

1 AN ACT concerning civil law.

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, 8.1b, 8.2a, 14, and 25.5 and by adding
6 Sections 14.2, 14.3, and 14.4 as follows:

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

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

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

1 accident, effected a withdrawal of such election in the manner
2 provided in this Act.

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

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

25 This subsection does not apply in any case where the
26 accident occurs elsewhere than on, in or about the immediate

1 premises on which the principal has contracted that the work be
2 done.

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

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

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

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

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

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

1 hire, express or implied, oral or written, including all
2 members of the Illinois National Guard while on active duty in
3 the service of the State, and all probation personnel of the
4 Juvenile Court appointed pursuant to Article VI of the Juvenile
5 Court Act of 1987, and including any official of the State, any
6 county, city, town, township, incorporated village, school
7 district, body politic or municipal corporation therein except
8 any duly appointed member of a police department in any city
9 whose population exceeds 500,000 according to the last Federal
10 or State census, and except any member of a fire insurance
11 patrol maintained by a board of underwriters in this State. A
12 duly appointed member of a fire department in any city, the
13 population of which exceeds 500,000 according to the last
14 federal or State census, is an employee under this Act only
15 with respect to claims brought under paragraph (c) of Section
16 8.

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

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

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

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

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

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

1 where such laws are held to be exclusive.

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

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

9 (d) For the purposes of this subsection (d):

10 "In the course of employment" means the time, place, and
11 circumstances surrounding the accidental injuries.

12 "Arising out of the employment" means causal connection. It
13 must be shown that the injury had its origin in some risk
14 connected with, or incidental to, the employment so as to
15 create a causal connection between the employment and the
16 accidental injuries. An injury arises out of the employment if,
17 at the time of the occurrence, the employee was performing acts
18 he or she was instructed to perform by his or her employer,
19 acts which he or she had a common law or statutory duty to
20 perform, or acts which the employee might reasonably be
21 expected to perform incident to his or her assigned duties. A
22 risk is incidental to the employment where it belongs to or is
23 connected with what an employee has to do in fulfilling his or
24 her duties.

25 To obtain compensation under this Act, an employee bears
26 the burden of showing, by a preponderance of the evidence, that

1 he or she has sustained accidental injuries arising out of and
2 in the course of the employment. Except as provided in
3 subsection (e) of this Section, accidental injuries sustained
4 while traveling to or from work do not arise out of and in the
5 course of employment.

6 (e) Where an employee is required to travel away from his
7 or her employer's premises in order to perform his or her job,
8 the traveling employee's accidental injuries arise out of his
9 or her employment, and are in the course of his or her
10 employment, when the conduct in which he or she was engaged at
11 the time of the injury is reasonable and when that conduct
12 might have been anticipated or foreseen by the employer.
13 Accidental injuries while traveling do not occur in the course
14 of employment if the accident occurs during a purely personal
15 deviation or personal errand unless such deviation or errand is
16 insubstantial.

17 In determining whether an employee is required to travel
18 away from his or her employer's premises in order to perform
19 his or her job, along with all other relevant factors, the
20 following factors may be considered: whether the employer had
21 knowledge that the employee may be required to travel to
22 perform the job; whether the employer furnished any mode of
23 transportation to or from the employee; whether the employee
24 received or the employer paid or agreed to pay any remuneration
25 or reimbursement for costs or expenses of any form of travel;
26 whether the employer in any way directed the course or method

1 of travel; whether the employer in any way assisted the
2 employee in making any travel arrangements; whether the
3 employer furnished lodging or in any way reimbursed the
4 employee for lodging; or whether the employer received any
5 benefit from the employee traveling.

