



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3740

Introduced 11/05/13, by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

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

Amends the Workers' Compensation Act. Provides that an employee who is required to travel in connection with his or her employment and who suffers an injury while in travel status shall be eligible for benefits only if the injury arises out of and in the course of employment while he or she is actively engaged in the duties of employment. Defines "accident" and "injury". Provides that "injury" includes the aggravation of a pre-existing condition by an accident arising out of and in the course of the employment, but only for so long as the aggravation of the pre-existing condition continues to be the major contributing cause of the disability. Provides that an injury resulting directly or indirectly from idiopathic causes is not compensable. Further provides that, with respect to the computation of compensation to be paid to an employee who had previously sustained an injury resulting in payment of compensation for partial disability for injuries not involving serious and permanent disfigurement and injuries for which the Act provides a schedule of benefits, the amount of the prior award for the partial disability with respect to the same portion of the body shall be deducted. Limits cumulative awards for partial disability to 500 weeks, which shall constitute a complete loss of use of the body as a whole. Provides that no employer shall be required to pay temporary partial disability benefits to an employee who has been discharged for cause. Provides that injuries to the shoulder are deemed to be injuries to the arm and injuries to the hip are deemed to be injuries to the leg. Provides for the computation of compensation when there are multiple employers and when there is less than full-time work. Effective immediately.

LRB098 14506 OMW 49252 b

1 AN ACT concerning employment.

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

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

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

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

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

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

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

1 provided in this Act.

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

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

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

1 done.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (d) To obtain compensation under this Act, an employee
9 bears the burden of showing, by a preponderance of the
10 evidence, that he or she has sustained accidental injuries
11 arising out of and in the course of the employment. An employee
12 who is required to travel in connection with his or her
13 employment and who suffers an injury while in travel status
14 shall be eligible for benefits only if the injury arises out of
15 and in the course of employment while he or she is actively
16 engaged in the duties of employment. This subsection (d)
17 applies to travel necessarily incident to the performance of
18 the employee's job responsibility if: (i) the employer
19 furnishes the transportation or the employee receives
20 reimbursement from the employer for costs of travel, gas, oil,
21 or lodging as a part of the employee's benefits or employment
22 agreement and the travel is necessitated by and on behalf of
23 the employer as an integral part or condition of the
24 employment; or (ii) the travel is required by the employer as
25 part of the employee's job duties. Arising out of and in the
26 course of the employment does not include travel to and from

1 work. Arising out of and in the course of employment does not
2 include when an employee is on a paid or unpaid break and is
3 not performing any specific tasks for the employer during the
4 break.

5 (e) The term "accident" as used in this Act means an
6 occurrence arising out of the employment, resulting from a risk
7 incidental to the employment, and in the course of the
8 employment at a time and place and under circumstances
9 reasonably required by the employment.

10 (f) The term "injury" as used in this Act means a medical
11 condition or impairment that arises out of and in the course of
12 employment. An injury, its occupational cause, and any
13 resulting manifestations or disability must be established to a
14 reasonable degree of medical certainty, based on objective
15 relevant medical findings, and the accidental compensable
16 injury must be the major contributing cause of any resulting
17 injuries. For the purposes of this Section, "major contributing
18 cause" means the cause which is more than 50% responsible for
19 the injury as compared to all other causes combined for which
20 treatment or benefits are sought. "Injury" includes the
21 aggravation of a pre-existing condition by an accident arising
22 out of and in the course of the employment, but only for so
23 long as the aggravation of the pre-existing condition continues
24 to be the major contributing cause of the disability.

25 An injury is deemed to arise out of and in the course of
26 the employment only if:

1 (1) it is reasonably apparent, upon consideration of
2 all circumstances, that the accident is the major
3 contributing cause of the injury; and

4 (2) it does not come from a hazard or risk unrelated to
5 the employment to which employees would have been equally
6 exposed outside of the employment.

