



Sen. Andy Manar

Filed: 5/17/2019

10100HB2301sam001

LRB101 08580 TAE 60798 a

1 AMENDMENT TO HOUSE BILL 2301

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 2301 by replacing  
3 everything after the enacting clause with the following:

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~~.

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

2 (20 ILCS 5/5-155) (was 20 ILCS 5/5.04)

3 Sec. 5-155. In the Office of Mines and Minerals of the  
4 Department of Natural Resources. In the Office of Mines and  
5 Minerals of the Department of Natural Resources, there shall be  
6 a State Mining Board, which shall consist of 6 officers  
7 designated as mine officers and the Director of the Office of  
8 Mines and Minerals. Three officers shall be representatives of  
9 the employing class and 3 officers shall be chosen from a labor  
10 organization recognized under the National Labor Relations Act  
11 representing coal miners ~~of the employee class~~. The 6 mine  
12 officers shall be qualified as follows:

13 (1) Two mine officers from the employing class shall  
14 have at least 4 years' ~~years~~ experience in a supervisory  
15 capacity in an underground coal mine and each shall hold a  
16 certificate of competency as an Illinois ~~a~~ mine examiner or  
17 Illinois mine manager.

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

21 (3) Two mine officers chosen from a labor organization  
22 representing coal miners ~~from the employee class~~ shall have  
23 4 years experience in an underground coal mine and shall  
24 hold certificates ~~a first class certificate~~ of competency  
25 as an Illinois mine examiner.

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

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

6           (20 ILCS 5/5-540) (was 20 ILCS 5/6.28 and 5/7.01)

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

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

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

20          (225 ILCS 705/8.02) (from Ch. 96 1/2, par. 802)

21          Sec. 8.02. There is created in the Department of Natural  
22          Resources, Office of Mines and Minerals, a Miners' Examining  
23          Board which shall consist of 4 ~~four~~ miners' examining officers

1 to be appointed by the Governor, 2 of whom must be from a labor  
2 organization recognized under the National Labor Relations Act  
3 representing coal miners, for a term of 2 years and until their  
4 successors are appointed and qualified. Terms of office shall  
5 commence on the third Monday in January in each odd-numbered  
6 year. Three of such officers shall constitute a quorum.

7 This amendatory Act of 1995 does not affect the terms of  
8 members of the Miners' Examining Board holding office on the  
9 effective date of this amendatory Act of 1995.

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

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

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

3 Sec. 8.03. No person shall be appointed to the Miners'  
4 Examining Board who has not had at least 5 years' practical and  
5 continuous experience as an underground ~~a~~ coal miner. The  
6 members of the Miners' Examining Board shall hold certificates  
7 of competency as an Illinois mine examiner. Two of the members  
8 of the Miners' Examining Board shall be representatives of a  
9 labor organization recognized under the National Labor  
10 Relations Act representing coal miners. Two of the members of  
11 the Miners' Examining Board shall be from the employing class.~~7~~  
12 ~~and who has not been actually engaged in coal mining as a miner~~  
13 ~~in the State of Illinois continuously for 12 months next~~  
14 ~~preceding his appointment; except that a miners' examining~~  
15 ~~officer may be appointed to succeed himself.~~

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

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

19 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

20 Sec. 4. (a) Any employer, including but not limited to  
21 general contractors and their subcontractors, who shall come  
22 within the provisions of Section 3 of this Act, and any other  
23 employer who shall elect to provide and pay the compensation

1 provided for in this Act shall:

2 (1) File with the Commission annually an application  
3 for approval as a self-insurer which shall include a  
4 current financial statement, and annually, thereafter, an  
5 application for renewal of self-insurance, which shall  
6 include a current financial statement. Said application  
7 and financial statement shall be signed and sworn to by the  
8 president or vice president and secretary or assistant  
9 secretary of the employer if it be a corporation, or by all  
10 of the partners, if it be a copartnership, or by the owner  
11 if it be neither a copartnership nor a corporation. All  
12 initial applications and all applications for renewal of  
13 self-insurance must be submitted at least 60 days prior to  
14 the requested effective date of self-insurance. An  
15 employer may elect to provide and pay compensation as  
16 provided for in this Act as a member of a group workers'  
17 compensation pool under Article V 3/4 of the Illinois  
18 Insurance Code. If an employer becomes a member of a group  
19 workers' compensation pool, the employer shall not be  
20 relieved of any obligations imposed by this Act.

21 If the sworn application and financial statement of any  
22 such employer does not satisfy the Commission of the  
23 financial ability of the employer who has filed it, the  
24 Commission shall require such employer to,

25 (2) Furnish security, indemnity or a bond guaranteeing  
26 the payment by the employer of the compensation provided

1 for in this Act, provided that any such employer whose  
2 application and financial statement shall not have  
3 satisfied the commission of his or her financial ability  
4 and who shall have secured his liability in part by excess  
5 liability insurance shall be required to furnish to the  
6 Commission security, indemnity or bond guaranteeing his or  
7 her payment up to the effective limits of the excess  
8 coverage, or

9 (3) Insure his entire liability to pay such  
10 compensation in some insurance carrier authorized,  
11 licensed, or permitted to do such insurance business in  
12 this State. Every policy of an insurance carrier, insuring  
13 the payment of compensation under this Act shall cover all  
14 the employees and the entire compensation liability of the  
15 insured: Provided, however, that any employer may insure  
16 his or her compensation liability with 2 or more insurance  
17 carriers or may insure a part and qualify under subsection  
18 1, 2, or 4 for the remainder of his or her liability to pay  
19 such compensation, subject to the following two  
20 provisions:

21 Firstly, the entire compensation liability of the  
22 employer to employees working at or from one location  
23 shall be insured in one such insurance carrier or shall  
24 be self-insured, and

25 Secondly, the employer shall submit evidence  
26 satisfactorily to the Commission that his or her entire

1 liability for the compensation provided for in this Act  
2 will be secured. Any provisions in any policy, or in  
3 any endorsement attached thereto, attempting to limit  
4 or modify in any way, the liability of the insurance  
5 carriers issuing the same except as otherwise provided  
6 herein shall be wholly void.

7 Nothing herein contained shall apply to policies of  
8 excess liability carriage secured by employers who have  
9 been approved by the Commission as self-insurers, or

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

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

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

22 (A) the employer is engaged primarily in the building  
23 and construction industry; and

24 (B) subdivision (a) (3) of this Section applies to the  
25 employer or the employer is a member of a group  
26 self-insurance plan as defined in subsection (1) of Section



1 4a.

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

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

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

11 The penalty shall not exceed \$1,000 for each day of work  
12 for which the employer failed to make payments upon the premium  
13 rates of the situs where the work or project is located in  
14 Illinois, but the total penalty shall not exceed \$50,000 for  
15 each project or each contract under which the work was  
16 performed.

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

1 Section 25.5 of this Act.

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

7 (1) Any client company of the ELC listed as an  
8 additional named insured.

