



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB4151

Introduced 1/22/2020, by Rep. Jay Hoffman

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Workers' Compensation Act. In a provision creating the Illinois Workers' Compensation Commission, provides that each Commissioner appointed on or after the effective date of the amendatory Act shall be required to be authorized to practice law in this State by the Illinois Supreme Court and to maintain this authorization throughout his or her term of employment. Removes a provision that requires Commissioner candidates, other than the Chairman, to: (i) be licensed to practice law in the State of Illinois; (ii) have served as an arbitrator at the Illinois Workers' Compensation Commission for at least 3 years; or (iii) have at least 4 years of professional labor relations experience. Provides that each Commissioner appointed on or after the effective date of the amendatory Act shall receive an annual salary of 70% of a Circuit Court Judge in the Judicial Court constituted by the First Judicial District under the Salaries Act and the Chairman shall receive an annual salary of 5% more than the other Commissioners. Provides that the performance of all arbitrators shall be reviewed by the Chairman every other year, or more at the discretion of the Chairman (rather than the performance of all arbitrators shall be reviewed by the Chairman on an annual basis). Provides that the Chairman shall have the discretion to assign arbitrators by county (rather than no arbitrator shall hear cases in any county, other than Cook County, for more than 2 years in each 3-year term). Provides that on and after the effective date of the amendatory Act, the Secretary and each arbitrator shall receive a per annum salary of 5% less than the per annum salary of members of the Illinois Workers' Compensation Commission as provided in a specified provision of the Act, payable in equal monthly installments. Effective immediately.

LRB101 16414 KTG 66198 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 13 and 14 as follows:

6 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

7 Sec. 13. There is created an Illinois Workers' Compensation  
8 Commission consisting of 10 members to be appointed by the  
9 Governor, by and with the consent of the Senate, 3 of whom  
10 shall be representative citizens of the employing class  
11 operating under this Act and 3 of whom shall be from a labor  
12 organization recognized under the National Labor Relations Act  
13 or an attorney who has represented labor organizations or has  
14 represented employees in workers' compensation cases, and 4 of  
15 whom shall be representative citizens not identified with  
16 either the employing or employee classes. Not more than 6  
17 members of the Commission shall be of the same political party.  
18 Each Commissioner appointed on or after the effective date of  
19 this amendatory Act of the 101st General Assembly shall be  
20 required to be authorized to practice law in this State by the  
21 Illinois Supreme Court and to maintain this authorization  
22 throughout his or her term of employment.

23 One of the members not identified with either the employing

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

12 Notwithstanding the general supervisory authority of the  
13 Chairman, each Commissioner, except those assigned to the  
14 temporary panel, shall have the authority to hire and supervise  
15 2 staff attorneys each. Such staff attorneys shall report  
16 directly to the individual Commissioner.

17 A formal training program for newly-appointed  
18 Commissioners shall be implemented. The training program shall  
19 include the following:

20 (a) substantive and procedural aspects of the office of  
21 Commissioner;

22 (b) current issues in workers' compensation law and  
23 practice;

24 (c) medical lectures by specialists in areas such as  
25 orthopedics, ophthalmology, psychiatry, rehabilitation  
26 counseling;

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

3 (e) observation of experienced arbitrators and  
4 Commissioners conducting hearings of cases, combined with  
5 the opportunity to discuss evidence presented and rulings  
6 made;

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

10 (g) writing skills;

11 (h) professional and ethical standards pursuant to  
12 Section 1.1 of this Act;

13 (i) detection of workers' compensation fraud and  
14 reporting obligations of Commission employees and  
15 appointees;

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

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

25 A formal and ongoing professional development program  
26 including, but not limited to, the above-noted areas shall be

1 implemented to keep Commissioners informed of recent  
2 developments and issues and to assist them in maintaining and  
3 enhancing their professional competence. Each Commissioner  
4 shall complete 20 hours of training in the above-noted areas  
5 during every 2 years such Commissioner shall remain in office.

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

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

21 The term of office of each member of the Commission holding  
22 office on the effective date of this amendatory Act of 1989 is  
23 abolished, but the incumbents shall continue to exercise all of  
24 the powers and be subject to all of the duties of Commissioners  
25 until their respective successors are appointed and qualified.

26 The Illinois Workers' Compensation Commission shall

1 administer this Act.

2 In the promulgation of procedural rules, the determination  
3 of cases heard en banc, and other matters determined by the  
4 full Commission, the Chairman's vote shall break a tie in the  
5 event of a tie vote.