7 An injury resulting directly or indirectly from idiopathic
8 causes is not compensable.

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

11 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

15 (a) The employer shall provide and pay the negotiated rate,
16 if applicable, or the lesser of the health care provider's
17 actual charges or according to a fee schedule, subject to
18 Section 8.2, in effect at the time the service was rendered for
19 all the necessary first aid, medical and surgical services, and
20 all necessary medical, surgical and hospital services
21 thereafter incurred, limited, however, to that which is
22 reasonably required to cure or relieve from the effects of the
23 accidental injury, even if a health care provider sells,
24 transfers, or otherwise assigns an account receivable for
25 procedures, treatments, or services covered under this Act. If

1 the employer does not dispute payment of first aid, medical,
2 surgical, and hospital services, the employer shall make such
3 payment to the provider on behalf of the employee. The employer
4 shall also pay for treatment, instruction and training
5 necessary for the physical, mental and vocational
6 rehabilitation of the employee, including all maintenance
7 costs and expenses incidental thereto. If as a result of the
8 injury the employee is unable to be self-sufficient the
9 employer shall further pay for such maintenance or
10 institutional care as shall be required.

11 The employee may at any time elect to secure his own
12 physician, surgeon and hospital services at the employer's
13 expense, or,

14 Upon agreement between the employer and the employees, or
15 the employees' exclusive representative, and subject to the
16 approval of the Illinois Workers' Compensation Commission, the
17 employer shall maintain a list of physicians, to be known as a
18 Panel of Physicians, who are accessible to the employees. The
19 employer shall post this list in a place or places easily
20 accessible to his employees. The employee shall have the right
21 to make an alternative choice of physician from such Panel if
22 he is not satisfied with the physician first selected. If, due
23 to the nature of the injury or its occurrence away from the
24 employer's place of business, the employee is unable to make a
25 selection from the Panel, the selection process from the Panel
26 shall not apply. The physician selected from the Panel may

1 arrange for any consultation, referral or other specialized
2 medical services outside the Panel at the employer's expense.
3 Provided that, in the event the Commission shall find that a
4 doctor selected by the employee is rendering improper or
5 inadequate care, the Commission may order the employee to
6 select another doctor certified or qualified in the medical
7 field for which treatment is required. If the employee refuses
8 to make such change the Commission may relieve the employer of
9 his obligation to pay the doctor's charges from the date of
10 refusal to the date of compliance.

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

23 The maintenance benefit shall not be less than the
24 temporary total disability rate determined for the employee. In
25 addition, maintenance shall include costs and expenses
26 incidental to the vocational rehabilitation program.

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

13 No employer shall be required to pay temporary partial
14 disability or maintenance benefits to an employee who has been
15 discharged for cause. Prior to suspension of temporary partial
16 disability or maintenance benefits, the employer shall provide
17 notice to the employee who has been discharged for cause.
18 Following a hearing, the Commission may reinstate the temporary
19 partial benefits and retroactively restore any benefits the
20 employer should have paid if it finds the employer's discharge
21 of the employee was not for cause. "Discharge for cause" means
22 a discharge resulting from the employee's voluntary violation
23 of a rule or policy of the employer not caused by the
24 employee's disability.

25 Every hospital, physician, surgeon or other person
26 rendering treatment or services in accordance with the

1 provisions of this Section shall upon written request furnish
2 full and complete reports thereof to, and permit their records
3 to be copied by, the employer, the employee or his dependents,
4 as the case may be, or any other party to any proceeding for
5 compensation before the Commission, or their attorneys.

6 Notwithstanding the foregoing, the employer's liability to
7 pay for such medical services selected by the employee shall be
8 limited to:

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

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

17 (3) all medical, surgical and hospital services
18 provided by any second physician, surgeon or hospital
19 subsequently chosen by the employee or by any other
20 physician, consultant, expert, institution or other
21 provider of services recommended by said second service
22 provider or any subsequent provider of medical services in
23 the chain of referrals from said second service provider.
24 Thereafter the employer shall select and pay for all
25 necessary medical, surgical and hospital treatment and the
26 employee may not select a provider of medical services at

1 the employer's expense unless the employer agrees to such
2 selection. At any time the employee may obtain any medical
3 treatment he or she desires at his or her own expense. This
4 paragraph shall not affect the duty to pay for
5 rehabilitation referred to above.