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

12 (3) Any certificate of insurance coverage document  
13 issued to a client company specifying its rights and  
14 obligations under the master policy that establishes both  
15 the identity and status of the client, as well as the dates  
16 of inception and termination of coverage, if applicable.

17 (b) The sworn application and financial statement, or  
18 security, indemnity or bond, or amount of insurance, or other  
19 provisions, filed, furnished, carried, or made by the employer,  
20 as the case may be, shall be subject to the approval of the  
21 Commission.

22 Deposits under escrow agreements shall be cash, negotiable  
23 United States government bonds or negotiable general  
24 obligation bonds of the State of Illinois. Such cash or bonds  
25 shall be deposited in escrow with any State or National Bank or  
26 Trust Company having trust authority in the State of Illinois.

1           Upon the approval of the sworn application and financial  
2 statement, security, indemnity or bond or amount of insurance,  
3 filed, furnished or carried, as the case may be, the Commission  
4 shall send to the employer written notice of its approval  
5 thereof. The certificate of compliance by the employer with the  
6 provisions of subparagraphs (2) and (3) of paragraph (a) of  
7 this Section shall be delivered by the insurance carrier to the  
8 Illinois Workers' Compensation Commission within five days  
9 after the effective date of the policy so certified. The  
10 insurance so certified shall cover all compensation liability  
11 occurring during the time that the insurance is in effect and  
12 no further certificate need be filed in case such insurance is  
13 renewed, extended or otherwise continued by such carrier. The  
14 insurance so certified shall not be cancelled or in the event  
15 that such insurance is not renewed, extended or otherwise  
16 continued, such insurance shall not be terminated until at  
17 least 10 days after receipt by the Illinois Workers'  
18 Compensation Commission of notice of the cancellation or  
19 termination of said insurance; provided, however, that if the  
20 employer has secured insurance from another insurance carrier,  
21 or has otherwise secured the payment of compensation in  
22 accordance with this Section, and such insurance or other  
23 security becomes effective prior to the expiration of the 10  
24 days, cancellation or termination may, at the option of the  
25 insurance carrier indicated in such notice, be effective as of  
26 the effective date of such other insurance or security.

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

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

19 All orders made by the Commission under this Section shall  
20 be subject to review by the courts, said review to be taken in  
21 the same manner and within the same time as provided by Section  
22 19 of this Act for review of awards and decisions of the  
23 Commission, upon the party seeking the review filing with the  
24 clerk of the court to which said review is taken a bond in an  
25 amount to be fixed and approved by the court to which the  
26 review is taken, conditioned upon the payment of all

1 compensation awarded against the person taking said review  
2 pending a decision thereof and further conditioned upon such  
3 other obligations as the court may impose. Upon the review the  
4 Circuit Court shall have power to review all questions of fact  
5 as well as of law. The penalty hereinafter provided for in this  
6 paragraph shall not attach and shall not begin to run until the  
7 final determination of the order of the Commission.

8 (d) Whenever a panel of 3 Commissioners comprised of one  
9 member of the employing class, one representative of a labor  
10 organization recognized under the National Labor Relations Act  
11 or an attorney who has represented labor organizations or has  
12 represented employees in workers' compensation cases ~~member of~~  
13 ~~the employee class~~, and one member not identified with either  
14 the employing class or a labor organization ~~or employee class~~,  
15 with due process and after a hearing, determines an employer  
16 has knowingly failed to provide coverage as required by  
17 paragraph (a) of this Section, the failure shall be deemed an  
18 immediate serious danger to public health, safety, and welfare  
19 sufficient to justify service by the Commission of a work-stop  
20 order on such employer, requiring the cessation of all business  
21 operations of such employer at the place of employment or job  
22 site. Any law enforcement agency in the State shall, at the  
23 request of the Commission, render any assistance necessary to  
24 carry out the provisions of this Section, including, but not  
25 limited to, preventing any employee of such employer from  
26 remaining at a place of employment or job site after a

1 work-stop order has taken effect. Any work-stop order shall be  
2 lifted upon proof of insurance as required by this Act. Any  
3 orders under this Section are appealable under Section 19(f) to  
4 the Circuit Court.

5 Any individual employer, corporate officer or director of a  
6 corporate employer, partner of an employer partnership, or  
7 member of an employer limited liability company who knowingly  
8 fails to provide coverage as required by paragraph (a) of this  
9 Section is guilty of a Class 4 felony. This provision shall not  
10 apply to any corporate officer or director of any  
11 publicly-owned corporation. Each day's violation constitutes a  
12 separate offense. The State's Attorney of the county in which  
13 the violation occurred, or the Attorney General, shall bring  
14 such actions in the name of the People of the State of  
15 Illinois, or may, in addition to other remedies provided in  
16 this Section, bring an action for an injunction to restrain the  
17 violation or to enjoin the operation of any such employer.

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

1 such actions in the name of the People of the State of  
2 Illinois.

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

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

25 An employee of an uninsured employer, or the employee's  
26 dependents in case death ensued, may, instead of proceeding



1 against the employer in a civil action in court, file an  
2 application for adjustment of claim with the Commission in  
3 accordance with the provisions of this Act and the Commission  
4 shall hear and determine the application for adjustment of  
5 claim in the manner in which other claims are heard and  
6 determined before the Commission.

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

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

21 Upon a finding by the Commission, after reasonable notice  
22 and hearing, of the knowing and wilful failure or refusal of an  
23 employer to comply with any of the provisions of paragraph (a)  
24 of this Section, the failure or refusal of an employer, service  
25 or adjustment company, or an insurance carrier to comply with  
26 any order of the Illinois Workers' Compensation Commission

1 pursuant to paragraph (c) of this Section disqualifying him or  
2 her to operate as a self insurer and requiring him or her to  
3 insure his or her liability, or the knowing and willful failure  
4 of an employer to comply with a citation issued by an  
5 investigator with the Illinois Workers' Compensation  
6 Commission Insurance Compliance Division, the Commission may  
7 assess a civil penalty of up to \$500 per day for each day of  
8 such failure or refusal after the effective date of this  
9 amendatory Act of 1989. The minimum penalty under this Section  
10 shall be the sum of \$10,000. Each day of such failure or  
11 refusal shall constitute a separate offense. The Commission may  
12 assess the civil penalty personally and individually against  
13 the corporate officers and directors of a corporate employer,  
14 the partners of an employer partnership, and the members of an  
15 employer limited liability company, after a finding of a  
16 knowing and willful refusal or failure of each such named  
17 corporate officer, director, partner, or member to comply with  
18 this Section. The liability for the assessed penalty shall be  
19 against the named employer first, and if the named employer  
20 fails or refuses to pay the penalty to the Commission within 30  
21 days after the final order of the Commission, then the named  
22 corporate officers, directors, partners, or members who have  
23 been found to have knowingly and willfully refused or failed to  
24 comply with this Section shall be liable for the unpaid penalty  
25 or any unpaid portion of the penalty. Upon investigation by the  
26 insurance non-compliance unit of the Commission, the Attorney

1 General shall have the authority to prosecute all proceedings  
2 to enforce the civil and administrative provisions of this  
3 Section before the Commission. The Commission shall promulgate  
4 procedural rules for enforcing this Section.

