

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

24 Any individual employer, corporate officer or director of a
25 corporate employer, partner of an employer partnership, or
26 member of an employer limited liability company who knowingly

1 fails to provide coverage as required by paragraph (a) of this
2 Section is guilty of a Class 4 felony. This provision shall not
3 apply to any corporate officer or director of any
4 publicly-owned corporation. Each day's violation constitutes a
5 separate offense. The State's Attorney of the county in which
6 the violation occurred, or the Attorney General, shall bring
7 such actions in the name of the People of the State of
8 Illinois, or may, in addition to other remedies provided in
9 this Section, bring an action for an injunction to restrain the
10 violation or to enjoin the operation of any such employer.

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

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

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

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

26 All proceedings under this subsection (d) shall be reported

1 on an annual basis to the Workers' Compensation Advisory Board.

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

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

1 such failure or refusal after the effective date of this
2 amendatory Act of 1989. The minimum penalty under this Section
3 shall be the sum of \$10,000. Each day of such failure or
4 refusal shall constitute a separate offense. The Commission may
5 assess the civil penalty personally and individually against
6 the corporate officers and directors of a corporate employer,
7 the partners of an employer partnership, and the members of an
8 employer limited liability company, after a finding of a
9 knowing and willful refusal or failure of each such named
10 corporate officer, director, partner, or member to comply with
11 this Section. The liability for the assessed penalty shall be
12 against the named employer first, and if the named employer
13 fails or refuses to pay the penalty to the Commission within 30
14 days after the final order of the Commission, then the named
15 corporate officers, directors, partners, or members who have
16 been found to have knowingly and willfully refused or failed to
17 comply with this Section shall be liable for the unpaid penalty
18 or any unpaid portion of the penalty. Upon investigation by the
19 insurance non-compliance unit of the Commission, the Attorney
20 General shall have the authority to prosecute all proceedings
21 to enforce the civil and administrative provisions of this
22 Section before the Commission. The Commission shall promulgate
23 procedural rules for enforcing this Section.

24 Upon the failure or refusal of any employer, service or
25 adjustment company or insurance carrier to comply with the
26 provisions of this Section and with the orders of the

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

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

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

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

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

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

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

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

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

26 In the event the employer does not pay the compensation for

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

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

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

24 (i) If an employer elects to obtain a life insurance policy
25 on his employees, he may also elect to apply such benefits in
26 satisfaction of all or a portion of the death benefits payable

1 under this Act, in which case, the employer's compensation
2 premium shall be reduced accordingly.

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

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

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

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

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

15 (820 ILCS 305/8.3)

16 Sec. 8.3. Workers' Compensation Medical Fee Advisory
17 Board. There is created a Workers' Compensation Medical Fee
18 Advisory Board consisting of 9 members appointed by the
19 Governor with the advice and consent of the Senate. Three
20 members of the Advisory Board shall be representatives of a
21 labor organization recognized under the National Labor
22 Relations Act or an attorney who has represented labor
23 organizations or has represented employees in workers'
24 compensation cases ~~representative citizens chosen from the~~
25 ~~employee class~~, 3 members shall be representative citizens

1 chosen from the employing class, and 3 members shall be
2 representative citizens chosen from the medical provider
3 class. Each member shall serve a 4-year term and shall continue
4 to serve until a successor is appointed. A vacancy on the
5 Advisory Board shall be filled by the Governor for the
6 unexpired term.

7 Members of the Advisory Board shall receive no compensation
8 for their services but shall be reimbursed for expenses
9 incurred in the performance of their duties by the Commission
10 from appropriations made to the Commission for that purpose.

11 The Advisory Board shall advise the Commission on
12 establishment of fees for medical services and accessibility of
13 medical treatment.

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

15 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

16 Sec. 13. There is created an Illinois Workers' Compensation
17 Commission consisting of 10 members to be appointed by the
18 Governor, by and with the consent of the Senate, 3 of whom
19 shall be representative citizens of the employing class
20 operating under this Act and 3 of whom shall be from a labor
21 organization recognized under the National Labor Relations Act
22 or an attorney who has represented labor organizations or has
23 represented employees in workers' compensation cases,
24 ~~representative citizens of the class of employees covered under~~
25 ~~this Act,~~ and 4 of whom shall be representative citizens not

1 identified with either the employing or employee classes. Not
2 more than 6 members of the Commission shall be of the same
3 political party.