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

8 (820 ILCS 305/8.1b)

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

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

25 (b) In determining the level of permanent partial

1 disability, the Commission shall base its determination on the
2 following factors: (i) the reported level of impairment
3 pursuant to subsection (a), if such report exists; (ii) the
4 occupation of the injured employee; (iii) the age of the
5 employee at the time of the injury; (iv) the employee's future
6 earning capacity; and (v) evidence of disability corroborated
7 by the treating medical records or examination under Section 12
8 of this Act. No single enumerated factor shall be the sole
9 determinant of disability. In determining the level of
10 disability, the relevance and weight of any factors used in
11 addition to the level of impairment as reported by the
12 physician must be explained in a written order.

13 (c) A report of impairment prepared pursuant to subsection
14 (a) is not required for an arbitrator or the Commission to make
15 an award for permanent partial disability or permanent total
16 disability benefits or any award for benefits under subsection
17 (c) of Section 8 or subsection (d) of Section 8 of this Act or
18 to approve a Settlement Contract Lump Sum Petition.

19 (Source: P.A. 97-18, eff. 6-28-11.)

20 (820 ILCS 305/8.2a)

21 Sec. 8.2a. Electronic claims.

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

24 (1) Ensure that all health care providers and
25 facilities submit medical bills for payment on

1 standardized forms.

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

4 (3) Ensure confidentiality of medical information
5 submitted on electronic claims for payment of medical
6 services.

7 (4) Ensure that the rules establishing electronic
8 claims include a specific enforcement mechanism to ensure
9 compliance with these rules.

10 (5) Ensure that health care providers have at least 15
11 business days to comply with records requested by employers
12 and insurers for the authorization of the payment of
13 workers' compensation claims.

14 (6) Ensure that health care providers are responsible
15 for supplying only those medical records pertaining to the
16 provider's own claims that are minimally necessary under
17 the federal Health Insurance Portability and
18 Accountability Act of 1996.

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

24 (c) The rules requiring employers and insurers to accept
25 electronic claims for payment of medical services shall be
26 proposed on or before May 31, 2016, ~~January 1, 2012,~~ and shall

1 require all employers and insurers to accept electronic claims
2 for payment of medical services on or before January 1, 2017
3 ~~June 30, 2012~~.

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

8 (Source: P.A. 97-18, eff. 6-28-11.)

9 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

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

15 Each arbitrator appointed after June 28, 2011 shall be
16 required to demonstrate in writing his or her knowledge of and
17 expertise in the law of and judicial processes of the Workers'
18 Compensation Act and the Occupational Diseases Act.

19 A formal training program for newly-hired arbitrators
20 shall be implemented. The training program shall include the
21 following:

22 (a) substantive and procedural aspects of the
23 arbitrator position;

24 (b) current issues in workers' compensation law and
25 practice;

1 (c) medical lectures by specialists in areas such as
2 orthopedics, ophthalmology, psychiatry, rehabilitation
3 counseling;

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

6 (e) observation of experienced arbitrators conducting
7 hearings of cases, combined with the opportunity to discuss
8 evidence presented and rulings made;

9 (f) the use of hypothetical cases requiring the trainee
10 to issue judgments as a means to evaluating knowledge and
11 writing ability;

12 (g) writing skills;

13 (h) professional and ethical standards pursuant to
14 Section 1.1 of this Act;

15 (i) detection of workers' compensation fraud and
16 reporting obligations of Commission employees and
17 appointees;

18 (j) standards of evidence-based medical treatment and
19 best practices for measuring and improving quality and
20 health care outcomes in the workers' compensation system,
21 including but not limited to the use of the American
22 Medical Association's "Guides to the Evaluation of
23 Permanent Impairment" and the practice of utilization
24 review; and

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

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

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

22 Notwithstanding any other provision of this Section, the
23 term of all arbitrators serving on the effective date of this
24 amendatory Act of the 97th General Assembly, including any
25 arbitrators on administrative leave, shall terminate at the
26 close of business on July 1, 2011, but the incumbents shall

1 continue to exercise all of their duties until they are
2 reappointed or their successors are appointed.

