



Sen. Christine Radogno

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LRB099 05540 JLS 36007 a

1 AMENDMENT TO SENATE BILL 994

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 994 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 1, 4, 8, 8.1b, 8.2, 8.2a, 14, and 19 as  
6 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

1 in service or under any contract for hire, express or implied,  
2 oral or written, and who is engaged in any of the enterprises  
3 or businesses enumerated in Section 3 of this Act, or who at or  
4 prior to the time of the accident to the employee for which  
5 compensation under this Act may be claimed, has in the manner  
6 provided in this Act elected to become subject to the  
7 provisions of this Act, and who has not, prior to such  
8 accident, effected a withdrawal of such election in the manner  
9 provided in this Act.

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

1           In the event any such person pays compensation under this  
2 subsection he may recover the amount thereof from the  
3 contractor or sub-contractor, if any, and in the event the  
4 contractor pays compensation under this subsection he may  
5 recover the amount thereof from the sub-contractor, if any.

6           This subsection does not apply in any case where the  
7 accident occurs elsewhere than on, in or about the immediate  
8 premises on which the principal has contracted that the work be  
9 done.

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

1 rendering reasonable cooperation in any hearings, trials or  
2 proceedings in the case, including such proceedings for  
3 reimbursement.

4 Where an employee files an Application for Adjustment of  
5 Claim with the Illinois Workers' Compensation Commission  
6 alleging that his claim is covered by the provisions of the  
7 preceding paragraph, and joining both the alleged loaning and  
8 borrowing employers, they and each of them, upon written demand  
9 by the employee and within 7 days after receipt of such demand,  
10 shall have the duty of filing with the Illinois Workers'  
11 Compensation Commission a written admission or denial of the  
12 allegation that the claim is covered by the provisions of the  
13 preceding paragraph and in default of such filing or if any  
14 such denial be ultimately determined not to have been bona fide  
15 then the provisions of Paragraph K of Section 19 of this Act  
16 shall apply.

17 An employer whose business or enterprise or a substantial  
18 part thereof consists of hiring, procuring or furnishing  
19 employees to or for other employers operating under and subject  
20 to the provisions of this Act for the performance of the work  
21 of such other employers and who pays such employees their  
22 salary or wages notwithstanding that they are doing the work of  
23 such other employers shall be deemed a loaning employer within  
24 the meaning and provisions of this Section.

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

26 1. Every person in the service of the State, including

1 members of the General Assembly, members of the Commerce  
2 Commission, members of the Illinois Workers' Compensation  
3 Commission, and all persons in the service of the University of  
4 Illinois, county, including deputy sheriffs and assistant  
5 state's attorneys, city, town, township, incorporated village  
6 or school district, body politic, or municipal corporation  
7 therein, whether by election, under appointment or contract of  
8 hire, express or implied, oral or written, including all  
9 members of the Illinois National Guard while on active duty in  
10 the service of the State, and all probation personnel of the  
11 Juvenile Court appointed pursuant to Article VI of the Juvenile  
12 Court Act of 1987, and including any official of the State, any  
13 county, city, town, township, incorporated village, school  
14 district, body politic or municipal corporation therein except  
15 any duly appointed member of a police department in any city  
16 whose population exceeds 500,000 according to the last Federal  
17 or State census, and except any member of a fire insurance  
18 patrol maintained by a board of underwriters in this State. A  
19 duly appointed member of a fire department in any city, the  
20 population of which exceeds 500,000 according to the last  
21 federal or State census, is an employee under this Act only  
22 with respect to claims brought under paragraph (c) of Section  
23 8.

24 One employed by a contractor who has contracted with the  
25 State, or a county, city, town, township, incorporated village,  
26 school district, body politic or municipal corporation

1 therein, through its representatives, is not considered as an  
2 employee of the State, county, city, town, township,  
3 incorporated village, school district, body politic or  
4 municipal corporation which made the contract.

5 2. Every person in the service of another under any  
6 contract of hire, express or implied, oral or written,  
7 including persons whose employment is outside of the State of  
8 Illinois where the contract of hire is made within the State of  
9 Illinois, persons whose employment results in fatal or  
10 non-fatal injuries within the State of Illinois where the  
11 contract of hire is made outside of the State of Illinois, and  
12 persons whose employment is principally localized within the  
13 State of Illinois, regardless of the place of the accident or  
14 the place where the contract of hire was made, and including  
15 aliens, and minors who, for the purpose of this Act are  
16 considered the same and have the same power to contract,  
17 receive payments and give quittances therefor, as adult  
18 employees.

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

21 An employee or his dependents under this Act who shall have  
22 a cause of action by reason of any injury, disablement or death  
23 arising out of and in the course of his employment may elect to  
24 pursue his remedy in the State where injured or disabled, or in  
25 the State where the contract of hire is made, or in the State  
26 where the employment is principally localized.

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

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

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

16          (d) (1) To obtain compensation under this Act, an employee  
17          bears the burden of showing, by a preponderance of the credible  
18          evidence, that (i) he or she has sustained accidental injuries  
19          arising out of and in the course of the employment and (ii) the  
20          accidental injuries arising out of and in the course of the  
21          employment are the major contributing cause of the medical  
22          condition or injury for which compensation is being sought.

23          The "major contributing cause" of a medical condition or  
24          injury is the cause that is greater than 50% of all combined  
25          causes of the medical condition or injury.

26          Accidental injuries shall not be considered to be "arising

1 out of and in the course of employment" if, without limitation:  
2 (A) the accident resulted from a hazard or risk that was not  
3 incidental to the employment or the accident resulted from a  
4 hazard or risk to which the general public is also exposed, (B)  
5 the accident did not occur at a time and place and under  
6 circumstances reasonably required by the employment, or (C) the  
7 medical condition or injury for which compensation is being  
8 sought resulted from a personal or neutral risk.

9 (2) For the purposes of clause (ii) of paragraph (1) only,  
10 if an employee has suffered cumulative or repetitive accidental  
11 injuries while employed in the same occupation or industry by  
12 multiple employers over time, the accidental injuries arising  
13 out of and in the course of the employment shall be considered  
14 to be the major contributing cause of the medical condition or  
15 injury for which compensation is being sought if those  
16 cumulative or repetitive accidental injuries suffered during  
17 employment in that occupation or industry are greater than 50%  
18 of all combined causes of the medical condition or injury. In  
19 that circumstance, the employer liable for compensation under  
20 this Act shall be the most recent current or former employer  
21 who has employed the employee for at least 3 months.

22 (3) An injury, its occupational cause, and any resulting  
23 manifestations or disability must be established to a  
24 reasonable degree of medical certainty, based on objective  
25 relevant medical findings.

26 (e) An employee who is required to travel in connection



1 with his or her employment and who suffers an injury while in  
2 travel status shall be eligible for benefits only if the injury  
3 arises out of and in the course of employment and the travel is  
4 necessary for the performance of job duties. Travel is  
5 necessary for the performance of job duties if (i) the employer  
6 furnishes the transportation or the employee receives  
7 reimbursement from the employer for costs of travel, gas, or  
8 lodging as part of the employee's benefits or employment  
9 agreement and (ii) travel is required by the employer as part  
10 of the employee's job duties.

11 An injury suffered by a traveling employee is deemed to  
12 arise out of his or her employment if caused by a risk  
13 incidental to or connected with the employment. Risk is not to  
14 be determined by a reasonable and foreseeable standard.

15 Arising in and out of the course of employment does not  
16 include travel to and from work or when an employee is on a  
17 paid or unpaid break and is not performing any specific tasks  
18 for the employer during the break. Common risks associated with  
19 travel even where the traveling employee is exposed to a  
20 greater degree than the general public do not arise out of the  
21 employment.

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

24 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

25 Sec. 4. (a) Any employer, including but not limited to

1 general contractors and their subcontractors, who shall come  
2 within the provisions of Section 3 of this Act, and any other  
3 employer who shall elect to provide and pay the compensation  
4 provided for in this Act shall:

5 (1) File with the Commission annually an application  
6 for approval as a self-insurer which shall include a  
7 current financial statement, and annually, thereafter, an  
8 application for renewal of self-insurance, which shall  
9 include a current financial statement. Said application  
10 and financial statement shall be signed and sworn to by the  
11 president or vice president and secretary or assistant  
12 secretary of the employer if it be a corporation, or by all  
13 of the partners, if it be a copartnership, or by the owner  
14 if it be neither a copartnership nor a corporation. All  
15 initial applications and all applications for renewal of  
16 self-insurance must be submitted at least 60 days prior to  
17 the requested effective date of self-insurance. An  
18 employer may elect to provide and pay compensation as  
19 provided for in this Act as a member of a group workers'  
20 compensation pool under Article V 3/4 of the Illinois  
21 Insurance Code. If an employer becomes a member of a group  
22 workers' compensation pool, the employer shall not be  
23 relieved of any obligations imposed by this Act.

