

1 AN ACT to amend the Workers' Compensation Act by changing
2 Section 8.

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

5 Section 5. The Workers' Compensation Act is amended by
6 changing Section 8 as follows:

7 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

11 (a) The employer shall provide and pay for all the
12 necessary first aid, medical and surgical services, and all
13 necessary medical, surgical and hospital services thereafter
14 incurred, limited, however, to that which is reasonably
15 required to cure or relieve from the effects of the
16 accidental injury. The employer shall also pay for treatment,
17 instruction and training necessary for the physical, mental
18 and vocational rehabilitation of the employee, including all
19 maintenance costs and expenses incidental thereto. If as a
20 result of the injury the employee is unable to be
21 self-sufficient the employer shall further pay for such
22 maintenance or institutional care as shall be required.

23 The employee may at any time elect to secure his own
24 physician, surgeon and hospital services at the employer's
25 expense, or,

26 Upon agreement between the employer and the employees, or
27 the employees' exclusive representative, and subject to the
28 approval of the Industrial Commission, the employer shall
29 maintain a list of physicians, to be known as a Panel of
30 Physicians, who are accessible to the employees. The employer
31 shall post this list in a place or places easily accessible

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

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

27 Notwithstanding the foregoing, the employer's liability
28 to pay for such medical services selected by the employee
29 shall be limited to:

- 30 (1) all first aid and emergency treatment; plus
31 (2) all medical, surgical and hospital services
32 provided by the physician, surgeon or hospital initially
33 chosen by the employee or by any other physician,
34 consultant, expert, institution or other provider of

1 services recommended by said initial service provider or
2 any subsequent provider of medical services in the chain
3 of referrals from said initial service provider; plus

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

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

32 Where the accidental injury results in the amputation of
33 an arm, hand, leg or foot, or the enucleation of an eye, or
34 the loss of any of the natural teeth, the employer shall

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

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

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

19 The provider of any services, treatment, care,
 20 instruction, training, or appliances or other tangible things
 21 for which an employer is responsible for payment under this
 22 subsection (a) agrees to be bound by charges or payment
 23 levels allowed by the Industrial Commission, and any dispute
 24 regarding the reasonableness of a fee, charge, or payment
 25 level shall be resolved in accordance with Section 16 of this
 26 Act or Section 16 of the Workers' Occupational Diseases Act.
 27 Neither the provider nor an employer or insurance carrier may
 28 seek payment from the employee if the employer is responsible
 29 for payment under this subsection (a).

30 (b) If the period of temporary total incapacity for work
 31 lasts more than 3 working days, weekly compensation as
 32 hereinafter provided shall be paid beginning on the 4th day
 33 of such temporary total incapacity and continuing as long as
 34 the total temporary incapacity lasts. In cases where the

1 temporary total incapacity for work continues for a period of
2 14 days or more from the day of the accident compensation
3 shall commence on the day after the accident.

4 1. The compensation rate for temporary total
5 incapacity under this paragraph (b) of this Section shall
6 be equal to 66 2/3% of the employee's average weekly wage
7 computed in accordance with Section 10, provided that it
8 shall be not less than the following amounts in the
9 following cases:

- 10 \$100.90 in case of a single person;
- 11 \$105.50 in case of a married person with no
12 children;
- 13 \$108.30 in case of one child;
- 14 \$113.40 in case of 2 children;
- 15 \$117.40 in case of 3 children;
- 16 \$124.30 in case of 4 or more children;

17 nor exceed the employee's average weekly wage computed in
18 accordance with the provisions of Section 10, whichever
19 is less.

20 2. The compensation rate in all cases other than
21 for temporary total disability under this paragraph (b),
22 and other than for serious and permanent disfigurement
23 under paragraph (c) and other than for permanent partial
24 disability under subparagraph (2) of paragraph (d) or
25 under paragraph (e), of this Section shall be equal to 66
26 2/3% of the employee's average weekly wage computed in
27 accordance with the provisions of Section 10, provided
28 that it shall be not less than the following amounts in
29 the following cases:

- 30 \$80.90 in case of a single person;
- 31 \$83.20 in case of a married person with no
32 children;
- 33 \$86.10 in case of one child;
- 34 \$88.90 in case of 2 children;

1 \$91.80 in case of 3 children;

2 \$96.90 in case of 4 or more children;

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

6 2.1. The compensation rate in all cases of serious
7 and permanent disfigurement under paragraph (c) and of
8 permanent partial disability under subparagraph (2) of
9 paragraph (d) or under paragraph (e) of this Section
10 shall be equal to 60% of the employee's average weekly
11 wage computed in accordance with the provisions of
12 Section 10, provided that it shall be not less than the
13 following amounts in the following cases:

14 \$80.90 in case of a single person;

15 \$83.20 in case of a married person with no
16 children;

17 \$86.10 in case of one child;

18 \$88.90 in case of 2 children;

19 \$91.80 in case of 3 children;

20 \$96.90 in case of 4 or more children;

21 nor exceed the employee's average weekly wage computed in
22 accordance with the provisions of Section 10, whichever
23 is less.