3 On and after the effective date of this amendatory Act of
4 the 97th General Assembly, arbitrators shall be appointed to
5 3-year terms as follows:

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

8 (2) For their initial appointments, 12 arbitrators
9 shall be appointed to terms expiring July 1, 2012; 12
10 arbitrators shall be appointed to terms expiring July 1,
11 2013; and all additional arbitrators shall be appointed to
12 terms expiring July 1, 2014. Thereafter, all arbitrators
13 shall be appointed to 3-year terms.

14 Upon the expiration of a term, the Chairman shall evaluate
15 the performance of the arbitrator and may recommend to the
16 Governor that he or she be reappointed to a second or
17 subsequent term by the Governor with the advice and consent of
18 the Senate.

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

25 The performance of all arbitrators shall be reviewed by the
26 Chairman on an annual basis. The Chairman shall allow input

1 from the Commissioners in all such reviews.

2 The Commission shall assign no fewer than 3 arbitrators to
3 each hearing site. The Commission shall establish a procedure
4 to ensure that the arbitrators assigned to each hearing site
5 are assigned cases on a random basis. The Chairperson of the
6 Commission shall have discretion to assign and reassign
7 arbitrators to each hearing site as needed. ~~No arbitrator shall~~
8 ~~hear cases in any county, other than Cook County, for more than~~
9 ~~2 years in each 3 year term.~~

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

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

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

24 The Secretary or Assistant Secretary, under the direction
25 of the Commission, shall have charge and custody of the seal of
26 the Commission and also have charge and custody of all records,

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

13 (Source: P.A. 97-18, eff. 6-28-11; 97-719, eff. 6-29-12; 98-40,
14 eff. 6-28-13.)

15 (820 ILCS 305/14.2 new)

16 Sec. 14.2. Ombudsman Program.

17 (a) The Commission shall establish the Workers'
18 Compensation Ombudsman Program as an office within the Illinois
19 Workers' Compensation Commission no later than July 1, 2016.
20 The Ombudsman Program shall be composed of at least one
21 full-time ombudsman who shall develop a plan to provide
22 assistance to all regions of this State. One full-time
23 Ombudsman shall be designated as the Chief Ombudsman and the
24 Chief Ombudsman shall be an attorney licensed to practice law
25 in the State of Illinois and shall have demonstrated experience

1 in Illinois workers' compensation law. The Ombudsman Program
2 shall be staffed with personnel who are trained in techniques
3 performed by ombudsmen and who are familiar with the provisions
4 of this Act and its rules, vocational rehabilitation
5 principles, the obligations of medical providers under this
6 Act, the provisions of the Medical Fee Schedule, an employer's
7 responsibility to maintain workers' compensation insurance,
8 the duties and obligations of self-insurers, and workers'
9 compensation fraud.

10 (b) The duties of the Ombudsman Program shall be as
11 follows:

12 (1) assist injured employees in understanding their
13 rights and obligations under this Act, including, but not
14 limited to, filing their own claims with the Commission and
15 obtaining medical records, job descriptions, and other
16 materials pertinent to filing a claim before the
17 Commission;

18 (2) assist employers seeking information regarding
19 their rights and obligations under this Act, including
20 their obligation to maintain workers' compensation
21 insurance;

22 (3) assist medical providers with their rights and
23 obligations under this Act;

24 (4) provide information to employers, employees, and
25 medical providers with questions about workers'
26 compensation fraud;

1 (5) assist injured employees with referral to local,
2 State, and federal financial assistance, rehabilitation,
3 and work placement programs, as well as other social
4 services that the Ombudsman Program considers appropriate;

5 (6) respond to inquiries and complaints relative to the
6 workers' compensation program;

7 (7) serve as an information source for employees,
8 employers, medical, vocational, and rehabilitation
9 personnel, insurers, third-party administrators, and
10 self-insurers; and

11 (8) perform other duties as required by the Chairman.

12 (c) The Ombudsman Program may not appear or intervene, as a
13 party or otherwise, before the Commission on behalf of an
14 injured employee, employer, or medical provider. This Section
15 shall not be construed as requiring or allowing legal
16 representation for an injured employee by the Ombudsman Program
17 in any proceeding before the Commission.

