



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

SB1429

Introduced 2/6/2013, by Sen. Kyle McCarter

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/10	from Ch. 48, par. 138.10

Amends the Workers' Compensation Act. Adds definitions of "accident" and "injury". Provides that an injury is a condition that arises out of and in the course of employment, and adds provisions concerning establishment of an injury. Establishes the manner of computing compensation for partial disability, with a maximum cumulative compensation of 500 weeks. Provides that injuries to the shoulder and hip are deemed to be injuries to the arm and leg respectively. Provides for the computation of compensation when there are multiple employers and when there is less than full-time work.

LRB098 06621 JLS 36664 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 1, 8, and 10 as follows:

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

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

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

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

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

1 provided in this Act.

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

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

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

1 done.

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

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

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

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

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

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

1 members of the Illinois National Guard while on active duty in  
2 the service of the State, and all probation personnel of the  
3 Juvenile Court appointed pursuant to Article VI of the Juvenile  
4 Court Act of 1987, and including any official of the State, any  
5 county, city, town, township, incorporated village, school  
6 district, body politic or municipal corporation therein except  
7 any duly appointed member of a police department in any city  
8 whose population exceeds 500,000 according to the last Federal  
9 or State census, and except any member of a fire insurance  
10 patrol maintained by a board of underwriters in this State. A  
11 duly appointed member of a fire department in any city, the  
12 population of which exceeds 500,000 according to the last  
13 federal or State census, is an employee under this Act only  
14 with respect to claims brought under paragraph (c) of Section  
15 8.

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

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

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

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

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

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

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

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

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

12           (e) The term "accident" as used in this Act means an  
13 occurrence arising out of the employment resulting from a risk  
14 incidental to the employment and in the course of the  
15 employment at a time and place and under circumstances  
16 reasonably required by the employment.

17           (f) The term "injury" as used in this Act means a condition  
18 or impairment that arises out of and in the course of  
19 employment. An injury, its occupational cause, and any  
20 resulting manifestations or disability must be established to a  
21 reasonable degree of medical certainty, based on objective  
22 relevant medical findings, and the accidental compensable  
23 injury must be the major contributing cause of any resulting  
24 injuries. For the purposes of this Section, "major contributing  
25 cause" means the cause which is more than 50% responsible for  
26 the injury as compared to all other causes combined for which



1 treatment or benefits are sought. "Injury" includes the  
2 aggravation of a pre-existing condition by an accident arising  
3 out of and in the course of the employment, but only for so  
4 long as the aggravation of the pre-existing condition continues  
5 to be the major contributing cause of the disability.

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

8 (A) it is reasonably apparent, upon consideration  
9 of all circumstances, that the accident is the major  
10 contributing cause of the injury; and

11 (B) it does not come from a hazard or risk  
12 unrelated to the employment to which employees would  
13 have been equally exposed outside of the employment.

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

16 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,  
17 eff. 7-13-12.)

18 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

22 (a) The employer shall provide and pay the negotiated rate,  
23 if applicable, or the lesser of the health care provider's  
24 actual charges or according to a fee schedule, subject to  
25 Section 8.2, in effect at the time the service was rendered for

1 all the necessary first aid, medical and surgical services, and  
2 all necessary medical, surgical and hospital services  
3 thereafter incurred, limited, however, to that which is  
4 reasonably required to cure or relieve from the effects of the  
5 accidental injury, even if a health care provider sells,  
6 transfers, or otherwise assigns an account receivable for  
7 procedures, treatments, or services covered under this Act. If  
8 the employer does not dispute payment of first aid, medical,  
9 surgical, and hospital services, the employer shall make such  
10 payment to the provider on behalf of the employee. The employer  
11 shall also pay for treatment, instruction and training  
12 necessary for the physical, mental and vocational  
13 rehabilitation of the employee, including all maintenance  
14 costs and expenses incidental thereto. If as a result of the  
15 injury the employee is unable to be self-sufficient the  
16 employer shall further pay for such maintenance or  
17 institutional care as shall be required.

