

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 Civil Administrative Code of Illinois is  
5 amended by changing Sections 5-125, 5-155, and 5-540 as  
6 follows:

7 (20 ILCS 5/5-125) (was 20 ILCS 5/5.13i)

8 Sec. 5-125. In the Department of Employment Security. The  
9 board of review, which shall consist of 5 members, 2 of whom  
10 shall be representatives of a labor organization recognized  
11 under the National Labor Relations Act ~~representative citizens~~  
12 ~~chosen from the employee class~~, 2 of whom shall be  
13 representative citizens chosen from the employing class, and  
14 one of whom shall be a representative citizen not identified  
15 with either the employing class or a labor organization  
16 ~~employee classes~~.

17 (Source: P.A. 91-239, eff. 1-1-00.)

18 (20 ILCS 5/5-155) (was 20 ILCS 5/5.04)

19 Sec. 5-155. In the Office of Mines and Minerals of the  
20 Department of Natural Resources. In the Office of Mines and  
21 Minerals of the Department of Natural Resources, there shall be  
22 a State Mining Board, which shall consist of 6 officers

1 designated as mine officers and the Director of the Office of  
2 Mines and Minerals. Three officers shall be representatives of  
3 the employing class and 3 officers shall be chosen from a labor  
4 organization recognized under the National Labor Relations Act  
5 representing coal minors ~~of the employee class~~. The 6 mine  
6 officers shall be qualified as follows:

7 (1) Two mine officers from the employing class shall  
8 have at least 4 years' ~~years~~ experience in a supervisory  
9 capacity in an underground coal mine and each shall hold a  
10 certificate of competency as an Illinois ~~a~~ mine examiner or  
11 Illinois mine manager.

12 (2) The third mine officer from the employing class  
13 shall have at least 4 years' ~~years~~ experience in a  
14 supervisory capacity in a surface coal mine.

15 (3) Two mine officers chosen from a labor organization  
16 representing coal miners ~~from the employee class~~ shall have  
17 4 years experience in an underground coal mine and shall  
18 hold certificates ~~a first class certificate~~ of competency  
19 as an Illinois mine examiner.

20 (4) The third mine officer chosen from a labor  
21 organization representing coal miners ~~from the employee~~  
22 ~~class~~ shall have at least 4 years experience in a surface  
23 coal mine.

24 (Source: P.A. 91-239, eff. 1-1-00.)

25 (20 ILCS 5/5-540) (was 20 ILCS 5/6.28 and 5/7.01)

1           Sec. 5-540. In the Department of Employment Security. An  
2           Employment Security Advisory Board, composed of 12 persons. Of  
3           the 12 members of the Employment Security Advisory Board, 4  
4           members shall be chosen from a labor organization recognized  
5           under the National Labor Relations Act ~~representative citizens~~  
6           ~~chosen from the employee class~~, 4 members shall be  
7           representative citizens chosen from the employing class, and 4  
8           members shall be representative citizens not identified with  
9           either the employing class or a labor organization ~~the employee~~  
10          ~~class~~.

11          (Source: P.A. 93-634, eff. 1-1-04.)

12           Section 7. The Coal Mining Act is amended by changing  
13          Sections 8.02 and 8.03 as follows:

14           (225 ILCS 705/8.02) (from Ch. 96 1/2, par. 802)

15           Sec. 8.02. There is created in the Department of Natural  
16          Resources, Office of Mines and Minerals, a Miners' Examining  
17          Board which shall consist of 4 ~~four~~ miners' examining officers  
18          to be appointed by the Governor, 2 of whom must be from a labor  
19          organization recognized under the National Labor Relations Act  
20          representing coal miners, for a term of 2 years and until their  
21          successors are appointed and qualified. Terms of office shall  
22          commence on the third Monday in January in each odd-numbered  
23          year. Three of such officers shall constitute a quorum.

24          This amendatory Act of 1995 does not affect the terms of

1 members of the Miners' Examining Board holding office on the  
2 effective date of this amendatory Act of 1995.

3 A complete record of the proceedings and acts of the  
4 Miners' Examining Board shall be kept and preserved. Said  
5 officers shall hold no other lucrative office or employment  
6 under the government of the United States, State of Illinois,  
7 or any political division thereof or any municipal corporation  
8 therein and each such officer before entering upon the duties  
9 of his office shall subscribe and take the oath prescribed by  
10 the Constitution of this State, and shall before entering upon  
11 the duties of his office give a bond with sufficient surety to  
12 be approved by the Governor, payable to the People of the State  
13 of Illinois in the penal sum of \$5,000, conditioned for the  
14 faithful discharge of the duties of office and the delivery of  
15 all records, books, moneys, and other property pertaining to  
16 his successor in office, which said bond shall be deposited in  
17 the office of the Secretary of State. Vacancies shall be filled  
18 by appointment as provided herein for the balance of the  
19 unexpired term.

20 (Source: P.A. 89-445, eff. 2-7-96.)

21 (225 ILCS 705/8.03) (from Ch. 96 1/2, par. 803)

22 Sec. 8.03. No person shall be appointed to the Miners'  
23 Examining Board who has not had at least 5 years' practical and  
24 continuous experience as an underground ~~a~~ coal miner. The  
25 members of the Miners' Examining Board shall hold certificates

1 of competency as an Illinois mine examiner. Two of the members  
2 of the Miners' Examining Board shall be representatives of a  
3 labor organization recognized under the National Labor  
4 Relations Act representing coal miners. Two of the members of  
5 the Miners' Examining Board shall be from the employing class.  
6 ~~and who has not been actually engaged in coal mining as a miner~~  
7 ~~in the State of Illinois continuously for 12 months next~~  
8 ~~preceding his appointment; except that a miners' examining~~  
9 ~~officer may be appointed to succeed himself.~~

10 (Source: Laws 1953, p. 701.)

11 Section 10. The Workers' Compensation Act is amended by  
12 changing Sections 4, 8.3, 13.1, and 19 as follows:

13 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

14 Sec. 4. (a) Any employer, including but not limited to  
15 general contractors and their subcontractors, who shall come  
16 within the provisions of Section 3 of this Act, and any other  
17 employer who shall elect to provide and pay the compensation  
18 provided for in this Act shall:

19 (1) File with the Commission annually an application  
20 for approval as a self-insurer which shall include a  
21 current financial statement, and annually, thereafter, an  
22 application for renewal of self-insurance, which shall  
23 include a current financial statement. Said application  
24 and financial statement shall be signed and sworn to by the

1 president or vice president and secretary or assistant  
2 secretary of the employer if it be a corporation, or by all  
3 of the partners, if it be a copartnership, or by the owner  
4 if it be neither a copartnership nor a corporation. All  
5 initial applications and all applications for renewal of  
6 self-insurance must be submitted at least 60 days prior to  
7 the requested effective date of self-insurance. An  
8 employer may elect to provide and pay compensation as  
9 provided for in this Act as a member of a group workers'  
10 compensation pool under Article V 3/4 of the Illinois  
11 Insurance Code. If an employer becomes a member of a group  
12 workers' compensation pool, the employer shall not be  
13 relieved of any obligations imposed by this Act.

14 If the sworn application and financial statement of any  
15 such employer does not satisfy the Commission of the  
16 financial ability of the employer who has filed it, the  
17 Commission shall require such employer to,

18 (2) Furnish security, indemnity or a bond guaranteeing  
19 the payment by the employer of the compensation provided  
20 for in this Act, provided that any such employer whose  
21 application and financial statement shall not have  
22 satisfied the commission of his or her financial ability  
23 and who shall have secured his liability in part by excess  
24 liability insurance shall be required to furnish to the  
25 Commission security, indemnity or bond guaranteeing his or  
26 her payment up to the effective limits of the excess

1 coverage, or

2 (3) Insure his entire liability to pay such  
3 compensation in some insurance carrier authorized,  
4 licensed, or permitted to do such insurance business in  
5 this State. Every policy of an insurance carrier, insuring  
6 the payment of compensation under this Act shall cover all  
7 the employees and the entire compensation liability of the  
8 insured: Provided, however, that any employer may insure  
9 his or her compensation liability with 2 or more insurance  
10 carriers or may insure a part and qualify under subsection  
11 1, 2, or 4 for the remainder of his or her liability to pay  
12 such compensation, subject to the following two  
13 provisions:

14 Firstly, the entire compensation liability of the  
15 employer to employees working at or from one location  
16 shall be insured in one such insurance carrier or shall  
17 be self-insured, and

18 Secondly, the employer shall submit evidence  
19 satisfactorily to the Commission that his or her entire  
20 liability for the compensation provided for in this Act  
21 will be secured. Any provisions in any policy, or in  
22 any endorsement attached thereto, attempting to limit  
23 or modify in any way, the liability of the insurance  
24 carriers issuing the same except as otherwise provided  
25 herein shall be wholly void.

26 Nothing herein contained shall apply to policies of

1 excess liability carriage secured by employers who have  
2 been approved by the Commission as self-insurers, or

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

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

10 (a-1) Regardless of its state of domicile or its principal  
11 place of business, an employer shall make payments to its  
12 insurance carrier or group self-insurance fund, where  
13 applicable, based upon the premium rates of the situs where the  
14 work or project is located in Illinois if:

15 (A) the employer is engaged primarily in the building  
16 and construction industry; and

17 (B) subdivision (a)(3) of this Section applies to the  
18 employer or the employer is a member of a group  
19 self-insurance plan as defined in subsection (1) of Section  
20 4a.

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

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



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

4           The penalty shall not exceed \$1,000 for each day of work  
5           for which the employer failed to make payments upon the premium  
6           rates of the situs where the work or project is located in  
7           Illinois, but the total penalty shall not exceed \$50,000 for  
8           each project or each contract under which the work was  
9           performed.