6 (4) The following shall apply for injuries occurring on
7 or after June 28, 2011 (the effective date of Public Act
8 97-18) and only when an employer has an approved preferred
9 provider program pursuant to Section 8.1a on the date the
10 employee sustained his or her accidental injuries:

11 (A) The employer shall, in writing, on a form
12 promulgated by the Commission, inform the employee of
13 the preferred provider program;

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

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

26 When an employer and employee so agree in writing, nothing

1 in this Act prevents an employee whose injury or disability has
2 been established under this Act, from relying in good faith, on
3 treatment by prayer or spiritual means alone, in accordance
4 with the tenets and practice of a recognized church or
5 religious denomination, by a duly accredited practitioner
6 thereof, and having nursing services appropriate therewith,
7 without suffering loss or diminution of the compensation
8 benefits under this Act. However, the employee shall submit to
9 all physical examinations required by this Act. The cost of
10 such treatment and nursing care shall be paid by the employee
11 unless the employer agrees to make such payment.

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

1 The furnishing by the employer of any such services or
2 appliances is not an admission of liability on the part of the
3 employer to pay compensation.

4 The furnishing of any such services or appliances or the
5 servicing thereof by the employer is not the payment of
6 compensation.

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

15 1. The compensation rate for temporary total
16 incapacity under this paragraph (b) of this Section shall
17 be equal to 66 2/3% of the employee's average weekly wage
18 computed in accordance with Section 10, provided that it
19 shall be not less than 66 2/3% of the sum of the Federal
20 minimum wage under the Fair Labor Standards Act, or the
21 Illinois minimum wage under the Minimum Wage Law, whichever
22 is more, multiplied by 40 hours. This percentage rate shall
23 be increased by 10% for each spouse and child, not to
24 exceed 100% of the total minimum wage calculation,
25 nor exceed the employee's average weekly wage computed in
26 accordance with the provisions of Section 10, whichever is

1 less. No employer shall be required to pay temporary
2 partial disability or maintenance benefits to an employee
3 who has been discharged for cause. Prior to suspension of
4 temporary partial disability or maintenance benefits, the
5 employer shall provide notice to the employee who has been
6 discharged for cause. Following a hearing, the Commission
7 may reinstate the temporary partial benefits and
8 retroactively restore any benefits the employer should
9 have paid if it finds the employer's discharge of the
10 employee was not for cause. "Discharge for cause" means a
11 discharge resulting from the employee's voluntary
12 violation of a rule or policy of the employer not caused by
13 the employee's disability.

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

1 100% of the total minimum wage calculation,
2 nor exceed the employee's average weekly wage computed in
3 accordance with the provisions of Section 10, whichever is
4 less.

5 2.1. The compensation rate in all cases of serious and
6 permanent disfigurement under paragraph (c) and of
7 permanent partial disability under subparagraph (2) of
8 paragraph (d) or under paragraph (e) of this Section shall
9 be equal to 60% of the employee's average weekly wage
10 computed in accordance with the provisions of Section 10,
11 provided that it shall be not less than 66 2/3% of the sum
12 of the Federal minimum wage under the Fair Labor Standards
13 Act, or the Illinois minimum wage under the Minimum Wage
14 Law, whichever is more, multiplied by 40 hours. This
15 percentage rate shall be increased by 10% for each spouse
16 and child, not to exceed 100% of the total minimum wage
17 calculation,
18 nor exceed the employee's average weekly wage computed in
19 accordance with the provisions of Section 10, whichever is
20 less.

21 3. As used in this Section the term "child" means a
22 child of the employee including any child legally adopted
23 before the accident or whom at the time of the accident the
24 employee was under legal obligation to support or to whom
25 the employee stood in loco parentis, and who at the time of
26 the accident was under 18 years of age and not emancipated.

