly paid, the number of weeks compensation which shall be  
25 paid by the employer, the date upon which payments begin out of  
26 the Second Injury Fund provided for in paragraph (f) of Section

1 7 of this Act, the length of time the weekly payments continue,  
2 the date upon which the pension payments commence and the  
3 monthly amount of the payments. The Commission shall 30 days  
4 after the date upon which payments out of the Second Injury  
5 Fund have begun as provided in the award, and every month  
6 thereafter, prepare and submit to the State Comptroller a  
7 voucher for payment for all compensation accrued to that date  
8 at the rate fixed by the Commission. The State Comptroller  
9 shall draw a warrant to the injured employee along with a  
10 receipt to be executed by the injured employee and returned to  
11 the Commission. The endorsed warrant and receipt is a full and  
12 complete acquittance to the Commission for the payment out of  
13 the Second Injury Fund. No other appropriation or warrant is  
14 necessary for payment out of the Second Injury Fund. The Second  
15 Injury Fund is appropriated for the purpose of making payments  
16 according to the terms of the awards.

17 As of July 1, 1980 to July 1, 1982, all claims against and  
18 obligations of the Second Injury Fund shall become claims  
19 against and obligations of the Rate Adjustment Fund to the  
20 extent there is insufficient money in the Second Injury Fund to  
21 pay such claims and obligations. In that case, all references  
22 to "Second Injury Fund" in this Section shall also include the  
23 Rate Adjustment Fund.

24 (g) Every award for permanent total disability entered by  
25 the Commission on and after July 1, 1965 under which  
26 compensation payments shall become due and payable after the



1 effective date of this amendatory Act, and every award for  
2 death benefits or permanent total disability entered by the  
3 Commission on and after the effective date of this amendatory  
4 Act shall be subject to annual adjustments as to the amount of  
5 the compensation rate therein provided. Such adjustments shall  
6 first be made on July 15, 1977, and all awards made and entered  
7 prior to July 1, 1975 and on July 15 of each year thereafter.  
8 In all other cases such adjustment shall be made on July 15 of  
9 the second year next following the date of the entry of the  
10 award and shall further be made on July 15 annually thereafter.  
11 If during the intervening period from the date of the entry of  
12 the award, or the last periodic adjustment, there shall have  
13 been an increase in the State's average weekly wage in covered  
14 industries under the Unemployment Insurance Act, the weekly  
15 compensation rate shall be proportionately increased by the  
16 same percentage as the percentage of increase in the State's  
17 average weekly wage in covered industries under the  
18 Unemployment Insurance Act. The increase in the compensation  
19 rate under this paragraph shall in no event bring the total  
20 compensation rate to an amount greater than the prevailing  
21 maximum rate at the time that the annual adjustment is made.  
22 Such increase shall be paid in the same manner as herein  
23 provided for payments under the Second Injury Fund to the  
24 injured employee, or his dependents, as the case may be, out of  
25 the Rate Adjustment Fund provided in paragraph (f) of Section 7  
26 of this Act. Payments shall be made at the same intervals as

1 provided in the award or, at the option of the Commission, may  
2 be made in quarterly payment on the 15th day of January, April,  
3 July and October of each year. In the event of a decrease in  
4 such average weekly wage there shall be no change in the then  
5 existing compensation rate. The within paragraph shall not  
6 apply to cases where there is disputed liability and in which a  
7 compromise lump sum settlement between the employer and the  
8 injured employee, or his dependents, as the case may be, has  
9 been duly approved by the Illinois Workers' Compensation  
10 Commission.

11 Provided, that in cases of awards entered by the Commission  
12 for injuries occurring before July 1, 1975, the increases in  
13 the compensation rate adjusted under the foregoing provision of  
14 this paragraph (g) shall be limited to increases in the State's  
15 average weekly wage in covered industries under the  
16 Unemployment Insurance Act occurring after July 1, 1975.