10          Any penalty under this subsection (a-1) must be imposed not  
11          later than one year after the expiration of the applicable  
12          limitation period specified in subsection (d) of Section 6 of  
13          this Act. Penalties imposed under this subsection (a-1) shall  
14          be deposited into the Illinois Workers' Compensation  
15          Commission Operations Fund, a special fund that is created in  
16          the State treasury. Subject to appropriation, moneys in the  
17          Fund shall be used solely for the operations of the Illinois  
18          Workers' Compensation Commission and by the Department of  
19          Insurance for the purposes authorized in subsection (c) of  
20          Section 25.5 of this Act.

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

26               (1) Any client company of the ELC listed as an

1 additional named insured.

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

5 (3) Any certificate of insurance coverage document  
6 issued to a client company specifying its rights and  
7 obligations under the master policy that establishes both  
8 the identity and status of the client, as well as the dates  
9 of inception and termination of coverage, if applicable.

10 (b) The sworn application and financial statement, or  
11 security, indemnity or bond, or amount of insurance, or other  
12 provisions, filed, furnished, carried, or made by the employer,  
13 as the case may be, shall be subject to the approval of the  
14 Commission.

15 Deposits under escrow agreements shall be cash, negotiable  
16 United States government bonds or negotiable general  
17 obligation bonds of the State of Illinois. Such cash or bonds  
18 shall be deposited in escrow with any State or National Bank or  
19 Trust Company having trust authority in the State of Illinois.

20 Upon the approval of the sworn application and financial  
21 statement, security, indemnity or bond or amount of insurance,  
22 filed, furnished or carried, as the case may be, the Commission  
23 shall send to the employer written notice of its approval  
24 thereof. The certificate of compliance by the employer with the  
25 provisions of subparagraphs (2) and (3) of paragraph (a) of  
26 this Section shall be delivered by the insurance carrier to the

1 Illinois Workers' Compensation Commission within five days  
2 after the effective date of the policy so certified. The  
3 insurance so certified shall cover all compensation liability  
4 occurring during the time that the insurance is in effect and  
5 no further certificate need be filed in case such insurance is  
6 renewed, extended or otherwise continued by such carrier. The  
7 insurance so certified shall not be cancelled or in the event  
8 that such insurance is not renewed, extended or otherwise  
9 continued, such insurance shall not be terminated until at  
10 least 10 days after receipt by the Illinois Workers'  
11 Compensation Commission of notice of the cancellation or  
12 termination of said insurance; provided, however, that if the  
13 employer has secured insurance from another insurance carrier,  
14 or has otherwise secured the payment of compensation in  
15 accordance with this Section, and such insurance or other  
16 security becomes effective prior to the expiration of the 10  
17 days, cancellation or termination may, at the option of the  
18 insurance carrier indicated in such notice, be effective as of  
19 the effective date of such other insurance or security.

20 (c) Whenever the Commission shall find that any  
21 corporation, company, association, aggregation of individuals,  
22 reciprocal or interinsurers exchange, or other insurer  
23 effecting workers' compensation insurance in this State shall  
24 be insolvent, financially unsound, or unable to fully meet all  
25 payments and liabilities assumed or to be assumed for  
26 compensation insurance in this State, or shall practice a

1 policy of delay or unfairness toward employees in the  
2 adjustment, settlement, or payment of benefits due such  
3 employees, the Commission may after reasonable notice and  
4 hearing order and direct that such corporation, company,  
5 association, aggregation of individuals, reciprocal or  
6 interinsurers exchange, or insurer, shall from and after a date  
7 fixed in such order discontinue the writing of any such  
8 workers' compensation insurance in this State. Subject to such  
9 modification of the order as the Commission may later make on  
10 review of the order, as herein provided, it shall thereupon be  
11 unlawful for any such corporation, company, association,  
12 aggregation of individuals, reciprocal or interinsurers  
13 exchange, or insurer to effect any workers' compensation  
14 insurance in this State. A copy of the order shall be served  
15 upon the Director of Insurance by registered mail. Whenever the  
16 Commission finds that any service or adjustment company used or  
17 employed by a self-insured employer or by an insurance carrier  
18 to process, adjust, investigate, compromise or otherwise  
19 handle claims under this Act, has practiced or is practicing a  
20 policy of delay or unfairness toward employees in the  
21 adjustment, settlement or payment of benefits due such  
22 employees, the Commission may after reasonable notice and  
23 hearing order and direct that such service or adjustment  
24 company shall from and after a date fixed in such order be  
25 prohibited from processing, adjusting, investigating,  
26 compromising or otherwise handling claims under this Act.

1           Whenever the Commission finds that any self-insured  
2 employer has practiced or is practicing delay or unfairness  
3 toward employees in the adjustment, settlement or payment of  
4 benefits due such employees, the Commission may, after  
5 reasonable notice and hearing, order and direct that after a  
6 date fixed in the order such self-insured employer shall be  
7 disqualified to operate as a self-insurer and shall be required  
8 to insure his entire liability to pay compensation in some  
9 insurance carrier authorized, licensed and permitted to do such  
10 insurance business in this State, as provided in subparagraph 3  
11 of paragraph (a) of this Section.

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

1 (d) Whenever a panel of 3 Commissioners comprised of one  
2 member of the employing class, one representative of a labor  
3 organization recognized under the National Labor Relations Act  
4 ~~member of the employee class~~, and one member not identified  
5 with either the employing class or a labor organization ~~or~~  
6 ~~employee class~~, with due process and after a hearing,  
7 determines an employer has knowingly failed to provide coverage  
8 as required by paragraph (a) of this Section, the failure shall  
9 be deemed an immediate serious danger to public health, safety,  
10 and welfare sufficient to justify service by the Commission of  
11 a work-stop order on such employer, requiring the cessation of  
12 all business operations of such employer at the place of  
13 employment or job site. Any law enforcement agency in the State  
14 shall, at the request of the Commission, render any assistance  
15 necessary to carry out the provisions of this Section,  
16 including, but not limited to, preventing any employee of such  
17 employer from remaining at a place of employment or job site  
18 after a work-stop order has taken effect. Any work-stop order  
19 shall be lifted upon proof of insurance as required by this  
20 Act. Any orders under this Section are appealable under Section  
21 19(f) to the Circuit Court.

22 Any individual employer, corporate officer or director of a  
23 corporate employer, partner of an employer partnership, or  
24 member of an employer limited liability company who knowingly  
25 fails to provide coverage as required by paragraph (a) of this  
26 Section is guilty of a Class 4 felony. This provision shall not

1 apply to any corporate officer or director of any  
2 publicly-owned corporation. Each day's violation constitutes a  
3 separate offense. The State's Attorney of the county in which  
4 the violation occurred, or the Attorney General, shall bring  
5 such actions in the name of the People of the State of  
6 Illinois, or may, in addition to other remedies provided in  
7 this Section, bring an action for an injunction to restrain the  
8 violation or to enjoin the operation of any such employer.

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

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

25 Employers who are subject to and who knowingly fail to  
26 comply with this Section shall not be entitled to the benefits

1 of this Act during the period of noncompliance, but shall be  
2 liable in an action under any other applicable law of this  
3 State. In the action, such employer shall not avail himself or  
4 herself of the defenses of assumption of risk or negligence or  
5 that the injury was due to a co-employee. In the action, proof  
6 of the injury shall constitute prima facie evidence of  
7 negligence on the part of such employer and the burden shall be  
8 on such employer to show freedom of negligence resulting in the  
9 injury. The employer shall not join any other defendant in any  
10 such civil action. Nothing in this amendatory Act of the 94th  
11 General Assembly shall affect the employee's rights under  
12 subdivision (a)3 of Section 1 of this Act. Any employer or  
13 carrier who makes payments under subdivision (a)3 of Section 1  
14 of this Act shall have a right of reimbursement from the  
15 proceeds of any recovery under this Section.

16 An employee of an uninsured employer, or the employee's  
17 dependents in case death ensued, may, instead of proceeding  
18 against the employer in a civil action in court, file an  
19 application for adjustment of claim with the Commission in  
20 accordance with the provisions of this Act and the Commission  
21 shall hear and determine the application for adjustment of  
22 claim in the manner in which other claims are heard and  
23 determined before the Commission.

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

26 An investigator with the Illinois Workers' Compensation



1 Commission Insurance Compliance Division may issue a citation  
2 to any employer that is not in compliance with its obligation  
3 to have workers' compensation insurance under this Act. The  
4 amount of the fine shall be based on the period of time the  
5 employer was in non-compliance, but shall be no less than \$500,  
6 and shall not exceed \$2,500. An employer that has been issued a  
7 citation shall pay the fine to the Commission and provide to  
8 the Commission proof that it obtained the required workers'  
9 compensation insurance within 10 days after the citation was  
10 issued. This Section does not affect any other obligations this  
11 Act imposes on employers.

12       Upon a finding by the Commission, after reasonable notice  
13 and hearing, of the knowing and wilful failure or refusal of an  
14 employer to comply with any of the provisions of paragraph (a)  
15 of this Section, the failure or refusal of an employer, service  
16 or adjustment company, or an insurance carrier to comply with  
17 any order of the Illinois Workers' Compensation Commission  
18 pursuant to paragraph (c) of this Section disqualifying him or  
19 her to operate as a self insurer and requiring him or her to  
20 insure his or her liability, or the knowing and willful failure  
21 of an employer to comply with a citation issued by an  
22 investigator with the Illinois Workers' Compensation  
23 Commission Insurance Compliance Division, the Commission may  
24 assess a civil penalty of up to \$500 per day for each day of  
25 such failure or refusal after the effective date of this  
26 amendatory Act of 1989. The minimum penalty under this Section

1 shall be the sum of \$10,000. Each day of such failure or  
2 refusal shall constitute a separate offense. The Commission may  
3 assess the civil penalty personally and individually against  
4 the corporate officers and directors of a corporate employer,  
5 the partners of an employer partnership, and the members of an  
6 employer limited liability company, after a finding of a  
7 knowing and willful refusal or failure of each such named  
8 corporate officer, director, partner, or member to comply with  
9 this Section. The liability for the assessed penalty shall be  
10 against the named employer first, and if the named employer  
11 fails or refuses to pay the penalty to the Commission within 30  
12 days after the final order of the Commission, then the named  
13 corporate officers, directors, partners, or members who have  
14 been found to have knowingly and willfully refused or failed to  
15 comply with this Section shall be liable for the unpaid penalty  
16 or any unpaid portion of the penalty. Upon investigation by the  
17 insurance non-compliance unit of the Commission, the Attorney  
18 General shall have the authority to prosecute all proceedings  
19 to enforce the civil and administrative provisions of this  
20 Section before the Commission. The Commission shall promulgate  
21 procedural rules for enforcing this Section.