24 If the sworn application and financial statement of any  
25 such employer does not satisfy the Commission of the  
26 financial ability of the employer who has filed it, the

1 Commission shall require such employer to,

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

12 (3) Insure his entire liability to pay such  
13 compensation in some workers' compensation insurance  
14 carrier authorized, licensed, or permitted to do such  
15 insurance business in this State. Every policy of a  
16 workers' compensation ~~an~~ insurance carrier, insuring the  
17 payment of compensation under this Act shall cover all the  
18 employees and the entire compensation liability of the  
19 insured: Provided, however, that any employer may insure  
20 his or her compensation liability with 2 or more workers'  
21 compensation insurance carriers or may insure a part and  
22 qualify under subsection 1, 2, or 4 for the remainder of  
23 his or her liability to pay such compensation, subject to  
24 the following two provisions:

25 Firstly, the entire compensation liability of the  
26 employer to employees working at or from one location

1 shall be insured in one such workers' compensation  
2 insurance carrier or shall be self-insured, and

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

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

15 (4) Make some other provision, satisfactory to the  
16 Commission, for the securing of the payment of compensation  
17 provided for in this Act, and

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

22 (a-1) Regardless of its state of domicile or its principal  
23 place of business, an employer shall make payments to its  
24 workers' compensation insurance carrier or group  
25 self-insurance fund, where applicable, based upon the premium  
26 rates of the situs where the work or project is located in

1 Illinois if:

2 (A) the employer is engaged primarily in the building  
3 and construction industry; and

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

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

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

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

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

23 Any penalty under this subsection (a-1) must be imposed not  
24 later than one year after the expiration of the applicable  
25 limitation period specified in subsection (d) of Section 6 of  
26 this Act. Penalties imposed under this subsection (a-1) shall

1 be deposited into the Illinois Workers' Compensation  
2 Commission Operations Fund, a special fund that is created in  
3 the State treasury. Subject to appropriation, moneys in the  
4 Fund shall be used solely for the operations of the Illinois  
5 Workers' Compensation Commission and by the Department of  
6 Insurance for the purposes authorized in subsection (c) of  
7 Section 25.5 of this Act.

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

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

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

18 (3) Any certificate of workers' compensation insurance  
19 coverage document issued to a client company specifying its  
20 rights and obligations under the master policy that  
21 establishes both the identity and status of the client, as  
22 well as the dates of inception and termination of coverage,  
23 if applicable.

24 (b) The sworn application and financial statement, or  
25 security, indemnity or bond, or amount of insurance, or other  
26 provisions, filed, furnished, carried, or made by the employer,

1 as the case may be, shall be subject to the approval of the  
2 Commission.

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

8 Upon the approval of the sworn application and financial  
9 statement, security, indemnity or bond or amount of insurance,  
10 filed, furnished or carried, as the case may be, the Commission  
11 shall send to the employer written notice of its approval  
12 thereof. The certificate of compliance by the employer with the  
13 provisions of subparagraphs (2) and (3) of paragraph (a) of  
14 this Section shall be delivered by the workers' compensation  
15 insurance carrier to the Illinois Workers' Compensation  
16 Commission within five days after the effective date of the  
17 policy so certified. The workers' compensation insurance so  
18 certified shall cover all compensation liability occurring  
19 during the time that the insurance is in effect and no further  
20 certificate need be filed in case such insurance is renewed,  
21 extended or otherwise continued by such carrier. The insurance  
22 so certified shall not be cancelled or in the event that such  
23 insurance is not renewed, extended or otherwise continued, such  
24 insurance shall not be terminated until at least 10 days after  
25 receipt by the Illinois Workers' Compensation Commission of  
26 notice of the cancellation or termination of said insurance;

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

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



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

16 Whenever the Commission finds that any self-insured  
17 employer has practiced or is practicing delay or unfairness  
18 toward employees in the adjustment, settlement or payment of  
19 benefits due such employees, the Commission may, after  
20 reasonable notice and hearing, order and direct that after a  
21 date fixed in the order such self-insured employer shall be  
22 disqualified to operate as a self-insurer and shall be required  
23 to insure his entire liability to pay compensation in some  
24 workers' compensation insurance carrier authorized, licensed  
25 and permitted to do such insurance business in this State, as  
26 provided in subparagraph 3 of paragraph (a) of this Section.

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

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

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

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

22 Any individual employer, corporate officer or director of a  
23 corporate employer, partner of an employer partnership, or  
24 member of an employer limited liability company who negligently  
25 fails to provide coverage as required by paragraph (a) of this  
26 Section is guilty of a Class A misdemeanor. This provision

1 shall not apply to any corporate officer or director of any  
2 publicly-owned corporation. Each day's violation constitutes a  
3 separate offense. The State's Attorney of the county in which  
4 the violation occurred, or the Attorney General, shall bring  
5 such actions in the name of the People of the State of  
6 Illinois.

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

12 Employers who are subject to and who knowingly fail to  
13 comply with this Section shall not be entitled to the benefits  
14 of this Act during the period of noncompliance, but shall be  
15 liable in an action under any other applicable law of this  
16 State. In the action, such employer shall not avail himself or  
17 herself of the defenses of assumption of risk or negligence or  
18 that the injury was due to a co-employee. In the action, proof  
19 of the injury shall constitute prima facie evidence of  
20 negligence on the part of such employer and the burden shall be  
21 on such employer to show freedom of negligence resulting in the  
22 injury. The employer shall not join any other defendant in any  
23 such civil action. Nothing in this amendatory Act of the 94th  
24 General Assembly shall affect the employee's rights under  
25 subdivision (a)3 of Section 1 of this Act. Any employer or  
26 carrier who makes payments under subdivision (a)3 of Section 1

1 of this Act shall have a right of reimbursement from the  
2 proceeds of any recovery under this Section.

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

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

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

25 Upon a finding by the Commission, after reasonable notice  
26 and hearing, of the knowing and wilful failure or refusal of an

1 employer to comply with any of the provisions of paragraph (a)  
2 of this Section, the failure or refusal of an employer, service  
3 or adjustment company, or an insurance carrier to comply with  
4 any order of the Illinois Workers' Compensation Commission  
5 pursuant to paragraph (c) of this Section disqualifying him or  
6 her to operate as a self insurer and requiring him or her to  
7 insure his or her liability, or the knowing and willful failure  
8 of an employer to comply with a citation issued by an  
9 investigator with the Illinois Workers' Compensation  
10 Commission Insurance Compliance Division, the Commission may  
11 assess a civil penalty of up to \$500 per day for each day of  
12 such failure or refusal after the effective date of this  
13 amendatory Act of 1989. The minimum penalty under this Section  
14 shall be the sum of \$10,000. Each day of such failure or  
15 refusal shall constitute a separate offense. The Commission may  
16 assess the civil penalty personally and individually against  
17 the corporate officers and directors of a corporate employer,  
18 the partners of an employer partnership, and the members of an  
19 employer limited liability company, after a finding of a  
20 knowing and willful refusal or failure of each such named  
21 corporate officer, director, partner, or member to comply with  
22 this Section. The liability for the assessed penalty shall be  
23 against the named employer first, and if the named employer  
24 fails or refuses to pay the penalty to the Commission within 30  
25 days after the final order of the Commission, then the named  
26 corporate officers, directors, partners, or members who have

1     been found to have knowingly and willfully refused or failed to  
2     comply with this Section shall be liable for the unpaid penalty  
3     or any unpaid portion of the penalty. Upon investigation by the  
4     insurance non-compliance unit of the Commission, the Attorney  
5     General shall have the authority to prosecute all proceedings  
6     to enforce the civil and administrative provisions of this  
7     Section before the Commission. The Commission shall promulgate  
8     procedural rules for enforcing this Section.

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

22             Any individual employer, corporate officer or director of a  
23     corporate employer, partner of an employer partnership, or  
24     member of an employer limited liability company who, with the  
25     intent to avoid payment of compensation under this Act to an  
26     injured employee or the employee's dependents, knowingly

1 transfers, sells, encumbers, assigns, or in any manner disposes  
2 of, conceals, secretes, or destroys any property belonging to  
3 the employer, officer, director, partner, or member is guilty  
4 of a Class 4 felony.

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



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

1 the Injured Workers' Benefit Fund to an eligible claimant  
2 pursuant to this provision shall discharge the obligations of  
3 the Injured Workers' Benefit Fund regarding the award entered  
4 by the Commission.

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

25 (f) No existing workers' compensation insurance, mutual  
26 aid, benefit or relief association or department shall, by

1 reason of anything herein contained, be authorized to  
2 discontinue its operation without first discharging its  
3 obligations to any and all persons carrying insurance in the  
4 same or entitled to relief or benefits therein.

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

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

23 (h) It shall be unlawful for any employer, insurance  
24 company or service or adjustment company to interfere with,  
25 restrain or coerce an employee in any manner whatsoever in the  
26 exercise of the rights or remedies granted to him or her by

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

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

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

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

26 The Chairman of the Commission shall promptly act upon all

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

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

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

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

2 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

1 institutional care as shall be required.

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

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

1 refusal to the date of compliance.

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

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

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



1 gross amount which he or she is earning in the modified job  
2 provided to the employee by the employer or in any other job  
3 that the employee is working.

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

11 Notwithstanding the foregoing, the employer's liability to  
12 pay for such medical services selected by the employee shall be  
13 limited to:

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

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

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

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

11 (4) The following shall apply for injuries occurring on  
12 or after June 28, 2011 (the effective date of Public Act  
13 97-18) and only when an employer has an approved preferred  
14 provider program pursuant to Section 8.1a on the date the  
15 employee sustained his or her accidental injuries:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 Unemployment Insurance Act.