4 One of the members not identified with either the employing
5 or employee classes shall be designated by the Governor as
6 Chairman. The Chairman shall be the chief administrative and
7 executive officer of the Commission; and he or she shall have
8 general supervisory authority over all personnel of the
9 Commission, including arbitrators and Commissioners, and the
10 final authority in all administrative matters relating to the
11 Commissioners, including but not limited to the assignment and
12 distribution of cases and assignment of Commissioners to the
13 panels, except in the promulgation of procedural rules and
14 orders under Section 16 and in the determination of cases under
15 this Act.

16 Notwithstanding the general supervisory authority of the
17 Chairman, each Commissioner, except those assigned to the
18 temporary panel, shall have the authority to hire and supervise
19 2 staff attorneys each. Such staff attorneys shall report
20 directly to the individual Commissioner.

21 A formal training program for newly-appointed
22 Commissioners shall be implemented. The training program shall
23 include the following:

24 (a) substantive and procedural aspects of the office of
25 Commissioner;

26 (b) current issues in workers' compensation law and

1 practice;

2 (c) medical lectures by specialists in areas such as
3 orthopedics, ophthalmology, psychiatry, rehabilitation
4 counseling;

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

7 (e) observation of experienced arbitrators and
8 Commissioners conducting hearings of cases, combined with
9 the opportunity to discuss evidence presented and rulings
10 made;

11 (f) the use of hypothetical cases requiring the
12 newly-appointed Commissioner to issue judgments as a means
13 to evaluating knowledge and writing ability;

14 (g) writing skills;

15 (h) professional and ethical standards pursuant to
16 Section 1.1 of this Act;

17 (i) detection of workers' compensation fraud and
18 reporting obligations of Commission employees and
19 appointees;

20 (j) standards of evidence-based medical treatment and
21 best practices for measuring and improving quality and
22 health care outcomes in the workers' compensation system,
23 including but not limited to the use of the American
24 Medical Association's "Guides to the Evaluation of
25 Permanent Impairment" and the practice of utilization
26 review; and

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

3 A formal and ongoing professional development program
4 including, but not limited to, the above-noted areas shall be
5 implemented to keep Commissioners informed of recent
6 developments and issues and to assist them in maintaining and
7 enhancing their professional competence. Each Commissioner
8 shall complete 20 hours of training in the above-noted areas
9 during every 2 years such Commissioner shall remain in office.

10 The Commissioner candidates, other than the Chairman, must
11 meet one of the following qualifications: (a) licensed to
12 practice law in the State of Illinois; or (b) served as an
13 arbitrator at the Illinois Workers' Compensation Commission
14 for at least 3 years; or (c) has at least 4 years of
15 professional labor relations experience. The Chairman
16 candidate must have public or private sector management and
17 budget experience, as determined by the Governor.

18 Each Commissioner shall devote full time to his duties and
19 any Commissioner who is an attorney-at-law shall not engage in
20 the practice of law, nor shall any Commissioner hold any other
21 office or position of profit under the United States or this
22 State or any municipal corporation or political subdivision of
23 this State, nor engage in any other business, employment, or
24 vocation.

25 The term of office of each member of the Commission holding
26 office on the effective date of this amendatory Act of 1989 is

1 abolished, but the incumbents shall continue to exercise all of
2 the powers and be subject to all of the duties of Commissioners
3 until their respective successors are appointed and qualified.

4 The Illinois Workers' Compensation Commission shall
5 administer this Act.

6 In the promulgation of procedural rules, the determination
7 of cases heard en banc, and other matters determined by the
8 full Commission, the Chairman's vote shall break a tie in the
9 event of a tie vote.

10 The members shall be appointed by the Governor, with the
11 advice and consent of the Senate, as follows:

12 (a) After the effective date of this amendatory Act of
13 1989, 3 members, at least one of each political party, and
14 one of whom shall be a representative citizen of the
15 employing class operating under this Act, one of whom shall
16 be a representative citizen of the class of employees
17 covered under this Act, and one of whom shall be a
18 representative citizen not identified with either the
19 employing or employee classes, shall be appointed to hold
20 office until the third Monday in January of 1993, and until
21 their successors are appointed and qualified, and 4
22 members, one of whom shall be a representative citizen of
23 the employing class operating under this Act, one of whom
24 shall be a representative citizen of the class of employees
25 covered in this Act, and two of whom shall be
26 representative citizens not identified with either the

1 employing or employee classes, one of whom shall be
2 designated by the Governor as Chairman (at least one of
3 each of the two major political parties) shall be appointed
4 to hold office until the third Monday of January in 1991,
5 and until their successors are appointed and qualified.