22       Upon the failure or refusal of any employer, service or  
23 adjustment company or insurance carrier to comply with the  
24 provisions of this Section and with the orders of the  
25 Commission under this Section, or the order of the court on  
26 review after final adjudication, the Commission may bring a

1 civil action to recover the amount of the penalty in Cook  
2 County or in Sangamon County in which litigation the Commission  
3 shall be represented by the Attorney General. The Commission  
4 shall send notice of its finding of non-compliance and  
5 assessment of the civil penalty to the Attorney General. It  
6 shall be the duty of the Attorney General within 30 days after  
7 receipt of the notice, to institute prosecutions and promptly  
8 prosecute all reported violations of this Section.

9 Any individual employer, corporate officer or director of a  
10 corporate employer, partner of an employer partnership, or  
11 member of an employer limited liability company who, with the  
12 intent to avoid payment of compensation under this Act to an  
13 injured employee or the employee's dependents, knowingly  
14 transfers, sells, encumbers, assigns, or in any manner disposes  
15 of, conceals, secretes, or destroys any property belonging to  
16 the employer, officer, director, partner, or member is guilty  
17 of a Class 4 felony.

18 Penalties and fines collected pursuant to this paragraph  
19 (d) shall be deposited upon receipt into a special fund which  
20 shall be designated the Injured Workers' Benefit Fund, of which  
21 the State Treasurer is ex-officio custodian, such special fund  
22 to be held and disbursed in accordance with this paragraph (d)  
23 for the purposes hereinafter stated in this paragraph (d), upon  
24 the final order of the Commission. The Injured Workers' Benefit  
25 Fund shall be deposited the same as are State funds and any  
26 interest accruing thereon shall be added thereto every 6

1 months. The Injured Workers' Benefit Fund is subject to audit  
2 the same as State funds and accounts and is protected by the  
3 general bond given by the State Treasurer. The Injured Workers'  
4 Benefit Fund is considered always appropriated for the purposes  
5 of disbursements as provided in this paragraph, and shall be  
6 paid out and disbursed as herein provided and shall not at any  
7 time be appropriated or diverted to any other use or purpose.  
8 Moneys in the Injured Workers' Benefit Fund shall be used only  
9 for payment of workers' compensation benefits for injured  
10 employees when the employer has failed to provide coverage as  
11 determined under this paragraph (d) and has failed to pay the  
12 benefits due to the injured employee. The Commission shall have  
13 the right to obtain reimbursement from the employer for  
14 compensation obligations paid by the Injured Workers' Benefit  
15 Fund. Any such amounts obtained shall be deposited by the  
16 Commission into the Injured Workers' Benefit Fund. If an  
17 injured employee or his or her personal representative receives  
18 payment from the Injured Workers' Benefit Fund, the State of  
19 Illinois has the same rights under paragraph (b) of Section 5  
20 that the employer who failed to pay the benefits due to the  
21 injured employee would have had if the employer had paid those  
22 benefits, and any moneys recovered by the State as a result of  
23 the State's exercise of its rights under paragraph (b) of  
24 Section 5 shall be deposited into the Injured Workers' Benefit  
25 Fund. The custodian of the Injured Workers' Benefit Fund shall  
26 be joined with the employer as a party respondent in the

1 application for adjustment of claim. After July 1, 2006, the  
2 Commission shall make disbursements from the Fund once each  
3 year to each eligible claimant. An eligible claimant is an  
4 injured worker who has within the previous fiscal year obtained  
5 a final award for benefits from the Commission against the  
6 employer and the Injured Workers' Benefit Fund and has notified  
7 the Commission within 90 days of receipt of such award. Within  
8 a reasonable time after the end of each fiscal year, the  
9 Commission shall make a disbursement to each eligible claimant.  
10 At the time of disbursement, if there are insufficient moneys  
11 in the Fund to pay all claims, each eligible claimant shall  
12 receive a pro-rata share, as determined by the Commission, of  
13 the available moneys in the Fund for that year. Payment from  
14 the Injured Workers' Benefit Fund to an eligible claimant  
15 pursuant to this provision shall discharge the obligations of  
16 the Injured Workers' Benefit Fund regarding the award entered  
17 by the Commission.

18 (e) This Act shall not affect or disturb the continuance of  
19 any existing insurance, mutual aid, benefit, or relief  
20 association or department, whether maintained in whole or in  
21 part by the employer or whether maintained by the employees,  
22 the payment of benefits of such association or department being  
23 guaranteed by the employer or by some person, firm or  
24 corporation for him or her: Provided, the employer contributes  
25 to such association or department an amount not less than the  
26 full compensation herein provided, exclusive of the cost of the

1 maintenance of such association or department and without any  
2 expense to the employee. This Act shall not prevent the  
3 organization and maintaining under the insurance laws of this  
4 State of any benefit or insurance company for the purpose of  
5 insuring against the compensation provided for in this Act, the  
6 expense of which is maintained by the employer. This Act shall  
7 not prevent the organization or maintaining under the insurance  
8 laws of this State of any voluntary mutual aid, benefit or  
9 relief association among employees for the payment of  
10 additional accident or sick benefits.

11 (f) No existing insurance, mutual aid, benefit or relief  
12 association or department shall, by reason of anything herein  
13 contained, be authorized to discontinue its operation without  
14 first discharging its obligations to any and all persons  
15 carrying insurance in the same or entitled to relief or  
16 benefits therein.

17 (g) Any contract, oral, written or implied, of employment  
18 providing for relief benefit, or insurance or any other device  
19 whereby the employee is required to pay any premium or premiums  
20 for insurance against the compensation provided for in this Act  
21 shall be null and void. Any employer withholding from the wages  
22 of any employee any amount for the purpose of paying any such  
23 premium shall be guilty of a Class B misdemeanor.

24 In the event the employer does not pay the compensation for  
25 which he or she is liable, then an insurance company,  
26 association or insurer which may have insured such employer

1 against such liability shall become primarily liable to pay to  
2 the employee, his or her personal representative or beneficiary  
3 the compensation required by the provisions of this Act to be  
4 paid by such employer. The insurance carrier may be made a  
5 party to the proceedings in which the employer is a party and  
6 an award may be entered jointly against the employer and the  
7 insurance carrier.

8 (h) It shall be unlawful for any employer, insurance  
9 company or service or adjustment company to interfere with,  
10 restrain or coerce an employee in any manner whatsoever in the  
11 exercise of the rights or remedies granted to him or her by  
12 this Act or to discriminate, attempt to discriminate, or  
13 threaten to discriminate against an employee in any way because  
14 of his or her exercise of the rights or remedies granted to him  
15 or her by this Act.

16 It shall be unlawful for any employer, individually or  
17 through any insurance company or service or adjustment company,  
18 to discharge or to threaten to discharge, or to refuse to  
19 rehire or recall to active service in a suitable capacity an  
20 employee because of the exercise of his or her rights or  
21 remedies granted to him or her by this Act.

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

1           (j) Within 45 days of receipt of an initial application or  
2 application to renew self-insurance privileges the  
3 Self-Insurers Advisory Board shall review and submit for  
4 approval by the Chairman of the Commission recommendations of  
5 disposition of all initial applications to self-insure and all  
6 applications to renew self-insurance privileges filed by  
7 private self-insurers pursuant to the provisions of this  
8 Section and Section 4a-9 of this Act. Each private self-insurer  
9 shall submit with its initial and renewal applications the  
10 application fee required by Section 4a-4 of this Act.

11           The Chairman of the Commission shall promptly act upon all  
12 initial applications and applications for renewal in full  
13 accordance with the recommendations of the Board or, should the  
14 Chairman disagree with any recommendation of disposition of the  
15 Self-Insurer's Advisory Board, he shall within 30 days of  
16 receipt of such recommendation provide to the Board in writing  
17 the reasons supporting his decision. The Chairman shall also  
18 promptly notify the employer of his decision within 15 days of  
19 receipt of the recommendation of the Board.

20           If an employer is denied a renewal of self-insurance  
21 privileges pursuant to application it shall retain said  
22 privilege for 120 days after receipt of a notice of  
23 cancellation of the privilege from the Chairman of the  
24 Commission.

25           All orders made by the Chairman under this Section shall be  
26 subject to review by the courts, such review to be taken in the



1 same manner and within the same time as provided by subsection  
2 (f) of Section 19 of this Act for review of awards and  
3 decisions of the Commission, upon the party seeking the review  
4 filing with the clerk of the court to which such review is  
5 taken a bond in an amount to be fixed and approved by the court  
6 to which the review is taken, conditioned upon the payment of  
7 all compensation awarded against the person taking such review  
8 pending a decision thereof and further conditioned upon such  
9 other obligations as the court may impose. Upon the review the  
10 Circuit Court shall have power to review all questions of fact  
11 as well as of law.