5 Upon the failure or refusal of any employer, service or  
6 adjustment company or insurance carrier to comply with the  
7 provisions of this Section and with the orders of the  
8 Commission under this Section, or the order of the court on  
9 review after final adjudication, the Commission may bring a  
10 civil action to recover the amount of the penalty in Cook  
11 County or in Sangamon County in which litigation the Commission  
12 shall be represented by the Attorney General. The Commission  
13 shall send notice of its finding of non-compliance and  
14 assessment of the civil penalty to the Attorney General. It  
15 shall be the duty of the Attorney General within 30 days after  
16 receipt of the notice, to institute prosecutions and promptly  
17 prosecute all reported violations of this Section.

18 Any individual employer, corporate officer or director of a  
19 corporate employer, partner of an employer partnership, or  
20 member of an employer limited liability company who, with the  
21 intent to avoid payment of compensation under this Act to an  
22 injured employee or the employee's dependents, knowingly  
23 transfers, sells, encumbers, assigns, or in any manner disposes  
24 of, conceals, secretes, or destroys any property belonging to  
25 the employer, officer, director, partner, or member is guilty  
26 of a Class 4 felony.

1 Penalties and fines collected pursuant to this paragraph  
2 (d) shall be deposited upon receipt into a special fund which  
3 shall be designated the Injured Workers' Benefit Fund, of which  
4 the State Treasurer is ex-officio custodian, such special fund  
5 to be held and disbursed in accordance with this paragraph (d)  
6 for the purposes hereinafter stated in this paragraph (d), upon  
7 the final order of the Commission. The Injured Workers' Benefit  
8 Fund shall be deposited the same as are State funds and any  
9 interest accruing thereon shall be added thereto every 6  
10 months. The Injured Workers' Benefit Fund is subject to audit  
11 the same as State funds and accounts and is protected by the  
12 general bond given by the State Treasurer. The Injured Workers'  
13 Benefit Fund is considered always appropriated for the purposes  
14 of disbursements as provided in this paragraph, and shall be  
15 paid out and disbursed as herein provided and shall not at any  
16 time be appropriated or diverted to any other use or purpose.  
17 Moneys in the Injured Workers' Benefit Fund shall be used only  
18 for payment of workers' compensation benefits for injured  
19 employees when the employer has failed to provide coverage as  
20 determined under this paragraph (d) and has failed to pay the  
21 benefits due to the injured employee. The Commission shall have  
22 the right to obtain reimbursement from the employer for  
23 compensation obligations paid by the Injured Workers' Benefit  
24 Fund. Any such amounts obtained shall be deposited by the  
25 Commission into the Injured Workers' Benefit Fund. If an  
26 injured employee or his or her personal representative receives

1 payment from the Injured Workers' Benefit Fund, the State of  
2 Illinois has the same rights under paragraph (b) of Section 5  
3 that the employer who failed to pay the benefits due to the  
4 injured employee would have had if the employer had paid those  
5 benefits, and any moneys recovered by the State as a result of  
6 the State's exercise of its rights under paragraph (b) of  
7 Section 5 shall be deposited into the Injured Workers' Benefit  
8 Fund. The custodian of the Injured Workers' Benefit Fund shall  
9 be joined with the employer as a party respondent in the  
10 application for adjustment of claim. After July 1, 2006, the  
11 Commission shall make disbursements from the Fund once each  
12 year to each eligible claimant. An eligible claimant is an  
13 injured worker who has within the previous fiscal year obtained  
14 a final award for benefits from the Commission against the  
15 employer and the Injured Workers' Benefit Fund and has notified  
16 the Commission within 90 days of receipt of such award. Within  
17 a reasonable time after the end of each fiscal year, the  
18 Commission shall make a disbursement to each eligible claimant.  
19 At the time of disbursement, if there are insufficient moneys  
20 in the Fund to pay all claims, each eligible claimant shall  
21 receive a pro-rata share, as determined by the Commission, of  
22 the available moneys in the Fund for that year. Payment from  
23 the Injured Workers' Benefit Fund to an eligible claimant  
24 pursuant to this provision shall discharge the obligations of  
25 the Injured Workers' Benefit Fund regarding the award entered  
26 by the Commission.

1           (e) This Act shall not affect or disturb the continuance of  
2 any existing insurance, mutual aid, benefit, or relief  
3 association or department, whether maintained in whole or in  
4 part by the employer or whether maintained by the employees,  
5 the payment of benefits of such association or department being  
6 guaranteed by the employer or by some person, firm or  
7 corporation for him or her: Provided, the employer contributes  
8 to such association or department an amount not less than the  
9 full compensation herein provided, exclusive of the cost of the  
10 maintenance of such association or department and without any  
11 expense to the employee. This Act shall not prevent the  
12 organization and maintaining under the insurance laws of this  
13 State of any benefit or insurance company for the purpose of  
14 insuring against the compensation provided for in this Act, the  
15 expense of which is maintained by the employer. This Act shall  
16 not prevent the organization or maintaining under the insurance  
17 laws of this State of any voluntary mutual aid, benefit or  
18 relief association among employees for the payment of  
19 additional accident or sick benefits.

20           (f) No existing insurance, mutual aid, benefit or relief  
21 association or department shall, by reason of anything herein  
22 contained, be authorized to discontinue its operation without  
23 first discharging its obligations to any and all persons  
24 carrying insurance in the same or entitled to relief or  
25 benefits therein.

26           (g) Any contract, oral, written or implied, of employment

1 providing for relief benefit, or insurance or any other device  
2 whereby the employee is required to pay any premium or premiums  
3 for insurance against the compensation provided for in this Act  
4 shall be null and void. Any employer withholding from the wages  
5 of any employee any amount for the purpose of paying any such  
6 premium shall be guilty of a Class B misdemeanor.

7 In the event the employer does not pay the compensation for  
8 which he or she is liable, then an insurance company,  
9 association or insurer which may have insured such employer  
10 against such liability shall become primarily liable to pay to  
11 the employee, his or her personal representative or beneficiary  
12 the compensation required by the provisions of this Act to be  
13 paid by such employer. The insurance carrier may be made a  
14 party to the proceedings in which the employer is a party and  
15 an award may be entered jointly against the employer and the  
16 insurance carrier.

17 (h) It shall be unlawful for any employer, insurance  
18 company or service or adjustment company to interfere with,  
19 restrain or coerce an employee in any manner whatsoever in the  
20 exercise of the rights or remedies granted to him or her by  
21 this Act or to discriminate, attempt to discriminate, or  
22 threaten to discriminate against an employee in any way because  
23 of his or her exercise of the rights or remedies granted to him  
24 or her by this Act.