1 The term "children" means the plural of "child".

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

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

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

23 The maximum weekly compensation rate, for the period
24 January 1, 1981 through December 31, 1983, except as
25 hereinafter provided, shall be 100% of the State's average
26 weekly wage in covered industries under the Unemployment

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

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

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

26 4.1. Any provision herein to the contrary

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

9 4.2. Any provision to the contrary notwithstanding,
10 the total compensation payable under Section 7 shall not
11 exceed the greater of \$500,000 or 25 years.

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

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

1 publish the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act as last
3 determined and published by the Department of Employment
4 Security. The amount when so posted and published shall be
5 conclusive and shall be applicable as the basis of
6 computation of compensation rates until the next posting
7 and publication as aforesaid.

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

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

24 No compensation is payable under this paragraph where
25 compensation is payable under paragraphs (d), (e) or (f) of
26 this Section.

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

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

24 2. If, as a result of the accident, the employee sustains
25 serious and permanent injuries not covered by paragraphs (c)
26 and (e) of this Section or having sustained injuries covered by

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

19 In computing the compensation to be paid to any employee
20 who, before the accident for which he or she claims
21 compensation, had previously sustained an injury resulting in
22 the payment of compensation for a percentage of partial
23 disability under this subparagraph 2, such percentage of
24 partial disability shall be deducted from any award made under
25 this subparagraph 2 for a subsequent injury to the same portion
26 of the body as was involved in the prior injury for which

1 compensation was paid; provided, however, nothing herein
2 contained shall permit cumulative awards for compensation for
3 partial disability under this subparagraph 2 to exceed 500
4 weeks, which shall constitute complete loss of use of the body
5 as a whole.

6 If, as a result of the accident, the employee shall have
7 sustained a fracture of one or more vertebra or fracture of the
8 skull, the amount of compensation allowed under this Section
9 shall be not less than 6 weeks for a fractured skull and 6
10 weeks for each fractured vertebra, and in the event the
11 employee shall have sustained a fracture of any of the
12 following facial bones: nasal, lachrymal, vomer, zygoma,
13 maxilla, palatine or mandible, the amount of compensation
14 allowed under this Section shall be not less than 2 weeks for
15 each such fractured bone, and for a fracture of each transverse
16 process not less than 3 weeks. In the event such injuries shall
17 result in the loss of a kidney, spleen or lung, the amount of
18 compensation allowed under this Section shall be not less than
19 10 weeks for each such organ. Compensation awarded under this
20 subparagraph 2 shall not take into consideration injuries
21 covered under paragraphs (c) and (e) of this Section and the
22 compensation provided in this paragraph shall not affect the
23 employee's right to compensation payable under paragraphs (b),
24 (c) and (e) of this Section for the disabilities therein
25 covered.

26 (e) For accidental injuries in the following schedule, the

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

10 1. Thumb-

11 70 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 76 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 2. First, or index finger-

17 40 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 43 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 3. Second, or middle finger-

23 35 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 38 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 4. Third, or ring finger-

3 25 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 27 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 5. Fourth, or little finger-

9 20 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 22 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 6. Great toe-

15 35 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 38 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 7. Each toe other than great toe-

21 12 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 13 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 8. The loss of the first or distal phalanx of the thumb

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

9 9. Hand-

10 190 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 205 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 190 weeks if the accidental injury occurs on or
16 after June 28, 2011 (the effective date of Public Act
17 97-18) and if the accidental injury involves carpal
18 tunnel syndrome due to repetitive or cumulative
19 trauma, in which case the permanent partial disability
20 shall not exceed 15% loss of use of the hand, except
21 for cause shown by clear and convincing evidence and in
22 which case the award shall not exceed 30% loss of use
23 of the hand.

24 The loss of 2 or more digits, or one or more phalanges
25 of 2 or more digits, of a hand may be compensated on the
26 basis of partial loss of use of a hand, provided, further,

1 that the loss of 4 digits, or the loss of use of 4 digits,
2 in the same hand shall constitute the complete loss of a
3 hand.