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

13 (820 ILCS 305/8.3)

14 Sec. 8.3. Workers' Compensation Medical Fee Advisory  
15 Board. There is created a Workers' Compensation Medical Fee  
16 Advisory Board consisting of 9 members appointed by the  
17 Governor with the advice and consent of the Senate. Three  
18 members of the Advisory Board shall be representatives of a  
19 labor organization recognized under the National Labor  
20 Relations Act ~~representative citizens chosen from the employee~~  
21 ~~class~~, 3 members shall be representative citizens chosen from  
22 the employing class, and 3 members shall be representative  
23 citizens chosen from the medical provider class. Each member  
24 shall serve a 4-year term and shall continue to serve until a  
25 successor is appointed. A vacancy on the Advisory Board shall

1 be filled by the Governor for the unexpired term.

2 Members of the Advisory Board shall receive no compensation  
3 for their services but shall be reimbursed for expenses  
4 incurred in the performance of their duties by the Commission  
5 from appropriations made to the Commission for that purpose.

6 The Advisory Board shall advise the Commission on  
7 establishment of fees for medical services and accessibility of  
8 medical treatment.

9 (Source: P.A. 94-277, eff. 7-20-05.)

10 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

11 Sec. 13.1. (a) There is created a Workers' Compensation  
12 Advisory Board hereinafter referred to as the Advisory Board.  
13 After the effective date of this amendatory Act of the 94th  
14 General Assembly, the Advisory Board shall consist of 12  
15 members appointed by the Governor with the advice and consent  
16 of the Senate. Six members of the Advisory Board shall be  
17 representative citizens chosen from a labor organization  
18 recognized under the National Labor Relations Act ~~the employee~~  
19 ~~class~~, and 6 members shall be representative citizens chosen  
20 from the employing class. The Chairman of the Commission shall  
21 serve as the ex officio Chairman of the Advisory Board. After  
22 the effective date of this amendatory Act of the 94th General  
23 Assembly, each member of the Advisory Board shall serve a term  
24 ending on the third Monday in January 2007 and shall continue  
25 to serve until his or her successor is appointed and qualified.

1 Members of the Advisory Board shall thereafter be appointed for  
2 4 year terms from the third Monday in January of the year of  
3 their appointment, and until their successors are appointed and  
4 qualified. Seven members of the Advisory Board shall constitute  
5 a quorum to do business, but in no case shall there be less  
6 than one representative from each class. A vacancy on the  
7 Advisory Board shall be filled by the Governor for the  
8 unexpired term.

9 (b) Members of the Advisory Board shall receive no  
10 compensation for their services but shall be reimbursed for  
11 expenses incurred in the performance of their duties by the  
12 Commission from appropriations made to the Commission for such  
13 purpose.

14 (c) The Advisory Board shall aid the Commission in  
15 formulating policies, discussing problems, setting priorities  
16 of expenditures, reviewing advisory rates filed by an advisory  
17 organization as defined in Section 463 of the Illinois  
18 Insurance Code, and establishing short and long range  
19 administrative goals. Prior to making the (1) initial set of  
20 arbitrator appointments pursuant to this amendatory Act of the  
21 97th General Assembly and (2) appointment of Commissioners, the  
22 Governor shall request that the Advisory Board make  
23 recommendations as to candidates to consider for appointment  
24 and the Advisory Board may then make such recommendations.

25 (d) The terms of all Advisory Board members serving on the  
26 effective date of this amendatory Act of the 97th General

1 Assembly are terminated. The Governor shall appoint new members  
2 to the Advisory Board within 30 days after the effective date  
3 of the amendatory Act of the 97th General Assembly, subject to  
4 the advice and consent of the Senate.

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

6 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

21 2. Whenever any claimant misconceives his remedy and  
22 files an application for adjustment of claim under the  
23 Workers' Occupational Diseases Act and it is subsequently  
24 discovered, at any time before final disposition of such  
25 cause that the claim for injury or death which was the

1 basis for such application should properly have been made  
2 under this Act, then the application so filed under the  
3 Workers' Occupational Diseases Act may be amended in form,  
4 substance or both to assert claim for such disability or  
5 death under this Act and it shall be deemed to have been so  
6 filed as amended on the date of the original filing  
7 thereof, and such compensation may be awarded as is  
8 warranted by the whole evidence pursuant to this Act. When  
9 such amendment is submitted, further or additional  
10 evidence may be heard by the Arbitrator or Commission when  
11 deemed necessary. Nothing in this Section contained shall  
12 be construed to be or permit a waiver of any provisions of  
13 this Act with reference to notice but notice if given shall  
14 be deemed to be a notice under the provisions of this Act  
15 if given within the time required herein.

16 (b) The Arbitrator shall make such inquiries and  
17 investigations as he or they shall deem necessary and may  
18 examine and inspect all books, papers, records, places, or  
19 premises relating to the questions in dispute and hear such  
20 proper evidence as the parties may submit.

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

25 The Arbitrator may find that the disabling condition is  
26 temporary and has not yet reached a permanent condition and may

1 order the payment of compensation up to the date of the  
2 hearing, which award shall be reviewable and enforceable in the  
3 same manner as other awards, and in no instance be a bar to a  
4 further hearing and determination of a further amount of  
5 temporary total compensation or of compensation for permanent  
6 disability, but shall be conclusive as to all other questions  
7 except the nature and extent of said disability.

8 The decision of the Arbitrator shall be filed with the  
9 Commission which Commission shall immediately send to each  
10 party or his attorney a copy of such decision, together with a  
11 notification of the time when it was filed. As of the effective  
12 date of this amendatory Act of the 94th General Assembly, all  
13 decisions of the Arbitrator shall set forth in writing findings  
14 of fact and conclusions of law, separately stated, if requested  
15 by either party. Unless a petition for review is filed by  
16 either party within 30 days after the receipt by such party of  
17 the copy of the decision and notification of time when filed,  
18 and unless such party petitioning for a review shall within 35  
19 days after the receipt by him of the copy of the decision, file  
20 with the Commission either an agreed statement of the facts  
21 appearing upon the hearing before the Arbitrator, or if such  
22 party shall so elect a correct transcript of evidence of the  
23 proceedings at such hearings, then the decision shall become  
24 the decision of the Commission and in the absence of fraud  
25 shall be conclusive. The Petition for Review shall contain a  
26 statement of the petitioning party's specific exceptions to the

1 decision of the arbitrator. The jurisdiction of the Commission  
2 to review the decision of the arbitrator shall not be limited  
3 to the exceptions stated in the Petition for Review. The  
4 Commission, or any member thereof, may grant further time not  
5 exceeding 30 days, in which to file such agreed statement or  
6 transcript of evidence. Such agreed statement of facts or  
7 correct transcript of evidence, as the case may be, shall be  
8 authenticated by the signatures of the parties or their  
9 attorneys, and in the event they do not agree as to the  
10 correctness of the transcript of evidence it shall be  
11 authenticated by the signature of the Arbitrator designated by  
12 the Commission.

13 Whether the employee is working or not, if the employee is  
14 not receiving or has not received medical, surgical, or  
15 hospital services or other services or compensation as provided  
16 in paragraph (a) of Section 8, or compensation as provided in  
17 paragraph (b) of Section 8, the employee may at any time  
18 petition for an expedited hearing by an Arbitrator on the issue  
19 of whether or not he or she is entitled to receive payment of  
20 the services or compensation. Provided the employer continues  
21 to pay compensation pursuant to paragraph (b) of Section 8, the  
22 employer may at any time petition for an expedited hearing on  
23 the issue of whether or not the employee is entitled to receive  
24 medical, surgical, or hospital services or other services or  
25 compensation as provided in paragraph (a) of Section 8, or  
26 compensation as provided in paragraph (b) of Section 8. When an

1 employer has petitioned for an expedited hearing, the employer  
2 shall continue to pay compensation as provided in paragraph (b)  
3 of Section 8 unless the arbitrator renders a decision that the  
4 employee is not entitled to the benefits that are the subject  
5 of the expedited hearing or unless the employee's treating  
6 physician has released the employee to return to work at his or  
7 her regular job with the employer or the employee actually  
8 returns to work at any other job. If the arbitrator renders a  
9 decision that the employee is not entitled to the benefits that  
10 are the subject of the expedited hearing, a petition for review  
11 filed by the employee shall receive the same priority as if the  
12 employee had filed a petition for an expedited hearing by an  
13 Arbitrator. Neither party shall be entitled to an expedited  
14 hearing when the employee has returned to work and the sole  
15 issue in dispute amounts to less than 12 weeks of unpaid  
16 compensation pursuant to paragraph (b) of Section 8.

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



1           Where 2 or more insurance carriers, private self-insureds,  
2 or a group workers' compensation pool under Article V 3/4 of  
3 the Illinois Insurance Code dispute coverage for the same  
4 injury, any such insurance carrier, private self-insured, or  
5 group workers' compensation pool may request an expedited  
6 hearing pursuant to this paragraph to determine the issue of  
7 coverage, provided coverage is the only issue in dispute and  
8 all other issues are stipulated and agreed to and further  
9 provided that all compensation benefits including medical  
10 benefits pursuant to Section 8(a) continue to be paid to or on  
11 behalf of petitioner. Any insurance carrier, private  
12 self-insured, or group workers' compensation pool that is  
13 determined to be liable for coverage for the injury in issue  
14 shall reimburse any insurance carrier, private self-insured,  
15 or group workers' compensation pool that has paid benefits to  
16 or on behalf of petitioner for the injury.