25 It shall be unlawful for any employer, individually or  
26 through any insurance company or service or adjustment company,

1 to discharge or to threaten to discharge, or to refuse to  
2 rehire or recall to active service in a suitable capacity an  
3 employee because of the exercise of his or her rights or  
4 remedies granted to him or her by this Act.

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

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

20 The Chairman of the Commission shall promptly act upon all  
21 initial applications and applications for renewal in full  
22 accordance with the recommendations of the Board or, should the  
23 Chairman disagree with any recommendation of disposition of the  
24 Self-Insurer's Advisory Board, he shall within 30 days of  
25 receipt of such recommendation provide to the Board in writing  
26 the reasons supporting his decision. The Chairman shall also



1 promptly notify the employer of his decision within 15 days of  
2 receipt of the recommendation of the Board.

3 If an employer is denied a renewal of self-insurance  
4 privileges pursuant to application it shall retain said  
5 privilege for 120 days after receipt of a notice of  
6 cancellation of the privilege from the Chairman of the  
7 Commission.

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

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

22 (820 ILCS 305/8.3)

23 Sec. 8.3. Workers' Compensation Medical Fee Advisory  
24 Board. There is created a Workers' Compensation Medical Fee  
25 Advisory Board consisting of 9 members appointed by the

1 Governor with the advice and consent of the Senate. Three  
2 members of the Advisory Board shall be representatives of a  
3 labor organization recognized under the National Labor  
4 Relations Act or an attorney who has represented labor  
5 organizations or has represented employees in workers'  
6 compensation cases ~~representative citizens chosen from the~~  
7 ~~employee class~~, 3 members shall be representative citizens  
8 chosen from the employing class, and 3 members shall be  
9 representative citizens chosen from the medical provider  
10 class. Each member shall serve a 4-year term and shall continue  
11 to serve until a successor is appointed. A vacancy on the  
12 Advisory Board shall be filled by the Governor for the  
13 unexpired term.

14 Members of the Advisory Board shall receive no compensation  
15 for their services but shall be reimbursed for expenses  
16 incurred in the performance of their duties by the Commission  
17 from appropriations made to the Commission for that purpose.

18 The Advisory Board shall advise the Commission on  
19 establishment of fees for medical services and accessibility of  
20 medical treatment.

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

22 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

23 Sec. 13.1. (a) There is created a Workers' Compensation  
24 Advisory Board hereinafter referred to as the Advisory Board.  
25 After the effective date of this amendatory Act of the 94th

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

23 (b) Members of the Advisory Board shall receive no  
24 compensation for their services but shall be reimbursed for  
25 expenses incurred in the performance of their duties by the  
26 Commission from appropriations made to the Commission for such

1 purpose.

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

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

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

20 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

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

1           this Act with reference to notice but notice if given shall  
2           be deemed to be a notice under the provisions of this Act  
3           if given within the time required herein.

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

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

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

22          The decision of the Arbitrator shall be filed with the  
23          Commission which Commission shall immediately send to each  
24          party or his attorney a copy of such decision, together with a  
25          notification of the time when it was filed. As of the effective  
26          date of this amendatory Act of the 94th General Assembly, all

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

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



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

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

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

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

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

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

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

18 (ii) the approximate location of the accident;

19 (iii) a description of the accident;

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

21 (v) the identity of the person, if known, to whom the  
22 accident 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 compensation pursuant to paragraph

1 (b) of Section 8 of this Act or medical, surgical or  
2 hospital services pursuant to paragraph (a) of Section 8 of  
3 this Act and the date of such conference;

4 (vii) a statement that the employer has refused to pay  
5 compensation pursuant to paragraph (b) of Section 8 of this  
6 Act or for medical, surgical or hospital services pursuant  
7 to paragraph (a) of Section 8 of this Act;

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

11 (ix) the dates of treatment related to the accident by  
12 medical practitioners, and the names and addresses of such  
13 practitioners, including the dates of treatment related to  
14 the accident at any hospitals and the names and addresses  
15 of such hospitals, and a signed authorization permitting  
16 the employer to examine all medical records of all  
17 practitioners and hospitals named pursuant to this  
18 paragraph;

19 (x) a copy of a signed report by a medical  
20 practitioner, relating to the employee's current inability  
21 to return to work because of the injuries incurred as a  
22 result of the accident or such other documents or  
23 affidavits which show that the employee is entitled to  
24 receive compensation pursuant to paragraph (b) of Section 8  
25 of this Act or medical, surgical or hospital services  
26 pursuant to paragraph (a) of Section 8 of this Act. Such

1 reports, documents or affidavits shall state, if possible,  
2 the history of the accident given by the employee, and  
3 describe the injury and medical diagnosis, the medical  
4 services for such injury which the employee has received  
5 and is receiving, the physical activities which the  
6 employee cannot currently perform as a result of any  
7 impairment or disability due to such injury, and the  
8 prognosis for recovery;

9 (xi) complete copies of any reports, records,  
10 documents and affidavits in the possession of the employee  
11 on which the employee will rely to support his allegations,  
12 provided that the employer shall pay the reasonable cost of  
13 reproduction thereof;

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

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

20 Fifteen days after receipt by the employer of the petition  
21 with the required information the employee may file said  
22 petition and required information and shall serve notice of the  
23 filing upon the employer. The employer may file a motion  
24 addressed to the sufficiency of the petition. If an objection  
25 has been filed to the sufficiency of the petition, the  
26 arbitrator shall rule on the objection within 2 working days.

1 If such an objection is filed, the time for filing the final  
2 decision of the Commission as provided in this paragraph shall  
3 be tolled until the arbitrator has determined that the petition  
4 is sufficient.

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

22 Any employer who does not timely file and serve a written  
23 response without good cause may not introduce any evidence to  
24 dispute any claim of the employee but may cross examine the  
25 employee or any witness brought by the employee and otherwise  
26 be heard.

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

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

19           All service required pursuant to this paragraph (b-1) must  
20 be by personal service or by certified mail and with evidence  
21 of receipt. In addition for the purposes of this paragraph, all  
22 service on the employer must be at the premises where the  
23 accident occurred if the premises are owned or operated by the  
24 employer. Otherwise service must be at the employee's principal  
25 place of employment by the employer. If service on the employer  
26 is not possible at either of the above, then service shall be

1 at the employer's principal place of business. After initial  
2 service in each case, service shall be made on the employer's  
3 attorney or designated representative.

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

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

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

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

24 (5) The examination shall be made, and the physician or  
25 physicians, if called, shall testify, without cost to the  
26 parties. The Commission shall determine the compensation and

1 the pay of the physician or physicians. The compensation for  
2 this service shall not exceed the usual and customary amount  
3 for such service.

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

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

22 (e) This paragraph shall apply to all hearings before the  
23 Commission. Such hearings may be held in its office or  
24 elsewhere as the Commission may deem advisable. The taking of  
25 testimony on such hearings may be had before any member of the  
26 Commission. If a petition for review and agreed statement of



1 facts or transcript of evidence is filed, as provided herein,  
2 the Commission shall promptly review the decision of the  
3 Arbitrator and all questions of law or fact which appear from  
4 the statement of facts or transcript of evidence.