18 The employee may at any time elect to secure his own  
19 physician, surgeon and hospital services at the employer's  
20 expense, or,

21 Upon agreement between the employer and the employees, or  
22 the employees' exclusive representative, and subject to the  
23 approval of the Illinois Workers' Compensation Commission, the  
24 employer shall maintain a list of physicians, to be known as a  
25 Panel of Physicians, who are accessible to the employees. The  
26 employer shall post this list in a place or places easily

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

18 Any vocational rehabilitation counselors who provide  
19 service under this Act shall have appropriate certifications  
20 which designate the counselor as qualified to render opinions  
21 relating to vocational rehabilitation. Vocational  
22 rehabilitation may include, but is not limited to, counseling  
23 for job searches, supervising a job search program, and  
24 vocational retraining including education at an accredited  
25 learning institution. The employee or employer may petition to  
26 the Commission to decide disputes relating to vocational

1 rehabilitation and the Commission shall resolve any such  
2 dispute, including payment of the vocational rehabilitation  
3 program by the employer.

4 The maintenance benefit shall not be less than the  
5 temporary total disability rate determined for the employee. In  
6 addition, maintenance shall include costs and expenses  
7 incidental to the vocational rehabilitation program.

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

20 Every hospital, physician, surgeon or other person  
21 rendering treatment or services in accordance with the  
22 provisions of this Section shall upon written request furnish  
23 full and complete reports thereof to, and permit their records  
24 to be copied by, the employer, the employee or his dependents,  
25 as the case may be, or any other party to any proceeding for  
26 compensation before the Commission, or their attorneys.

1           Notwithstanding the foregoing, the employer's liability to  
2 pay for such medical services selected by the employee shall be  
3 limited to:

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

5           (2) all medical, surgical and hospital services  
6 provided by the physician, surgeon or hospital initially  
7 chosen by the employee or by any other physician,  
8 consultant, expert, institution or other provider of  
9 services recommended by said initial service provider or  
10 any subsequent provider of medical services in the chain of  
11 referrals from said initial service provider; plus

12           (3) all medical, surgical and hospital services  
13 provided by any second physician, surgeon or hospital  
14 subsequently chosen by the employee or by any other  
15 physician, consultant, expert, institution or other  
16 provider of services recommended by said second service  
17 provider or any subsequent provider of medical services in  
18 the chain of referrals from said second service provider.  
19 Thereafter the employer shall select and pay for all  
20 necessary medical, surgical and hospital treatment and the  
21 employee may not select a provider of medical services at  
22 the employer's expense unless the employer agrees to such  
23 selection. At any time the employee may obtain any medical  
24 treatment he desires at his own expense. This paragraph  
25 shall not affect the duty to pay for rehabilitation  
26 referred to above.

1           (4) The following shall apply for injuries occurring on  
2           or after June 28, 2011 (the effective date of Public Act  
3           97-18) and only when an employer has an approved preferred  
4           provider program pursuant to Section 8.1a on the date the  
5           employee sustained his or her accidental injuries:

6                   (A) The employer shall, in writing, on a form  
7                   promulgated by the Commission, inform the employee of  
8                   the preferred provider program;

9                   (B) Subsequent to the report of an injury by an  
10                  employee, the employee may choose in writing at any  
11                  time to decline the preferred provider program, in  
12                  which case that would constitute one of the two choices  
13                  of medical providers to which the employee is entitled  
14                  under subsection (a) (2) or (a) (3); and

15                  (C) Prior to the report of an injury by an  
16                  employee, when an employee chooses non-emergency  
17                  treatment from a provider not within the preferred  
18                  provider program, that would constitute the employee's  
19                  one choice of medical providers to which the employee  
20                  is entitled under subsection (a) (2) or (a) (3).