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

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

1 The maximum weekly compensation rate from July 1,
2 1975, except as hereinafter provided, shall be 100% of
3 the State's average weekly wage in covered industries
4 under the Unemployment Insurance Act, that being the wage
5 that most closely approximates the State's average weekly
6 wage.

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

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

1 such period.

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

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

20 4.2. Any provision to the contrary notwithstanding,
21 the total compensation payable under Section 7 shall not
22 exceed the greater of \$250,000 or 20 years.

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

30 6. The Department of Employment Security of the
31 State shall on or before the first day of December, 1977,
32 and on or before the first day of June, 1978, and on the
33 first day of each December and June of each year
34 thereafter, publish the State's average weekly wage in

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

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

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

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

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

34 (d) 1. If, after the accidental injury has been

1 sustained, the employee as a result thereof becomes partially
2 incapacitated from pursuing his usual and customary line of
3 employment, he shall, except in cases compensated under the
4 specific schedule set forth in paragraph (e) of this Section,
5 receive compensation for the duration of his disability,
6 subject to the limitations as to maximum amounts fixed in
7 paragraph (b) of this Section, equal to 66-2/3% of the
8 difference between the average amount which he would be able
9 to earn in the full performance of his duties in the
10 occupation in which he was engaged at the time of the
11 accident and the average amount which he is earning or is
12 able to earn in some suitable employment or business after
13 the accident.

14 2. If, as a result of the accident, the employee
15 sustains serious and permanent injuries not covered by
16 paragraphs (c) and (e) of this Section or having sustained
17 injuries covered by the aforesaid paragraphs (c) and (e), he
18 shall have sustained in addition thereto other injuries which
19 injuries do not incapacitate him from pursuing the duties of
20 his employment but which would disable him from pursuing
21 other suitable occupations, or which have otherwise resulted
22 in physical impairment; or if such injuries partially
23 incapacitate him from pursuing the duties of his usual and
24 customary line of employment but do not result in an
25 impairment of earning capacity, or having resulted in an
26 impairment of earning capacity, the employee elects to waive
27 his right to recover under the foregoing subparagraph 1 of
28 paragraph (d) of this Section then in any of the foregoing
29 events, he shall receive in addition to compensation for
30 temporary total disability under paragraph (b) of this
31 Section, compensation at the rate provided in subparagraph
32 2.1 of paragraph (b) of this Section for that percentage of
33 500 weeks that the partial disability resulting from the
34 injuries covered by this paragraph bears to total disability.

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

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

- 32 1. Thumb-70 weeks.
- 33 2. First, or index finger-40 weeks.
- 34 3. Second, or middle finger-35 weeks.

1 4. Third, or ring finger-25 weeks.

2 5. Fourth, or little finger-20 weeks.

3 6. Great toe-35 weeks.

4 7. Each toe other than great toe-12 weeks.

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

14 9. Hand-190 weeks. The loss of 2 or more digits,
15 or one or more phalanges of 2 or more digits, of a hand
16 may be compensated on the basis of partial loss of use of
17 a hand, provided, further, that the loss of 4 digits, or
18 the loss of use of 4 digits, in the same hand shall
19 constitute the complete loss of a hand.

20 10. Arm-235 weeks. Where an accidental injury
21 results in the amputation of an arm below the elbow, such
22 injury shall be compensated as a loss of an arm. Where
23 an accidental injury results in the amputation of an arm
24 above the elbow, compensation for an additional 15 weeks
25 shall be paid, except where the accidental injury results
26 in the amputation of an arm at the shoulder joint, or so
27 close to shoulder joint that an artificial arm cannot be
28 used, or results in the disarticulation of an arm at the
29 shoulder joint, in which case compensation for an
30 additional 65 weeks shall be paid.

31 11. Foot-155 weeks.