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

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

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

18 In any case the Commission in its decision may find  
19 specially upon any question or questions of law or fact which  
20 shall be submitted in writing by either party whether ultimate  
21 or otherwise; provided that on issues other than nature and  
22 extent of the disability, if any, the Commission in its  
23 decision shall find specially upon any question or questions of  
24 law or fact, whether ultimate or otherwise, which are submitted  
25 in writing by either party; provided further that not more than  
26 5 such questions may be submitted by either party. Any party

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

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

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

21           Decisions rendered by the Commission and dissents, if any,  
22 shall be published together by the Commission. The conclusions  
23 of law set out in such decisions shall be regarded as  
24 precedents by arbitrators for the purpose of achieving a more  
25 uniform administration of this Act.

26           (f) The decision of the Commission acting within its

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

14 (1) Except in cases of claims against the State of  
15 Illinois other than those claims under Section 18.1, in  
16 which case the decision of the Commission shall not be  
17 subject to judicial review, the Circuit Court of the county  
18 where any of the parties defendant may be found, or if none  
19 of the parties defendant can be found in this State then  
20 the Circuit Court of the county where the accident  
21 occurred, shall by summons to the Commission have power to  
22 review all questions of law and fact presented by such  
23 record.

24 A proceeding for review shall be commenced within 20  
25 days of the receipt of notice of the decision of the  
26 Commission. The summons shall be issued by the clerk of

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

25 The Commission shall not be required to certify the  
26 record of their proceedings to the Circuit Court, unless

1 the party commencing the proceedings for review in the  
2 Circuit Court as above provided, shall file with the  
3 Commission notice of intent to file for review in Circuit  
4 Court. It shall be the duty of the Commission upon such  
5 filing of notice of intent to file for review in the  
6 Circuit Court to prepare a true and correct copy of such  
7 testimony and a true and correct copy of all other matters  
8 contained in such record and certified to by the Secretary  
9 or Assistant Secretary thereof. The changes made to this  
10 subdivision (f)(1) by this amendatory Act of the 98th  
11 General Assembly apply to any Commission decision entered  
12 after the effective date of this amendatory Act of the 98th  
13 General Assembly.

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

23 (2) No such summons shall issue unless the one against  
24 whom the Commission shall have rendered an award for the  
25 payment of money shall upon the filing of his written  
26 request for such summons file with the clerk of the court a

1 bond conditioned that if he shall not successfully  
2 prosecute the review, he will pay the award and the costs  
3 of the proceedings in the courts. The amount of the bond  
4 shall be fixed by any member of the Commission and the  
5 surety or sureties of the bond shall be approved by the  
6 clerk of the court. The acceptance of the bond by the clerk  
7 of the court shall constitute evidence of his approval of  
8 the bond.

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

16 The court may confirm or set aside the decision of the  
17 Commission. If the decision is set aside and the facts  
18 found in the proceedings before the Commission are  
19 sufficient, the court may enter such decision as is  
20 justified by law, or may remand the cause to the Commission  
21 for further proceedings and may state the questions  
22 requiring further hearing, and give such other  
23 instructions as may be proper. Appeals shall be taken to  
24 the Appellate Court in accordance with Supreme Court Rules  
25 22(g) and 303. Appeals shall be taken from the Appellate  
26 Court to the Supreme Court in accordance with Supreme Court



1 Rule 315.

2 It shall be the duty of the clerk of any court  
3 rendering a decision affecting or affirming an award of the  
4 Commission to promptly furnish the Commission with a copy  
5 of such decision, without charge.

6 The decision of a majority of the members of the panel  
7 of the Commission, shall be considered the decision of the  
8 Commission.

9 (g) Except in the case of a claim against the State of  
10 Illinois, either party may present a certified copy of the  
11 award of the Arbitrator, or a certified copy of the decision of  
12 the Commission when the same has become final, when no  
13 proceedings for review are pending, providing for the payment  
14 of compensation according to this Act, to the Circuit Court of  
15 the county in which such accident occurred or either of the  
16 parties are residents, whereupon the court shall enter a  
17 judgment in accordance therewith. In a case where the employer  
18 refuses to pay compensation according to such final award or  
19 such final decision upon which such judgment is entered the  
20 court shall in entering judgment thereon, tax as costs against  
21 him the reasonable costs and attorney fees in the arbitration  
22 proceedings and in the court entering the judgment for the  
23 person in whose favor the judgment is entered, which judgment  
24 and costs taxed as therein provided shall, until and unless set  
25 aside, have the same effect as though duly entered in an action  
26 duly tried and determined by the court, and shall with like

1 effect, be entered and docketed. The Circuit Court shall have  
2 power at any time upon application to make any such judgment  
3 conform to any modification required by any subsequent decision  
4 of the Supreme Court upon appeal, or as the result of any  
5 subsequent proceedings for review, as provided in this Act.

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

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

19 However, as to accidents occurring subsequent to July 1,  
20 1955, which are covered by any agreement or award under this  
21 Act providing for compensation in installments made as a result  
22 of such accident, such agreement or award may at any time  
23 within 30 months, or 60 months in the case of an award under  
24 Section 8(d)1, after such agreement or award be reviewed by the  
25 Commission at the request of either the employer or the  
26 employee on the ground that the disability of the employee has

1 subsequently recurred, increased, diminished or ended.

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

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

19 (i) Each party, upon taking any proceedings or steps  
20 whatsoever before any Arbitrator, Commission or court, shall  
21 file with the Commission his address, or the name and address  
22 of any agent upon whom all notices to be given to such party  
23 shall be served, either personally or by registered mail,  
24 addressed to such party or agent at the last address so filed  
25 with the Commission. In the event such party has not filed his  
26 address, or the name and address of an agent as above provided,

1 service of any notice may be had by filing such notice with the  
2 Commission.

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

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

24 When determining whether this subsection (k) shall apply,  
25 the Commission shall consider whether an Arbitrator has  
26 determined that the claim is not compensable or whether the

1 employer has made payments under Section 8(j).

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

18 (m) If the commission finds that an accidental injury was  
19 directly and proximately caused by the employer's wilful  
20 violation of a health and safety standard under the Health and  
21 Safety Act or the Occupational Safety and Health Act in force  
22 at the time of the accident, the arbitrator or the Commission  
23 shall allow to the injured employee or his dependents, as the  
24 case may be, additional compensation equal to 25% of the amount  
25 which otherwise would be payable under the provisions of this  
26 Act exclusive of this paragraph. The additional compensation

1 herein provided shall be allowed by an appropriate increase in  
2 the applicable weekly compensation rate.