21           When an employer and employee so agree in writing, nothing  
22           in this Act prevents an employee whose injury or disability has  
23           been established under this Act, from relying in good faith, on  
24           treatment by prayer or spiritual means alone, in accordance  
25           with the tenets and practice of a recognized church or  
26           religious denomination, by a duly accredited practitioner

1       thereof, and having nursing services appropriate therewith,  
2       without suffering loss or diminution of the compensation  
3       benefits under this Act. However, the employee shall submit to  
4       all physical examinations required by this Act. The cost of  
5       such treatment and nursing care shall be paid by the employee  
6       unless the employer agrees to make such payment.

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

22              The furnishing by the employer of any such services or  
23      appliances is not an admission of liability on the part of the  
24      employer to pay compensation.

25              The furnishing of any such services or appliances or the  
26      servicing thereof by the employer is not the payment of

1 compensation.

2 (b) If the period of temporary total incapacity for work  
3 lasts more than 3 working days, weekly compensation as  
4 hereinafter provided shall be paid beginning on the 4th day of  
5 such temporary total incapacity and continuing as long as the  
6 total temporary incapacity lasts. In cases where the temporary  
7 total incapacity for work continues for a period of 14 days or  
8 more from the day of the accident compensation shall commence  
9 on the day after the accident.

10 1. The compensation rate for temporary total  
11 incapacity under this paragraph (b) of this Section shall  
12 be equal to 66 2/3% of the employee's average weekly wage  
13 computed in accordance with Section 10, provided that it  
14 shall be not less than 66 2/3% of the sum of the Federal  
15 minimum wage under the Fair Labor Standards Act, or the  
16 Illinois minimum wage under the Minimum Wage Law, whichever  
17 is more, multiplied by 40 hours. This percentage rate shall  
18 be increased by 10% for each spouse and child, not to  
19 exceed 100% of the total minimum wage 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 2. The compensation rate in all cases other than for  
24 temporary total disability under this paragraph (b), and  
25 other than for serious and permanent disfigurement under  
26 paragraph (c) and other than for permanent partial



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

14 2.1. The compensation rate in all cases of serious and  
15 permanent disfigurement under paragraph (c) and of  
16 permanent partial disability under subparagraph (2) of  
17 paragraph (d) or under paragraph (e) of this Section shall  
18 be equal to 60% of the employee's average weekly wage  
19 computed in accordance with the provisions of Section 10,  
20 provided that it shall be not less than 66 2/3% of the sum  
21 of the Federal minimum wage under the Fair Labor Standards  
22 Act, or the Illinois minimum wage under the Minimum Wage  
23 Law, whichever is more, multiplied by 40 hours. This  
24 percentage rate shall be increased by 10% for each spouse  
25 and child, not to exceed 100% of the total minimum wage  
26 calculation,

1 nor exceed the employee's average weekly wage computed in  
2 accordance with the provisions of Section 10, whichever is  
3 less.

4 3. As used in this Section the term "child" means a  
5 child of the employee including any child legally adopted  
6 before the accident or whom at the time of the accident the  
7 employee was under legal obligation to support or to whom  
8 the employee stood in loco parentis, and who at the time of  
9 the accident was under 18 years of age and not emancipated.  
10 The term "children" means the plural of "child".

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

14 The maximum weekly compensation rate from July 1, 1975,  
15 except as hereinafter provided, shall be 100% of the  
16 State's average weekly wage in covered industries under the  
17 Unemployment Insurance Act, that being the wage that most  
18 closely approximates the State's average weekly wage.

19 The maximum weekly compensation rate, for the period  
20 July 1, 1984, through June 30, 1987, except as hereinafter  
21 provided, shall be \$293.61. Effective July 1, 1987 and on  
22 July 1 of each year thereafter the maximum weekly  
23 compensation rate, except as hereinafter provided, shall  
24 be determined as follows: if during the preceding 12 month  
25 period there shall have been an increase in the State's  
26 average weekly wage in covered industries under the