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

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

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

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

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

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

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

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

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

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

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

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

4 In computing the compensation to be paid to any employee  
5 who, before the accident for which he or she claims  
6 compensation, had previously sustained an injury resulting in  
7 an award or settlement for permanency given under this  
8 subparagraph 2, such percentage of partial disability shall be  
9 deducted from any award made for the subsequent injury  
10 resulting in an award or settlement for permanency given under  
11 this subparagraph 2.

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

22 1. Thumb-

23 70 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 76 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 2. First, or index finger-

3 40 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

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

8 3. Second, or middle finger-

9 35 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

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

14 4. Third, or ring finger-

15 25 weeks if the accidental injury occurs on or  
16 after the effective date of this amendatory Act of the  
17 94th General Assembly but before February 1, 2006.

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

20 5. Fourth, or little finger-

21 20 weeks if the accidental injury occurs on or  
22 after the effective date of this amendatory Act of the  
23 94th General Assembly but before February 1, 2006.

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

26 6. Great toe-

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

4           38 weeks if the accidental injury occurs on or  
5 after February 1, 2006.

6           7. Each toe other than great toe-

7           12 weeks if the accidental injury occurs on or  
8 after the effective date of this amendatory Act of the  
9 94th General Assembly but before February 1, 2006.

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

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

21          9. Hand-

22          190 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

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

1           190 weeks if the accidental injury occurs on or  
2           after June 28, 2011 (the effective date of Public Act  
3           97-18) and if the accidental injury involves carpal  
4           tunnel syndrome due to repetitive or cumulative  
5           trauma, in which case the permanent partial disability  
6           shall not exceed 15% loss of use of the hand, except  
7           for cause shown by clear and convincing evidence and in  
8           which case the award shall not exceed 30% loss of use  
9           of the hand.

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

16           10. Arm-

17           235 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           253 weeks if the accidental injury occurs on or  
21           after February 1, 2006.

22           Where an accidental injury results in the amputation of  
23           an arm below the elbow, such injury shall be compensated as  
24           a loss of an arm. Where an accidental injury results in the  
25           amputation of an arm above the elbow, compensation for an  
26           additional 15 weeks (if the accidental injury occurs on or



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

15 11. Foot-

16 155 weeks if the accidental injury occurs on or  
17 after the effective date of this amendatory Act of the  
18 94th General Assembly but before February 1, 2006.

19 167 weeks if the accidental injury occurs on or  
20 after February 1, 2006.

21 12. Leg-

22 200 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

25 215 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

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

19           13. Eye-

20                   150 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                   162 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25           Where an accidental injury results in the enucleation  
26 of an eye, compensation for an additional 10 weeks (if the

1 accidental injury occurs on or after the effective date of  
2 this amendatory Act of the 94th General Assembly but before  
3 February 1, 2006) or an additional 11 weeks (if the  
4 accidental injury occurs on or after February 1, 2006)  
5 shall be paid.

6 14. Loss of hearing of one ear-

7 50 weeks if the accidental injury occurs on or  
8 after the effective date of this amendatory Act of the  
9 94th General Assembly but before February 1, 2006.

10 54 weeks if the accidental injury occurs on or  
11 after February 1, 2006.

12 Total and permanent loss of hearing of both ears-

13 200 weeks if the accidental injury occurs on or  
14 after the effective date of this amendatory Act of the  
15 94th General Assembly but before February 1, 2006.

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

18 15. Testicle-

19 50 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 54 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 Both testicles-

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

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

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

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

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

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

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

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

1	Sound Level DBA	
2	Slow Response	Hours Per Day
3	90	8
4	92	6
5	95	4
6	97	3
7	100	2
8	102	1-1/2
9	105	1
10	110	1/2
11	115	1/4

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

14           17. In computing the compensation to be paid to any  
15 employee who, before the accident for which he claims  
16 compensation, had before that time sustained an injury  
17 resulting in any award or settlement for permanency  
18 including, without limitation, the loss by amputation or  
19 partial loss by amputation of any member, including hand,  
20 arm, thumb or fingers, leg, foot or any toes, the partial  
21 loss of sight of an eye, or an award given under paragraph  
22 2 of paragraph (d) of Section 8 such award loss or partial  
23 loss of any such member shall be deducted from any award or  
24 settlement for permanency made for the subsequent injury.  
25 ~~For the permanent loss of use or the permanent partial loss~~  
26 ~~of use of any such member or the partial loss of sight of~~

1 ~~an eye, for which compensation has been paid, then such~~  
2 ~~loss shall be taken into consideration and deducted from~~  
3 ~~any award for the subsequent injury.~~

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

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

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

1 dependency.

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

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



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

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

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

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

1 of determining whether any disability exists as a result of the  
2 original accidental injury and the extent thereof.

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

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

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

25 In its award the Commission or the Arbitrator shall  
26 specifically find the amount the injured employee shall be

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

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

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

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

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

20 For every accident occurring on or after July 20, 2005 but  
21 before the effective date of this amendatory Act of the 94th  
22 General Assembly (Senate Bill 1283 of the 94th General  
23 Assembly), the annual adjustments to the compensation rate in  
24 awards for death benefits or permanent total disability, as  
25 provided in this Act, shall be paid by the employer. The  
26 adjustment shall be made by the employer on July 15 of the

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

23 The annual adjustments for every award of death benefits or  
24 permanent total disability involving accidents occurring  
25 before July 20, 2005 and accidents occurring on or after the  
26 effective date of this amendatory Act of the 94th General

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

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

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

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

26 However, where an employer has on file an employment

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

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

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



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

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

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

24 3. The extension of time for the filing of an Application  
25 for Adjustment of Claim as provided in paragraph 1 above shall  
26 not apply to those cases where the time for such filing had

1 expired prior to the date on which payments or benefits  
2 enumerated herein have been initiated or resumed. Provided  
3 however that this paragraph 3 shall apply only to cases wherein  
4 the payments or benefits hereinabove enumerated shall be  
5 received after July 1, 1969.

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); (ii) the occupation of the injured  
4 employee; (iii) the age of the employee at the time of the  
5 injury; (iv) the employee's future earning capacity; and (v)  
6 evidence of disability corroborated by objective findings in  
7 the treating medical records and independent medical  
8 examinations. ~~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 (Source: P.A. 97-18, eff. 6-28-11.)

14 (820 ILCS 305/8.2)

15 Sec. 8.2. Fee schedule.

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

1 amounts and shall not include discounted charges. The 80th  
2 percentile is the point on an ordered data set from low to high  
3 such that 80% of the cases are below or equal to that point and  
4 at most 20% are above or equal to that point. The Commission  
5 shall adjust these historical charges and fees as of August 1,  
6 2004 by the Consumer Price Index-U for the period August 1,  
7 2004 through September 30, 2005. The Commission shall establish  
8 fee schedules for procedures, treatments, or services for  
9 hospital inpatient, hospital outpatient, emergency room and  
10 trauma, ambulatory surgical treatment centers, and  
11 professional services. These charges and fees shall be  
12 designated by geozip or any smaller geographic unit. The data  
13 shall in no way identify or tend to identify any patient,  
14 employer, or health care provider. As used in this Section,  
15 "geozip" means a three-digit zip code based on data  
16 similarities, geographical similarities, and frequencies. A  
17 geozip does not cross state boundaries. As used in this  
18 Section, "three-digit zip code" means a geographic area in  
19 which all zip codes have the same first 3 digits. If a geozip  
20 does not have the necessary number of charges and fees to  
21 calculate a valid percentile for a specific procedure,  
22 treatment, or service, the Commission may combine data from the  
23 geozip with up to 4 other geozips that are demographically and  
24 economically similar and exhibit similarities in data and  
25 frequencies until the Commission reaches 9 charges or fees for  
26 that specific procedure, treatment, or service. In cases where

1 the compiled data contains less than 9 charges or fees for a  
2 procedure, treatment, or service, reimbursement shall occur at  
3 76% of charges and fees as determined by the Commission in a  
4 manner consistent with the provisions of this paragraph.  
5 Providers of out-of-state procedures, treatments, services,  
6 products, or supplies shall be reimbursed at the lesser of that  
7 state's fee schedule amount or the fee schedule amount for the  
8 region in which the employee resides. If no fee schedule exists  
9 in that state, the provider shall be reimbursed at the lesser  
10 of the actual charge or the fee schedule amount for the region  
11 in which the employee resides. Not later than September 30 in  
12 2006 and each year thereafter, the Commission shall  
13 automatically increase or decrease the maximum allowable  
14 payment for a procedure, treatment, or service established and  
15 in effect on January 1 of that year by the percentage change in  
16 the Consumer Price Index-U for the 12 month period ending  
17 August 31 of that year. The increase or decrease shall become  
18 effective on January 1 of the following year. As used in this  
19 Section, "Consumer Price Index-U" means the index published by  
20 the Bureau of Labor Statistics of the U.S. Department of Labor,  
21 that measures the average change in prices of all goods and  
22 services purchased by all urban consumers, U.S. city average,  
23 all items, 1982-84=100.