32 12. Leg-200 weeks. Where an accidental injury
33 results in the amputation of a leg below the knee, such
34 injury shall be compensated as loss of a leg. Where an

1 accidental injury results in the amputation of a leg
 2 above the knee, compensation for an additional 25 weeks
 3 shall be paid, except where the accidental injury results
 4 in the amputation of a leg at the hip joint, or so close
 5 to the hip joint that an artificial leg cannot be used,
 6 or results in the disarticulation of a leg at the hip
 7 joint, in which case compensation for an additional 75
 8 weeks shall be paid.

9 13. Eye-150 weeks. Where an accidental injury
 10 results in the enucleation of an eye, compensation for an
 11 additional 10 weeks shall be paid.

12 14. Loss of hearing of one ear-50 weeks; total and
 13 permanent loss of hearing of both ears-200 weeks.

14 15. Testicle-50 weeks; both testicles-150 weeks.

15 16. For the permanent partial loss of use of a
 16 member or sight of an eye, or hearing of an ear,
 17 compensation during that proportion of the number of
 18 weeks in the foregoing schedule provided for the loss of
 19 such member or sight of an eye, or hearing of an ear,
 20 which the partial loss of use thereof bears to the total
 21 loss of use of such member, or sight of eye, or hearing
 22 of an ear.

23 (a) Loss of hearing for compensation purposes
 24 shall be confined to the frequencies of 1,000, 2,000
 25 and 3,000 cycles per second. Loss of hearing ability
 26 for frequency tones above 3,000 cycles per second
 27 are not to be considered as constituting disability
 28 for hearing.

29 (b) The percent of hearing loss, for purposes
 30 of the determination of compensation claims for
 31 occupational deafness, shall be calculated as the
 32 average in decibels for the thresholds of hearing
 33 for the frequencies of 1,000, 2,000 and 3,000 cycles
 34 per second. Pure tone air conduction audiometric

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

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

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

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

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

32	Sound Level DBA	
33	Slow Response	Hours Per Day
34	90	8

1	92	6
2	95	4
3	97	3
4	100	2
5	102	1-1/2
6	105	1
7	110	1/2
8	115	1/4

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

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

24 18. The specific case of loss of both hands, both
25 arms, or both feet, or both legs, or both eyes, or of any
26 two thereof, or the permanent and complete loss of the
27 use thereof, constitutes total and permanent disability,
28 to be compensated according to the compensation fixed by
29 paragraph (f) of this Section. These specific cases of
30 total and permanent disability do not exclude other
31 cases.

32 Any employee who has previously suffered the loss or
33 permanent and complete loss of the use of any of such
34 members, and in a subsequent independent accident loses

1 another or suffers the permanent and complete loss of the
2 use of any one of such members the employer for whom the
3 injured employee is working at the time of the last
4 independent accident is liable to pay compensation only
5 for the loss or permanent and complete loss of the use of
6 the member occasioned by the last independent accident.

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

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

34 On August 1, 1996 and on February 1 and August 1 of each

1 subsequent year, the Commission shall examine the special
2 fund designated as the "Rate Adjustment Fund" and when, after
3 deducting all advances or loans made to said fund, the amount
4 therein is \$4,000,000, the amount required to be paid by
5 employers pursuant to paragraph (f) of Section 7 shall be
6 reduced by one-half. When the Rate Adjustment Fund reaches
7 the sum of \$5,000,000 the payment therein shall cease
8 entirely. However, when said Rate Adjustment Fund has been
9 reduced to \$3,000,000 the amounts required by paragraph (f)
10 of Section 7 shall be resumed in the manner herein provided.

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

17 An employee entitled to benefits under paragraph (f) of
18 this Section shall also be entitled to receive from the Rate
19 Adjustment Fund provided in paragraph (f) of Section 7 of the
20 supplementary benefits provided in paragraph (g) of this
21 Section 8.

22 If any employee who receives an award under this
23 paragraph afterwards returns to work or is able to do so, and
24 earns or is able to earn as much as before the accident,
25 payments under such award shall cease. If such employee
26 returns to work, or is able to do so, and earns or is able to
27 earn part but not as much as before the accident, such award
28 shall be modified so as to conform to an award under
29 paragraph (d) of this Section. If such award is terminated
30 or reduced under the provisions of this paragraph, such
31 employees have the right at any time within 30 months after
32 the date of such termination or reduction to file petition
33 with the Commission for the purpose of determining whether
34 any disability exists as a result of the original accidental

1 injury and the extent thereof.