6 (a-5) Notwithstanding any other provision of this
7 Section, the term of each member of the Commission who was
8 appointed by the Governor and is in office on June 30, 2003
9 shall terminate at the close of business on that date or
10 when all of the successor members to be appointed pursuant
11 to this amendatory Act of the 93rd General Assembly have
12 been appointed by the Governor, whichever occurs later. As
13 soon as possible, the Governor shall appoint persons to
14 fill the vacancies created by this amendatory Act. Of the
15 initial commissioners appointed pursuant to this
16 amendatory Act of the 93rd General Assembly, 3 shall be
17 appointed for terms ending on the third Monday in January,
18 2005, and 4 shall be appointed for terms ending on the
19 third Monday in January, 2007.

20 (a-10) After the effective date of this amendatory Act
21 of the 94th General Assembly, the Commission shall be
22 increased to 10 members. As soon as possible after the
23 effective date of this amendatory Act of the 94th General
24 Assembly, the Governor shall appoint, by and with the
25 consent of the Senate, the 3 members added to the
26 Commission under this amendatory Act of the 94th General

1 Assembly, one of whom shall be a representative citizen of
2 the employing class operating under this Act, one of whom
3 shall be a representative of the class of employees covered
4 under this Act, and one of whom shall be a representative
5 citizen not identified with either the employing or
6 employee classes. Of the members appointed under this
7 amendatory Act of the 94th General Assembly, one shall be
8 appointed for a term ending on the third Monday in January,
9 2007, and 2 shall be appointed for terms ending on the
10 third Monday in January, 2009, and until their successors
11 are appointed and qualified.

12 (b) Members shall thereafter be appointed to hold
13 office for terms of 4 years from the third Monday in
14 January of the year of their appointment, and until their
15 successors are appointed and qualified. All such
16 appointments shall be made so that the composition of the
17 Commission is in accordance with the provisions of the
18 first paragraph of this Section.

19 The Chairman shall receive an annual salary of \$42,500, or
20 a salary set by the Compensation Review Board, whichever is
21 greater, and each other member shall receive an annual salary
22 of \$38,000, or a salary set by the Compensation Review Board,
23 whichever is greater.

24 In case of a vacancy in the office of a Commissioner during
25 the recess of the Senate, the Governor shall make a temporary
26 appointment until the next meeting of the Senate, when he shall

1 nominate some person to fill such office. Any person so
2 nominated who is confirmed by the Senate shall hold office
3 during the remainder of the term and until his successor is
4 appointed and qualified.

5 The Illinois Workers' Compensation Commission created by
6 this amendatory Act of 1989 shall succeed to all the rights,
7 powers, duties, obligations, records and other property and
8 employees of the Industrial Commission which it replaces as
9 modified by this amendatory Act of 1989 and all applications
10 and reports to actions and proceedings of such prior Industrial
11 Commission shall be considered as applications and reports to
12 actions and proceedings of the Illinois Workers' Compensation
13 Commission created by this amendatory Act of 1989.

14 Notwithstanding any other provision of this Act, in the
15 event the Chairman shall make a finding that a member is or
16 will be unavailable to fulfill the responsibilities of his or
17 her office, the Chairman shall advise the Governor and the
18 member in writing and shall designate a certified arbitrator to
19 serve as acting Commissioner. The certified arbitrator shall
20 act as a Commissioner until the member resumes the duties of
21 his or her office or until a new member is appointed by the
22 Governor, by and with the consent of the Senate, if a vacancy
23 occurs in the office of the Commissioner, but in no event shall
24 a certified arbitrator serve in the capacity of Commissioner
25 for more than 6 months from the date of appointment by the
26 Chairman. A finding by the Chairman that a member is or will be

1 unavailable to fulfill the responsibilities of his or her
2 office shall be based upon notice to the Chairman by a member
3 that he or she will be unavailable or facts and circumstances
4 made known to the Chairman which lead him to reasonably find
5 that a member is unavailable to fulfill the responsibilities of
6 his or her office. The designation of a certified arbitrator to
7 act as a Commissioner shall be considered representative of
8 citizens not identified with either the employing or employee
9 classes and the arbitrator shall serve regardless of his or her
10 political affiliation. A certified arbitrator who serves as an
11 acting Commissioner shall have all the rights and powers of a
12 Commissioner, including salary.