17 For every accident occurring on or after July 20, 2005 but  
18 before the effective date of this amendatory Act of the 94th  
19 General Assembly (Senate Bill 1283 of the 94th General  
20 Assembly), the annual adjustments to the compensation rate in  
21 awards for death benefits or permanent total disability, as  
22 provided in this Act, shall be paid by the employer. The  
23 adjustment shall be made by the employer on July 15 of the  
24 second year next following the date of the entry of the award  
25 and shall further be made on July 15 annually thereafter. If  
26 during the intervening period from the date of the entry of the

1 award, or the last periodic adjustment, there shall have been  
2 an increase in the State's average weekly wage in covered  
3 industries under the Unemployment Insurance Act, the employer  
4 shall increase the weekly compensation rate proportionately by  
5 the same percentage as the percentage of increase in the  
6 State's average weekly wage in covered industries under the  
7 Unemployment Insurance Act. The increase in the compensation  
8 rate under this paragraph shall in no event bring the total  
9 compensation rate to an amount greater than the prevailing  
10 maximum rate at the time that the annual adjustment is made. In  
11 the event of a decrease in such average weekly wage there shall  
12 be no change in the then existing compensation rate. Such  
13 increase shall be paid by the employer in the same manner and  
14 at the same intervals as the payment of compensation in the  
15 award. This paragraph shall not apply to cases where there is  
16 disputed liability and in which a compromise lump sum  
17 settlement between the employer and the injured employee, or  
18 his or her dependents, as the case may be, has been duly  
19 approved by the Illinois Workers' Compensation Commission.

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

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

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

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

23          However, where an employer has on file an employment  
24          certificate issued pursuant to the Child Labor Law or work  
25          permit issued pursuant to the Federal Fair Labor Standards Act,  
26          as amended, or a birth certificate properly and duly issued,

1 such certificate, permit or birth certificate is conclusive  
2 evidence as to the age of the injured minor employee for the  
3 purposes of this Section.

4 Nothing herein contained repeals or amends the provisions  
5 of the Child Labor Law relating to the employment of minors  
6 under the age of 16 years.

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

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

11 2. Nothing contained in this Act shall be construed to give  
12 the employer or the insurance carrier the right to credit for  
13 any benefits or payments received by the employee other than  
14 compensation payments provided by this Act, and where the  
15 employee receives payments other than compensation payments,  
16 whether as full or partial salary, group insurance benefits,  
17 bonuses, annuities or any other payments, the employer or  
18 insurance carrier shall receive credit for each such payment  
19 only to the extent of the compensation that would have been  
20 payable during the period covered by such payment.

21 3. The extension of time for the filing of an Application  
22 for Adjustment of Claim as provided in paragraph 1 above shall  
23 not apply to those cases where the time for such filing had  
24 expired prior to the date on which payments or benefits  
25 enumerated herein have been initiated or resumed. Provided  
26 however that this paragraph 3 shall apply only to cases wherein

1 the payments or benefits hereinabove enumerated shall be  
2 received after July 1, 1969.

3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;  
4 94-695, eff. 11-16-05.)

5 (820 ILCS 305/8.1a new)

6 Sec. 8.1a. Preferred provider programs. Starting on the  
7 effective date of this amendatory Act of the 97th General  
8 Assembly, to satisfy its liabilities under this Act for the  
9 provision of medical treatment to injured employees, an  
10 employer may utilize a preferred provider program approved by  
11 the Illinois Department of Insurance as in compliance with  
12 Sections 370k, 370l, 370m, and 370p of Article XX-1/2 of the  
13 Illinois Insurance Code. For the purposes of compliance with  
14 these Sections, the employee shall be considered the  
15 "beneficiary" and the employer shall be considered the  
16 "insured". Employers and insurers contracting directly with  
17 providers or utilizing multiple preferred provider programs to  
18 implement a preferred provider program providing workers'  
19 compensation benefits shall be subject to the above  
20 requirements of Article XX-1/2 applicable to administrators  
21 with regard to such program, with the exception of Section 370l  
22 of the Illinois Insurance Code.

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

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

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

7           (3) Medical treatment for injuries shall be readily  
8 available at reasonable times to all employees. To the  
9 extent feasible, all medical treatment for injuries shall  
10 be readily accessible to all employees.

11           (4) Physician compensation shall not be structured in  
12 order to achieve the goal of inappropriately reducing,  
13 delaying, or denying medical treatment or restricting  
14 access to medical treatment.

15           (5) Before entering into any agreement under this  
16 Section, a program shall establish terms and conditions  
17 that must be met by noninstitutional providers wishing to  
18 enter into an agreement with the program. These terms and  
19 conditions may not discriminate unreasonably against or  
20 among noninstitutional providers. Neither difference in  
21 prices among noninstitutional providers produced by a  
22 process of individual negotiation nor price differences  
23 among other noninstitutional providers in different  
24 geographical areas or different specialties constitutes  
25 unreasonable discrimination.