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

6 The maximum weekly compensation rate, for the period  
7 January 1, 1981 through December 31, 1983, except as  
8 hereinafter provided, shall be 100% of the State's average  
9 weekly wage in covered industries under the Unemployment  
10 Insurance Act in effect on January 1, 1981. Effective  
11 January 1, 1984 and on January 1, of each year thereafter  
12 the maximum weekly compensation rate, except as  
13 hereinafter provided, shall be determined as follows: if  
14 during the preceding 12 month period there shall have been  
15 an increase in the State's average weekly wage in covered  
16 industries under the Unemployment Insurance Act, the  
17 weekly compensation rate shall be proportionately  
18 increased by the same percentage as the percentage of  
19 increase in the State's average weekly wage in covered  
20 industries under the Unemployment Insurance Act during  
21 such period.

22 From July 1, 1977 and thereafter such maximum weekly  
23 compensation rate in death cases under Section 7, and  
24 permanent total disability cases under paragraph (f) or  
25 subparagraph 18 of paragraph (3) of this Section and for  
26 temporary total disability under paragraph (b) of this

1 Section and for amputation of a member or enucleation of an  
2 eye under paragraph (e) of this Section shall be increased  
3 to 133-1/3% of the State's average weekly wage in covered  
4 industries under the Unemployment Insurance Act.

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

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

18 4.2. Any provision to the contrary notwithstanding,  
19 the total compensation payable under Section 7 shall not  
20 exceed the greater of \$500,000 or 25 years.

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

1           6. The Department of Employment Security of the State  
2 shall on or before the first day of December, 1977, and on  
3 or before the first day of June, 1978, and on the first day  
4 of each December and June of each year thereafter, publish  
5 the State's average weekly wage in covered industries under  
6 the Unemployment Insurance Act and the Illinois Workers'  
7 Compensation Commission shall on the 15th day of January,  
8 1978 and on the 15th day of July, 1978 and on the 15th day  
9 of each January and July of each year thereafter, post and  
10 publish the State's average weekly wage in covered  
11 industries under the Unemployment Insurance Act as last  
12 determined and published by the Department of Employment  
13 Security. The amount when so posted and published shall be  
14 conclusive and shall be applicable as the basis of  
15 computation of compensation rates until the next posting  
16 and publication as aforesaid.

17           7. The payment of compensation by an employer or his  
18 insurance carrier to an injured employee shall not  
19 constitute an admission of the employer's liability to pay  
20 compensation.

21           (c) For any serious and permanent disfigurement to the  
22 hand, head, face, neck, arm, leg below the knee or the chest  
23 above the axillary line, the employee is entitled to  
24 compensation for such disfigurement, the amount determined by  
25 agreement at any time or by arbitration under this Act, at a  
26 hearing not less than 6 months after the date of the accidental

1 injury, which amount shall not exceed 150 weeks (if the  
2 accidental injury occurs on or after the effective date of this  
3 amendatory Act of the 94th General Assembly but before February  
4 1, 2006) or 162 weeks (if the accidental injury occurs on or  
5 after February 1, 2006) at the applicable rate provided in  
6 subparagraph 2.1 of paragraph (b) of this Section.

7 No compensation is payable under this paragraph where  
8 compensation is payable under paragraphs (d), (e) or (f) of  
9 this Section.

10 A duly appointed member of a fire department in a city, the  
11 population of which exceeds 500,000 according to the last  
12 federal or State census, is eligible for compensation under  
13 this paragraph only where such serious and permanent  
14 disfigurement results from burns.

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

1 suitable employment or business after the accident. For  
2 accidental injuries that occur on or after September 1, 2011,  
3 an award for wage differential under this subsection shall be  
4 effective only until the employee reaches the age of 67 or 5  
5 years from the date the award becomes final, whichever is  
6 later.

