



Sen. Linda Holmes

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1 AMENDMENT TO SENATE BILL 1204

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1204 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The School Code is amended by changing  
5 Sections 10-23.5 and 24-11 as follows:

6 (105 ILCS 5/10-23.5) (from Ch. 122, par. 10-23.5)

7 Sec. 10-23.5. Educational support personnel employees.

8 (a) To employ such educational support personnel employees  
9 as it deems advisable and to define their employment duties;  
10 provided that residency within any school district shall not  
11 be considered in determining the employment or the  
12 compensation of any such employee, or whether to retain,  
13 promote, assign or transfer such employee. If an educational  
14 support personnel employee is removed or dismissed or the  
15 hours he or she works are reduced as a result of a decision of  
16 the school board (i) to decrease the number of educational

1 support personnel employees employed by the board or (ii) to  
2 discontinue some particular type of educational support  
3 service, written notice shall be mailed to the employee and  
4 also given to the employee either by certified mail, return  
5 receipt requested, or personal delivery with receipt, at least  
6 30 days before the employee is removed or dismissed or the  
7 hours he or she works are reduced, together with a statement of  
8 honorable dismissal and the reason therefor if applicable.  
9 However, if a reduction in hours is due to an unforeseen  
10 reduction in the student population, then the written notice  
11 must be mailed and given to the employee at least 5 days before  
12 the hours are reduced. The employee with the shorter length of  
13 continuing service with the district, within the respective  
14 category of position, shall be dismissed first unless an  
15 alternative method of determining the sequence of dismissal is  
16 established in a collective bargaining agreement or contract  
17 between the board and any exclusive bargaining agent and  
18 except that this provision shall not impair the operation of  
19 any affirmative action program in the district, regardless of  
20 whether it exists by operation of law or is conducted on a  
21 voluntary basis by the board. If the board has any vacancies  
22 for the following school term or within one calendar year from  
23 the beginning of the following school term, the positions  
24 thereby becoming available within a specific category of  
25 position shall be tendered to the employees so removed or  
26 dismissed from that category or any other category of

1 position, so far as they are qualified to hold such positions.  
2 Each board shall, in consultation with any exclusive employee  
3 representative or bargaining agent, each year establish a  
4 list, categorized by positions, showing the length of  
5 continuing service of each full time educational support  
6 personnel employee who is qualified to hold any such  
7 positions, unless an alternative method of determining a  
8 sequence of dismissal is established as provided for in this  
9 Section, in which case a list shall be made in accordance with  
10 the alternative method. Copies of the list shall be  
11 distributed to the exclusive employee representative or  
12 bargaining agent on or before February 1 of each year.

13 If an educational support personnel employee is removed or  
14 dismissed as a result of a decision of the board to decrease  
15 the number of educational support personnel employed by the  
16 board or to discontinue some particular type of educational  
17 support service and he or she accepts the tender of a vacancy  
18 within one calendar year from the beginning of the following  
19 school term, then that employee shall maintain any rights  
20 accrued during his or her previous service with the school  
21 district.

22 Where an educational support personnel employee is  
23 dismissed by the board as a result of a decrease in the number  
24 of employees or the discontinuance of the employee's job, the  
25 employee shall be paid all earned compensation on or before  
26 the next regular pay date following his or her last day of

1 employment.

2 The provisions of this amendatory Act of 1986 relating to  
3 residency within any school district shall not apply to cities  
4 having a population exceeding 500,000 inhabitants.

5 (b) In the case of a new school district or districts  
6 formed in accordance with Article 11E of this Code, a school  
7 district or districts that annex all of the territory of one or  
8 more entire other school districts in accordance with Article  
9 7 of this Code, ~~or~~ a school district receiving students from a  
10 deactivated school facility in accordance with Section  
11 10-22.22b of this Code, or a special education cooperative  
12 that dissolves or reorganizes, the employment of educational  
13 support personnel in the new, annexing, or receiving school  
14 district immediately following the reorganization shall be  
15 governed by this subsection (b). Lists of the educational  
16 support personnel employed in the individual districts for the  
17 school year immediately prior to the effective date of the new  
18 district or districts, annexation, or deactivation shall be  
19 combined for the districts forming the new district or  
20 districts, for the annexed and annexing districts, or for the  
21 deactivating and receiving districts, as the case may be. The  
22 combined list shall be categorized by positions, showing the  
23 length of continuing service of each full-time educational  
24 support personnel employee who is qualified to hold any such  
25 position. If there are more full-time educational support  
26 personnel employees on the combined list than there are

1 available positions in the new, annexing, or receiving school  
2 district, then the employing school board shall first remove  
3 or dismiss those educational support personnel employees with  
4 the shorter length of continuing service within the respective  
5 category of position, following the procedures outlined in  
6 subsection (a) of this Section. The employment and position of  
7 each educational support personnel employee on the combined  
8 list not so removed or dismissed shall be transferred to the  
9 new, annexing, or receiving school board, and the new,  
10 annexing, or receiving school board is subject to this Code  
11 with respect to any educational support personnel employee so  
12 transferred as if the educational support personnel employee  
13 had been the new, annexing, or receiving board's employee  
14 during the time the educational support personnel employee was  
15 actually employed by the school board of the district from  
16 which the employment and position were transferred.