26           (b) The administrator of any preferred provider program



1 under this Act that uses economic evaluation shall file with  
2 the Director of Insurance a description of any policies and  
3 procedures related to economic evaluation utilized by the  
4 program. The filing shall describe how these policies and  
5 procedures are used in utilization review, peer review,  
6 incentive and penalty programs, and in provider retention and  
7 termination decisions. The Director of Insurance may deny  
8 approval of any preferred provider program that uses any policy  
9 or procedure of economic evaluation to inappropriately reduce,  
10 delay or deny medical treatment, or to restrict access to  
11 medical treatment. Evaluation of providers based upon  
12 objective medical quality and patient outcome measurements,  
13 appropriate use of best clinical practices and evidence based  
14 medicine, and use of health information technology shall be  
15 permitted. If approved, the employer shall provide a copy of  
16 the filing to all participating providers.

17 (1) The Director of the Department of Insurance shall  
18 make each administrator's filing available to the public  
19 upon request. The Director of the Department of Insurance  
20 may not publicly disclose any information submitted  
21 pursuant to this Section that is determined by the Director  
22 of the Department of Insurance to be confidential,  
23 proprietary, or trade secret information pursuant to State  
24 or federal law.

25 (2) For the purposes of this subsection (b), "economic  
26 evaluation" shall mean any evaluation of a particular

1       physician, provider, medical group, or individual practice  
2       association based in whole or in part on the economic costs  
3       or utilization of services associated with medical care  
4       provided or authorized by the physician, provider, medical  
5       group, or individual practice association. Economic  
6       evaluation shall not include negotiated rates with a  
7       provider.

8       (c) Except for the provisions of subsection (a)(4) of  
9       Section 8 and for injuries occurring on or after the effective  
10      date of this amendatory Act of the 97th General Assembly, an  
11      employee of an employer utilizing a preferred provider program  
12      shall only be allowed to select a participating network  
13      provider from the network. An employer shall be responsible  
14      for: (i) all first aid and emergency treatment; (ii) all  
15      medical, surgical, and hospital services provided by the  
16      participating network provider initially selected by the  
17      employee or by any other participating network provider  
18      recommended by the initial participating network provider or  
19      any subsequent participating network provider in the chain of  
20      referrals from the initial participating network provider; and  
21      (iii) all medical, surgical, and hospital services provided by  
22      the participating network provider subsequently chosen by the  
23      employee or by any other participating network provider  
24      recommended by the subsequent participating network provider  
25      or any subsequent participating network provider in the chain  
26      of referrals from the second participating network provider. An

1 employer shall not be liable for services determined by the  
2 Commission not to be compensable. An employer shall not be  
3 liable for medical services provided by a non-authorized  
4 provider when proper notice is provided to the injured worker.

5 (1) When the injured employee notifies the employer of  
6 the injury or files a claim for workers' compensation with  
7 the employer, the employer shall notify the employee of his  
8 or her right to be treated by a physician of his or her  
9 choice from the preferred provider network established  
10 pursuant to this Section, and the method by which the list  
11 of participating network providers may be accessed by the  
12 employee, except as provided in subsection (a)(4) of  
13 Section 8.

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

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

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

9           (820 ILCS 305/8.1b new)

10           Sec. 8.1b. Determination of permanent partial disability.  
11           For accidental injuries that occur on or after September 1,  
12           2011, permanent partial disability shall be established using  
13           the following criteria:

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

25           (2) In determining the level of disability, the

1       Commission shall base its determination on the reported  
2       level of impairment and shall consider the following  
3       additional relevant factors: (i) the occupation of the  
4       injured employee, (ii) the age of the employee at the time  
5       of the injury; and (iii) the employee's future earning  
6       capacity. In determining the level of disability, the  
7       relevance and weight of any factors used in addition to the  
8       level of impairment as reported by the physician must be  
9       explained in a written order.