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

1 2011:

2 (1) The Commission shall establish and maintain fee  
3 schedules for procedures, treatments, products, services,  
4 or supplies for hospital inpatient, hospital outpatient,  
5 emergency room, ambulatory surgical treatment centers,  
6 accredited ambulatory surgical treatment facilities,  
7 prescriptions filled and dispensed outside of a licensed  
8 pharmacy, dental services, and professional services. This  
9 fee schedule shall be based on the fee schedule amounts  
10 already established by the Commission pursuant to  
11 subsection (a) of this Section. However, starting on  
12 January 1, 2012, these fee schedule amounts shall be  
13 grouped into geographic regions in the following manner:

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

16 (i) Cook County;

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

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

21 (iv) All other counties of the State.

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

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

26 (ii) Kankakee County;

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

3 (iv) Winnebago and Boone Counties;

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

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

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

8 (viii) Sangamon and Menard Counties;

9 (ix) McLean County;

10 (x) Lake County;

11 (xi) Macon County;

12 (xii) Vermilion County;

13 (xiii) Alexander County; and

14 (xiv) All other counties of the State.

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

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

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

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

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



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

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

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

15 (a-2.5) For procedures, treatments, services, or supplies  
16 rendered under Sections 1, 2, 6, 7, and 8 of the fee schedule  
17 covered under this Act and rendered or to be rendered on or  
18 after January 1, 2016, the maximum allowable payment shall be  
19 49% of the fee schedule amount, which shall be adjusted yearly  
20 by the Consumer Price Index-U, as described in subsection (a)  
21 of this Section. This shall not apply to any procedure,  
22 treatment, or service classified by an evaluation and  
23 management code or a physical medicine code in Section 8 of the  
24 fee schedule.

25 (a-3) Prescriptions filled and dispensed outside of a  
26 licensed pharmacy shall be subject to a fee schedule that shall

1 not exceed the Average Wholesale Price (AWP) plus a dispensing  
2 fee of \$4.18. AWP or its equivalent as registered by the  
3 National Drug Code shall be set forth for that drug on that  
4 date as published in Medispan.

5 (b) Notwithstanding the provisions of subsection (a), if  
6 the Commission finds that there is a significant limitation on  
7 access to quality health care in either a specific field of  
8 health care services or a specific geographic limitation on  
9 access to health care, it may change the Consumer Price Index-U  
10 increase or decrease for that specific field or specific  
11 geographic limitation on access to health care to address that  
12 limitation.

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

18 (d) When a patient notifies a provider that the treatment,  
19 procedure, or service being sought is for a work-related  
20 illness or injury and furnishes the provider the name and  
21 address of the responsible employer, the provider shall bill  
22 the employer directly. The employer shall make payment and  
23 providers shall submit bills and records in accordance with the  
24 provisions of this Section.

25 (1) All payments to providers for treatment provided  
26 pursuant to this Act shall be made within 30 days of

1 receipt of the bills as long as the claim contains  
2 substantially all the required data elements necessary to  
3 adjudicate the bills.

4 (2) If the claim does not contain substantially all the  
5 required data elements necessary to adjudicate the bill, or  
6 the claim is denied for any other reason, in whole or in  
7 part, the employer or insurer shall provide written  
8 notification, explaining the basis for the denial and  
9 describing any additional necessary data elements, to the  
10 provider within 30 days of receipt of the bill.

11 (3) In the case of nonpayment to a provider within 30  
12 days of receipt of the bill which contained substantially  
13 all of the required data elements necessary to adjudicate  
14 the bill or nonpayment to a provider of a portion of such a  
15 bill up to the lesser of the actual charge or the payment  
16 level set by the Commission in the fee schedule established  
17 in this Section, the bill, or portion of the bill, shall  
18 incur interest at a rate of 1% per month payable to the  
19 provider. Any required interest payments shall be made  
20 within 30 days after payment.

21 (e) Except as provided in subsections (e-5), (e-10), and  
22 (e-15), a provider shall not hold an employee liable for costs  
23 related to a non-disputed procedure, treatment, or service  
24 rendered in connection with a compensable injury. The  
25 provisions of subsections (e-5), (e-10), (e-15), and (e-20)  
26 shall not apply if an employee provides information to the

1 provider regarding participation in a group health plan. If the  
2 employee participates in a group health plan, the provider may  
3 submit a claim for services to the group health plan. If the  
4 claim for service is covered by the group health plan, the  
5 employee's responsibility shall be limited to applicable  
6 deductibles, co-payments, or co-insurance. Except as provided  
7 under subsections (e-5), (e-10), (e-15), and (e-20), a provider  
8 shall not bill or otherwise attempt to recover from the  
9 employee the difference between the provider's charge and the  
10 amount paid by the employer or the insurer on a compensable  
11 injury, or for medical services or treatment determined by the  
12 Commission to be excessive or unnecessary.

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

1           (e-10) If an employer notifies a provider that the employer  
2 will pay only a portion of a bill for any procedure, treatment,  
3 or service rendered in connection with a compensable illness or  
4 disease, the provider may seek payment from the employee for  
5 the remainder of the amount of the bill up to the lesser of the  
6 actual charge, negotiated rate, if applicable, or the payment  
7 level set by the Commission in the fee schedule established in  
8 this Section. Once an employee informs the provider that there  
9 is an application filed with the Commission to resolve a  
10 dispute over payment of such charges, the provider shall cease  
11 any and all efforts to collect payment for the services that  
12 are the subject of the dispute. Any statute of limitations or  
13 statute of repose applicable to the provider's efforts to  
14 collect payment from the employee shall be tolled from the date  
15 that the employee files the application with the Commission  
16 until the date that the provider is permitted to resume  
17 collection efforts under the provisions of this Section.

18           (e-15) When there is a dispute over the compensability of  
19 or amount of payment for a procedure, treatment, or service,  
20 and a case is pending or proceeding before an Arbitrator or the  
21 Commission, the provider may mail the employee reminders that  
22 the employee will be responsible for payment of any procedure,  
23 treatment or service rendered by the provider. The reminders  
24 must state that they are not bills, to the extent practicable  
25 include itemized information, and state that the employee need  
26 not pay until such time as the provider is permitted to resume

1 collection efforts under this Section. The reminders shall not  
2 be provided to any credit rating agency. The reminders may  
3 request that the employee furnish the provider with information  
4 about the proceeding under this Act, such as the file number,  
5 names of parties, and status of the case. If an employee fails  
6 to respond to such request for information or fails to furnish  
7 the information requested within 90 days of the date of the  
8 reminder, the provider is entitled to resume any and all  
9 efforts to collect payment from the employee for the services  
10 rendered to the employee and the employee shall be responsible  
11 for payment of any outstanding bills for a procedure,  
12 treatment, or service rendered by a provider.

13 (e-20) Upon a final award or judgment by an Arbitrator or  
14 the Commission, or a settlement agreed to by the employer and  
15 the employee, a provider may resume any and all efforts to  
16 collect payment from the employee for the services rendered to  
17 the employee and the employee shall be responsible for payment  
18 of any outstanding bills for a procedure, treatment, or service  
19 rendered by a provider as well as the interest awarded under  
20 subsection (d) of this Section. In the case of a procedure,  
21 treatment, or service deemed compensable, the provider shall  
22 not require a payment rate, excluding the interest provisions  
23 under subsection (d), greater than the lesser of the actual  
24 charge or the payment level set by the Commission in the fee  
25 schedule established in this Section. Payment for services  
26 deemed not covered or not compensable under this Act is the

1 responsibility of the employee unless a provider and employee  
2 have agreed otherwise in writing. Services not covered or not  
3 compensable under this Act are not subject to the fee schedule  
4 in this Section.

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

9 (g) On or before January 1, 2010 the Commission shall  
10 provide to the Governor and General Assembly a report regarding  
11 the implementation of the medical fee schedule and the index  
12 used for annual adjustment to that schedule as described in  
13 this Section.

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

15 (820 ILCS 305/8.2a)

16 Sec. 8.2a. Electronic claims.

17 (a) The Illinois Workers' Compensation Commission ~~Director~~  
18 ~~of Insurance~~ shall adopt rules to do all of the following:

19 (1) Ensure that all health care providers and  
20 facilities submit medical bills for payment on  
21 standardized forms.

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

24 (3) Ensure confidentiality of medical information  
25 submitted on electronic claims for payment of medical

1 services.

2 (b) To the extent feasible, standards adopted pursuant to  
3 subdivision (a) shall be consistent with existing standards  
4 under the federal Health Insurance Portability and  
5 Accountability Act of 1996 and standards adopted under the  
6 Illinois Health Information Exchange and Technology Act.

7 (c) The rules requiring employers and insurers to accept  
8 electronic claims for payment of medical services shall be  
9 proposed on or before January 1, 2012, and shall require all  
10 employers and insurers to accept electronic claims for payment  
11 of medical services on or before June 30, 2012.

12 (d) The Illinois Workers' Compensation Commission ~~Director~~  
13 ~~of Insurance~~ shall by rule establish criteria for granting  
14 exceptions to employers, insurance carriers, and health care  
15 providers who are unable to submit or accept medical bills  
16 electronically.