4 10. Arm-

5 235 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 253 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 Where an accidental injury results in the amputation of
11 an arm below the elbow, such injury shall be compensated as
12 a loss of an arm. Where an accidental injury results in the
13 amputation of an arm above the elbow, compensation for an
14 additional 15 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 17 weeks (if the accidental injury occurs on or
18 after February 1, 2006) shall be paid, except where the
19 accidental injury results in the amputation of an arm at
20 the shoulder joint, or so close to shoulder joint that an
21 artificial arm cannot be used, or results in the
22 disarticulation of an arm at the shoulder joint, in which
23 case compensation for an additional 65 weeks (if the
24 accidental injury occurs on or after the effective date of
25 this amendatory Act of the 94th General Assembly but before
26 February 1, 2006) or an additional 70 weeks (if the

1 accidental injury occurs on or after February 1, 2006)
2 shall be paid. For purposes of awards under this
3 subdivision (e), injuries to the shoulder shall be
4 considered to be injuries to part of the arm. This
5 amendatory Act of the 98th General Assembly is declarative
6 of existing law and is not a new enactment.

7 11. Foot-

8 155 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

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

13 12. Leg-

14 200 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

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

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

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of a leg at the
3 hip joint, or so close to the hip joint that an artificial
4 leg cannot be used, or results in the disarticulation of a
5 leg at the hip joint, in which case compensation for an
6 additional 75 weeks (if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly but before February 1, 2006) or an
9 additional 81 weeks (if the accidental injury occurs on or
10 after February 1, 2006) shall be paid. For purposes of
11 awards under this subdivision (e), injuries to the hip
12 shall be considered to be injuries to part of the leg. This
13 amendatory Act of the 98th General Assembly is declarative
14 of existing law and is not a new enactment.

15 13. Eye-

16 150 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.

19 162 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 Where an accidental injury results in the enucleation
22 of an eye, compensation for an additional 10 weeks (if the
23 accidental injury occurs on or after the effective date of
24 this amendatory Act of the 94th General Assembly but before
25 February 1, 2006) or an additional 11 weeks (if the
26 accidental injury occurs on or after February 1, 2006)

1 shall be paid.

2 14. Loss of hearing of one ear-

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

8 Total and permanent loss of hearing of both ears-

9 200 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.

12 215 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 15. Testicle-

15 50 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 54 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 Both testicles-

21 150 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

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

26 16. For the permanent partial loss of use of a member

1 or sight of an eye, or hearing of an ear, compensation
2 during that proportion of the number of weeks in the
3 foregoing schedule provided for the loss of such member or
4 sight of an eye, or hearing of an ear, which the partial
5 loss of use thereof bears to the total loss of use of such
6 member, or sight of eye, or hearing of an ear.

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

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

1 hearing loss.

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

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

14 (e) No consideration shall be given to the question
15 of whether or not the ability of an employee to
16 understand speech is improved by the use of a hearing
17 aid.

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

23 Sound Level DBA

24	Slow Response	Hours Per Day
25	90	8
26	92	6

1	95	4
2	97	3
3	100	2
4	102	1-1/2
5	105	1
6	110	1/2
7	115	1/4

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

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

22 18. The specific case of loss of both hands, both arms,
23 or both feet, or both legs, or both eyes, or of any two
24 thereof, or the permanent and complete loss of the use
25 thereof, constitutes total and permanent disability, to be
26 compensated according to the compensation fixed by

1 paragraph (f) of this Section. These specific cases of
2 total and permanent disability do not exclude other cases.

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

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

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

1 However, when the Second Injury Fund has been reduced to
2 \$400,000, payment of one-half of the amounts required by
3 paragraph (f) of Section 7 shall be resumed, in the manner
4 herein provided, and when the Second Injury Fund has been
5 reduced to \$300,000, payment of the full amounts required by
6 paragraph (f) of Section 7 shall be resumed, in the manner
7 herein provided. The Commission shall make the changes in
8 payment effective by general order, and the changes in payment
9 become immediately effective for all cases coming before the
10 Commission thereafter either by settlement agreement or final
11 order, irrespective of the date of the accidental injury.