10       (820 ILCS 305/8.2)

11       Sec. 8.2. Fee schedule.

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

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

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

23 (a-1) Notwithstanding the provisions of subsection (a) and  
24 unless otherwise indicated, the following provisions shall  
25 apply to the medical fee schedule starting on September 1,  
26 2011:

1           (1) The Commission shall establish and maintain fee  
2           schedules for procedures, treatments, products, services,  
3           or supplies for hospital inpatient, hospital outpatient,  
4           emergency room, ambulatory surgical treatment centers,  
5           accredited ambulatory surgical treatment facilities,  
6           prescriptions filled and dispensed outside of a licensed  
7           pharmacy, dental services, and professional services. This  
8           fee schedule shall be based on the fee schedule amounts  
9           already established by the Commission pursuant to  
10           subsection (a) of this Section. However, starting on  
11           January 1, 2012, these fee schedule amounts shall be  
12           grouped into regions consistent with nationally recognized  
13           reimbursement zip codes in Illinois and shall represent the  
14           average amount for a procedure, treatment, or service for  
15           all the geozips reorganized into the new region.

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

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



1 crosswalks, or other data as determined by the Commission,  
2 reimbursement shall occur at 76% of charges and fees until  
3 September 1, 2011 and 60.8% of charges and fees thereafter  
4 as determined by the Commission in a manner consistent with  
5 the provisions of this paragraph.

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

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

1       within these codes shall be reimbursed at 65% of actual  
2       charge, which is the provider's normal rates under its  
3       standard chargemaster. A standard chargemaster is the  
4       provider's list of charges for procedures, treatments,  
5       products, supplies, or services used to bill payers in a  
6       consistent manner.

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

10       (a-2) For procedures, treatments, services, or supplies  
11       covered under this Act and rendered or to be rendered on or  
12       after September 1, 2011, the maximum allowable payment shall be  
13       80% of the fee schedule amounts, which shall be adjusted yearly  
14       by the Consumer Price Index-U, as described in subsection (a)  
15       of this Section.

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

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

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

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

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

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

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

1           provider within 30 days of receipt of the bill.

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

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

1 amount paid by the employer or the insurer on a compensable  
2 injury, or for medical services or treatment determined by the  
3 Commission to be excessive or unnecessary.

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

18 (e-10) If an employer notifies a provider that the employer  
19 will pay only a portion of a bill for any procedure, treatment,  
20 or service rendered in connection with a compensable illness or  
21 disease, the provider may seek payment from the employee for  
22 the remainder of the amount of the bill up to the lesser of the  
23 actual charge, negotiated rate, if applicable, or the payment  
24 level set by the Commission in the fee schedule established in  
25 this Section. Once an employee informs the provider that there  
26 is an application filed with the Commission to resolve a

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

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

1 rendered to the employee and the employee shall be responsible  
2 for payment of any outstanding bills for a procedure,  
3 treatment, or service rendered by a provider.

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

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

26 (g) On or before January 1, 2010 the Commission shall

1 provide to the Governor and General Assembly a report regarding  
2 the implementation of the medical fee schedule and the index  
3 used for annual adjustment to that schedule as described in  
4 this Section.

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

6 (820 ILCS 305/8.2a new)

7 Sec. 8.2a. Electronic claims.

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

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

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

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

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

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



1 employers and insurers to accept electronic claims for payment  
2 of medical services on or before June 30, 2012.

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

7 (820 ILCS 305/8.7)

8 Sec. 8.7. Utilization review programs.

9 (a) As used in this Section:

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

1 applicable to services rendered on or after July 20, 2005).  
2 Nothing in this Section applies to prospective review of  
3 necessary first aid or emergency treatment.

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

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

22 (b).

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

26 (1) The name, address, and telephone number of the

1 utilization review programs.

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

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

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

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

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

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

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

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

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

1           Only a health care professional may make determinations  
2 regarding the medical necessity of health care services during  
3 the course of utilization review.

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

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

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

26           (h) The Department of Insurance ~~Secretary of Financial and~~

1 ~~Professional Regulation~~ may by rule establish a registration  
2 fee for each person conducting a utilization review program.

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

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

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

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

1       under this Section.

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

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

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

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

21       (j) When an employer denies payment of or refuses to  
22 authorize payment of first aid, medical, surgical, or hospital  
23 services under Section 8(a) of this Act, if that denial or  
24 refusal to authorize complies with a utilization review program  
25 registered under this Section and complies with all other  
26 requirements of this Section, then there shall be a rebuttable

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

11 The changes to this Section made by this amendatory Act of  
12 the 97th General Assembly apply only to health care services  
13 provided or proposed to be provided on or after September 1,  
14 2011.