3 (n) After June 30, 1984, decisions of the Illinois Workers'  
4 Compensation Commission reviewing an award of an arbitrator of  
5 the Commission shall draw interest at a rate equal to the yield  
6 on indebtedness issued by the United States Government with a  
7 26-week maturity next previously auctioned on the day on which  
8 the decision is filed. Said rate of interest shall be set forth  
9 in the Arbitrator's Decision. Interest shall be drawn from the  
10 date of the arbitrator's award on all accrued compensation due  
11 the employee through the day prior to the date of payments.  
12 However, when an employee appeals an award of an Arbitrator or  
13 the Commission, and the appeal results in no change or a  
14 decrease in the award, interest shall not further accrue from  
15 the date of such appeal.

16 The employer or his insurance carrier may tender the  
17 payments due under the award to stop the further accrual of  
18 interest on such award notwithstanding the prosecution by  
19 either party of review, certiorari, appeal to the Supreme Court  
20 or other steps to reverse, vacate or modify the award.

21 (o) By the 15th day of each month each insurer providing  
22 coverage for losses under this Act shall notify each insured  
23 employer of any compensable claim incurred during the preceding  
24 month and the amounts paid or reserved on the claim including a  
25 summary of the claim and a brief statement of the reasons for  
26 compensability. A cumulative report of all claims incurred

1 during a calendar year or continued from the previous year  
2 shall be furnished to the insured employer by the insurer  
3 within 30 days after the end of that calendar year.

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

20 (p) After filing an application for adjustment of claim but  
21 prior to the hearing on arbitration the parties may voluntarily  
22 agree to submit such application for adjustment of claim for  
23 decision by an arbitrator under this subsection (p) where such  
24 application for adjustment of claim raises only a dispute over  
25 temporary total disability, permanent partial disability or  
26 medical expenses. Such agreement shall be in writing in such

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



1 except that if the parties do not agree on an arbitrator from  
2 among the 5 persons, the parties may, by agreement, select an  
3 arbitrator of the American Arbitration Association, whose fee  
4 shall be paid by the State in accordance with rules promulgated  
5 by the Commission. Arbitration under this subsection (p) shall  
6 be voluntary.

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

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

11 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

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

14 (a) It shall be the duty of the Commission upon  
15 notification that the parties have failed to reach an agreement  
16 to designate an Arbitrator.

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

19 A. The approximate date of the last day of the last  
20 exposure and the approximate date of the disablement.

21 B. The general nature and character of the illness  
22 or disease claimed.

23 C. The name and address of the employer by whom  
24 employed on the last day of the last exposure and if

1           employed by any other employer after such last exposure  
2           and before disablement the name and address of such  
3           other employer or employers.

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

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

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

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

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

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

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

26 The Arbitrator may find that the disabling condition is

1 temporary and has not yet reached a permanent condition and may  
2 order the payment of compensation up to the date of the  
3 hearing, which award shall be reviewable and enforceable in the  
4 same manner as other awards, and in no instance be a bar to a  
5 further hearing and determination of a further amount of  
6 temporary total compensation or of compensation for permanent  
7 disability, but shall be conclusive as to all other questions  
8 except the nature and extent of such disability.

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

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

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

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

22 Expedited hearings shall have priority over all other  
23 petitions and shall be heard by the Arbitrator and Commission  
24 with all convenient speed. Any party requesting an expedited  
25 hearing shall give notice of a request for an expedited hearing  
26 under this paragraph. A copy of the Application for Adjustment

1 of Claim shall be attached to the notice. The Commission shall  
2 adopt rules and procedures under which the final decision of  
3 the Commission under this paragraph is filed not later than 180  
4 days from the date that the Petition for Review is filed with  
5 the Commission.

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

23 (b-1) If the employee is not receiving, pursuant to Section  
24 7, medical, surgical or hospital services of the type provided  
25 for in paragraph (a) of Section 8 of the Workers' Compensation  
26 Act or compensation of the type provided for in paragraph (b)

1 of Section 8 of the Workers' Compensation Act, the employee, in  
2 accordance with Commission Rules, may file a petition for an  
3 emergency hearing by an Arbitrator on the issue of whether or  
4 not he is entitled to receive payment of such compensation or  
5 services as provided therein. Such petition shall have priority  
6 over all other petitions and shall be heard by the Arbitrator  
7 and Commission with all convenient speed.

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

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

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

13 (iii) a description of the last exposure;

14 (iv) the nature of the disability incurred by the  
15 employee;

16 (v) the identity of the person, if known, to whom the  
17 disability was reported and the date on which it was  
18 reported;

19 (vi) the name and title of the person, if known,  
20 representing the employer with whom the employee conferred  
21 in any effort to obtain pursuant to Section 7 compensation  
22 of the type provided for in paragraph (b) of Section 8 of  
23 the Workers' Compensation Act or medical, surgical or  
24 hospital services of the type provided for in paragraph (a)  
25 of Section 8 of the Workers' Compensation Act and the date  
26 of such conference;



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

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

10          (ix) the dates of treatment related to the disability  
11          by medical practitioners, and the names and addresses of  
12          such practitioners, including the dates of treatment  
13          related to the disability at any hospitals and the names  
14          and addresses of such hospitals, and a signed authorization  
15          permitting the employer to examine all medical records of  
16          all practitioners and hospitals named pursuant to this  
17          paragraph;

18          (x) a copy of a signed report by a medical  
19          practitioner, relating to the employee's current inability  
20          to return to work because of the disability incurred as a  
21          result of the exposure or such other documents or  
22          affidavits which show that the employee is entitled to  
23          receive pursuant to Section 7 compensation of the type  
24          provided for in paragraph (b) of Section 8 of the Workers'  
25          Compensation Act or medical, surgical or hospital services  
26          of the type provided for in paragraph (a) of Section 8 of

1 the Workers' Compensation Act. Such reports, documents or  
2 affidavits shall state, if possible, the history of the  
3 exposure given by the employee, and describe the disability  
4 and medical diagnosis, the medical services for such  
5 disability which the employee has received and is  
6 receiving, the physical activities which the employee  
7 cannot currently perform as a result of such disability,  
8 and the prognosis for recovery;

9 (xi) complete copies of any reports, records,  
10 documents and affidavits in the possession of the employee  
11 on which the employee will rely to support his allegations,  
12 provided that the employer shall pay the reasonable cost of  
13 reproduction thereof;

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

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

20 Fifteen days after receipt by the employer of the petition  
21 with the required information the employee may file said  
22 petition and required information and shall serve notice of the  
23 filing upon the employer. The employer may file a motion  
24 addressed to the sufficiency of the petition. If an objection  
25 has been filed to the sufficiency of the petition, the  
26 arbitrator shall rule on the objection within 2 working days.

1 If such an objection is filed, the time for filing the final  
2 decision of the Commission as provided in this paragraph shall  
3 be tolled until the arbitrator has determined that the petition  
4 is sufficient.

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

22 Any employer who does not timely file and serve a written  
23 response without good cause may not introduce any evidence to  
24 dispute any claim of the employee but may cross examine the  
25 employee or any witness brought by the employee and otherwise  
26 be heard.