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

23 (f) In case of complete disability, which renders the
24 employee wholly and permanently incapable of work, or in the
25 specific case of total and permanent disability as provided in
26 subparagraph 18 of paragraph (e) of this Section, compensation

1 shall be payable at the rate provided in subparagraph 2 of
2 paragraph (b) of this Section for life.

3 An employee entitled to benefits under paragraph (f) of
4 this Section shall also be entitled to receive from the Rate
5 Adjustment Fund provided in paragraph (f) of Section 7 of the
6 supplementary benefits provided in paragraph (g) of this
7 Section 8.

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

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

23 If an employee who had previously incurred loss or the
24 permanent and complete loss of use of one member, through the
25 loss or the permanent and complete loss of the use of one hand,
26 one arm, one foot, one leg, or one eye, incurs permanent and

1 complete disability through the loss or the permanent and
2 complete loss of the use of another member, he shall receive,
3 in addition to the compensation payable by the employer and
4 after such payments have ceased, an amount from the Second
5 Injury Fund provided for in paragraph (f) of Section 7, which,
6 together with the compensation payable from the employer in
7 whose employ he was when the last accidental injury was
8 incurred, will equal the amount payable for permanent and
9 complete disability as provided in this paragraph of this
10 Section.

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

17 In its award the Commission or the Arbitrator shall
18 specifically find the amount the injured employee shall be
19 weekly paid, the number of weeks compensation which shall be
20 paid by the employer, the date upon which payments begin out of
21 the Second Injury Fund provided for in paragraph (f) of Section
22 7 of this Act, the length of time the weekly payments continue,
23 the date upon which the pension payments commence and the
24 monthly amount of the payments. The Commission shall 30 days
25 after the date upon which payments out of the Second Injury
26 Fund have begun as provided in the award, and every month

1 thereafter, prepare and submit to the State Comptroller a
2 voucher for payment for all compensation accrued to that date
3 at the rate fixed by the Commission. The State Comptroller
4 shall draw a warrant to the injured employee along with a
5 receipt to be executed by the injured employee and returned to
6 the Commission. The endorsed warrant and receipt is a full and
7 complete acquittance to the Commission for the payment out of
8 the Second Injury Fund. No other appropriation or warrant is
9 necessary for payment out of the Second Injury Fund. The Second
10 Injury Fund is appropriated for the purpose of making payments
11 according to the terms of the awards.

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

19 (g) Every award for permanent total disability entered by
20 the Commission on and after July 1, 1965 under which
21 compensation payments shall become due and payable after the
22 effective date of this amendatory Act, and every award for
23 death benefits or permanent total disability entered by the
24 Commission on and after the effective date of this amendatory
25 Act shall be subject to annual adjustments as to the amount of
26 the compensation rate therein provided. Such adjustments shall

1 first be made on July 15, 1977, and all awards made and entered
2 prior to July 1, 1975 and on July 15 of each year thereafter.
3 In all other cases such adjustment shall be made on July 15 of
4 the second year next following the date of the entry of the
5 award and shall further be made on July 15 annually thereafter.
6 If during the intervening period from the date of the entry of
7 the award, or the last periodic adjustment, there shall have
8 been an increase in the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act, the weekly
10 compensation rate shall be proportionately increased by the
11 same percentage as the percentage of increase in the State's
12 average weekly wage in covered industries under the
13 Unemployment Insurance Act. The increase in the compensation
14 rate under this paragraph shall in no event bring the total
15 compensation rate to an amount greater than the prevailing
16 maximum rate at the time that the annual adjustment is made.
17 Such increase shall be paid in the same manner as herein
18 provided for payments under the Second Injury Fund to the
19 injured employee, or his dependents, as the case may be, out of
20 the Rate Adjustment Fund provided in paragraph (f) of Section 7
21 of this Act. Payments shall be made at the same intervals as
22 provided in the award or, at the option of the Commission, may
23 be made in quarterly payment on the 15th day of January, April,
24 July and October of each year. In the event of a decrease in
25 such average weekly wage there shall be no change in the then
26 existing compensation rate. The within paragraph shall not

1 apply to cases where there is disputed liability and in which a
2 compromise lump sum settlement between the employer and the
3 injured employee, or his dependents, as the case may be, has
4 been duly approved by the Illinois Workers' Compensation
5 Commission.