7 2. If, as a result of the accident, the employee sustains  
8 serious and permanent injuries not covered by paragraphs (c)  
9 and (e) of this Section or having sustained injuries covered by  
10 the aforesaid paragraphs (c) and (e), he shall have sustained  
11 in addition thereto other injuries which injuries do not  
12 incapacitate him from pursuing the duties of his employment but  
13 which would disable him from pursuing other suitable  
14 occupations, or which have otherwise resulted in physical  
15 impairment; or if such injuries partially incapacitate him from  
16 pursuing the duties of his usual and customary line of  
17 employment but do not result in an impairment of earning  
18 capacity, or having resulted in an impairment of earning  
19 capacity, the employee elects to waive his right to recover  
20 under the foregoing subparagraph 1 of paragraph (d) of this  
21 Section then in any of the foregoing events, he shall receive  
22 in addition to compensation for temporary total disability  
23 under paragraph (b) of this Section, compensation at the rate  
24 provided in subparagraph 2.1 of paragraph (b) of this Section  
25 for that percentage of 500 weeks that the partial disability  
26 resulting from the injuries covered by this paragraph bears to

1 total disability.

2 In computing the compensation to be paid to any employee  
3 who, before the accident for which he or she claims  
4 compensation, had previously sustained an injury resulting in  
5 the payment of compensation for a percentage of partial  
6 disability under this subparagraph 2, such percentage of  
7 partial disability shall be deducted from any award made under  
8 this subparagraph 2 for a subsequent injury to the same portion  
9 of the body as was involved in the prior injury for which  
10 compensation was paid; provided, however, nothing herein  
11 contained shall permit cumulative awards for compensation for  
12 partial disability under this subparagraph 2 to exceed 500  
13 weeks, which shall constitute complete loss of use of the body  
14 as a whole.

15 If, as a result of the accident, the employee shall have  
16 sustained a fracture of one or more vertebra or fracture of the  
17 skull, the amount of compensation allowed under this Section  
18 shall be not less than 6 weeks for a fractured skull and 6  
19 weeks for each fractured vertebra, and in the event the  
20 employee shall have sustained a fracture of any of the  
21 following facial bones: nasal, lachrymal, vomer, zygoma,  
22 maxilla, palatine or mandible, the amount of compensation  
23 allowed under this Section shall be not less than 2 weeks for  
24 each such fractured bone, and for a fracture of each transverse  
25 process not less than 3 weeks. In the event such injuries shall  
26 result in the loss of a kidney, spleen or lung, the amount of



1 compensation allowed under this Section shall be not less than  
2 10 weeks for each such organ. Compensation awarded under this  
3 subparagraph 2 shall not take into consideration injuries  
4 covered under paragraphs (c) and (e) of this Section and the  
5 compensation provided in this paragraph shall not affect the  
6 employee's right to compensation payable under paragraphs (b),  
7 (c) and (e) of this Section for the disabilities therein  
8 covered.

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

19 1. Thumb-

20 70 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 76 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25 2. First, or index finger-

26 40 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 43 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 3. Second, or middle finger-

6 35 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 38 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 4. Third, or ring finger-

12 25 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 27 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 5. Fourth, or little finger-

18 20 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 22 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

23 6. Great toe-

24 35 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           38 weeks if the accidental injury occurs on or  
2 after February 1, 2006.

3           7. Each toe other than great toe-

4           12 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           13 weeks if the accidental injury occurs on or  
8 after February 1, 2006.

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

18           9. Hand-

19           190 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22           205 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24           190 weeks if the accidental injury occurs on or  
25 after June 28, 2011 (the effective date of Public Act  
26 97-18) and if the accidental injury involves carpal

1 tunnel syndrome due to repetitive or cumulative  
2 trauma, in which case the permanent partial disability  
3 shall not exceed 15% loss of use of the hand, except  
4 for cause shown by clear and convincing evidence and in  
5 which case the award shall not exceed 30% loss of use  
6 of the hand.

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

13 10. Arm-

14 235 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.