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

18 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

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

24 Each arbitrator appointed after June 28, 2011 shall be  
25 required to demonstrate in writing his or her knowledge of and



1 expertise in the law of and judicial processes of the Workers'  
2 Compensation Act and the Occupational Diseases Act.

3 A formal training program for newly-hired arbitrators  
4 shall be implemented. The training program shall include the  
5 following:

6 (a) substantive and procedural aspects of the  
7 arbitrator position;

8 (b) current issues in workers' compensation law and  
9 practice;

10 (c) medical lectures by specialists in areas such as  
11 orthopedics, ophthalmology, psychiatry, rehabilitation  
12 counseling;

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

15 (e) observation of experienced arbitrators conducting  
16 hearings of cases, combined with the opportunity to discuss  
17 evidence presented and rulings made;

18 (f) the use of hypothetical cases requiring the trainee  
19 to issue judgments as a means to evaluating knowledge and  
20 writing ability;

21 (g) writing skills;

22 (h) professional and ethical standards pursuant to  
23 Section 1.1 of this Act;

24 (i) detection of workers' compensation fraud and  
25 reporting obligations of Commission employees and  
26 appointees;

1 (j) standards of evidence-based medical treatment and  
2 best practices for measuring and improving quality and  
3 health care outcomes in the workers' compensation system,  
4 including but not limited to the use of the American  
5 Medical Association's "Guides to the Evaluation of  
6 Permanent Impairment" and the practice of utilization  
7 review; and

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

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

17 Each arbitrator shall devote full time to his or her duties  
18 and shall serve when assigned as an acting Commissioner when a  
19 Commissioner is unavailable in accordance with the provisions  
20 of Section 13 of this Act. Any arbitrator who is an  
21 attorney-at-law shall not engage in the practice of law, nor  
22 shall any arbitrator hold any other office or position of  
23 profit under the United States or this State or any municipal  
24 corporation or political subdivision of this State.  
25 Notwithstanding any other provision of this Act to the  
26 contrary, an arbitrator who serves as an acting Commissioner in

1 accordance with the provisions of Section 13 of this Act shall  
2 continue to serve in the capacity of Commissioner until a  
3 decision is reached in every case heard by that arbitrator  
4 while serving as an acting Commissioner.

5 Notwithstanding any other provision of this Section, the  
6 term of all arbitrators serving on the effective date of this  
7 amendatory Act of the 97th General Assembly, including any  
8 arbitrators on administrative leave, shall terminate at the  
9 close of business on July 1, 2011, but the incumbents shall  
10 continue to exercise all of their duties until they are  
11 reappointed or their successors are appointed.

12 On and after the effective date of this amendatory Act of  
13 the 97th General Assembly, arbitrators shall be appointed to  
14 3-year terms as follows:

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

17 (2) For their initial appointments, 12 arbitrators  
18 shall be appointed to terms expiring July 1, 2012; 12  
19 arbitrators shall be appointed to terms expiring July 1,  
20 2013; and all additional arbitrators shall be appointed to  
21 terms expiring July 1, 2014. Thereafter, all arbitrators  
22 shall be appointed to 3-year terms.

23 Upon the expiration of a term, the Chairman shall evaluate  
24 the performance of the arbitrator and may recommend to the  
25 Governor that he or she be reappointed to a second or  
26 subsequent term by the Governor with the advice and consent of

1 the Senate.

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

8 The performance of all arbitrators shall be reviewed by the  
9 Chairman on an annual basis. The Chairman shall allow input  
10 from the Commissioners in all such reviews.

11 The Commission shall assign no fewer than 3 arbitrators to  
12 each hearing site. The Commission shall establish a procedure  
13 to ensure that the arbitrators assigned to each hearing site  
14 are assigned cases on a random basis. The Chairman of the  
15 Illinois Workers' Compensation Commission shall have  
16 discretion to assign and reassign arbitrators to each hearing  
17 site as needed. ~~No arbitrator shall hear cases in any county,~~  
18 ~~other than Cook County, for more than 2 years in each 3 year~~  
19 ~~term.~~

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

24 The members of the Commission, Arbitrators and other  
25 employees whose duties require them to travel, shall have  
26 reimbursed to them their actual traveling expenses and

1 disbursements made or incurred by them in the discharge of  
2 their official duties while away from their place of residence  
3 in the performance of their duties.

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

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

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

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

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

6           1. Whenever any claimant misconceives his remedy and  
7 files an application for adjustment of claim under this Act  
8 and it is subsequently discovered, at any time before final  
9 disposition of such cause, that the claim for disability or  
10 death which was the basis for such application should  
11 properly have been made under the Workers' Occupational  
12 Diseases Act, then the provisions of Section 19, paragraph  
13 (a-1) of the Workers' Occupational Diseases Act having  
14 reference to such application shall apply.

15           2. Whenever any claimant misconceives his remedy and  
16 files an application for adjustment of claim under the  
17 Workers' Occupational Diseases Act and it is subsequently  
18 discovered, at any time before final disposition of such  
19 cause that the claim for injury or death which was the  
20 basis for such application should properly have been made  
21 under this Act, then the application so filed under the  
22 Workers' Occupational Diseases Act may be amended in form,  
23 substance or both to assert claim for such disability or  
24 death under this Act and it shall be deemed to have been so  
25 filed as amended on the date of the original filing  
26 thereof, and such compensation may be awarded as is

1 warranted by the whole evidence pursuant to this Act. When  
2 such amendment is submitted, further or additional  
3 evidence may be heard by the Arbitrator or Commission when  
4 deemed necessary. Nothing in this Section contained shall  
5 be construed to be or permit a waiver of any provisions of  
6 this Act with reference to notice but notice if given shall  
7 be deemed to be a notice under the provisions of this Act  
8 if given within the time required herein.

9 (b) The Arbitrator shall make such inquiries and  
10 investigations as he or they shall deem necessary and may  
11 examine and inspect all books, papers, records, places, or  
12 premises relating to the questions in dispute and hear such  
13 proper evidence as the parties may submit.

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

18 The Arbitrator may find that the disabling condition is  
19 temporary and has not yet reached a permanent condition and may  
20 order the payment of compensation up to the date of the  
21 hearing, which award shall be reviewable and enforceable in the  
22 same manner as other awards, and in no instance be a bar to a  
23 further hearing and determination of a further amount of  
24 temporary total compensation or of compensation for permanent  
25 disability, but shall be conclusive as to all other questions  
26 except the nature and extent of said disability.

1           The decision of the Arbitrator shall be filed with the  
2 Commission which Commission shall immediately send to each  
3 party or his attorney a copy of such decision, together with a  
4 notification of the time when it was filed. As of the effective  
5 date of this amendatory Act of the 94th General Assembly, all  
6 decisions of the Arbitrator shall set forth in writing findings  
7 of fact and conclusions of law, separately stated, if requested  
8 by either party. Unless a petition for review is filed by  
9 either party within 30 days after the receipt by such party of  
10 the copy of the decision and notification of time when filed,  
11 and unless such party petitioning for a review shall within 35  
12 days after the receipt by him of the copy of the decision, file  
13 with the Commission either an agreed statement of the facts  
14 appearing upon the hearing before the Arbitrator, or if such  
15 party shall so elect a correct transcript of evidence of the  
16 proceedings at such hearings, then the decision shall become  
17 the decision of the Commission and in the absence of fraud  
18 shall be conclusive. The Petition for Review shall contain a  
19 statement of the petitioning party's specific exceptions to the  
20 decision of the arbitrator. The jurisdiction of the Commission  
21 to review the decision of the arbitrator shall not be limited  
22 to the exceptions stated in the Petition for Review. The  
23 Commission, or any member thereof, may grant further time not  
24 exceeding 30 days, in which to file such agreed statement or  
25 transcript of evidence. Such agreed statement of facts or  
26 correct transcript of evidence, as the case may be, shall be



1 authenticated by the signatures of the parties or their  
2 attorneys, and in the event they do not agree as to the  
3 correctness of the transcript of evidence it shall be  
4 authenticated by the signature of the Arbitrator designated by  
5 the Commission.

6 Whether the employee is working or not, if the employee is  
7 not receiving or has not received medical, surgical, or  
8 hospital services or other services or compensation as provided  
9 in paragraph (a) of Section 8, or compensation as provided in  
10 paragraph (b) of Section 8, the employee may at any time  
11 petition for an expedited hearing by an Arbitrator on the issue  
12 of whether or not he or she is entitled to receive payment of  
13 the services or compensation. Provided the employer continues  
14 to pay compensation pursuant to paragraph (b) of Section 8, the  
15 employer may at any time petition for an expedited hearing on  
16 the issue of whether or not the employee is entitled to receive  
17 medical, surgical, or hospital services or other services or  
18 compensation as provided in paragraph (a) of Section 8, or  
19 compensation as provided in paragraph (b) of Section 8. When an  
20 employer has petitioned for an expedited hearing, the employer  
21 shall continue to pay compensation as provided in paragraph (b)  
22 of Section 8 unless the arbitrator renders a decision that the  
23 employee is not entitled to the benefits that are the subject  
24 of the expedited hearing or unless the employee's treating  
25 physician has released the employee to return to work at his or  
26 her regular job with the employer or the employee actually

1 returns to work at any other job. If the arbitrator renders a  
2 decision that the employee is not entitled to the benefits that  
3 are the subject of the expedited hearing, a petition for review  
4 filed by the employee shall receive the same priority as if the  
5 employee had filed a petition for an expedited hearing by an  
6 Arbitrator. Neither party shall be entitled to an expedited  
7 hearing when the employee has returned to work and the sole  
8 issue in dispute amounts to less than 12 weeks of unpaid  
9 compensation pursuant to paragraph (b) of Section 8.