17 The changes made by Public Act 95-148 shall not apply to  
18 the formation of a new district or districts in accordance  
19 with Article 11E of this Code, the annexation of one or more  
20 entire districts in accordance with Article 7 of this Code, or  
21 the deactivation of a school facility in accordance with  
22 Section 10-22.22b of this Code effective on or before July 1,  
23 2007.

24 (Source: P.A. 101-46, eff. 7-12-19.)

1           Sec. 24-11. Boards of Education - Boards of School  
2           Inspectors - Contractual continued service.

3           (a) As used in this and the succeeding Sections of this  
4           Article:

5           "Teacher" means any or all school district employees  
6           regularly required to be certified under laws relating to the  
7           certification of teachers.

8           "Board" means board of directors, board of education, or  
9           board of school inspectors, as the case may be.

10          "School term" means that portion of the school year, July  
11          1 to the following June 30, when school is in actual session.

12          "Program" means a program of a special education joint  
13          agreement.

14          "Program of a special education joint agreement" means  
15          instructional, consultative, supervisory, administrative,  
16          diagnostic, and related services that are managed by a special  
17          educational joint agreement designed to service 2 or more  
18          school districts that are members of the joint agreement.

19          "PERA implementation date" means the implementation date  
20          of an evaluation system for teachers as specified by Section  
21          24A-2.5 of this Code for all schools within a school district  
22          or all programs of a special education joint agreement.

23          (b) This Section and Sections 24-12 through 24-16 of this  
24          Article apply only to school districts having less than  
25          500,000 inhabitants.

26          (c) Any teacher who is first employed as a full-time

1 teacher in a school district or program prior to the PERA  
2 implementation date and who is employed in that district or  
3 program for a probationary period of 4 consecutive school  
4 terms shall enter upon contractual continued service in the  
5 district or in all of the programs that the teacher is legally  
6 qualified to hold, unless the teacher is given written notice  
7 of dismissal by certified mail, return receipt requested, by  
8 the employing board at least 45 days before the end of any  
9 school term within such period.

10 (d) For any teacher who is first employed as a full-time  
11 teacher in a school district or program on or after the PERA  
12 implementation date, the probationary period shall be one of  
13 the following periods, based upon the teacher's school terms  
14 of service and performance, before the teacher shall enter  
15 upon contractual continued service in the district or in all  
16 of the programs that the teacher is legally qualified to hold,  
17 unless the teacher is given written notice of dismissal by  
18 certified mail, return receipt requested, by the employing  
19 board at least 45 days before the end of any school term within  
20 such period:

21 (1) 4 consecutive school terms of service in which the  
22 teacher receives overall annual evaluation ratings of at  
23 least "Proficient" in the last school term and at least  
24 "Proficient" in either the second or third school term;

25 (2) 3 consecutive school terms of service in which the  
26 teacher receives 3 overall annual evaluations of

1 "Excellent"; or

2 (3) 2 consecutive school terms of service in which the  
3 teacher receives 2 overall annual evaluations of  
4 "Excellent" service, but only if the teacher (i)  
5 previously attained contractual continued service in a  
6 different school district or program in this State, (ii)  
7 voluntarily departed or was honorably dismissed from that  
8 school district or program in the school term immediately  
9 prior to the teacher's first school term of service  
10 applicable to the attainment of contractual continued  
11 service under this subdivision (3), and (iii) received, in  
12 his or her 2 most recent overall annual or biennial  
13 evaluations from the prior school district or program,  
14 ratings of at least "Proficient", with both such ratings  
15 occurring after the school district's or program's PERA  
16 implementation date. For a teacher to attain contractual  
17 continued service under this subdivision (3), the teacher  
18 shall provide official copies of his or her 2 most recent  
19 overall annual or biennial evaluations from the prior  
20 school district or program to the new school district or  
21 program within 60 days from the teacher's first day of  
22 service with the new school district or program. The prior  
23 school district or program must provide the teacher with  
24 official copies of his or her 2 most recent overall annual  
25 or biennial evaluations within 14 days after the teacher's  
26 request. If a teacher has requested such official copies



1 prior to 45 days after the teacher's first day of service  
2 with the new school district or program and the teacher's  
3 prior school district or program fails to provide the  
4 teacher with the official copies required under this  
5 subdivision (3), then the time period for the teacher to  
6 submit the official copies to his or her new school  
7 district or program must be extended until 14 days after  
8 receipt of such copies from the prior school district or  
9 program. If the prior school district or program fails to  
10 provide the teacher with the official copies required  
11 under this subdivision (3) within 90 days from the  
12 teacher's first day of service with the new school  
13 district or program, then the new school district or  
14 program shall rely upon the teacher's own copies of his or  
15 her evaluations for purposes of this subdivision (3).