17 253 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of  
20 an arm below the elbow, such injury shall be compensated as  
21 a loss of an arm. Where an accidental injury results in the  
22 amputation of an arm above the elbow, compensation for an  
23 additional 15 weeks (if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the 94th  
25 General Assembly but before February 1, 2006) or an  
26 additional 17 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the  
2 accidental injury results in the amputation of an arm at  
3 the shoulder joint, or so close to shoulder joint that an  
4 artificial arm cannot be used, or results in the  
5 disarticulation of an arm at the shoulder joint, in which  
6 case compensation for an additional 65 weeks (if the  
7 accidental injury occurs on or after the effective date of  
8 this amendatory Act of the 94th General Assembly but before  
9 February 1, 2006) or an additional 70 weeks (if the  
10 accidental injury occurs on or after February 1, 2006)  
11 shall be paid. For purposes of awards under this  
12 subdivision (e), injuries to the shoulder shall be  
13 considered to be injuries to part of the arm. This  
14 amendatory Act of the 98th General Assembly is declarative  
15 of existing law and is not a new enactment.

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 For purposes of awards under this subdivision (e), injuries  
21 to the hip shall be considered to be injuries to part of the  
22 leg. This amendatory Act of the 98th General Assembly is  
23 declarative of existing law and is not a new enactment.

24 13. Eye-

25 150 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the

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

2 162 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

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

11 14. Loss of hearing of one ear-

12 50 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

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

17 Total and permanent loss of hearing of both ears-

18 200 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.

21 215 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

23 15. Testicle-

24 50 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           54 weeks if the accidental injury occurs on or  
2 after February 1, 2006.

3 Both testicles-

4           150 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           162 weeks if the accidental injury occurs on or  
8 after February 1, 2006.

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

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

22           (b) The percent of hearing loss, for purposes of  
23 the determination of compensation claims for  
24 occupational deafness, shall be calculated as the  
25 average in decibels for the thresholds of hearing for  
26 the frequencies of 1,000, 2,000 and 3,000 cycles per



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

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

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

23 (e) No consideration shall be given to the question  
24 of whether or not the ability of an employee to  
25 understand speech is improved by the use of a hearing  
26 aid.

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

6 Sound Level DBA

7	Slow Response	Hours Per Day
8	90	8
9	92	6
10	95	4
11	97	3
12	100	2
13	102	1-1/2
14	105	1
15	110	1/2
16	115	1/4

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

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

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

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

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

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

1           in the proportion which such dependency bears to total  
2           dependency.

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

21          On August 1, 1996 and on February 1 and August 1 of each  
22          subsequent year, the Commission shall examine the special fund  
23          designated as the "Rate Adjustment Fund" and when, after  
24          deducting all advances or loans made to said fund, the amount  
25          therein is \$4,000,000, the amount required to be paid by  
26          employers pursuant to paragraph (f) of Section 7 shall be

1 reduced by one-half. When the Rate Adjustment Fund reaches the  
2 sum of \$5,000,000 the payment therein shall cease entirely.  
3 However, when said Rate Adjustment Fund has been reduced to  
4 \$3,000,000 the amounts required by paragraph (f) of Section 7  
5 shall be resumed in the manner herein provided.

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

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

17 If any employee who receives an award under this paragraph  
18 afterwards returns to work or is able to do so, and earns or is  
19 able to earn as much as before the accident, payments under  
20 such award shall cease. If such employee returns to work, or is  
21 able to do so, and earns or is able to earn part but not as much  
22 as before the accident, such award shall be modified so as to  
23 conform to an award under paragraph (d) of this Section. If  
24 such award is terminated or reduced under the provisions of  
25 this paragraph, such employees have the right at any time  
26 within 30 months after the date of such termination or

1 reduction to file petition with the Commission for the purpose  
2 of determining whether any disability exists as a result of the  
3 original accidental injury and the extent thereof.

