



Sen. Andy Manar

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10100HB2301sam002

LRB101 08580 KTG 60974 a

1 AMENDMENT TO HOUSE BILL 2301

2 AMENDMENT NO. _____. Amend House Bill 2301, AS AMENDED,
3 with reference to page and line numbers of Senate Amendment No.
4 1, on page 5, line 18, after "8.3," by inserting "13,"; and
5 on page 26, immediately below line 21, by inserting the
6 following:

7 "(820 ILCS 305/13) (from Ch. 48, par. 138.13)

8 Sec. 13. There is created an Illinois Workers' Compensation
9 Commission consisting of 10 members to be appointed by the
10 Governor, by and with the consent of the Senate, 3 of whom
11 shall be representative citizens of the employing class
12 operating under this Act and 3 of whom shall be from a labor
13 organization recognized under the National Labor Relations Act
14 or an attorney who has represented labor organizations or has
15 represented employees in workers' compensation cases,
16 ~~representative citizens of the class of employees covered under~~

1 ~~this Act,~~ and 4 of whom shall be representative citizens not
2 identified with either the employing or employee classes. Not
3 more than 6 members of the Commission shall be of the same
4 political party.

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

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

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

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

1 (b) current issues in workers' compensation law and
2 practice;

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

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

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

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

15 (g) writing skills;

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

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

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

1 review; and

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

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

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

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

26 The term of office of each member of the Commission holding

1 office on the effective date of this amendatory Act of 1989 is
2 abolished, but the incumbents shall continue to exercise all of
3 the powers and be subject to all of the duties of Commissioners
4 until their respective successors are appointed and qualified.

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

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

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

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

1 representative citizens not identified with either the
2 employing or employee classes, one of whom shall be
3 designated by the Governor as Chairman (at least one of
4 each of the two major political parties) shall be appointed
5 to hold office until the third Monday of January in 1991,
6 and until their successors are appointed and qualified.

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

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

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

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

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

25 In case of a vacancy in the office of a Commissioner during
26 the recess of the Senate, the Governor shall make a temporary

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

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

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

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

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

1 members shall have only such rights and powers of a
2 Commissioner necessary to dispose of those cases assigned to
3 the special panel. Each of the 3 members appointed to the
4 special panel shall receive the same salary as other
5 Commissioners for the duration of the panel.

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

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

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