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

8 (a) After the effective date of this amendatory Act of  
9 1989, 3 members, at least one of each political party, and  
10 one of whom shall be a representative citizen of the  
11 employing class operating under this Act, one of whom shall  
12 be a representative citizen of the class of employees  
13 covered under this Act, and one of whom shall be a  
14 representative citizen not identified with either the  
15 employing or employee classes, shall be appointed to hold  
16 office until the third Monday in January of 1993, and until  
17 their successors are appointed and qualified, and 4  
18 members, one of whom shall be a representative citizen of  
19 the employing class operating under this Act, one of whom  
20 shall be a representative citizen of the class of employees  
21 covered in this Act, and two of whom shall be  
22 representative citizens not identified with either the  
23 employing or employee classes, one of whom shall be  
24 designated by the Governor as Chairman (at least one of  
25 each of the two major political parties) shall be appointed  
26 to hold office until the third Monday of January in 1991,

1 and until their successors are appointed and qualified.

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

16 (a-10) After the effective date of this amendatory Act  
17 of the 94th General Assembly, the Commission shall be  
18 increased to 10 members. As soon as possible after the  
19 effective date of this amendatory Act of the 94th General  
20 Assembly, the Governor shall appoint, by and with the  
21 consent of the Senate, the 3 members added to the  
22 Commission under this amendatory Act of the 94th General  
23 Assembly, 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 of the class of employees covered  
26 under this Act, and one of whom shall be a representative

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

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

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

20 Each Commissioner appointed on or after the effective date  
21 of this amendatory Act of the 101st General Assembly shall  
22 receive an annual salary of 70% of a Circuit Court Judge in the  
23 Judicial Court constituted by the First Judicial District under  
24 the Salaries Act and the Chairman shall receive an annual  
25 salary of 5% more than the other Commissioners.

26 In case of a vacancy in the office of a Commissioner during



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

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

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

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

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

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

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

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

1 Commission Operations Fund Surcharge for all purposes.

2 (Source: P.A. 101-384, eff. 1-1-20.)

3 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

4 Sec. 14. The Commission shall appoint a secretary and, an  
5 assistant secretary, ~~and arbitrators~~ and shall employ such  
6 assistants and clerical help as may be necessary. Arbitrators  
7 shall be appointed pursuant to this Section, notwithstanding  
8 any provision of the Personnel Code.

9 Each arbitrator appointed after June 28, 2011 shall be  
10 required to demonstrate in writing his or her knowledge of and  
11 expertise in the law of and judicial processes of the Workers'  
12 Compensation Act and the Workers' Occupational Diseases Act.

13 A formal training program for newly-hired arbitrators  
14 shall be implemented. The training program shall include the  
15 following:

16 (a) substantive and procedural aspects of the  
17 arbitrator position;

18 (b) current issues in workers' compensation law and  
19 practice;

20 (c) medical lectures by specialists in areas such as  
21 orthopedics, ophthalmology, psychiatry, rehabilitation  
22 counseling;

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

25 (e) observation of experienced arbitrators conducting

1 hearings of cases, combined with the opportunity to discuss  
2 evidence presented and rulings made;

3 (f) the use of hypothetical cases requiring the trainee  
4 to issue judgments as a means to evaluating knowledge and  
5 writing ability;

6 (g) writing skills;

7 (h) professional and ethical standards pursuant to  
8 Section 1.1 of this Act;

9 (i) detection of workers' compensation fraud and  
10 reporting obligations of Commission employees and  
11 appointees;

12 (j) standards of evidence-based medical treatment and  
13 best practices for measuring and improving quality and  
14 health care outcomes in the workers' compensation system,  
15 including but not limited to the use of the American  
16 Medical Association's "Guides to the Evaluation of  
17 Permanent Impairment" and the practice of utilization  
18 review; and

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

21 A formal and ongoing professional development program  
22 including, but not limited to, the above-noted areas shall be  
23 implemented to keep arbitrators informed of recent  
24 developments and issues and to assist them in maintaining and  
25 enhancing their professional competence. Each arbitrator shall  
26 complete 20 hours of training in the above-noted areas during

1 every 2 years such arbitrator shall remain in office.

2 Each arbitrator shall devote full time to his or her duties  
3 and shall serve when assigned as an acting Commissioner when a  
4 Commissioner is unavailable in accordance with the provisions  
5 of Section 13 of this Act. Any arbitrator who is an  
6 attorney-at-law shall not engage in the practice of law, nor  
7 shall any arbitrator hold any other office or position of  
8 profit under the United States or this State or any municipal  
9 corporation or political subdivision of this State.  
10 Notwithstanding any other provision of this Act to the  
11 contrary, an arbitrator who serves as an acting Commissioner in  
12 accordance with the provisions of Section 13 of this Act shall  
13 continue to serve in the capacity of Commissioner until a  
14 decision is reached in every case heard by that arbitrator  
15 while serving as an acting Commissioner.