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

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

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



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

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

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

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

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

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

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

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

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

24 (3) that split testing procedures are utilized;

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

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

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

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

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

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

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

22               (820 ILCS 305/13) (from Ch. 48, par. 138.13)

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

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

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

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

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

1 (a) substantive and procedural aspects of the office of  
2 Commissioner;

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

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

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

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

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

17 (g) writing skills; -

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

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

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

1       Medical Association's "Guides to the Evaluation of  
2       Permanent Impairment" and the practice of utilization  
3       review; and

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

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

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

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

1 vocation.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to be references to the Illinois Workers' Compensation  
2 Commission Operations Fund Surcharge for all purposes.

3 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;  
4 94-277, eff. 7-20-05.)

5 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

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

1 Advisory Board shall be filled by the Governor for the  
2 unexpired term.

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

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

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

26 (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



1 hearings of cases, combined with the opportunity to discuss  
2 evidence presented and rulings made;

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

6 (g) writing skills; -

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

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

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

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

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

1 every 2 years such arbitrator shall remain in office.

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

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

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

1 amendatory Act of the 97th General Assembly shall be made as  
2 follows:

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

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

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

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

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

1 ~~by the Chairman, the arbitrator shall be appointed for a~~  
2 ~~subsequent term unless 8 of 10 members of the Commission,~~  
3 ~~including the Chairman, vote not to reappoint the arbitrator.~~

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

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

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

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

1           The Commission shall provide itself with a seal for the  
2 authentication of its orders, awards and proceedings upon which  
3 shall be inscribed the name of the Commission and the words  
4 "Illinois--Seal".

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

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

21           (820 ILCS 305/16b new)

22           Sec. 16b. Gift ban.

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

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

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

14 (820 ILCS 305/18) (from Ch. 48, par. 138.18)

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

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

22 (820 ILCS 305/18.1 new)

23 Sec. 18.1. Claims by former and current employees of the  
24 Commission. All claims by current and former employees and

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

16 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

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

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

26 (b) The Arbitrator shall make such inquiries and



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

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

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

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

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

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

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

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

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

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

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

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

14 (ii) the approximate location of the accident;

15 (iii) a description of the accident;

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

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

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

26 (vii) a statement that the employer has refused to pay

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

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

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

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

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

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

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

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

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

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

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

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



1 discovered which was not previously disclosed, the Arbitrator  
2 may extend the time for closing proof on the motion of a party  
3 for a reasonable period of time which may be more than 30 days.  
4 No evidence may be introduced pursuant to this paragraph as to  
5 permanent disability. No award may be entered for permanent  
6 disability pursuant to this paragraph. Either party may  
7 introduce into evidence the testimony taken by deposition of  
8 any medical practitioner.

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

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

26 (c) (1) At a reasonable time in advance of and in

1 connection with the hearing under Section 19(e) or 19(h), the  
2 Commission may on its own motion order an impartial physical or  
3 mental examination of a petitioner whose mental or physical  
4 condition is in issue, when in the Commission's discretion it  
5 appears that such an examination will materially aid in the  
6 just determination of the case. The examination shall be made  
7 by a member or members of a panel of physicians chosen for  
8 their special qualifications by the Illinois State Medical  
9 Society. The Commission shall establish procedures by which a  
10 physician shall be selected from such list.

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

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

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

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

26 (6) The fees and payment thereof of all attorneys and

1 physicians for services authorized by the Commission under this  
2 Act shall, upon request of either the employer or the employee  
3 or the beneficiary affected, be subject to the review and  
4 decision of the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

1           surety or sureties of the bond shall be approved by the  
2           clerk of the court. The acceptance of the bond by the clerk  
3           of the court shall constitute evidence of his approval of  
4           the bond.

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

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

24          It shall be the duty of the clerk of any court  
25          rendering a decision affecting or affirming an award of the  
26          Commission to promptly furnish the Commission with a copy

1 of such decision, without charge.