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

26           Such petition shall contain the following information and

1 shall be served on the employer at least 15 days before it is  
2 filed:

3 (i) the date and approximate time of accident;

4 (ii) the approximate location of the accident;

5 (iii) a description of the accident;

6 (iv) the nature of the injury incurred by the employee;

7 (v) the identity of the person, if known, to whom the  
8 accident was reported and the date on which it was  
9 reported;

10 (vi) the name and title of the person, if known,  
11 representing the employer with whom the employee conferred  
12 in any effort to obtain compensation pursuant to paragraph  
13 (b) of Section 8 of this Act or medical, surgical or  
14 hospital services pursuant to paragraph (a) of Section 8 of  
15 this Act and the date of such conference;

16 (vii) a statement that the employer has refused to pay  
17 compensation pursuant to paragraph (b) of Section 8 of this  
18 Act or for medical, surgical or hospital services pursuant  
19 to paragraph (a) of Section 8 of this Act;

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

23 (ix) the dates of treatment related to the accident by  
24 medical practitioners, and the names and addresses of such  
25 practitioners, including the dates of treatment related to  
26 the accident at any hospitals and the names and addresses

1 of such hospitals, and a signed authorization permitting  
2 the employer to examine all medical records of all  
3 practitioners and hospitals named pursuant to this  
4 paragraph;

5 (x) a copy of a signed report by a medical  
6 practitioner, relating to the employee's current inability  
7 to return to work because of the injuries incurred as a  
8 result of the accident or such other documents or  
9 affidavits which show that the employee is entitled to  
10 receive compensation pursuant to paragraph (b) of Section 8  
11 of this Act or medical, surgical or hospital services  
12 pursuant to paragraph (a) of Section 8 of this Act. Such  
13 reports, documents or affidavits shall state, if possible,  
14 the history of the accident given by the employee, and  
15 describe the injury and medical diagnosis, the medical  
16 services for such injury which the employee has received  
17 and is receiving, the physical activities which the  
18 employee cannot currently perform as a result of any  
19 impairment or disability due to such injury, and the  
20 prognosis for recovery;

21 (xi) complete copies of any reports, records,  
22 documents and affidavits in the possession of the employee  
23 on which the employee will rely to support his allegations,  
24 provided that the employer shall pay the reasonable cost of  
25 reproduction thereof;

26 (xii) a list of any reports, records, documents and

1 affidavits which the employee has demanded by subpoena and  
2 on which he intends to rely to support his allegations;

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

6 Fifteen days after receipt by the employer of the petition  
7 with the required information the employee may file said  
8 petition and required information and shall serve notice of the  
9 filing upon the employer. The employer may file a motion  
10 addressed to the sufficiency of the petition. If an objection  
11 has been filed to the sufficiency of the petition, the  
12 arbitrator shall rule on the objection within 2 working days.  
13 If such an objection is filed, the time for filing the final  
14 decision of the Commission as provided in this paragraph shall  
15 be tolled until the arbitrator has determined that the petition  
16 is sufficient.

17 The employer shall, within 15 days after receipt of the  
18 notice that such petition is filed, file with the Commission  
19 and serve on the employee or his representative a written  
20 response to each claim set forth in the petition, including the  
21 legal and factual basis for each disputed allegation and the  
22 following information: (i) complete copies of any reports,  
23 records, documents and affidavits in the possession of the  
24 employer on which the employer intends to rely in support of  
25 his response, (ii) a list of any reports, records, documents  
26 and affidavits which the employer has demanded by subpoena and

1 on which the employer intends to rely in support of his  
2 response, (iii) the name and address of each witness on whom  
3 the employer will rely to support his response, and (iv) the  
4 names and addresses of any medical practitioners selected by  
5 the employer pursuant to Section 12 of this Act and the time  
6 and place of any examination scheduled to be made pursuant to  
7 such Section.

8 Any employer who does not timely file and serve a written  
9 response without good cause may not introduce any evidence to  
10 dispute any claim of the employee but may cross examine the  
11 employee or any witness brought by the employee and otherwise  
12 be heard.

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

25 The Commission shall adopt rules, regulations and  
26 procedures whereby the final decision of the Commission is

1 filed not later than 90 days from the date the petition for  
2 review is filed but in no event later than 180 days from the  
3 date the petition for an emergency hearing is filed with the  
4 Illinois Workers' Compensation Commission.

5 All service required pursuant to this paragraph (b-1) must  
6 be by personal service or by certified mail and with evidence  
7 of receipt. In addition for the purposes of this paragraph, all  
8 service on the employer must be at the premises where the  
9 accident occurred if the premises are owned or operated by the  
10 employer. Otherwise service must be at the employee's principal  
11 place of employment by the employer. If service on the employer  
12 is not possible at either of the above, then service shall be  
13 at the employer's principal place of business. After initial  
14 service in each case, service shall be made on the employer's  
15 attorney or designated representative.

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

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

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

7           (4) Either party or the Commission may call the examining  
8 physician or physicians to testify. Any physician so called  
9 shall be subject to cross-examination.

10          (5) The examination shall be made, and the physician or  
11 physicians, if called, shall testify, without cost to the  
12 parties. The Commission shall determine the compensation and  
13 the pay of the physician or physicians. The compensation for  
14 this service shall not exceed the usual and customary amount  
15 for such service.

16          (6) The fees and payment thereof of all attorneys and  
17 physicians for services authorized by the Commission under this  
18 Act shall, upon request of either the employer or the employee  
19 or the beneficiary affected, be subject to the review and  
20 decision of the Commission.

21          (d) If any employee shall persist in insanitary or  
22 injurious practices which tend to either imperil or retard his  
23 recovery or shall refuse to submit to such medical, surgical,  
24 or hospital treatment as is reasonably essential to promote his  
25 recovery, the Commission may, in its discretion, reduce or  
26 suspend the compensation of any such injured employee. However,

1 when an employer and employee so agree in writing, the  
2 foregoing provision shall not be construed to authorize the  
3 reduction or suspension of compensation of an employee who is  
4 relying in good faith, on treatment by prayer or spiritual  
5 means alone, in accordance with the tenets and practice of a  
6 recognized church or religious denomination, by a duly  
7 accredited practitioner thereof.

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

17 In all cases in which the hearing before the arbitrator is  
18 held after December 18, 1989, no additional evidence shall be  
19 introduced by the parties before the Commission on review of  
20 the decision of the Arbitrator. In reviewing decisions of an  
21 arbitrator the Commission shall award such temporary  
22 compensation, permanent compensation and other payments as are  
23 due under this Act. The Commission shall file in its office its  
24 decision thereon, and shall immediately send to each party or  
25 his attorney a copy of such decision and a notification of the  
26 time when it was filed. Decisions shall be filed within 60 days



1 after the Statement of Exceptions and Supporting Brief and  
2 Response thereto are required to be filed or oral argument  
3 whichever is later.

4 In the event either party requests oral argument, such  
5 argument shall be had before a panel of 3 members of the  
6 Commission (or before all available members pursuant to the  
7 determination of 7 members of the Commission that such argument  
8 be held before all available members of the Commission)  
9 pursuant to the rules and regulations of the Commission. A  
10 panel of 3 members, which shall be comprised of not more than  
11 one representative citizen of the employing class and not more  
12 than one representative from a labor organization recognized  
13 under the National Labor Relations Act ~~citizen of the employee~~  
14 ~~class~~, shall hear the argument; provided that if all the issues  
15 in dispute are solely the nature and extent of the permanent  
16 partial disability, if any, a majority of the panel may deny  
17 the request for such argument and such argument shall not be  
18 held; and provided further that 7 members of the Commission may  
19 determine that the argument be held before all available  
20 members of the Commission. A decision of the Commission shall  
21 be approved by a majority of Commissioners present at such  
22 hearing if any; provided, if no such hearing is held, a  
23 decision of the Commission shall be approved by a majority of a  
24 panel of 3 members of the Commission as described in this  
25 Section. The Commission shall give 10 days' notice to the  
26 parties or their attorneys of the time and place of such taking

1 of testimony and of such argument.

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

24 If a reporter does not for any reason furnish a transcript  
25 of the proceedings before the Arbitrator in any case for use on  
26 a hearing for review before the Commission, within the

1 limitations of time as fixed in this Section, the Commission  
2 may, in its discretion, order a trial de novo before the  
3 Commission in such case upon application of either party. The  
4 applications for adjustment of claim and other documents in the  
5 nature of pleadings filed by either party, together with the  
6 decisions of the Arbitrator and of the Commission and the  
7 statement of facts or transcript of evidence hereinbefore  
8 provided for in paragraphs (b) and (c) shall be the record of  
9 the proceedings of the Commission, and shall be subject to  
10 review as hereinafter provided.

11 At the request of either party or on its own motion, the  
12 Commission shall set forth in writing the reasons for the  
13 decision, including findings of fact and conclusions of law  
14 separately stated. The Commission shall by rule adopt a format  
15 for written decisions for the Commission and arbitrators. The  
16 written decisions shall be concise and shall succinctly state  
17 the facts and reasons for the decision. The Commission may  
18 adopt in whole or in part, the decision of the arbitrator as  
19 the decision of the Commission. When the Commission does so  
20 adopt the decision of the arbitrator, it shall do so by order.  
21 Whenever the Commission adopts part of the arbitrator's  
22 decision, but not all, it shall include in the order the  
23 reasons for not adopting all of the arbitrator's decision. When  
24 a majority of a panel, after deliberation, has arrived at its  
25 decision, the decision shall be filed as provided in this  
26 Section without unnecessary delay, and without regard to the

1 fact that a member of the panel has expressed an intention to  
2 dissent. Any member of the panel may file a dissent. Any  
3 dissent shall be filed no later than 10 days after the decision  
4 of the majority has been filed.

5 Decisions rendered by the Commission and dissents, if any,  
6 shall be published together by the Commission. The conclusions  
7 of law set out in such decisions shall be regarded as  
8 precedents by arbitrators for the purpose of achieving a more  
9 uniform administration of this Act.

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

24 (1) Except in cases of claims against the State of  
25 Illinois other than those claims under Section 18.1, in  
26 which case the decision of the Commission shall not be

1 subject to judicial review, the Circuit Court of the county  
2 where any of the parties defendant may be found, or if none  
3 of the parties defendant can be found in this State then  
4 the Circuit Court of the county where the accident  
5 occurred, shall by summons to the Commission have power to  
6 review all questions of law and fact presented by such  
7 record.