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

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

19           All service required pursuant to this paragraph (b-1) must  
20 be by personal service or by certified mail and with evidence  
21 of receipt. In addition, for the purposes of this paragraph,  
22 all service on the employer must be at the premises where the  
23 accident occurred if the premises are owned or operated by the  
24 employer. Otherwise service must be at the employee's principal  
25 place of employment by the employer. If service on the employer  
26 is not possible at either of the above, then service shall be

1 at the employer's principal place of business. After initial  
2 service in each case, service shall be made on the employer's  
3 attorney or designated representative.

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

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

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

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

24 (5) The examination shall be made, and the physician or  
25 physicians, if called, shall testify, without cost to the  
26 parties. The Commission shall determine the compensation and

1 the pay of the physician or physicians. The compensation for  
2 this service shall not exceed the usual and customary amount  
3 for such service.

4 The fees and payment thereof of all attorneys and  
5 physicians for services authorized by the Commission under this  
6 Act shall, upon request of either the employer or the employee  
7 or the beneficiary affected, be subject to the review and  
8 decision of the Commission.

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

22 (e) This paragraph shall apply to all hearings before the  
23 Commission. Such hearings may be held in its office or  
24 elsewhere as the Commission may deem advisable. The taking of  
25 testimony on such hearings may be had before any member of the  
26 Commission. If a petition for review and agreed statement of

1 facts or transcript of evidence is filed, as provided herein,  
2 the Commission shall promptly review the decision of the  
3 Arbitrator and all questions of law or fact which appear from  
4 the statement of facts or transcripts of evidence. In all cases  
5 in which the hearing before the arbitrator is held after the  
6 effective date of this amendatory Act of 1989, no additional  
7 evidence shall be introduced by the parties before the  
8 Commission on review of the decision of the Arbitrator. The  
9 Commission shall file in its office its decision thereon, and  
10 shall immediately send to each party or his attorney a copy of  
11 such decision and a notification of the time when it was filed.  
12 Decisions shall be filed within 60 days after the Statement of  
13 Exceptions and Supporting Brief and Response thereto are  
14 required to be filed or oral argument whichever is later.

15 In the event either party requests oral argument, such  
16 argument shall be had before a panel of 3 members of the  
17 Commission (or before all available members pursuant to the  
18 determination of 7 members of the Commission that such argument  
19 be held before all available members of the Commission)  
20 pursuant to the rules and regulations of the Commission. A  
21 panel of 3 members, which shall be comprised of not more than  
22 one representative citizen of the employing class and not more  
23 than one representative from a labor organization recognized  
24 under the National Labor Relations Act or an attorney who has  
25 represented labor organizations or has represented employees  
26 in workers' compensation cases ~~citizen of the employee class,~~

1 shall hear the argument; provided that if all the issues in  
2 dispute are solely the nature and extent of the permanent  
3 partial disability, if any, a majority of the panel may deny  
4 the request for such argument and such argument shall not be  
5 held; and provided further that 7 members of the Commission may  
6 determine that the argument be held before all available  
7 members of the Commission. A decision of the Commission shall  
8 be approved by a majority of Commissioners present at such  
9 hearing if any; provided, if no such hearing is held, a  
10 decision of the Commission shall be approved by a majority of a  
11 panel of 3 members of the Commission as described in this  
12 Section. The Commission shall give 10 days' notice to the  
13 parties or their attorneys of the time and place of such taking  
14 of testimony and of such argument.

15 In any case the Commission in its decision may in its  
16 discretion find specially upon any question or questions of law  
17 or facts which shall be submitted in writing by either party  
18 whether ultimate or otherwise; provided that on issues other  
19 than nature and extent of the disablement, if any, the  
20 Commission in its decision shall find specially upon any  
21 question or questions of law or fact, whether ultimate or  
22 otherwise, which are submitted in writing by either party;  
23 provided further that not more than 5 such questions may be  
24 submitted by either party. Any party may, within 20 days after  
25 receipt of notice of the Commission's decision, or within such  
26 further time, not exceeding 30 days, as the Commission may



1 grant, file with the Commission either an agreed statement of  
2 the facts appearing upon the hearing, or, if such party shall  
3 so elect, a correct transcript of evidence of the additional  
4 proceedings presented before the Commission in which report the  
5 party may embody a correct statement of such other proceedings  
6 in the case as such party may desire to have reviewed, such  
7 statement of facts or transcript of evidence to be  
8 authenticated by the signature of the parties or their  
9 attorneys, and in the event that they do not agree, then the  
10 authentication of such transcript of evidence shall be by the  
11 signature of any member of the Commission.

12 If a reporter does not for any reason furnish a transcript  
13 of the proceedings before the Arbitrator in any case for use on  
14 a hearing for review before the Commission, within the  
15 limitations of time as fixed in this Section, the Commission  
16 may, in its discretion, order a trial de novo before the  
17 Commission in such case upon application of either party. The  
18 applications for adjustment of claim and other documents in the  
19 nature of pleadings filed by either party, together with the  
20 decisions of the Arbitrator and of the Commission and the  
21 statement of facts or transcript of evidence hereinbefore  
22 provided for in paragraphs (b) and (c) shall be the record of  
23 the proceedings of the Commission, and shall be subject to  
24 review as hereinafter provided.

25 At the request of either party or on its own motion, the  
26 Commission shall set forth in writing the reasons for the

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

19 Decisions rendered by the Commission after the effective  
20 date of this amendatory Act of 1980 and dissents, if any, shall  
21 be published together by the Commission. The conclusions of law  
22 set out in such decisions shall be regarded as precedents by  
23 arbitrators, for the purpose of achieving a more uniform  
24 administration of this Act.

25 (f) The decision of the Commission acting within its  
26 powers, according to the provisions of paragraph (e) of this

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

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

22 A proceeding for review shall be commenced within 20  
23 days of the receipt of notice of the decision of the  
24 Commission. The summons shall be issued by the clerk of  
25 such court upon written request returnable on a designated  
26 return day, not less than 10 or more than 60 days from the

1 date of issuance thereof, and the written request shall  
2 contain the last known address of other parties in interest  
3 and their attorneys of record who are to be served by  
4 summons. Service upon any member of the Commission or the  
5 Secretary or the Assistant Secretary thereof shall be  
6 service upon the Commission, and service upon other parties  
7 in interest and their attorneys of record shall be by  
8 summons, and such service shall be made upon the Commission  
9 and other parties in interest by mailing notices of the  
10 commencement of the proceedings and the return day of the  
11 summons to the office of the Commission and to the last  
12 known place of residence of other parties in interest or  
13 their attorney or attorneys of record. The clerk of the  
14 court issuing the summons shall on the day of issue mail  
15 notice of the commencement of the proceedings which shall  
16 be done by mailing a copy of the summons to the office of  
17 the Commission, and a copy of the summons to the other  
18 parties in interest or their attorney or attorneys of  
19 record and the clerk of the court shall make certificate  
20 that he has so sent such notices in pursuance of this  
21 Section, which shall be evidence of service on the  
22 Commission and other parties in interest.