16 Notwithstanding any other provision of this Section, the  
17 term of all arbitrators serving on June 28, 2011 (the effective  
18 date of Public Act 97-18), including any arbitrators on  
19 administrative leave, shall terminate at the close of business  
20 on July 1, 2011, but the incumbents shall continue to exercise  
21 all of their duties until they are reappointed or their  
22 successors are appointed.

23 On and after June 28, 2011 (the effective date of Public  
24 Act 97-18), arbitrators shall be appointed to 3-year terms as  
25 follows:

26 (1) All appointments shall be made by the Governor with

1 the advice and consent of the Senate.

2 (2) For their initial appointments, 12 arbitrators  
3 shall be appointed to terms expiring July 1, 2012; 12  
4 arbitrators shall be appointed to terms expiring July 1,  
5 2013; and all additional arbitrators shall be appointed to  
6 terms expiring July 1, 2014. Thereafter, all arbitrators  
7 shall be appointed to 3-year terms.

8 Upon the expiration of a term, the Chairman shall evaluate  
9 the performance of the arbitrator and may recommend to the  
10 Governor that he or she be reappointed to a second or  
11 subsequent term by the Governor with the advice and consent of  
12 the Senate.

13 Each arbitrator appointed on or after June 28, 2011 (the  
14 effective date of Public Act 97-18) and who has not previously  
15 served as an arbitrator for the Commission shall be required to  
16 be authorized to practice law in this State by the Supreme  
17 Court, and to maintain this authorization throughout his or her  
18 term of employment.

19 The performance of all arbitrators shall be reviewed by the  
20 Chairman every other year, or more at the discretion of the  
21 Chairman ~~on an annual basis~~. The Chairman shall allow input  
22 from the Commissioners in all such reviews.

23 The Commission shall assign no fewer than 3 arbitrators to  
24 each hearing site. The Commission shall establish a procedure  
25 to ensure that the arbitrators assigned to each hearing site  
26 are assigned cases on a random basis. The Chairman shall have

1 the discretion to assign arbitrators by county. No arbitrator  
2 shall hear cases in any county, other than Cook County, for  
3 more than 2 years in each 3-year term.

4 The Secretary and each arbitrator shall receive a per annum  
5 salary of 5% ~~\$4,000~~ less than the per annum salary of members  
6 of The Illinois Workers' Compensation Commission as provided in  
7 Section 13 of this Act, payable in equal monthly installments.

8 On and after the effective date of this amendatory Act of  
9 the 101st General Assembly, the Secretary and each arbitrator  
10 shall receive a per annum salary of 5% less than the per annum  
11 salary of members of the Illinois Workers' Compensation  
12 Commission as provided in Section 13 of this Act, payable in  
13 equal monthly installments.

14 The members of the Commission, Arbitrators and other  
15 employees whose duties require them to travel, shall have  
16 reimbursed to them their actual traveling expenses and  
17 disbursements made or incurred by them in the discharge of  
18 their official duties while away from their place of residence  
19 in the performance of their duties.

20 The Commission shall provide itself with a seal for the  
21 authentication of its orders, awards and proceedings upon which  
22 shall be inscribed the name of the Commission and the words  
23 "Illinois--Seal".

24 The Secretary or Assistant Secretary, under the direction  
25 of the Commission, shall have charge and custody of the seal of  
26 the Commission and also have charge and custody of all records,



1 files, orders, proceedings, decisions, awards and other  
2 documents on file with the Commission. He shall furnish  
3 certified copies, under the seal of the Commission, of any such  
4 records, files, orders, proceedings, decisions, awards and  
5 other documents on file with the Commission as may be required.  
6 Certified copies so furnished by the Secretary or Assistant  
7 Secretary shall be received in evidence before the Commission  
8 or any Arbitrator thereof, and in all courts, provided that the  
9 original of such certified copy is otherwise competent and  
10 admissible in evidence. The Secretary or Assistant Secretary  
11 shall perform such other duties as may be prescribed from time  
12 to time by the Commission.

13 (Source: P.A. 98-40, eff. 6-28-13; 99-642, eff. 7-28-16.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law.

1 INDEX

2 Statutes amended in order of appearance

3 820 ILCS 305/13 from Ch. 48, par. 138.13

4 820 ILCS 305/14 from Ch. 48, par. 138.14