13 Notwithstanding any other provision of this Act, the
14 Governor shall appoint a special panel of Commissioners
15 comprised of 3 members who shall be chosen by the Governor, by
16 and with the consent of the Senate, from among the current
17 ranks of certified arbitrators. Three members shall hold office
18 until the Commission in consultation with the Governor
19 determines that the caseload on review has been reduced
20 sufficiently to allow cases to proceed in a timely manner or
21 for a term of 18 months from the effective date of their
22 appointment by the Governor, whichever shall be earlier. The 3
23 members shall be considered representative of citizens not
24 identified with either the employing or employee classes and
25 shall serve regardless of political affiliation. Each of the 3
26 members shall have only such rights and powers of a

1 Commissioner necessary to dispose of those cases assigned to
2 the special panel. Each of the 3 members appointed to the
3 special panel shall receive the same salary as other
4 Commissioners for the duration of the panel.

5 The Commission may have an Executive Director; if so, the
6 Executive Director shall be appointed by the Governor with the
7 advice and consent of the Senate. The salary and duties of the
8 Executive Director shall be fixed by the Commission.

9 On the effective date of this amendatory Act of the 93rd
10 General Assembly, the name of the Industrial Commission is
11 changed to the Illinois Workers' Compensation Commission.
12 References in any law, appropriation, rule, form, or other
13 document: (i) to the Industrial Commission are deemed, in
14 appropriate contexts, to be references to the Illinois Workers'
15 Compensation Commission for all purposes; (ii) to the
16 Industrial Commission Operations Fund are deemed, in
17 appropriate contexts, to be references to the Illinois Workers'
18 Compensation Commission Operations Fund for all purposes;
19 (iii) to the Industrial Commission Operations Fund Fee are
20 deemed, in appropriate contexts, to be references to the
21 Illinois Workers' Compensation Commission Operations Fund Fee
22 for all purposes; and (iv) to the Industrial Commission
23 Operations Fund Surcharge are deemed, in appropriate contexts,
24 to be references to the Illinois Workers' Compensation
25 Commission Operations Fund Surcharge for all purposes.

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

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

2 Sec. 13.1. (a) There is created a Workers' Compensation
3 Advisory Board hereinafter referred to as the Advisory Board.
4 After the effective date of this amendatory Act of the 94th
5 General Assembly, the Advisory Board shall consist of 12
6 members appointed by the Governor with the advice and consent
7 of the Senate. Six members of the Advisory Board shall be
8 representative citizens chosen from a labor organization
9 recognized under the National Labor Relations Act or an
10 attorney who has represented labor organizations or has
11 represented employees in workers' compensation cases ~~the~~
12 ~~employee class~~, and 6 members shall be representative citizens
13 chosen from the employing class. The Chairman of the Commission
14 shall serve as the ex officio Chairman of the Advisory Board.
15 After the effective date of this amendatory Act of the 94th
16 General Assembly, each member of the Advisory Board shall serve
17 a term ending on the third Monday in January 2007 and shall
18 continue to serve until his or her successor is appointed and
19 qualified. Members of the Advisory Board shall thereafter be
20 appointed for 4 year terms from the third Monday in January of
21 the year of their appointment, and until their successors are
22 appointed and qualified. Seven members of the Advisory Board
23 shall constitute a quorum to do business, but in no case shall
24 there be less than one representative from each class. A
25 vacancy on the Advisory Board shall be filled by the Governor

1 for the unexpired term.

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

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

18 (d) The terms of all Advisory Board members serving on the
19 effective date of this amendatory Act of the 97th General
20 Assembly are terminated. The Governor shall appoint new members
21 to the Advisory Board within 30 days after the effective date
22 of the amendatory Act of the 97th General Assembly, subject to
23 the advice and consent of the Senate.