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

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

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

26 In its award the Commission or the Arbitrator shall

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

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

1 Rate Adjustment Fund.

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



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

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

21        For every accident occurring on or after July 20, 2005 but  
22 before the effective date of this amendatory Act of the 94th  
23 General Assembly (Senate Bill 1283 of the 94th General  
24 Assembly), the annual adjustments to the compensation rate in  
25 awards for death benefits or permanent total disability, as  
26 provided in this Act, shall be paid by the employer. The

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

24 The annual adjustments for every award of death benefits or  
25 permanent total disability involving accidents occurring  
26 before July 20, 2005 and accidents occurring on or after the

1 effective date of this amendatory Act of the 94th General  
2 Assembly (Senate Bill 1283 of the 94th General Assembly) shall  
3 continue to be paid from the Rate Adjustment Fund pursuant to  
4 this paragraph and Section 7(f) of this Act.

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

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

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

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

8           Nothing herein contained repeals or amends the provisions  
9 of the Child Labor Law relating to the employment of minors  
10 under the age of 16 years.

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

1 this Act. Any employer receiving such credit shall keep such  
2 employee safe and harmless from any and all claims or  
3 liabilities that may be made against him by reason of having  
4 received such payments only to the extent of such credit.

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

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

25 3. The extension of time for the filing of an Application  
26 for Adjustment of Claim as provided in paragraph 1 above shall

1 not apply to those cases where the time for such filing had  
2 expired prior to the date on which payments or benefits  
3 enumerated herein have been initiated or resumed. Provided  
4 however that this paragraph 3 shall apply only to cases wherein  
5 the payments or benefits hereinabove enumerated shall be  
6 received after July 1, 1969.

7 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,  
8 eff. 7-13-12.)

9 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

10 Sec. 10. The basis for computing the compensation provided  
11 for in Sections 7 and 8 of the Act shall be as follows:

12 (1) The compensation shall be computed on the basis of the  
13 "Average weekly wage" which shall mean the actual earnings of  
14 the employee in the employment in which he was working at the  
15 time of the injury during the period of 52 weeks ending with  
16 the last day of the employee's last full pay period immediately  
17 preceding the date of injury, illness or disablement excluding  
18 overtime, and bonus divided by 52; ~~but if the injured employee~~  
19 ~~lost 5 or more calendar days during such period, whether or not~~  
20 ~~in the same week, then the earnings for the remainder of such~~  
21 ~~52 weeks shall be divided by the number of weeks and parts~~  
22 ~~thereof remaining after the time so lost has been deducted.~~

23 (2) Where the employment prior to the injury extended over  
24 a period of less than 52 weeks, or where the employment is  
25 noncontinuous or less than full-time, or the employee lost one

1 or more calendar days during that period, the earnings earned  
2 during that period shall be divided by the number of weeks  
3 during which the employee worked, regardless of the number of  
4 hours worked during that week.

5 (3) When the employee is working concurrently with 2 or  
6 more employers and the respondent employer has knowledge of  
7 such additional employment prior to the injury, his or her  
8 wages from all such employers shall be considered as if earned  
9 from the employer liable for compensation.

10 (4) Each week during which the employee earned wages counts  
11 as one week for purposes of computation under subdivisions (1),  
12 (2) and (3), regardless of the number of hours worked during  
13 that week ~~the method of dividing the earnings during that~~  
14 ~~period by the number of weeks and parts thereof during which~~  
15 ~~the employee actually earned wages shall be followed.~~

16 (5) Where by reason of the shortness of the time during  
17 which the employee has been in the employment of his employer  
18 or of the casual nature or terms of the employment, it is  
19 impractical to compute the average weekly wages as above  
20 defined, regard shall be had to the average weekly amount which  
21 during the 52 weeks previous to the injury, illness or  
22 disablement was being or would have been earned by a person in  
23 the same grade employed at the same work for each of such 52  
24 weeks for the same number of hours per week by the same  
25 employer. In the case of volunteer firemen, police and civil  
26 defense members or trainees, the income benefits shall be based

1 on the average weekly wage in their regular employment. ~~When~~  
2 ~~the employee is working concurrently with two or more employers~~  
3 ~~and the respondent employer has knowledge of such employment~~  
4 ~~prior to the injury, his wages from all such employers shall be~~  
5 ~~considered as if earned from the employer liable for~~  
6 ~~compensation.~~

7 (Source: P.A. 81-1482.)