8 A proceeding for review shall be commenced within 20  
9 days of the receipt of notice of the decision of the  
10 Commission. The summons shall be issued by the clerk of  
11 such court upon written request returnable on a designated  
12 return day, not less than 10 or more than 60 days from the  
13 date of issuance thereof, and the written request shall  
14 contain the last known address of other parties in interest  
15 and their attorneys of record who are to be served by  
16 summons. Service upon any member of the Commission or the  
17 Secretary or the Assistant Secretary thereof shall be  
18 service upon the Commission, and service upon other parties  
19 in interest and their attorneys of record shall be by  
20 summons, and such service shall be made upon the Commission  
21 and other parties in interest by mailing notices of the  
22 commencement of the proceedings and the return day of the  
23 summons to the office of the Commission and to the last  
24 known place of residence of other parties in interest or  
25 their attorney or attorneys of record. The clerk of the  
26 court issuing the summons shall on the day of issue mail

1 notice of the commencement of the proceedings which shall  
2 be done by mailing a copy of the summons to the office of  
3 the Commission, and a copy of the summons to the other  
4 parties in interest or their attorney or attorneys of  
5 record and the clerk of the court shall make certificate  
6 that he has so sent said notices in pursuance of this  
7 Section, which shall be evidence of service on the  
8 Commission and other parties in interest.

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

24 No request for a summons may be filed and no summons  
25 shall issue unless the party seeking to review the decision  
26 of the Commission shall exhibit to the clerk of the Circuit

1 Court proof of filing with the Commission of the notice of  
2 the intent to file for review in the Circuit Court or an  
3 affidavit of the attorney setting forth that notice of  
4 intent to file for review in the Circuit Court has been  
5 given in writing to the Secretary or Assistant Secretary of  
6 the Commission.

7 (2) No such summons shall issue unless the one against  
8 whom the Commission shall have rendered an award for the  
9 payment of money shall upon the filing of his written  
10 request for such summons file with the clerk of the court a  
11 bond conditioned that if he shall not successfully  
12 prosecute the review, he will pay the award and the costs  
13 of the proceedings in the courts. The amount of the bond  
14 shall be fixed by any member of the Commission and the  
15 surety or sureties of the bond shall be approved by the  
16 clerk of the court. The acceptance of the bond by the clerk  
17 of the court shall constitute evidence of his approval of  
18 the bond.

19 Every county, city, town, township, incorporated  
20 village, school district, body politic or municipal  
21 corporation against whom the Commission shall have  
22 rendered an award for the payment of money shall not be  
23 required to file a bond to secure the payment of the award  
24 and the costs of the proceedings in the court to authorize  
25 the court to issue such summons.

26 The court may confirm or set aside the decision of the

1 Commission. If the decision is set aside and the facts  
2 found in the proceedings before the Commission are  
3 sufficient, the court may enter such decision as is  
4 justified by law, or may remand the cause to the Commission  
5 for further proceedings and may state the questions  
6 requiring further hearing, and give such other  
7 instructions as may be proper. Appeals shall be taken to  
8 the Appellate Court in accordance with Supreme Court Rules  
9 22(g) and 303. Appeals shall be taken from the Appellate  
10 Court to the Supreme Court in accordance with Supreme Court  
11 Rule 315.

12 It shall be the duty of the clerk of any court  
13 rendering a decision affecting or affirming an award of the  
14 Commission to promptly furnish the Commission with a copy  
15 of such decision, without charge.

16 The decision of a majority of the members of the panel  
17 of the Commission, shall be considered the decision of the  
18 Commission.

19 (g) Except in the case of a claim against the State of  
20 Illinois, either party may present a certified copy of the  
21 award of the Arbitrator, or a certified copy of the decision of  
22 the Commission when the same has become final, when no  
23 proceedings for review are pending, providing for the payment  
24 of compensation according to this Act, to the Circuit Court of  
25 the county in which such accident occurred or either of the  
26 parties are residents, whereupon the court shall enter a



1 judgment in accordance therewith. In a case where the employer  
2 refuses to pay compensation according to such final award or  
3 such final decision upon which such judgment is entered the  
4 court shall in entering judgment thereon, tax as costs against  
5 him the reasonable costs and attorney fees in the arbitration  
6 proceedings and in the court entering the judgment for the  
7 person in whose favor the judgment is entered, which judgment  
8 and costs taxed as therein provided shall, until and unless set  
9 aside, have the same effect as though duly entered in an action  
10 duly tried and determined by the court, and shall with like  
11 effect, be entered and docketed. The Circuit Court shall have  
12 power at any time upon application to make any such judgment  
13 conform to any modification required by any subsequent decision  
14 of the Supreme Court upon appeal, or as the result of any  
15 subsequent proceedings for review, as provided in this Act.

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

23 (h) An agreement or award under this Act providing for  
24 compensation in installments, may at any time within 18 months  
25 after such agreement or award be reviewed by the Commission at  
26 the request of either the employer or the employee, on the

1 ground that the disability of the employee has subsequently  
2 recurred, increased, diminished or ended.

3 However, as to accidents occurring subsequent to July 1,  
4 1955, which are covered by any agreement or award under this  
5 Act providing for compensation in installments made as a result  
6 of such accident, such agreement or award may at any time  
7 within 30 months, or 60 months in the case of an award under  
8 Section 8(d)1, after such agreement or award be reviewed by the  
9 Commission at the request of either the employer or the  
10 employee on the ground that the disability of the employee has  
11 subsequently recurred, increased, diminished or ended.

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

25 When compensation which is payable in accordance with an  
26 award or settlement contract approved by the Commission, is

1 ordered paid in a lump sum by the Commission, no review shall  
2 be had as in this paragraph mentioned.

3 (i) Each party, upon taking any proceedings or steps  
4 whatsoever before any Arbitrator, Commission or court, shall  
5 file with the Commission his address, or the name and address  
6 of any agent upon whom all notices to be given to such party  
7 shall be served, either personally or by registered mail,  
8 addressed to such party or agent at the last address so filed  
9 with the Commission. In the event such party has not filed his  
10 address, or the name and address of an agent as above provided,  
11 service of any notice may be had by filing such notice with the  
12 Commission.

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

24 (k) In case where there has been any unreasonable or  
25 vexatious delay of payment or intentional underpayment of  
26 compensation, or proceedings have been instituted or carried on

1 by the one liable to pay the compensation, which do not present  
2 a real controversy, but are merely frivolous or for delay, then  
3 the Commission may award compensation additional to that  
4 otherwise payable under this Act equal to 50% of the amount  
5 payable at the time of such award. Failure to pay compensation  
6 in accordance with the provisions of Section 8, paragraph (b)  
7 of this Act, shall be considered unreasonable delay.

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

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

1 presumption of unreasonable delay.

2 (m) If the commission finds that an accidental injury was  
3 directly and proximately caused by the employer's wilful  
4 violation of a health and safety standard under the Health and  
5 Safety Act or the Occupational Safety and Health Act in force  
6 at the time of the accident, the arbitrator or the Commission  
7 shall allow to the injured employee or his dependents, as the  
8 case may be, additional compensation equal to 25% of the amount  
9 which otherwise would be payable under the provisions of this  
10 Act exclusive of this paragraph. The additional compensation  
11 herein provided shall be allowed by an appropriate increase in  
12 the applicable weekly compensation rate.

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

26 The employer or his insurance carrier may tender the

1 payments due under the award to stop the further accrual of  
2 interest on such award notwithstanding the prosecution by  
3 either party of review, certiorari, appeal to the Supreme Court  
4 or other steps to reverse, vacate or modify the award.

5 (o) By the 15th day of each month each insurer providing  
6 coverage for losses under this Act shall notify each insured  
7 employer of any compensable claim incurred during the preceding  
8 month and the amounts paid or reserved on the claim including a  
9 summary of the claim and a brief statement of the reasons for  
10 compensability. A cumulative report of all claims incurred  
11 during a calendar year or continued from the previous year  
12 shall be furnished to the insured employer by the insurer  
13 within 30 days after the end of that calendar year.

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

1 initiated under this paragraph more than 3 years after the  
2 payment is made. An employer may waive the right of challenge  
3 under this paragraph on a case by case basis.

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

1 shall be considered the decision of the Commission and  
2 proceedings for review of questions of law arising from the  
3 decision may be commenced by either party pursuant to  
4 subsection (f) of Section 19. The Advisory Board established  
5 under Section 13.1 shall compile a list of certified Commission  
6 arbitrators, each of whom shall be approved by at least 7  
7 members of the Advisory Board. The chairman shall select 5  
8 persons from such list to serve as arbitrators under this  
9 subsection (p). By agreement, the parties shall select one  
10 arbitrator from among the 5 persons selected by the chairman  
11 except that if the parties do not agree on an arbitrator from  
12 among the 5 persons, the parties may, by agreement, select an  
13 arbitrator of the American Arbitration Association, whose fee  
14 shall be paid by the State in accordance with rules promulgated  
15 by the Commission. Arbitration under this subsection (p) shall  
16 be voluntary.

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

19 Section 15. The Workers' Occupational Diseases Act is  
20 amended by changing Section 19 as follows:

21 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

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

24 (a) It shall be the duty of the Commission upon



1 notification that the parties have failed to reach an agreement  
2 to designate an Arbitrator.

3 (1) The application for adjustment of claim filed with  
4 the Commission shall state:

5 A. The approximate date of the last day of the last  
6 exposure and the approximate date of the disablement.

7 B. The general nature and character of the illness  
8 or disease claimed.

9 C. The name and address of the employer by whom  
10 employed on the last day of the last exposure and if  
11 employed by any other employer after such last exposure  
12 and before disablement the name and address of such  
13 other employer or employers.