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

12 For every accident occurring on or after July 20, 2005 but
13 before the effective date of this amendatory Act of the 94th
14 General Assembly (Senate Bill 1283 of the 94th General
15 Assembly), the annual adjustments to the compensation rate in
16 awards for death benefits or permanent total disability, as
17 provided in this Act, shall be paid by the employer. The
18 adjustment shall be made by the employer on July 15 of the
19 second year next following the date of the entry of the award
20 and shall further be made on July 15 annually thereafter. If
21 during the intervening period from the date of the entry of the
22 award, or the last periodic adjustment, there shall have been
23 an increase in the State's average weekly wage in covered
24 industries under the Unemployment Insurance Act, the employer
25 shall increase the weekly compensation rate proportionately by
26 the same percentage as the percentage of increase in the

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

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

22 (h) In case death occurs from any cause before the total
23 compensation to which the employee would have been entitled has
24 been paid, then in case the employee leaves any widow, widower,
25 child, parent (or any grandchild, grandparent or other lineal
26 heir or any collateral heir dependent at the time of the

1 accident upon the earnings of the employee to the extent of 50%
2 or more of total dependency) such compensation shall be paid to
3 the beneficiaries of the deceased employee and distributed as
4 provided in paragraph (g) of Section 7.

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

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

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

25 Nothing herein contained repeals or amends the provisions
26 of the Child Labor Law relating to the employment of minors

1 under the age of 16 years.

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

22 Any excess benefits paid to or on behalf of a State
23 employee by the State Employees' Retirement System under
24 Article 14 of the Illinois Pension Code on a death claim or
25 disputed disability claim shall be credited against any
26 payments made or to be made by the State of Illinois to or on

1 behalf of such employee under this Act, except for payments for
2 medical expenses which have already been incurred at the time
3 of the award. The State of Illinois shall directly reimburse
4 the State Employees' Retirement System to the extent of such
5 credit.

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

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

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

1 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

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

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

15 (2) Where the employment prior to the injury extended over
16 a period of less than 52 weeks, or the employment is
17 noncontinuous or less than full-time, or the employee lost one
18 or more calendar days during that period, the earnings earned
19 during that period shall be divided by the number of weeks
20 during which the employee worked, regardless of the number of
21 hours worked during that week ~~the method of dividing the
22 earnings during that period by the number of weeks and parts
23 thereof during which the employee actually earned wages shall
24 be followed.~~

25 (3) When the employee is working concurrently with 2 or
26 more employers and the respondent employer has knowledge of

1 such additional employment prior to the injury, the employee's
2 wages from all such employers shall be considered as if earned
3 from the employer liable for compensation.

4 (4) Each week during which the employee earned wages counts
5 as one week for purposes of computation under subdivisions (1),
6 (2), and (3), regardless of the number of hours worked during
7 that week.

8 (5) Where by reason of the shortness of the time during
9 which the employee has been in the employment of his employer
10 or of the casual nature or terms of the employment, it is
11 impractical to compute the average weekly wages as above
12 defined, regard shall be had to the average weekly amount which
13 during the 52 weeks previous to the injury, illness or
14 disablement was being or would have been earned by a person in
15 the same grade employed at the same work for each of such 52
16 weeks for the same number of hours per week by the same
17 employer. In the case of volunteer firemen, police and civil
18 defense members or trainees, the income benefits shall be based
19 on the average weekly wage in their regular employment. ~~When~~
20 ~~the employee is working concurrently with two or more employers~~
21 ~~and the respondent employer has knowledge of such employment~~
22 ~~prior to the injury, his wages from all such employers shall be~~
23 ~~considered as if earned from the employer liable for~~
24 ~~compensation.~~

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.