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

25 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 be held before all available members of the Commission)
2 pursuant to the rules and regulations of the Commission. A
3 panel of 3 members, which shall be comprised of not more than
4 one representative citizen of the employing class and not more
5 than one representative from a labor organization recognized
6 under the National Labor Relations Act or an attorney who has
7 represented labor organizations or has represented employees
8 in workers' compensation cases ~~citizen of the employee class,~~
9 shall hear the argument; provided that if all the issues in
10 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 find
24 specially upon any question or questions of law or fact which
25 shall be submitted in writing by either party whether ultimate
26 or otherwise; provided that on issues other than nature and

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

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

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

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

26 Decisions rendered by the Commission and dissents, if any,

1 shall be published together by the Commission. The conclusions
2 of law set out in such decisions shall be regarded as
3 precedents by arbitrators for the purpose of achieving a more
4 uniform administration of this Act.

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

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

1 review all questions of law and fact presented by such
2 record.

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

1 that he has so sent said notices in pursuance of this
2 Section, which shall be evidence of service on the
3 Commission and other parties in interest.

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

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

1 the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

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

19 (a) It shall be the duty of the Commission upon
20 notification that the parties have failed to reach an agreement
21 to designate an Arbitrator.

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

24 A. The approximate date of the last day of the last

1 exposure and the approximate date of the disablement.

2 B. The general nature and character of the illness
3 or disease claimed.

4 C. The name and address of the employer by whom
5 employed on the last day of the last exposure and if
6 employed by any other employer after such last exposure
7 and before disablement the name and address of such
8 other employer or employers.

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

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

18 (3) Whenever any claimant misconceives his remedy and
19 files an application for adjustment of claim under this Act
20 and it is subsequently discovered, at any time before final
21 disposition of such cause, that the claim for disability or
22 death which was the basis for such application should
23 properly have been made under the Workers' Compensation
24 Act, then the provisions of Section 19 paragraph (a-1) of
25 the Workers' Compensation Act having reference to such
26 application shall apply.

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

22 (b) The Arbitrator shall make such inquiries and
23 investigations as he shall deem necessary and may examine and
24 inspect all books, papers, records, places, or premises
25 relating to the questions in dispute and hear such proper
26 evidence as the parties may submit.

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

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

14 The decision of the Arbitrator shall be filed with the
15 Commission which Commission shall immediately send to each
16 party or his attorney a copy of such decision, together with a
17 notification of the time when it was filed. As of the effective
18 date of this amendatory Act of the 94th General Assembly, all
19 decisions of the Arbitrator shall set forth in writing findings
20 of fact and conclusions of law, separately stated, if requested
21 by either party. Unless a petition for review is filed by
22 either party within 30 days after the receipt by such party of
23 the copy of the decision and notification of time when filed,
24 and unless such party petitioning for a review shall within 35
25 days after the receipt by him of the copy of the decision, file
26 with the Commission either an agreed statement of the facts

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

19 Whether the employee is working or not, if the employee is
20 not receiving or has not received medical, surgical, or
21 hospital services or other services or compensation as provided
22 in paragraph (a) of Section 8 of the Workers' Compensation Act,
23 or compensation as provided in paragraph (b) of Section 8 of
24 the Workers' Compensation Act, the employee may at any time
25 petition for an expedited hearing by an Arbitrator on the issue
26 of whether or not he or she is entitled to receive payment of

1 the services or compensation. Provided the employer continues
2 to pay compensation pursuant to paragraph (b) of Section 8 of
3 the Workers' Compensation Act, the employer may at any time
4 petition for an expedited hearing on the issue of whether or
5 not the employee is entitled to receive medical, surgical, or
6 hospital services or other services or compensation as provided
7 in paragraph (a) of Section 8 of the Workers' Compensation Act,
8 or compensation as provided in paragraph (b) of Section 8 of
9 the Workers' Compensation Act. When an employer has petitioned
10 for an expedited hearing, the employer shall continue to pay
11 compensation as provided in paragraph (b) of Section 8 of the
12 Workers' Compensation Act unless the arbitrator renders a
13 decision that the employee is not entitled to the benefits that
14 are the subject of the expedited hearing or unless the
15 employee's treating physician has released the employee to
16 return to work at his or her regular job with the employer or
17 the employee actually returns to work at any other job. If the
18 arbitrator renders a decision that the employee is not entitled
19 to the benefits that are the subject of the expedited hearing,
20 a petition for review filed by the employee shall receive the
21 same priority as if the employee had filed a petition for an
22 expedited hearing by an arbitrator. Neither party shall be
23 entitled to an expedited hearing when the employee has returned
24 to work and the sole issue in dispute amounts to less than 12
25 weeks of unpaid compensation pursuant to paragraph (b) of
26 Section 8 of the Workers' Compensation Act.