18 (d) The Ombudsman Program shall prepare a report to the
19 Commission, which shall also be included in the Commission's
20 annual report required under Section 15 of this Act. The report
21 prepared by the Ombudsman Program shall include the following
22 information for the preceding fiscal year:

23 (1) the total number of persons and entities assisted
24 during the fiscal year;

25 (2) the number of injured employers assisted during the
26 fiscal year;

1 (3) the number of employers, insurers, self-insureds,
2 and third-party administrators assisted during the fiscal
3 year;

4 (4) the total number of medical providers assisted
5 during the fiscal year;

6 (5) the number of referrals made to the Workers'
7 Compensation Fraud Unit;

8 (6) an analysis of the areas of workers' compensation
9 law requiring the most assistance for injured workers,
10 employers, and medical providers; and

11 (7) recommendations, if any, for legislation or rules
12 to be initiated by the Commission, based on the inquiries
13 received by the Ombudsman Program.

14 (820 ILCS 305/14.3 new)

15 Sec. 14.3. WEAR Commission.

16 (a) There is created the Workers' Compensation Edit,
17 Alignment, and Reform Commission, which shall be known as the
18 WEAR Commission. The purpose of the WEAR Commission is to
19 develop a proposed recodification of the Workers' Compensation
20 Act that meets the following goals:

21 (1) to make this Act more accessible to laypeople
22 seeking benefits under this Act and employers seeking
23 insurance coverage for their responsibilities under this
24 Act;

25 (2) to aid the Commission, attorneys, and judges in

1 understanding and applying the provisions of this Act;

2 (3) to prevent disputes over interpretations of this
3 Act that can add additional costs to the function and
4 administration of the workers' compensation system;

5 (4) to reduce the size of each Section of this Act to
6 promote understanding, interpretation, and indexing of
7 this Act;

8 (5) to assist policymakers so that they can more easily
9 understand the implication of amendments to this Act that
10 may be proposed in the future;

11 (6) to replace outdated and obsolete language within
12 this Act;

13 (7) to limit the opportunity for lengthy and expensive
14 appeals due to confusion or contrary language within this
15 Act; and

16 (8) to meet the preceding objectives without changing
17 substantive law or disturbing established case law
18 precedent. Nothing in this Section 14.3 shall be construed
19 to allow or authorize the WEAR Commission to seek to or to
20 diminish, restrict, limit, expand, abrogate, alter, or
21 change in way the current interpretation of any substantive
22 or procedural provision of this Act by the Commission or
23 any Court.

24 (b) The members of the WEAR Commission shall be as follows:

25 (1) one Senator appointed by the President of the
26 Senate;

1 (2) one Senator appointed by the Minority Leader of the
2 Senate;

3 (3) one Representative appointed by the Speaker of the
4 House of Representatives;

5 (4) one Representative appointed by the Minority
6 Leader of the House of Representatives;

7 (5) four attorneys representing petitioners, one each
8 appointed by the President of the Senate, Minority Leader
9 of the Senate, Speaker of the House of Representatives, and
10 Minority Leader of the House of Representatives; and

11 (6) four attorneys representing respondents, one each
12 appointed by the President of the Senate, Minority Leader
13 of the Senate, Speaker of the House of Representatives, and
14 Minority Leader of the House of Representatives.

15 The members of the WEAR Commission shall serve without
16 compensation. The Chairperson of the Illinois Workers'
17 Compensation Commission shall serve as the Chairperson of the
18 WEAR Commission.

19 (c) The Illinois Workers' Compensation Commission, the
20 Workers' Compensation Insurance Compliance Unit, and the
21 Legislative Reference Bureau shall provide administrative
22 support for the WEAR Commission.

23 (d) The WEAR Commission shall present a report to the
24 General Assembly no later than July 1, 2017. This report shall
25 include a draft of proposed legislation for the reorganization
26 of the Workers' Compensation Act that accomplishes the goals

1 set forth by this Section.