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

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

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

24 In its award the Commission or the Arbitrator shall
25 specifically find the amount the injured employee shall be
26 weekly paid, the number of weeks compensation which shall be
27 paid by the employer, the date upon which payments begin out
28 of the Second Injury Fund provided for in paragraph (f) of
29 Section 7 of this Act, the length of time the weekly payments
30 continue, the date upon which the pension payments commence
31 and the monthly amount of the payments. The Commission shall
32 30 days after the date upon which payments out of the Second
33 Injury Fund have begun as provided in the award, and every
34 month thereafter, prepare and submit to the State Comptroller

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

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

19 (g) Every award for permanent total disability entered
20 by 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
26 of the compensation rate therein provided. Such adjustments
27 shall first be made on July 15, 1977, and all awards made and
28 entered prior to July 1, 1975 and on July 15 of each year
29 thereafter. In all other cases such adjustment shall be made
30 on July 15 of the second year next following the date of the
31 entry of the award and shall further be made on July 15
32 annually thereafter. If during the intervening period from
33 the date of the entry of the award, or the last periodic
34 adjustment, there shall have been an increase in the State's

1 average weekly wage in covered industries under the
2 Unemployment Insurance Act, the weekly compensation rate
3 shall be proportionately increased by the same percentage as
4 the percentage of increase in the State's average weekly wage
5 in covered industries under the Unemployment Insurance Act.
6 The increase in the compensation rate under this paragraph
7 shall in no event bring the total compensation rate to an
8 amount greater than the prevailing maximum rate. Such
9 increase shall be paid in the same manner as herein provided
10 for payments under the Second Injury Fund to the injured
11 employee, or his dependents, as the case may be, out of the
12 Rate Adjustment Fund provided in paragraph (f) of Section 7
13 of this Act. Payments shall be made at the same intervals as
14 provided in the award or, at the option of the Commission,
15 may be made in quarterly payment on the 15th day of January,
16 April, July and October of each year. In the event of a
17 decrease in such average weekly wage there shall be no change
18 in the then existing compensation rate. The within paragraph
19 shall not apply to cases where there is disputed liability
20 and in which a compromise lump sum settlement between the
21 employer and the injured employee, or his dependents, as the
22 case may be, has been duly approved by the Industrial
23 Commission.

24 Provided, that in cases of awards entered by the
25 Commission for injuries occurring before July 1, 1975, the
26 increases in the compensation rate adjusted under the
27 foregoing provision of this paragraph (g) shall be limited to
28 increases in the State's average weekly wage in covered
29 industries under the Unemployment Insurance Act occurring
30 after July 1, 1975.

31 (h) In case death occurs from any cause before the total
32 compensation to which the employee would have been entitled
33 has been paid, then in case the employee leaves any widow,
34 widower, child, parent (or any grandchild, grandparent or

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

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

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

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

27 Nothing herein contained repeals or amends the provisions
28 of the Child Labor Law relating to the employment of minors
29 under the age of 16 years.

30 (j) 1. In the event the injured employee receives
31 benefits, including medical, surgical or hospital benefits
32 under any group plan covering non-occupational disabilities
33 contributed to wholly or partially by the employer, which
34 benefits should not have been payable if any rights of

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

17 Any excess benefits paid to or on behalf of a State
18 employee by the State Employees' Retirement System under
19 Article 14 of the Illinois Pension Code on a death claim or
20 disputed disability claim shall be credited against any
21 payments made or to be made by the State of Illinois to or on
22 behalf of such employee under this Act, except for payments
23 for medical expenses which have already been incurred at the
24 time of the award. The State of Illinois shall directly
25 reimburse the State Employees' Retirement System to the
26 extent of such credit.

27 2. Nothing contained in this Act shall be construed to
28 give the employer or the insurance carrier the right to
29 credit for any benefits or payments received by the employee
30 other than compensation payments provided by this Act, and
31 where the employee receives payments other than compensation
32 payments, whether as full or partial salary, group insurance
33 benefits, bonuses, annuities or any other payments, the
34 employer or insurance carrier shall receive credit for each

1 such payment only to the extent of the compensation that
2 would have been payable during the period covered by such
3 payment.

4 3. The extension of time for the filing of an
5 Application for Adjustment of Claim as provided in paragraph
6 1 above shall not apply to those cases where the time for
7 such filing had expired prior to the date on which payments
8 or benefits enumerated herein have been initiated or resumed.
9 Provided however that this paragraph 3 shall apply only to
10 cases wherein the payments or benefits hereinabove enumerated
11 shall be received after July 1, 1969.

12 (Source: P.A. 89-470, eff. 6-13-96.)

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.