10 Expedited hearings shall have priority over all other  
11 petitions and shall be heard by the Arbitrator and Commission  
12 with all convenient speed. Any party requesting an expedited  
13 hearing shall give notice of a request for an expedited hearing  
14 under this paragraph. A copy of the Application for Adjustment  
15 of Claim shall be attached to the notice. The Commission shall  
16 adopt rules and procedures under which the final decision of  
17 the Commission under this paragraph is filed not later than 180  
18 days from the date that the Petition for Review is filed with  
19 the Commission.

20 Where 2 or more insurance carriers, private self-insureds,  
21 or a group workers' compensation pool under Article V 3/4 of  
22 the Illinois Insurance Code dispute coverage for the same  
23 injury, any such insurance carrier, private self-insured, or  
24 group workers' compensation pool may request an expedited  
25 hearing pursuant to this paragraph to determine the issue of  
26 coverage, provided coverage is the only issue in dispute and

1 all other issues are stipulated and agreed to and further  
2 provided that all compensation benefits including medical  
3 benefits pursuant to Section 8(a) continue to be paid to or on  
4 behalf of petitioner. Any insurance carrier, private  
5 self-insured, or group workers' compensation pool that is  
6 determined to be liable for coverage for the injury in issue  
7 shall reimburse any insurance carrier, private self-insured,  
8 or group workers' compensation pool that has paid benefits to  
9 or on behalf of petitioner for the injury.

10 (b-1) If the employee is not receiving medical, surgical or  
11 hospital services as provided in paragraph (a) of Section 8 or  
12 compensation as provided in paragraph (b) of Section 8, the  
13 employee, in accordance with Commission Rules, may file a  
14 petition for an emergency hearing by an Arbitrator on the issue  
15 of whether or not he is entitled to receive payment of such  
16 compensation or services as provided therein. Such petition  
17 shall have priority over all other petitions and shall be heard  
18 by the Arbitrator and Commission with all convenient speed.

19 Such petition shall contain the following information and  
20 shall be served on the employer at least 15 days before it is  
21 filed:

- 22 (i) the date and approximate time of accident;  
23 (ii) the approximate location of the accident;  
24 (iii) a description of the accident;  
25 (iv) the nature of the injury incurred by the employee;  
26 (v) the identity of the person, if known, to whom the

1 accident was reported and the date on which it was  
2 reported;

3 (vi) the name and title of the person, if known,  
4 representing the employer with whom the employee conferred  
5 in any effort to obtain compensation pursuant to paragraph  
6 (b) of Section 8 of this Act or medical, surgical or  
7 hospital services pursuant to paragraph (a) of Section 8 of  
8 this Act and the date of such conference;

9 (vii) a statement that the employer has refused to pay  
10 compensation pursuant to paragraph (b) of Section 8 of this  
11 Act or for medical, surgical or hospital services pursuant  
12 to paragraph (a) of Section 8 of this Act;

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

16 (ix) the dates of treatment related to the accident by  
17 medical practitioners, and the names and addresses of such  
18 practitioners, including the dates of treatment related to  
19 the accident at any hospitals and the names and addresses  
20 of such hospitals, and a signed authorization permitting  
21 the employer to examine all medical records of all  
22 practitioners and hospitals named pursuant to this  
23 paragraph;

24 (x) a copy of a signed report by a medical  
25 practitioner, relating to the employee's current inability  
26 to return to work because of the injuries incurred as a

1 result of the accident or such other documents or  
2 affidavits which show that the employee is entitled to  
3 receive compensation pursuant to paragraph (b) of Section 8  
4 of this Act or medical, surgical or hospital services  
5 pursuant to paragraph (a) of Section 8 of this Act. Such  
6 reports, documents or affidavits shall state, if possible,  
7 the history of the accident given by the employee, and  
8 describe the injury and medical diagnosis, the medical  
9 services for such injury which the employee has received  
10 and is receiving, the physical activities which the  
11 employee cannot currently perform as a result of any  
12 impairment or disability due to such injury, and the  
13 prognosis for recovery;

14 (xi) complete copies of any reports, records,  
15 documents and affidavits in the possession of the employee  
16 on which the employee will rely to support his allegations,  
17 provided that the employer shall pay the reasonable cost of  
18 reproduction thereof;

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

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

25 Fifteen days after receipt by the employer of the petition  
26 with the required information the employee may file said

1 petition and required information and shall serve notice of the  
2 filing upon the employer. The employer may file a motion  
3 addressed to the sufficiency of the petition. If an objection  
4 has been filed to the sufficiency of the petition, the  
5 arbitrator shall rule on the objection within 2 working days.  
6 If such an objection is filed, the time for filing the final  
7 decision of the Commission as provided in this paragraph shall  
8 be tolled until the arbitrator has determined that the petition  
9 is sufficient.

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

1 Any employer who does not timely file and serve a written  
2 response without good cause may not introduce any evidence to  
3 dispute any claim of the employee but may cross examine the  
4 employee or any witness brought by the employee and otherwise  
5 be heard.

6 No document or other evidence not previously identified by  
7 either party with the petition or written response, or by any  
8 other means before the hearing, may be introduced into evidence  
9 without good cause. If, at the hearing, material information is  
10 discovered which was not previously disclosed, the Arbitrator  
11 may extend the time for closing proof on the motion of a party  
12 for a reasonable period of time which may be more than 30 days.  
13 No evidence may be introduced pursuant to this paragraph as to  
14 permanent disability. No award may be entered for permanent  
15 disability pursuant to this paragraph. Either party may  
16 introduce into evidence the testimony taken by deposition of  
17 any medical practitioner.

18 The Commission shall adopt rules, regulations and  
19 procedures whereby the final decision of the Commission is  
20 filed not later than 90 days from the date the petition for  
21 review is filed but in no event later than 180 days from the  
22 date the petition for an emergency hearing is filed with the  
23 Illinois Workers' Compensation Commission.

24 All service required pursuant to this paragraph (b-1) must  
25 be by personal service or by certified mail and with evidence  
26 of receipt. In addition for the purposes of this paragraph, all

1 service on the employer must be at the premises where the  
2 accident occurred if the premises are owned or operated by the  
3 employer. Otherwise service must be at the employee's principal  
4 place of employment by the employer. If service on the employer  
5 is not possible at either of the above, then service shall be  
6 at the employer's principal place of business. After initial  
7 service in each case, service shall be made on the employer's  
8 attorney or designated representative.

9 (c) (1) At a reasonable time in advance of and in connection  
10 with the hearing under Section 19(e) or 19(h), the Commission  
11 may on its own motion order an impartial physical or mental  
12 examination of a petitioner whose mental or physical condition  
13 is in issue, when in the Commission's discretion it appears  
14 that such an examination will materially aid in the just  
15 determination of the case. The examination shall be made by a  
16 member or members of a panel of physicians chosen for their  
17 special qualifications by the Illinois State Medical Society.  
18 The Commission shall establish procedures by which a physician  
19 shall be selected from such list.

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

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

26 (4) Either party or the Commission may call the examining



1 physician or physicians to testify. Any physician so called  
2 shall be subject to cross-examination.

3 (5) The examination shall be made, and the physician or  
4 physicians, if called, shall testify, without cost to the  
5 parties. The Commission shall determine the compensation and  
6 the pay of the physician or physicians. The compensation for  
7 this service shall not exceed the usual and customary amount  
8 for such service.

9 (6) The fees and payment thereof of all attorneys and  
10 physicians for services authorized by the Commission under this  
11 Act shall, upon request of either the employer or the employee  
12 or the beneficiary affected, be subject to the review and  
13 decision of the Commission.

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

1 (e) This paragraph shall apply to all hearings before the  
2 Commission. Such hearings may be held in its office or  
3 elsewhere as the Commission may deem advisable. The taking of  
4 testimony on such hearings may be had before any member of the  
5 Commission. If a petition for review and agreed statement of  
6 facts or transcript of evidence is filed, as provided herein,  
7 the Commission shall promptly review the decision of the  
8 Arbitrator and all questions of law or fact which appear from  
9 the statement of facts or transcript of evidence.

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

23 In the event either party requests oral argument, such  
24 argument shall be had before a panel of 3 members of the  
25 Commission (or before all available members pursuant to the  
26 determination of 7 members of the Commission that such argument

1 be held before all available members of the Commission)  
2 pursuant to the rules and regulations of the Commission. A  
3 panel of 3 members, which shall be comprised of not more than  
4 one representative citizen of the employing class and not more  
5 than one representative citizen of the employee class, shall  
6 hear the argument; provided that if all the issues in dispute  
7 are solely the nature and extent of the permanent partial  
8 disability, if any, a majority of the panel may deny the  
9 request for such argument and such argument shall not be held;  
10 and provided further that 7 members of the Commission may  
11 determine that the argument be held before all available  
12 members of the Commission. A decision of the Commission shall  
13 be approved by a majority of Commissioners present at such  
14 hearing if any; provided, if no such hearing is held, a  
15 decision of the Commission shall be approved by a majority of a  
16 panel of 3 members of the Commission as described in this  
17 Section. The Commission shall give 10 days' notice to the  
18 parties or their attorneys of the time and place of such taking  
19 of testimony and of such argument.