14 D. In case of death, the date and place of death.

15 (2) Amendments to applications for adjustment of claim  
16 which relate to the same disablement or disablement  
17 resulting in death originally claimed upon may be allowed  
18 by the Commissioner or an Arbitrator thereof, in their  
19 discretion, and in the exercise of such discretion, they  
20 may in proper cases order a trial de novo; such amendment  
21 shall relate back to the date of the filing of the original  
22 application so amended.

23 (3) Whenever any claimant misconceives his remedy and  
24 files an application for adjustment of claim under this Act  
25 and it is subsequently discovered, at any time before final  
26 disposition of such cause, that the claim for disability or

1 death which was the basis for such application should  
2 properly have been made under the Workers' Compensation  
3 Act, then the provisions of Section 19 paragraph (a-1) of  
4 the Workers' Compensation Act having reference to such  
5 application shall apply.

6 Whenever any claimant misconceives his remedy and  
7 files an application for adjustment of claim under the  
8 Workers' Compensation Act and it is subsequently  
9 discovered, at any time before final disposition of such  
10 cause that the claim for injury or death which was the  
11 basis for such application should properly have been made  
12 under this Act, then the application so filed under the  
13 Workers' Compensation Act may be amended in form, substance  
14 or both to assert claim for such disability or death under  
15 this Act and it shall be deemed to have been so filed as  
16 amended on the date of the original filing thereof, and  
17 such compensation may be awarded as is warranted by the  
18 whole evidence pursuant to the provisions of this Act. When  
19 such amendment is submitted, further or additional  
20 evidence may be heard by the Arbitrator or Commission when  
21 deemed necessary; provided, that nothing in this Section  
22 contained shall be construed to be or permit a waiver of  
23 any provisions of this Act with reference to notice, but  
24 notice if given shall be deemed to be a notice under the  
25 provisions of this Act if given within the time required  
26 herein.

1           (b) The Arbitrator shall make such inquiries and  
2 investigations as he shall deem necessary and may examine and  
3 inspect all books, papers, records, places, or premises  
4 relating to the questions in dispute and hear such proper  
5 evidence as the parties may submit.

6           The hearings before the Arbitrator shall be held in the  
7 vicinity where the last exposure occurred, after 10 days'  
8 notice of the time and place of such hearing shall have been  
9 given to each of the parties or their attorneys of record.

10          The Arbitrator may find that the disabling condition is  
11 temporary and has not yet reached a permanent condition and may  
12 order the payment of compensation up to the date of the  
13 hearing, which award shall be reviewable and enforceable in the  
14 same manner as other awards, and in no instance be a bar to a  
15 further hearing and determination of a further amount of  
16 temporary total compensation or of compensation for permanent  
17 disability, but shall be conclusive as to all other questions  
18 except the nature and extent of such disability.

19          The decision of the Arbitrator shall be filed with the  
20 Commission which Commission shall immediately send to each  
21 party or his attorney a copy of such decision, together with a  
22 notification of the time when it was filed. As of the effective  
23 date of this amendatory Act of the 94th General Assembly, all  
24 decisions of the Arbitrator shall set forth in writing findings  
25 of fact and conclusions of law, separately stated, if requested  
26 by either party. Unless a petition for review is filed by

1 either party within 30 days after the receipt by such party of  
2 the copy of the decision and notification of time when filed,  
3 and unless such party petitioning for a review shall within 35  
4 days after the receipt by him of the copy of the decision, file  
5 with the Commission either an agreed statement of the facts  
6 appearing upon the hearing before the Arbitrator, or if such  
7 party shall so elect a correct transcript of evidence of the  
8 proceedings at such hearings, then the decision shall become  
9 the decision of the Commission and in the absence of fraud  
10 shall be conclusive. The Petition for Review shall contain a  
11 statement of the petitioning party's specific exceptions to the  
12 decision of the arbitrator. The jurisdiction of the Commission  
13 to review the decision of the arbitrator shall not be limited  
14 to the exceptions stated in the Petition for Review. The  
15 Commission, or any member thereof, may grant further time not  
16 exceeding 30 days, in which to file such agreed statement or  
17 transcript of evidence. Such agreed statement of facts or  
18 correct transcript of evidence, as the case may be, shall be  
19 authenticated by the signatures of the parties or their  
20 attorneys, and in the event they do not agree as to the  
21 correctness of the transcript of evidence it shall be  
22 authenticated by the signature of the Arbitrator designated by  
23 the Commission.

24 Whether the employee is working or not, if the employee is  
25 not receiving or has not received medical, surgical, or  
26 hospital services or other services or compensation as provided

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

1 expedited hearing by an arbitrator. Neither party shall be  
2 entitled to an expedited hearing when the employee has returned  
3 to work and the sole issue in dispute amounts to less than 12  
4 weeks of unpaid compensation pursuant to paragraph (b) of  
5 Section 8 of the Workers' Compensation Act.

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

16 Where 2 or more insurance carriers, private self-insureds,  
17 or a group workers' compensation pool under Article V 3/4 of  
18 the Illinois Insurance Code dispute coverage for the same  
19 disease, any such insurance carrier, private self-insured, or  
20 group workers' compensation pool may request an expedited  
21 hearing pursuant to this paragraph to determine the issue of  
22 coverage, provided coverage is the only issue in dispute and  
23 all other issues are stipulated and agreed to and further  
24 provided that all compensation benefits including medical  
25 benefits pursuant to Section 8(a) of the Workers' Compensation  
26 Act continue to be paid to or on behalf of petitioner. Any

1 insurance carrier, private self-insured, or group workers'  
2 compensation pool that is determined to be liable for coverage  
3 for the disease in issue shall reimburse any insurance carrier,  
4 private self-insured, or group workers' compensation pool that  
5 has paid benefits to or on behalf of petitioner for the  
6 disease.

7 (b-1) If the employee is not receiving, pursuant to Section  
8 7, medical, surgical or hospital services of the type provided  
9 for in paragraph (a) of Section 8 of the Workers' Compensation  
10 Act or compensation of the type provided for in paragraph (b)  
11 of Section 8 of the Workers' Compensation Act, the employee, in  
12 accordance with Commission Rules, may file a petition for an  
13 emergency hearing by an Arbitrator on the issue of whether or  
14 not he is entitled to receive payment of such compensation or  
15 services as provided therein. Such petition shall have priority  
16 over all other petitions and shall be heard by the Arbitrator  
17 and Commission with all convenient speed.

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

21 (i) the date and approximate time of the last exposure;

22 (ii) the approximate location of the last exposure;

23 (iii) a description of the last exposure;

24 (iv) the nature of the disability incurred by the  
25 employee;

26 (v) the identity of the person, if known, to whom the

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

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

11 (vii) a statement that the employer has refused to pay  
12 compensation pursuant to Section 7 of the type provided for  
13 in paragraph (b) of Section 8 of the Workers' Compensation  
14 Act or for medical, surgical or hospital services pursuant  
15 to Section 7 of the type provided for in paragraph (a) of  
16 Section 8 of the Workers' Compensation Act;

17 (viii) the name and address, if known, of each witness  
18 to the last exposure and of each other person upon whom the  
19 employee will rely to support his allegations;

20 (ix) the dates of treatment related to the disability  
21 by medical practitioners, and the names and addresses of  
22 such practitioners, including the dates of treatment  
23 related to the disability at any hospitals and the names  
24 and addresses of such hospitals, and a signed authorization  
25 permitting the employer to examine all medical records of  
26 all practitioners and hospitals named pursuant to this



1 paragraph;

2 (x) a copy of a signed report by a medical  
3 practitioner, relating to the employee's current inability  
4 to return to work because of the disability incurred as a  
5 result of the exposure or such other documents or  
6 affidavits which show that the employee is entitled to  
7 receive pursuant to Section 7 compensation of the type  
8 provided for in paragraph (b) of Section 8 of the Workers'  
9 Compensation Act or medical, surgical or hospital services  
10 of the type provided for in paragraph (a) of Section 8 of  
11 the Workers' Compensation Act. Such reports, documents or  
12 affidavits shall state, if possible, the history of the  
13 exposure given by the employee, and describe the disability  
14 and medical diagnosis, the medical services for such  
15 disability which the employee has received and is  
16 receiving, the physical activities which the employee  
17 cannot currently perform as a result of such disability,  
18 and the prognosis for recovery;

19 (xi) complete copies of any reports, records,  
20 documents and affidavits in the possession of the employee  
21 on which the employee will rely to support his allegations,  
22 provided that the employer shall pay the reasonable cost of  
23 reproduction thereof;

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

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

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

15          The employer shall, within 15 days after receipt of the  
16          notice that such petition is filed, file with the Commission  
17          and serve on the employee or his representative a written  
18          response to each claim set forth in the petition, including the  
19          legal and factual basis for each disputed allegation and the  
20          following information: (i) complete copies of any reports,  
21          records, documents and affidavits in the possession of the  
22          employer on which the employer intends to rely in support of  
23          his response, (ii) a list of any reports, records, documents  
24          and affidavits which the employer has demanded by subpoena and  
25          on which the employer intends to rely in support of his  
26          response, (iii) the name and address of each witness on whom

1 the employer will rely to support his response, and (iv) the  
2 names and addresses of any medical practitioners selected by  
3 the employer pursuant to Section 12 of this Act and the time  
4 and place of any examination scheduled to be made pursuant to  
5 such Section.

6 Any employer who does not timely file and serve a written  
7 response without good cause may not introduce any evidence to  
8 dispute any claim of the employee but may cross examine the  
9 employee or any witness brought by the employee and otherwise  
10 be heard.

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

23 The Commission shall adopt rules, regulations and  
24 procedures whereby the final decision of the Commission is  
25 filed not later than 90 days from the date the petition for  
26 review is filed but in no event later than 180 days from the

1 date the petition for an emergency hearing is filed with the  
2 Illinois Workers' Compensation Commission.

