

**SB3091**



**100TH GENERAL ASSEMBLY**

**State of Illinois**

**2017 and 2018**

**SB3091**

Introduced 2/15/2018, by Sen. Jim Oberweis

**SYNOPSIS AS INTRODUCED:**

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that, except for awards for certain medical costs, an arbitrator shall reduce awards based upon the degree to which the work-related injury resulted from the actions of or a pre-existing condition of the claimant.

LRB100 18924 JLS 34170 b

FISCAL NOTE ACT  
MAY APPLY

**A BILL FOR**

1 AN ACT concerning employment.

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

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

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

10 (a) The employer shall provide and pay the negotiated rate,  
11 if applicable, or the lesser of the health care provider's  
12 actual charges or according to a fee schedule, subject to  
13 Section 8.2, in effect at the time the service was rendered for  
14 all the necessary first aid, medical and surgical services, and  
15 all necessary medical, surgical and hospital services  
16 thereafter incurred, limited, however, to that which is  
17 reasonably required to cure or relieve from the effects of the  
18 accidental injury, even if a health care provider sells,  
19 transfers, or otherwise assigns an account receivable for  
20 procedures, treatments, or services covered under this Act. If  
21 the employer does not dispute payment of first aid, medical,  
22 surgical, and hospital services, the employer shall make such  
23 payment to the provider on behalf of the employee. The employer

1 shall also pay for treatment, instruction and training  
2 necessary for the physical, mental and vocational  
3 rehabilitation of the employee, including all maintenance  
4 costs and expenses incidental thereto. If as a result of the  
5 injury the employee is unable to be self-sufficient the  
6 employer shall further pay for such maintenance or  
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own  
9 physician, surgeon and hospital services at the employer's  
10 expense, or,

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

1 doctor selected by the employee is rendering improper or  
2 inadequate care, the Commission may order the employee to  
3 select another doctor certified or qualified in the medical  
4 field for which treatment is required. If the employee refuses  
5 to make such change the Commission may relieve the employer of  
6 his obligation to pay the doctor's charges from the date of  
7 refusal to the date of compliance.

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

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

24 When the employee is working light duty on a part-time  
25 basis or full-time basis and earns less than he or she would be  
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial  
2 disability benefits. Temporary partial disability benefits  
3 shall be equal to two-thirds of the difference between the  
4 average amount that the employee would be able to earn in the  
5 full performance of his or her duties in the occupation in  
6 which he or she was engaged at the time of accident and the  
7 gross amount which he or she is earning in the modified job  
8 provided to the employee by the employer or in any other job  
9 that the employee is working.

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

17 Notwithstanding the foregoing, the employer's liability to  
18 pay for such medical services selected by the employee shall be  
19 limited to:

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

21 (2) all medical, surgical and hospital services  
22 provided by the physician, surgeon or hospital initially  
23 chosen by the employee or by any other physician,  
24 consultant, expert, institution or other provider of  
25 services recommended by said initial service provider or  
26 any subsequent provider of medical services in the chain of

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

17 (4) The following shall apply for injuries occurring on  
18 or after June 28, 2011 (the effective date of Public Act  
19 97-18) and only when an employer has an approved preferred  
20 provider program pursuant to Section 8.1a on the date the  
21 employee sustained his or her accidental injuries:

22 (A) The employer shall, in writing, on a form  
23 promulgated by the Commission, inform the employee of  
24 the preferred provider program;

25 (B) Subsequent to the report of an injury by an  
26 employee, the employee may choose in writing at any

1 time to decline the preferred provider program, in  
2 which case that would constitute one of the two choices  
3 of medical providers to which the employee is entitled  
4 under subsection (a) (2) or (a) (3); and

5 (C) Prior to the report of an injury by an  
6 employee, when an employee chooses non-emergency  
7 treatment from a provider not within the preferred  
8 provider program, that would constitute the employee's  
9 one choice of medical providers to which the employee  
10 is entitled under subsection (a) (2) or (a) (3).

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

23 Where the accidental injury results in the amputation of an  
24 arm, hand, leg or foot, or the enucleation of an eye, or the  
25 loss of any of the natural teeth, the employer shall furnish an  
26 artificial of any such members lost or damaged in accidental

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

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

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

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

26 1. The compensation rate for temporary total



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

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

1 employee's average weekly wage computed in accordance with  
2 the provisions of Section 10, whichever is less.