20 In any case the Commission in its decision may find  
21 specially upon any question or questions of law or fact which  
22 shall be submitted in writing by either party whether ultimate  
23 or otherwise; provided that on issues other than nature and  
24 extent of the disability, if any, the Commission in its  
25 decision shall find specially upon any question or questions of  
26 law or fact, whether ultimate or otherwise, which are submitted

1 in writing by either party; provided further that not more than  
2 5 such questions may be submitted by either party. Any party  
3 may, within 20 days after receipt of notice of the Commission's  
4 decision, or within such further time, not exceeding 30 days,  
5 as the Commission may grant, file with the Commission either an  
6 agreed statement of the facts appearing upon the hearing, or,  
7 if such party shall so elect, a correct transcript of evidence  
8 of the additional proceedings presented before the Commission,  
9 in which report the party may embody a correct statement of  
10 such other proceedings in the case as such party may desire to  
11 have reviewed, such statement of facts or transcript of  
12 evidence to be authenticated by the signature of the parties or  
13 their attorneys, and in the event that they do not agree, then  
14 the authentication of such transcript of evidence shall be by  
15 the signature of any member of the Commission.

16 If a reporter does not for any reason furnish a transcript  
17 of the proceedings before the Arbitrator in any case for use on  
18 a hearing for review before the Commission, within the  
19 limitations of time as fixed in this Section, the Commission  
20 may, in its discretion, order a trial de novo before the  
21 Commission in such case upon application of either party. The  
22 applications for adjustment of claim and other documents in the  
23 nature of pleadings filed by either party, together with the  
24 decisions of the Arbitrator and of the Commission and the  
25 statement of facts or transcript of evidence hereinbefore  
26 provided for in paragraphs (b) and (c) shall be the record of

1 the proceedings of the Commission, and shall be subject to  
2 review as hereinafter provided.

3 At the request of either party or on its own motion, the  
4 Commission shall set forth in writing the reasons for the  
5 decision, including findings of fact and conclusions of law  
6 separately stated. The Commission shall by rule adopt a format  
7 for written decisions for the Commission and arbitrators. The  
8 written decisions shall be concise and shall succinctly state  
9 the facts and reasons for the decision. The Commission may  
10 adopt in whole or in part, the decision of the arbitrator as  
11 the decision of the Commission. When the Commission does so  
12 adopt the decision of the arbitrator, it shall do so by order.  
13 Whenever the Commission adopts part of the arbitrator's  
14 decision, but not all, it shall include in the order the  
15 reasons for not adopting all of the arbitrator's decision. When  
16 a majority of a panel, after deliberation, has arrived at its  
17 decision, the decision shall be filed as provided in this  
18 Section without unnecessary delay, and without regard to the  
19 fact that a member of the panel has expressed an intention to  
20 dissent. Any member of the panel may file a dissent. Any  
21 dissent shall be filed no later than 10 days after the decision  
22 of the majority has been filed.

23 Decisions rendered by the Commission and dissents, if any,  
24 shall be published together by the Commission. The conclusions  
25 of law set out in such decisions shall be regarded as  
26 precedents by arbitrators for the purpose of achieving a more

1 uniform administration of this Act.

2 (f) The decision of the Commission acting within its  
3 powers, according to the provisions of paragraph (e) of this  
4 Section shall, in the absence of fraud, be conclusive unless  
5 reviewed as in this paragraph hereinafter provided. However,  
6 the Arbitrator or the Commission may on his or its own motion,  
7 or on the motion of either party, correct any clerical error or  
8 errors in computation within 15 days after the date of receipt  
9 of any award by such Arbitrator or any decision on review of  
10 the Commission and shall have the power to recall the original  
11 award on arbitration or decision on review, and issue in lieu  
12 thereof such corrected award or decision. Where such correction  
13 is made the time for review herein specified shall begin to run  
14 from the date of the receipt of the corrected award or  
15 decision.

16 (1) Except in cases of claims against the State of  
17 Illinois other than those claims under Section 18.1, in  
18 which case the decision of the Commission shall not be  
19 subject to judicial review, the Circuit Court of the county  
20 where any of the parties defendant may be found, or if none  
21 of the parties defendant can be found in this State then  
22 the Circuit Court of the county where the accident  
23 occurred, shall by summons to the Commission have power to  
24 review all questions of law and fact presented by such  
25 record.

26 A proceeding for review shall be commenced within 20

1 days of the receipt of notice of the decision of the  
2 Commission. The summons shall be issued by the clerk of  
3 such court upon written request returnable on a designated  
4 return day, not less than 10 or more than 60 days from the  
5 date of issuance thereof, and the written request shall  
6 contain the last known address of other parties in interest  
7 and their attorneys of record who are to be served by  
8 summons. Service upon any member of the Commission or the  
9 Secretary or the Assistant Secretary thereof shall be  
10 service upon the Commission, and service upon other parties  
11 in interest and their attorneys of record shall be by  
12 summons, and such service shall be made upon the Commission  
13 and other parties in interest by mailing notices of the  
14 commencement of the proceedings and the return day of the  
15 summons to the office of the Commission and to the last  
16 known place of residence of other parties in interest or  
17 their attorney or attorneys of record. The clerk of the  
18 court issuing the summons shall on the day of issue mail  
19 notice of the commencement of the proceedings which shall  
20 be done by mailing a copy of the summons to the office of  
21 the Commission, and a copy of the summons to the other  
22 parties in interest or their attorney or attorneys of  
23 record and the clerk of the court shall make certificate  
24 that he has so sent said notices in pursuance of this  
25 Section, which shall be evidence of service on the  
26 Commission and other parties in interest.

1           The Commission shall not be required to certify the  
2 record of their proceedings to the Circuit Court, unless  
3 the party commencing the proceedings for review in the  
4 Circuit Court as above provided, shall file with the  
5 Commission notice of intent to file for review in Circuit  
6 Court. It shall be the duty of the Commission upon such  
7 filing of notice of intent to file for review in the  
8 Circuit Court to prepare a true and correct copy of such  
9 testimony and a true and correct copy of all other matters  
10 contained in such record and certified to by the Secretary  
11 or Assistant Secretary thereof. The changes made to this  
12 subdivision (f)(1) by this amendatory Act of the 98th  
13 General Assembly apply to any Commission decision entered  
14 after the effective date of this amendatory Act of the 98th  
15 General Assembly.

16           No request for a summons may be filed and no summons  
17 shall issue unless the party seeking to review the decision  
18 of the Commission shall exhibit to the clerk of the Circuit  
19 Court proof of filing with the Commission of the notice of  
20 the intent to file for review in the Circuit Court or an  
21 affidavit of the attorney setting forth that notice of  
22 intent to file for review in the Circuit Court has been  
23 given in writing to the Secretary or Assistant Secretary of  
24 the Commission.

25           (2) No such summons shall issue unless the one against  
26 whom the Commission shall have rendered an award for the



1 payment of money shall upon the filing of his written  
2 request for such summons file with the clerk of the court a  
3 bond conditioned that if he shall not successfully  
4 prosecute the review, he will pay the award and the costs  
5 of the proceedings in the courts. The amount of the bond  
6 shall be fixed by any member of the Commission and the  
7 surety or sureties of the bond shall be approved by the  
8 clerk of the court. The acceptance of the bond by the clerk  
9 of the court shall constitute evidence of his approval of  
10 the bond.

11 The State of Illinois, including its constitutional  
12 officers, boards, commissions, agencies, public  
13 institutions of higher learning, and funds administered by  
14 the Treasurer ex officio, and every ~~Every~~ county, city,  
15 town, township, incorporated village, school district,  
16 body politic or municipal corporation against whom the  
17 Commission shall have rendered an award for the payment of  
18 money shall not be required to file a bond to secure the  
19 payment of the award and the costs of the proceedings in  
20 the court to authorize the court to issue such summons.

21 The court may confirm or set aside the decision of the  
22 Commission. If the decision is set aside and the facts  
23 found in the proceedings before the Commission are  
24 sufficient, the court may enter such decision as is  
25 justified by law, or may remand the cause to the Commission  
26 for further proceedings and may state the questions

1 requiring further hearing, and give such other  
2 instructions as may be proper. Appeals shall be taken to  
3 the Appellate Court in accordance with Supreme Court Rules  
4 22(g) and 303. Appeals shall be taken from the Appellate  
5 Court to the Supreme Court in accordance with Supreme Court  
6 Rule 315.

7 It shall be the duty of the clerk of any court  
8 rendering a decision affecting or affirming an award of the  
9 Commission to promptly furnish the Commission with a copy  
10 of such decision, without charge.

11 The decision of a majority of the members of the panel  
12 of the Commission, shall be considered the decision of the  
13 Commission.