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

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

1 disease.

2 (b-1) If the employee is not receiving, pursuant to Section
3 7, medical, surgical or hospital services of the type provided
4 for in paragraph (a) of Section 8 of the Workers' Compensation
5 Act or compensation of the type provided for in paragraph (b)
6 of Section 8 of the Workers' Compensation Act, the employee, in
7 accordance with Commission Rules, may file a petition for an
8 emergency hearing by an Arbitrator on the issue of whether or
9 not he is entitled to receive payment of such compensation or
10 services as provided therein. Such petition shall have priority
11 over all other petitions and shall be heard by the Arbitrator
12 and Commission with all convenient speed.

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

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

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

18 (iii) a description of the last exposure;

19 (iv) the nature of the disability incurred by the
20 employee;

21 (v) the identity of the person, if known, to whom the
22 disability was reported and the date on which it was
23 reported;

24 (vi) the name and title of the person, if known,
25 representing the employer with whom the employee conferred
26 in any effort to obtain pursuant to Section 7 compensation

1 of the type provided for in paragraph (b) of Section 8 of
2 the Workers' Compensation Act or medical, surgical or
3 hospital services of the type provided for in paragraph (a)
4 of Section 8 of the Workers' Compensation Act and the date
5 of such conference;

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

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

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

23 (x) a copy of a signed report by a medical
24 practitioner, relating to the employee's current inability
25 to return to work because of the disability incurred as a
26 result of the exposure or such other documents or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 In the event either party requests oral argument, such
21 argument shall be had before a panel of 3 members of the
22 Commission (or before all available members pursuant to the
23 determination of 7 members of the Commission that such argument
24 be held before all available members of the Commission)
25 pursuant to the rules and regulations of the Commission. A
26 panel of 3 members, which shall be comprised of not more than

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

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

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

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

1 provided for in paragraphs (b) and (c) shall be the record of
2 the proceedings of the Commission, and shall be subject to
3 review as hereinafter provided.

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

24 Decisions rendered by the Commission after the effective
25 date of this amendatory Act of 1980 and dissents, if any, shall
26 be published together by the Commission. The conclusions of law

1 set out in such decisions shall be regarded as precedents by
2 arbitrators, for the purpose of achieving a more uniform
3 administration of this Act.

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

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

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

1 Commission and other parties in interest.

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

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

26 (2) No such summons shall issue unless the one against

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

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

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

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

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

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

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

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

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

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

23 However, as to disablements occurring subsequently to July
24 1, 1955, which are covered by any agreement or award under this
25 Act providing for compensation in installments made as a result
26 of such disablement, such agreement or award may at any time

1 within 30 months after such agreement or award be reviewed by
2 the Commission at the request of either the employer or the
3 employee on the ground that the disability of the employee has
4 subsequently recurred, increased, diminished or ended.

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

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

22 (i) Each party, upon taking any proceedings or steps
23 whatsoever before any Arbitrator, Commission or court, shall
24 file with the Commission his address, or the name and address
25 of any agent upon whom all notices to be given to such party
26 shall be served, either personally or by registered mail,

1 addressed to such party or agent at the last address so filed
2 with the Commission. In the event such party has not filed his
3 address, or the name and address of an agent as above provided,
4 service of any notice may be had by filing such notice with the
5 Commission.

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

17 (k) In any case where there has been any unreasonable or
18 vexatious delay of payment or intentional underpayment of
19 compensation, or proceedings have been instituted or carried on
20 by one liable to pay the compensation, which do not present a
21 real controversy, but are merely frivolous or for delay, then
22 the Commission may award compensation additional to that
23 otherwise payable under this Act equal to 50% of the amount
24 payable at the time of such award. Failure to pay compensation
25 in accordance with the provisions of Section 8, paragraph (b)
26 of this Act, shall be considered unreasonable delay.

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

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

25 (1) By the 15th day of each month each insurer providing
26 coverage for losses under this Act shall notify each insured

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

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

24 (m) After filing an application for adjustment of claim but
25 prior to the hearing on arbitration the parties may voluntarily
26 agree to submit such application for adjustment of claim for

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

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