3 All service required pursuant to this paragraph (b-1) must  
4 be by personal service or by certified mail and with evidence  
5 of receipt. In addition, for the purposes of this paragraph,  
6 all service on the employer must be at the premises where the  
7 accident occurred if the premises are owned or operated by the  
8 employer. Otherwise service must be at the employee's principal  
9 place of employment by the employer. If service on the employer  
10 is not possible at either of the above, then service shall be  
11 at the employer's principal place of business. After initial  
12 service in each case, service shall be made on the employer's  
13 attorney or designated representative.

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

25 (2) Should the Commission at any time during the hearing  
26 find that compelling considerations make it advisable to have

1 an examination and report at that time, the Commission may in  
2 its discretion so order.

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

5 (4) Either party or the Commission may call the examining  
6 physician or physicians to testify. Any physician so called  
7 shall be subject to cross-examination.

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

14 The fees and payment thereof of all attorneys and  
15 physicians for services authorized by the Commission under this  
16 Act shall, upon request of either the employer or the employee  
17 or the beneficiary affected, be subject to the review and  
18 decision of the Commission.

19 (d) If any employee shall persist in insanitary or  
20 injurious practices which tend to either imperil or retard his  
21 recovery or shall refuse to submit to such medical, surgical,  
22 or hospital treatment as is reasonably essential to promote his  
23 recovery, the Commission may, in its discretion, reduce or  
24 suspend the compensation of any such employee; provided, that  
25 when an employer and employee so agree in writing, the  
26 foregoing provision shall not be construed to authorize the

1 reduction or suspension of compensation of an employee who is  
2 relying in good faith, on treatment by prayer or spiritual  
3 means alone, in accordance with the tenets and practice of a  
4 recognized church or religious denomination, by a duly  
5 accredited practitioner thereof.

6 (e) This paragraph shall apply to all hearings before the  
7 Commission. Such hearings may be held in its office or  
8 elsewhere as the Commission may deem advisable. The taking of  
9 testimony on such hearings may be had before any member of the  
10 Commission. If a petition for review and agreed statement of  
11 facts or transcript of evidence is filed, as provided herein,  
12 the Commission shall promptly review the decision of the  
13 Arbitrator and all questions of law or fact which appear from  
14 the statement of facts or transcripts of evidence. In all cases  
15 in which the hearing before the arbitrator is held after the  
16 effective date of this amendatory Act of 1989, no additional  
17 evidence shall be introduced by the parties before the  
18 Commission on review of the decision of the Arbitrator. The  
19 Commission shall file in its office its decision thereon, and  
20 shall immediately send to each party or his attorney a copy of  
21 such decision and a notification of the time when it was filed.  
22 Decisions shall be filed within 60 days after the Statement of  
23 Exceptions and Supporting Brief and Response thereto are  
24 required to be filed or oral argument whichever is later.

25 In the event either party requests oral argument, such  
26 argument shall be had before a panel of 3 members of the

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

23 In any case the Commission in its decision may in its  
24 discretion find specially upon any question or questions of law  
25 or facts which shall be submitted in writing by either party  
26 whether ultimate or otherwise; provided that on issues other

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

20 If a reporter does not for any reason furnish a transcript  
21 of the proceedings before the Arbitrator in any case for use on  
22 a hearing for review before the Commission, within the  
23 limitations of time as fixed in this Section, the Commission  
24 may, in its discretion, order a trial de novo before the  
25 Commission in such case upon application of either party. The  
26 applications for adjustment of claim and other documents in the



1 nature of pleadings filed by either party, together with the  
2 decisions of the Arbitrator and of the Commission and the  
3 statement of facts or transcript of evidence hereinbefore  
4 provided for in paragraphs (b) and (c) shall be the record of  
5 the proceedings of the Commission, and shall be subject to  
6 review as hereinafter provided.

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

1           Decisions rendered by the Commission after the effective  
2 date of this amendatory Act of 1980 and dissents, if any, shall  
3 be published together by the Commission. The conclusions of law  
4 set out in such decisions shall be regarded as precedents by  
5 arbitrators, for the purpose of achieving a more uniform  
6 administration of this Act.

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

21           (1) Except in cases of claims against the State of  
22 Illinois, in which case the decision of the Commission  
23 shall not be subject to judicial review, the Circuit Court  
24 of the county where any of the parties defendant may be  
25 found, or if none of the parties defendant be found in this  
26 State then the Circuit Court of the county where any of the

1 exposure occurred, shall by summons to the Commission have  
2 power to review all questions of law and fact presented by  
3 such record.

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

1 record and the clerk of the court shall make certificate  
2 that he has so sent such notices in pursuance of this  
3 Section, which shall be evidence of service on the  
4 Commission and other parties in interest.

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

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

1 in writing to the Secretary or Assistant Secretary of the  
2 Commission.

3 (2) No such summons shall issue unless the one against  
4 whom the Commission shall have rendered an award for the  
5 payment of money shall upon the filing of his written  
6 request for such summons file with the clerk of the court a  
7 bond conditioned that if he shall not successfully  
8 prosecute the review, he will pay the award and the costs  
9 of the proceedings in the court. The amount of the bond  
10 shall be fixed by any member of the Commission and the  
11 surety or sureties of the bond shall be approved by the  
12 clerk of the court. The acceptance of the bond by the clerk  
13 of the court shall constitute evidence of his approval of  
14 the bond.

15 Every county, city, town, township, incorporated  
16 village, school district, body politic or municipal  
17 corporation having a population of 500,000 or more against  
18 whom the Commission shall have rendered an award for the  
19 payment of money shall not be required to file a bond to  
20 secure the payment of the award and the costs of the  
21 proceedings in the court to authorize the court to issue  
22 such summons.

23 The court may confirm or set aside the decision of the  
24 Commission. If the decision is set aside and the facts  
25 found in the proceedings before the Commission are  
26 sufficient, the court may enter such decision as is

1 justified by law, or may remand the cause to the Commission  
2 for further proceedings and may state the questions  
3 requiring further hearing, and give such other  
4 instructions as may be proper. Appeals shall be taken to  
5 the Appellate Court in accordance with Supreme Court Rules  
6 22(g) and 303. Appeals shall be taken from the Appellate  
7 Court to the Supreme Court in accordance with Supreme Court  
8 Rule 315.

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

13 The decision of a majority of the members of the panel  
14 of the Commission, shall be considered the decision of the  
15 Commission.

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

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

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

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

26 However, as to disablements occurring subsequently to July

1 1, 1955, which are covered by any agreement or award under this  
2 Act providing for compensation in installments made as a result  
3 of such disablement, such agreement or award may at any time  
4 within 30 months after such agreement or award be reviewed by  
5 the Commission at the request of either the employer or the  
6 employee on the ground that the disability of the employee has  
7 subsequently recurred, increased, diminished or ended.

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

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

25 (i) Each party, upon taking any proceedings or steps  
26 whatsoever before any Arbitrator, Commission or court, shall



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

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

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

1 payable at the time of such award. Failure to pay compensation  
2 in accordance with the provisions of Section 8, paragraph (b)  
3 of this Act, shall be considered unreasonable delay.

4 When determining whether this subsection (k) shall apply,  
5 the Commission shall consider whether an arbitrator has  
6 determined that the claim is not compensable or whether the  
7 employer has made payments under Section 8(j) of the Workers'  
8 Compensation Act.

9 (k-1) If the employee has made written demand for payment  
10 of benefits under Section 8(a) or Section 8(b) of the Workers'  
11 Compensation Act, the employer shall have 14 days after receipt  
12 of the demand to set forth in writing the reason for the delay.  
13 In the case of demand for payment of medical benefits under  
14 Section 8(a) of the Workers' Compensation Act, the time for the  
15 employer to respond shall not commence until the expiration of  
16 the allotted 60 days specified under Section 8.2(d) of the  
17 Workers' Compensation Act. In case the employer or his or her  
18 insurance carrier shall without good and just cause fail,  
19 neglect, refuse, or unreasonably delay the payment of benefits  
20 under Section 8(a) or Section 8(b) of the Workers' Compensation  
21 Act, the Arbitrator or the Commission shall allow to the  
22 employee additional compensation in the sum of \$30 per day for  
23 each day that the benefits under Section 8(a) or Section 8(b)  
24 of the Workers' Compensation Act have been so withheld or  
25 refused, not to exceed \$10,000. A delay in payment of 14 days  
26 or more shall create a rebuttable presumption of unreasonable

1 delay.

2 (1) By the 15th day of each month each insurer providing  
3 coverage for losses under this Act shall notify each insured  
4 employer of any compensable claim incurred during the preceding  
5 month and the amounts paid or reserved on the claim including a  
6 summary of the claim and a brief statement of the reasons for  
7 compensability. A cumulative report of all claims incurred  
8 during a calendar year or continued from the previous year  
9 shall be furnished to the insured employer by the insurer  
10 within 30 days after the end of that calendar year.

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

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

1 subsection (f) of Section 19. The Advisory Board established  
2 under Section 13.1 of the Workers' Compensation Act shall  
3 compile a list of certified Commission arbitrators, each of  
4 whom shall be approved by at least 7 members of the Advisory  
5 Board. The chairman shall select 5 persons from such list to  
6 serve as arbitrators under this subsection (m). By agreement,  
7 the parties shall select one arbitrator from among the 5  
8 persons selected by the chairman except, that if the parties do  
9 not agree on an arbitrator from among the 5 persons, the  
10 parties may, by agreement, select an arbitrator of the American  
11 Arbitration Association, whose fee shall be paid by the State  
12 in accordance with rules promulgated by the Commission.  
13 Arbitration under this subsection (m) shall be voluntary.  
14 (Source: P.A. 98-40, eff. 6-28-13.)