2 (e) This Section is repealed on January 1, 2018.

3 (820 ILCS 305/14.4 new)

4 Sec. 14.4. System improvements.

5 (a) By January 1, 2017, the Commission shall procure and
6 implement a computer system to replace its current outdated and
7 obsolete mainframe computer system. The Commission shall use
8 the funds allocated for this purpose as set forth in the
9 settlement agreement for the case entitled Illinois State
10 Chamber of Commerce v. Filan.

11 (b) The system procured by the Commission shall have all of
12 the following capabilities:

13 (1) require the electronic filing of claims before the
14 Commission, including the Application for Adjustment of
15 Claim and all subsequent filings by a petitioner or
16 respondent; the electronic filing fields for the
17 Application of Adjustment of Claim shall include the
18 following:

19 (i) for cases involving the State of Illinois, a
20 data field for the specific agency, department,
21 constitutional officer, board, or commission;

22 (ii) a data field for the petitioner to indicate
23 that the claim involves a repetitive injury;

24 (iii) a data field for the petitioner to indicate
25 that the claim involved an injury incurred when the

1 petitioner was traveling as part of his or her
2 employment; and

3 (iv) a data field for the petitioner to indicate
4 that he or she is pro se;

5 (2) allow for a respondent to indicate the insurance
6 carrier of the employer, or the third-party administrator
7 of the employer, if self-insured;

8 (3) allow for documents and exhibits to be uploaded
9 electronically;

10 (4) allow for the case history of each claim to be
11 viewed in a summary format arranged by the date of each
12 filing or hearing, which shall be available to the public;

13 (5) allow for the attorney of record for the
14 petitioner, if any, and the respondent to be clearly
15 indicated on any summary format, including the attorney who
16 actually tried or argued the case before an arbitrator or
17 Commissioner;

18 (6) allow for the decision of the arbitrator or the
19 Commission to be uploaded electronically;

20 (7) allow for the following data reports to be produced
21 from the electronic system:

22 (i) the total number of decisions by each
23 arbitrator within any time period;

24 (ii) the total number of awards by injury type,
25 including repetitive injuries or injuries suffered by
26 employees when traveling in the course of their

1 employment or alleged to be suffered by employees when
2 traveling in the course of their employment;

3 (iii) the penalties assessed against employers,
4 searchable by each employer;

5 (iv) the total number of decisions by each panel of
6 Commissioners;

7 (v) the total number of claims filed by State
8 employees within any time period;

9 (vi) the total number of new claims filed in each
10 arbitration zone;

11 (vii) the total number of Settlement Contract Lump
12 Sum Petitions; and

13 (viii) the industry types of the employers against
14 whom claims are filed.

15 (7) allow for an electronic, searchable record of any
16 approved Settlement Contract Lump Sum Petitions, including
17 the amount of such Settlement Contract Lump Sum Petitions,
18 the type of injury, and the attorneys representing each
19 party, if any, for such Settlement Contract Lump Sum
20 Petitions;

21 (8) allow for the random assignment of cases by
22 arbitrator and to Commission panels, if appealed;

23 (9) allow for the electronic transmission of the record
24 of proceedings before the Commission to be transmitted to
25 the circuit court in the event of an appeal from the
26 Commission; and

1 (10) ensure the confidentiality of all protected
2 information, including medical records.

3 (c) The Commission shall make all efforts to ensure that
4 parties practicing before the Commission, including injured
5 employees, are aware of the changes required by the procurement
6 of the computer system required by this Section.

7 (820 ILCS 305/25.5)

8 Sec. 25.5. Unlawful acts; penalties.

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

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

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

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

23 (4) Intentionally prepare or provide an invalid,
24 false, or counterfeit certificate of insurance as proof of
25 workers' compensation insurance.