14 (g) Except in the case of a claim against the State of  
15 Illinois, either party may present a certified copy of the  
16 award of the Arbitrator, or a certified copy of the decision of  
17 the Commission when the same has become final, when no  
18 proceedings for review are pending, providing for the payment  
19 of compensation according to this Act, to the Circuit Court of  
20 the county in which such accident occurred or either of the  
21 parties are residents, whereupon the court shall enter a  
22 judgment in accordance therewith. In a case where the employer  
23 refuses to pay compensation according to such final award or  
24 such final decision upon which such judgment is entered the  
25 court shall in entering judgment thereon, tax as costs against  
26 him the reasonable costs and attorney fees in the arbitration

1 proceedings and in the court entering the judgment for the  
2 person in whose favor the judgment is entered, which judgment  
3 and costs taxed as therein provided shall, until and unless set  
4 aside, have the same effect as though duly entered in an action  
5 duly tried and determined by the court, and shall with like  
6 effect, be entered and docketed. The Circuit Court shall have  
7 power at any time upon application to make any such judgment  
8 conform to any modification required by any subsequent decision  
9 of the Supreme Court upon appeal, or as the result of any  
10 subsequent proceedings for review, as provided in this Act.

11 Judgment shall not be entered until 15 days' notice of the  
12 time and place of the application for the entry of judgment  
13 shall be served upon the employer by filing such notice with  
14 the Commission, which Commission shall, in case it has on file  
15 the address of the employer or the name and address of its  
16 agent upon whom notices may be served, immediately send a copy  
17 of the notice to the employer or such designated agent.

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

24 However, as to accidents occurring subsequent to July 1,  
25 1955, which are covered by any agreement or award under this  
26 Act providing for compensation in installments made as a result

1 of such accident, such agreement or award may at any time  
2 within 30 months, or 60 months in the case of an award under  
3 Section 8(d)1, after such agreement or award be reviewed by the  
4 Commission at the request of either the employer or the  
5 employee on the ground that the disability of the employee has  
6 subsequently recurred, increased, diminished or ended.

7 On such review, compensation payments may be  
8 re-established, increased, diminished or ended. The Commission  
9 shall give 15 days' notice to the parties of the hearing for  
10 review. Any employee, upon any petition for such review being  
11 filed by the employer, shall be entitled to one day's notice  
12 for each 100 miles necessary to be traveled by him in attending  
13 the hearing of the Commission upon the petition, and 3 days in  
14 addition thereto. Such employee shall, at the discretion of the  
15 Commission, also be entitled to 5 cents per mile necessarily  
16 traveled by him within the State of Illinois in attending such  
17 hearing, not to exceed a distance of 300 miles, to be taxed by  
18 the Commission as costs and deposited with the petition of the  
19 employer.

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

24 (i) Each party, upon taking any proceedings or steps  
25 whatsoever before any Arbitrator, Commission or court, shall  
26 file with the Commission his address, or the name and address

1 of any agent upon whom all notices to be given to such party  
2 shall be served, either personally or by registered mail,  
3 addressed to such party or agent at the last address so filed  
4 with the Commission. In the event such party has not filed his  
5 address, or the name and address of an agent as above provided,  
6 service of any notice may be had by filing such notice with the  
7 Commission.

8 (j) Whenever in any proceeding testimony has been taken or  
9 a final decision has been rendered and after the taking of such  
10 testimony or after such decision has become final, the injured  
11 employee dies, then in any subsequent proceedings brought by  
12 the personal representative or beneficiaries of the deceased  
13 employee, such testimony in the former proceeding may be  
14 introduced with the same force and effect as though the witness  
15 having so testified were present in person in such subsequent  
16 proceedings and such final decision, if any, shall be taken as  
17 final adjudication of any of the issues which are the same in  
18 both proceedings.

19 (k) In case where there has been any unreasonable or  
20 vexatious delay of payment or intentional underpayment of  
21 compensation, or proceedings have been instituted or carried on  
22 by the one liable to pay the compensation, which do not present  
23 a real controversy, but are merely frivolous or for delay, then  
24 the Commission may award compensation additional to that  
25 otherwise payable under this Act equal to 50% of the amount  
26 payable at the time of such award. Failure to pay compensation

1 in accordance with the provisions of Section 8, paragraph (b)  
2 of this Act, shall be considered unreasonable delay.

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

7 (l) If the employee has made written demand for payment of  
8 benefits under Section 8(a) or Section 8(b), the employer shall  
9 have 14 days after receipt of the demand to set forth in  
10 writing the reason for the delay. In the case of demand for  
11 payment of medical benefits under Section 8(a), the time for  
12 the employer to respond shall not commence until the expiration  
13 of the allotted 30 days specified under Section 8.2(d). In case  
14 the employer or his or her insurance carrier shall without good  
15 and just cause fail, neglect, refuse, or unreasonably delay the  
16 payment of benefits under Section 8(a) or Section 8(b), the  
17 Arbitrator or the Commission shall allow to the employee  
18 additional compensation in the sum of \$30 per day for each day  
19 that the benefits under Section 8(a) or Section 8(b) have been  
20 so withheld or refused, not to exceed \$10,000. A delay in  
21 payment of 14 days or more shall create a rebuttable  
22 presumption of unreasonable delay.

23 (m) If the commission finds that an accidental injury was  
24 directly and proximately caused by the employer's wilful  
25 violation of a health and safety standard under the Health and  
26 Safety Act or the Occupational Safety and Health Act in force

1 at the time of the accident, the arbitrator or the Commission  
2 shall allow to the injured employee or his dependents, as the  
3 case may be, additional compensation equal to 25% of the amount  
4 which otherwise would be payable under the provisions of this  
5 Act exclusive of this paragraph. The additional compensation  
6 herein provided shall be allowed by an appropriate increase in  
7 the applicable weekly compensation rate.

8 (n) After June 30, 1984, decisions of the Illinois Workers'  
9 Compensation Commission reviewing an award of an arbitrator of  
10 the Commission shall draw interest at a rate equal to the yield  
11 on indebtedness issued by the United States Government with a  
12 26-week maturity next previously auctioned on the day on which  
13 the decision is filed. Said rate of interest shall be set forth  
14 in the Arbitrator's Decision. Interest shall be drawn from the  
15 date of the arbitrator's award on all accrued compensation due  
16 the employee through the day prior to the date of payments.  
17 However, when an employee appeals an award of an Arbitrator or  
18 the Commission, and the appeal results in no change or a  
19 decrease in the award, interest shall not further accrue from  
20 the date of such appeal.

21 The employer or his insurance carrier may tender the  
22 payments due under the award to stop the further accrual of  
23 interest on such award notwithstanding the prosecution by  
24 either party of review, certiorari, appeal to the Supreme Court  
25 or other steps to reverse, vacate or modify the award.

26 (o) By the 15th day of each month each insurer providing

1 coverage for losses under this Act shall notify each insured  
2 employer of any compensable claim incurred during the preceding  
3 month and the amounts paid or reserved on the claim including a  
4 summary of the claim and a brief statement of the reasons for  
5 compensability. A cumulative report of all claims incurred  
6 during a calendar year or continued from the previous year  
7 shall be furnished to the insured employer by the insurer  
8 within 30 days after the end of that calendar year.

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

25 (p) After filing an application for adjustment of claim but  
26 prior to the hearing on arbitration the parties may voluntarily



1 agree to submit such application for adjustment of claim for  
2 decision by an arbitrator under this subsection (p) where such  
3 application for adjustment of claim raises only a dispute over  
4 temporary total disability, permanent partial disability or  
5 medical expenses. Such agreement shall be in writing in such  
6 form as provided by the Commission. Applications for adjustment  
7 of claim submitted for decision by an arbitrator under this  
8 subsection (p) shall proceed according to rule as established  
9 by the Commission. The Commission shall promulgate rules  
10 including, but not limited to, rules to ensure that the parties  
11 are adequately informed of their rights under this subsection  
12 (p) and of the voluntary nature of proceedings under this  
13 subsection (p). The findings of fact made by an arbitrator  
14 acting within his or her powers under this subsection (p) in  
15 the absence of fraud shall be conclusive. However, the  
16 arbitrator may on his own motion, or the motion of either  
17 party, correct any clerical errors or errors in computation  
18 within 15 days after the date of receipt of such award of the  
19 arbitrator and shall have the power to recall the original  
20 award on arbitration, and issue in lieu thereof such corrected  
21 award. The decision of the arbitrator under this subsection (p)  
22 shall be considered the decision of the Commission and  
23 proceedings for review of questions of law arising from the  
24 decision may be commenced by either party pursuant to  
25 subsection (f) of Section 19. The Advisory Board established  
26 under Section 13.1 shall compile a list of certified Commission

1 arbitrators, each of whom shall be approved by at least 7  
2 members of the Advisory Board. The chairman shall select 5  
3 persons from such list to serve as arbitrators under this  
4 subsection (p). By agreement, the parties shall select one  
5 arbitrator from among the 5 persons selected by the chairman  
6 except that if the parties do not agree on an arbitrator from  
7 among the 5 persons, the parties may, by agreement, select an  
8 arbitrator of the American Arbitration Association, whose fee  
9 shall be paid by the State in accordance with rules promulgated  
10 by the Commission. Arbitration under this subsection (p) shall  
11 be voluntary.

12 (Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13; 98-874,  
13 eff. 1-1-15.)".