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

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

1 subsequent proceedings for review, as provided in this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (n) After June 30, 1984, decisions of the Illinois Workers'  
26 Compensation Commission reviewing an award of an arbitrator of



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

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

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

26 The insured employer may challenge, in proceeding before

1 the Commission, payments made by the insurer without  
2 arbitration and payments made after a case is determined to be  
3 noncompensable. If the Commission finds that the case was not  
4 compensable, the insurer shall purge its records as to that  
5 employer of any loss or expense associated with the claim,  
6 reimburse the employer for attorneys' fees arising from the  
7 challenge and for any payment required of the employer to the  
8 Rate Adjustment Fund or the Second Injury Fund, and may not  
9 reflect the loss or expense for rate making purposes. The  
10 employee shall not be required to refund the challenged  
11 payment. The decision of the Commission may be reviewed in the  
12 same manner as in arbitrated cases. No challenge may be  
13 initiated under this paragraph more than 3 years after the  
14 payment is made. An employer may waive the right of challenge  
15 under this paragraph on a case by case basis.

16 (p) After filing an application for adjustment of claim but  
17 prior to the hearing on arbitration the parties may voluntarily  
18 agree to submit such application for adjustment of claim for  
19 decision by an arbitrator under this subsection (p) where such  
20 application for adjustment of claim raises only a dispute over  
21 temporary total disability, permanent partial disability or  
22 medical expenses. Such agreement shall be in writing in such  
23 form as provided by the Commission. Applications for adjustment  
24 of claim submitted for decision by an arbitrator under this  
25 subsection (p) shall proceed according to rule as established  
26 by the Commission. The Commission shall promulgate rules

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

1 by the Commission. Arbitration under this subsection (p) shall  
2 be voluntary.

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

4 (820 ILCS 305/25.5)

5 Sec. 25.5. Unlawful acts; penalties.

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

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

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

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

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

23 (5) Intentionally make or cause to be made any false or  
24 fraudulent material statement or material representation  
25 for the purpose of obtaining workers' compensation

1 insurance at less than the proper rate for that insurance.

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

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

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

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

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

24 (b) Sentences for violations of subsection (a) are as  
25 follows: ~~Any person violating subsection (a) is guilty of a~~  
26 Class 4 felony. ~~Any person or entity convicted of any violation~~

1 ~~of this Section shall be ordered to pay complete restitution to~~  
2 ~~any person or entity so defrauded in addition to any fine or~~  
3 ~~sentence imposed as a result of the conviction.~~

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

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

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

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

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

25 For the purposes of this Section, where the exact value of  
26 property obtained or attempted to be obtained is either not

1 alleged or is not specifically set by the terms of a policy of  
2 insurance, the value of the property shall be the fair market  
3 replacement value of the property claimed to be lost, the  
4 reasonable costs of reimbursing a vendor or other claimant for  
5 services to be rendered, or both. Notwithstanding the  
6 foregoing, an insurance company, self-insured entity, or any  
7 other person suffering financial loss sustained as a result of  
8 violation of this Section may seek restitution, including court  
9 costs and attorney's fees in a civil action in a court of  
10 competent jurisdiction.

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

1 prosecute violations under this Section.

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

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



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

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

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

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

1       ~~For purposes of this subsection (c), "complainant" refers~~  
2 ~~to the person contacting the fraud and insurance non-compliance~~  
3 ~~unit to initiate the complaint.~~

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

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

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

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

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

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

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

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

20 (5) All proceedings under this Section.

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

22 (820 ILCS 305/29.1 new)

23 Sec. 29.1. Recalculation of premiums. On the effective date  
24 of this amendatory Act of the 97th General Assembly, the  
25 Director of Insurance shall immediately direct in writing any

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

7 (820 ILCS 305/29.2 new)

8 Sec. 29.2. Insurance oversight.

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

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

25 (2) The number of insurance companies actively engaged

1 in Illinois in the workers' compensation insurance market,  
2 including both holding companies and subsidiaries or  
3 affiliates, and the national rank of Illinois based on  
4 number of competing insurers.

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

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

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

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

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

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

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

1 of this loss ratio calculation, the denominator shall  
2 include all premiums and other fees collected by workers'  
3 compensation insurers and the numerator shall include the  
4 total amount paid by the insurer for care or compensation  
5 to injured workers.

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

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

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

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

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

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

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

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

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

26 (15) The percentage of injured workers filing claims at

1 the Commission that are represented by an attorney.

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

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

10 (1) The number of claims opened.

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

12 (3) The number of contested claims.

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

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

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

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

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

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



1 in-house legal services.

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

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

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

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

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

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

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

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

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

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

1           Section 97. Severability. The provisions of this Act are  
2 severable under Section 1.31 of the Statute on Statutes.

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