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

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

25 4. All weekly compensation rates provided under  
26 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this

1 Section shall be subject to the following limitations:

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

7 The maximum weekly compensation rate, for the period  
8 July 1, 1984, through June 30, 1987, except as hereinafter  
9 provided, shall be \$293.61. Effective July 1, 1987 and on  
10 July 1 of each year thereafter the maximum weekly  
11 compensation rate, except as hereinafter provided, shall  
12 be determined as follows: if during the preceding 12 month  
13 period there shall have been an increase in the State's  
14 average weekly wage in covered industries under the  
15 Unemployment Insurance Act, the weekly compensation rate  
16 shall be proportionately increased by the same percentage  
17 as the percentage of increase in the State's average weekly  
18 wage in covered industries under the Unemployment  
19 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 average  
23 weekly wage in covered industries under the Unemployment  
24 Insurance Act in effect on January 1, 1981. Effective  
25 January 1, 1984 and on January 1, of each year thereafter  
26 the maximum weekly compensation rate, except as

1 hereinafter provided, shall be determined as follows: if  
2 during the preceding 12 month period there shall have been  
3 an increase in the State's average weekly wage in covered  
4 industries under the Unemployment Insurance Act, the  
5 weekly compensation rate shall be proportionately  
6 increased by the same percentage as the percentage of  
7 increase in the State's average weekly wage in covered  
8 industries under the Unemployment Insurance Act during  
9 such period.

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

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

23 4.1. Any provision herein to the contrary  
24 notwithstanding, the weekly compensation rate for  
25 compensation payments under subparagraph 18 of paragraph  
26 (e) of this Section and under paragraph (f) of this Section

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

6 4.2. Any provision to the contrary notwithstanding,  
7 the total compensation payable under Section 7 shall not  
8 exceed the greater of \$500,000 or 25 years.

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

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

1 Security. The amount when so posted and published shall be  
2 conclusive and shall be applicable as the basis of  
3 computation of compensation rates until the next posting  
4 and publication as aforesaid.

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

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

21 No compensation is payable under this paragraph where  
22 compensation is payable under paragraphs (d), (e) or (f) of  
23 this Section.

24 A duly appointed member of a fire department in a city, the  
25 population of which exceeds 500,000 according to the last  
26 federal or State census, is eligible for compensation under

1 this paragraph only where such serious and permanent  
2 disfigurement results from burns.

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

21 2. If, as a result of the accident, the employee sustains  
22 serious and permanent injuries not covered by paragraphs (c)  
23 and (e) of this Section or having sustained injuries covered by  
24 the aforesaid paragraphs (c) and (e), he shall have sustained  
25 in addition thereto other injuries which injuries do not  
26 incapacitate him from pursuing the duties of his employment but

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



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

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

18 1. Thumb-

19 70 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22 76 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 2. First, or index finger-

25 40 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the

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

2 43 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

4 3. Second, or middle finger-

5 35 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 38 weeks if the accidental injury occurs on or  
9 after February 1, 2006.

10 4. Third, or ring finger-

11 25 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 27 weeks if the accidental injury occurs on or  
15 after February 1, 2006.

16 5. Fourth, or little finger-

17 20 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 22 weeks if the accidental injury occurs on or  
21 after February 1, 2006.

22 6. Great toe-

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 7. Each toe other than great toe-

3 12 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 13 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

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

17 9. Hand-

18 190 weeks if the accidental injury occurs on or  
19 after the effective date of this amendatory Act of the  
20 94th General Assembly but before February 1, 2006.

21 205 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

23 190 weeks if the accidental injury occurs on or  
24 after June 28, 2011 (the effective date of Public Act  
25 97-18) and if the accidental injury involves carpal  
26 tunnel syndrome due to repetitive or cumulative

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

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

12 10. Arm-

13 235 weeks if the accidental injury occurs on or  
14 after the effective date of this amendatory Act of the  
15 94th General Assembly but before February 1, 2006.

16 253 weeks if the accidental injury occurs on or  
17 after February 1, 2006.

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

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

11 11. Foot-

12 155 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 167 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 12. Leg-

18 200 weeks if the accidental injury occurs on or  
19 after the effective date of this amendatory Act of the  
20 94th General Assembly but before February 1, 2006.

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

23 Where an accidental injury results in the amputation of  
24 a leg below the knee, such injury shall be compensated as  
25 loss of a leg. Where an accidental injury results in the  
26 amputation of a leg above the knee, compensation for an

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

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

|    | 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 (k) With respect to claims arising after the effective date  
25 of this amendatory Act of the 100th General Assembly, excluding  
26 claims the payment of which is made pursuant to subsection (a),

1 the arbitrator shall reduce the award based upon the degree to  
2 which the work-related injury resulted from the actions or a  
3 pre-existing condition of the claimant.

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