23 The Commission shall not be required to certify the  
24 record of their proceedings in the Circuit Court unless the  
25 party commencing the proceedings for review in the Circuit  
26 Court as above provided, shall file with the Commission

1 notice of intent to file for review in Circuit Court. It  
2 shall be the duty of the Commission upon such filing of  
3 notice of intent to file for review in Circuit Court to  
4 prepare a true and correct copy of such testimony and a  
5 true and correct copy of all other matters contained in  
6 such record and certified to by the Secretary or Assistant  
7 Secretary thereof. The changes made to this subdivision  
8 (f) (1) by this amendatory Act of the 98th General Assembly  
9 apply to any Commission decision entered after the  
10 effective date of this amendatory Act of the 98th General  
11 Assembly.

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

21 (2) No such summons shall issue unless the one against  
22 whom the Commission shall have rendered an award for the  
23 payment of money shall upon the filing of his written  
24 request for such summons file with the clerk of the court a  
25 bond conditioned that if he shall not successfully  
26 prosecute the review, he will pay the award and the costs

1 of the proceedings in the court. The amount of the bond  
2 shall be fixed by any member of the Commission and the  
3 surety or sureties of the bond shall be approved by the  
4 clerk of the court. The acceptance of the bond by the clerk  
5 of the court shall constitute evidence of his approval of  
6 the bond.

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

15 The court may confirm or set aside the decision of the  
16 Commission. If the decision is set aside and the facts  
17 found in the proceedings before the Commission are  
18 sufficient, the court may enter such decision as is  
19 justified by law, or may remand the cause to the Commission  
20 for further proceedings and may state the questions  
21 requiring further hearing, and give such other  
22 instructions as may be proper. Appeals shall be taken to  
23 the Appellate Court in accordance with Supreme Court Rules  
24 22(g) and 303. Appeals shall be taken from the Appellate  
25 Court to the Supreme Court in accordance with Supreme Court  
26 Rule 315.

1           It shall be the duty of the clerk of any court  
2           rendering a decision affecting or affirming an award of the  
3           Commission to promptly furnish the Commission with a copy  
4           of such decision, without charge.

5           The decision of a majority of the members of the panel  
6           of the Commission, shall be considered the decision of the  
7           Commission.

8           (g) Except in the case of a claim against the State of  
9           Illinois, either party may present a certified copy of the  
10          award of the Arbitrator, or a certified copy of the decision of  
11          the Commission when the same has become final, when no  
12          proceedings for review are pending, providing for the payment  
13          of compensation according to this Act, to the Circuit Court of  
14          the county in which such exposure occurred or either of the  
15          parties are residents, whereupon the court shall enter a  
16          judgment in accordance therewith. In case where the employer  
17          refuses to pay compensation according to such final award or  
18          such final decision upon which such judgment is entered, the  
19          court shall in entering judgment thereon, tax as costs against  
20          him the reasonable costs and attorney fees in the arbitration  
21          proceedings and in the court entering the judgment for the  
22          person in whose favor the judgment is entered, which judgment  
23          and costs taxed as herein provided shall, until and unless set  
24          aside, have the same effect as though duly entered in an action  
25          duly tried and determined by the court, and shall with like  
26          effect, be entered and docketed. The Circuit Court shall have

1 power at any time upon application to make any such judgment  
2 conform to any modification required by any subsequent decision  
3 of the Supreme Court upon appeal, or as the result of any  
4 subsequent proceedings for review, as provided in this Act.

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

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

18 However, as to disablements occurring subsequently to July  
19 1, 1955, which are covered by any agreement or award under this  
20 Act providing for compensation in installments made as a result  
21 of such disablement, such agreement or award may at any time  
22 within 30 months after such agreement or award be reviewed by  
23 the Commission at the request of either the employer or the  
24 employee on the ground that the disability of the employee has  
25 subsequently recurred, increased, diminished or ended.

26 On such review compensation payments may be



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

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

17 (i) Each party, upon taking any proceedings or steps  
18 whatsoever before any Arbitrator, Commission or court, shall  
19 file with the Commission his address, or the name and address  
20 of any agent upon whom all notices to be given to such party  
21 shall be served, either personally or by registered mail,  
22 addressed to such party or agent at the last address so filed  
23 with the Commission. In the event such party has not filed his  
24 address, or the name and address of an agent as above provided,  
25 service of any notice may be had by filing such notice with the  
26 Commission.

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

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

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

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

20 (l) By the 15th day of each month each insurer providing  
21 coverage for losses under this Act shall notify each insured  
22 employer of any compensable claim incurred during the preceding  
23 month and the amounts paid or reserved on the claim including a  
24 summary of the claim and a brief statement of the reasons for  
25 compensability. A cumulative report of all claims incurred  
26 during a calendar year or continued from the previous year

1 shall be furnished to the insured employer by the insurer  
2 within 30 days after the end of that calendar year.

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

19 (m) After filing an application for adjustment of claim but  
20 prior to the hearing on arbitration the parties may voluntarily  
21 agree to submit such application for adjustment of claim for  
22 decision by an arbitrator under this subsection (m) where such  
23 application for adjustment of claim raises only a dispute over  
24 temporary total disability, permanent partial disability or  
25 medical expenses. Such agreement shall be in writing in such  
26 form as provided by the Commission. Applications for adjustment

1 of claim submitted for decision by an arbitrator under this  
2 subsection (m) shall proceed according to rule as established  
3 by the Commission. The Commission shall promulgate rules  
4 including, but not limited to, rules to ensure that the parties  
5 are adequately informed of their rights under this subsection  
6 (m) and of the voluntary nature of proceedings under this  
7 subsection (m). The findings of fact made by an arbitrator  
8 acting within his or her powers under this subsection (m) in  
9 the absence of fraud shall be conclusive. However, the  
10 arbitrator may on his own motion, or the motion of either  
11 party, correct any clerical errors or errors in computation  
12 within 15 days after the date of receipt of such award of the  
13 arbitrator and shall have the power to recall the original  
14 award on arbitration, and issue in lieu thereof such corrected  
15 award. The decision of the arbitrator under this subsection (m)  
16 shall be considered the decision of the Commission and  
17 proceedings for review of questions of law arising from the  
18 decision may be commenced by either party pursuant to  
19 subsection (f) of Section 19. The Advisory Board established  
20 under Section 13.1 of the Workers' Compensation Act shall  
21 compile a list of certified Commission arbitrators, each of  
22 whom shall be approved by at least 7 members of the Advisory  
23 Board. The chairman shall select 5 persons from such list to  
24 serve as arbitrators under this subsection (m). By agreement,  
25 the parties shall select one arbitrator from among the 5  
26 persons selected by the chairman except, that if the parties do

1 not agree on an arbitrator from among the 5 persons, the  
2 parties may, by agreement, select an arbitrator of the American  
3 Arbitration Association, whose fee shall be paid by the State  
4 in accordance with rules promulgated by the Commission.  
5 Arbitration under this subsection (m) shall be voluntary.  
6 (Source: P.A. 98-40, eff. 6-28-13.)".