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

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

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

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

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

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

1 (b) Sentences for violations of subsection (a) are as
2 follows:

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

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

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

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

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

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

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

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

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

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

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

1 unit to investigate a report of fraud related to an employee's
2 claim, (i) the employee must have filed with the Commission an
3 Application for Adjustment of Claim and the employee must have
4 either received or attempted to receive benefits under this Act
5 that are related to the reported fraud or (ii) the employee
6 must have made a written demand for the payment of benefits
7 that are related to the reported fraud. There shall be no
8 immunity, under this Act or otherwise, for any person who files
9 a false report or who files a report without good and just
10 cause. Confidentiality of medical information shall be
11 strictly maintained. Investigations that are not referred for
12 prosecution shall be destroyed upon the expiration of the
13 statute of limitations for the acts under investigation and
14 shall not be disclosed except that the person making the report
15 shall be notified that the investigation is being closed. It is
16 unlawful for any employer, insurance carrier, service
17 adjustment company, third party administrator, self-insured,
18 or similar entity to file or threaten to file a report of fraud
19 against an employee because of the exercise by the employee of
20 the rights and remedies granted to the employee by this Act.

21 (e-5) The fraud and insurance non-compliance unit shall
22 procure and implement a system utilizing advanced analytics
23 inclusive of predictive modeling, data mining, social network
24 analysis, and scoring algorithms for the detection and
25 prevention of fraud, waste, and abuse on or before January 1,
26 2012. The fraud and insurance non-compliance unit shall procure

1 this system using a request for proposals process governed by
2 the Illinois Procurement Code and rules adopted under that
3 Code. The fraud and insurance non-compliance unit shall provide
4 a report to the President of the Senate, Speaker of the House
5 of Representatives, Minority Leader of the House of
6 Representatives, Minority Leader of the Senate, Governor,
7 Chairman of the Commission, and Director of Insurance on or
8 before July 1, 2012 and annually thereafter detailing its
9 activities and providing recommendations regarding
10 opportunities for additional fraud waste and abuse detection
11 and prevention.

12 (f) Any person convicted of fraud related to workers'
13 compensation pursuant to this Section shall be subject to the
14 penalties prescribed in the Criminal Code of 2012 and shall be
15 ineligible to receive or retain any compensation, disability,
16 or medical benefits as defined in this Act if the compensation,
17 disability, or medical benefits were owed or received as a
18 result of fraud for which the recipient of the compensation,
19 disability, or medical benefit was convicted. This subsection
20 applies to accidental injuries or diseases that occur on or
21 after the effective date of this amendatory Act of the 94th
22 General Assembly.

23 (g) Civil liability. Any person convicted of fraud who
24 knowingly obtains, attempts to obtain, or causes to be obtained
25 any benefits under this Act by the making of a false claim or
26 who knowingly misrepresents any material fact shall be civilly

1 liable to the payor of benefits or the insurer or the payor's
2 or insurer's subrogee or assignee in an amount equal to 3 times
3 the value of the benefits or insurance coverage wrongfully
4 obtained or twice the value of the benefits or insurance
5 coverage attempted to be obtained, plus reasonable attorney's
6 fees and expenses incurred by the payor or the payor's subrogee
7 or assignee who successfully brings a claim under this
8 subsection. This subsection applies to accidental injuries or
9 diseases that occur on or after the effective date of this
10 amendatory Act of the 94th General Assembly.

11 (h) The fraud and insurance non-compliance unit shall
12 submit a written report on an annual basis to the Chairman of
13 the Commission, the Workers' Compensation Advisory Board, the
14 General Assembly, the Governor, and the Attorney General by
15 January 1 and July 1 of each year. This report shall include,
16 at the minimum, the following information:

17 (1) The number of allegations of insurance
18 non-compliance and fraud reported to the fraud and
19 insurance non-compliance unit.

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

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

24 (4) The number of criminal referrals made in accordance
25 with this Section and the entity to which the referral was
26 made.

1 (5) All proceedings under this Section.

2 (Source: P.A. 97-18, eff. 6-28-11; 97-1150, eff. 1-25-13.)