16 If the teacher does not receive overall annual evaluations  
17 of "Excellent" in the school terms necessary for eligibility  
18 to achieve accelerated contractual continued service in  
19 subdivisions (2) and (3) of this subsection (d), the teacher  
20 shall be eligible for contractual continued service pursuant  
21 to subdivision (1) of this subsection (d). If, at the  
22 conclusion of 4 consecutive school terms of service that count  
23 toward attainment of contractual continued service, the  
24 teacher's performance does not qualify the teacher for  
25 contractual continued service under subdivision (1) of this  
26 subsection (d), then the teacher shall not enter upon

1 contractual continued service and shall be dismissed. If a  
2 performance evaluation is not conducted for any school term  
3 when such evaluation is required to be conducted under Section  
4 24A-5 of this Code, then the teacher's performance evaluation  
5 rating for such school term for purposes of determining the  
6 attainment of contractual continued service shall be deemed  
7 "Proficient", except that, during any time in which the  
8 Governor has declared a disaster due to a public health  
9 emergency pursuant to Section 7 of the Illinois Emergency  
10 Management Agency Act, this default to "Proficient" does not  
11 apply to any teacher who has entered into contractual  
12 continued service and who was deemed "Excellent" on his or her  
13 most recent evaluation. During any time in which the Governor  
14 has declared a disaster due to a public health emergency  
15 pursuant to Section 7 of the Illinois Emergency Management  
16 Agency Act and unless the school board and any exclusive  
17 bargaining representative have completed the performance  
18 rating for teachers or mutually agreed to an alternate  
19 performance rating, any teacher who has entered into  
20 contractual continued service, whose most recent evaluation  
21 was deemed "Excellent", and whose performance evaluation is  
22 not conducted when the evaluation is required to be conducted  
23 shall receive a teacher's performance rating deemed  
24 "Excellent". A school board and any exclusive bargaining  
25 representative may mutually agree to an alternate performance  
26 rating for teachers not in contractual continued service

1 during any time in which the Governor has declared a disaster  
2 due to a public health emergency pursuant to Section 7 of the  
3 Illinois Emergency Management Agency Act, as long as the  
4 agreement is in writing.

5 (e) For the purposes of determining contractual continued  
6 service, a school term shall be counted only toward attainment  
7 of contractual continued service if the teacher actually  
8 teaches or is otherwise present and participating in the  
9 district's or program's educational program for 120 days or  
10 more, provided that the days of leave under the federal Family  
11 Medical Leave Act that the teacher is required to take until  
12 the end of the school term shall be considered days of teaching  
13 or participation in the district's or program's educational  
14 program. A school term that is not counted toward attainment  
15 of contractual continued service shall not be considered a  
16 break in service for purposes of determining whether a teacher  
17 has been employed for 4 consecutive school terms, provided  
18 that the teacher actually teaches or is otherwise present and  
19 participating in the district's or program's educational  
20 program in the following school term.

21 (f) If the employing board determines to dismiss the  
22 teacher in the last year of the probationary period as  
23 provided in subsection (c) of this Section or subdivision (1)  
24 or (2) of subsection (d) of this Section, but not subdivision  
25 (3) of subsection (d) of this Section, the written notice of  
26 dismissal provided by the employing board must contain

1 specific reasons for dismissal. Any full-time teacher who does  
2 not receive written notice from the employing board at least  
3 45 days before the end of any school term as provided in this  
4 Section and whose performance does not require dismissal after  
5 the fourth probationary year pursuant to subsection (d) of  
6 this Section shall be re-employed for the following school  
7 term.

8 (g) Contractual continued service shall continue in effect  
9 the terms and provisions of the contract with the teacher  
10 during the last school term of the probationary period,  
11 subject to this Act and the lawful regulations of the  
12 employing board. This Section and succeeding Sections do not  
13 modify any existing power of the board except with respect to  
14 the procedure of the discharge of a teacher and reductions in  
15 salary as hereinafter provided. Contractual continued service  
16 status shall not restrict the power of the board to transfer a  
17 teacher to a position which the teacher is qualified to fill or  
18 to make such salary adjustments as it deems desirable, but  
19 unless reductions in salary are uniform or based upon some  
20 reasonable classification, any teacher whose salary is reduced  
21 shall be entitled to a notice and a hearing as hereinafter  
22 provided in the case of certain dismissals or removals.

23 (h) If, by reason of any change in the boundaries of school  
24 districts, by reason of special education cooperative  
25 reorganizations, or by reason of the creation of a new school  
26 district, the position held by any teacher having a

1 contractual continued service status is transferred from one  
2 board to the control of a new or different board, then the  
3 contractual continued service status of the teacher is not  
4 thereby lost, and such new or different board is subject to  
5 this Code with respect to the teacher in the same manner as if  
6 the teacher were its employee and had been its employee during  
7 the time the teacher was actually employed by the board from  
8 whose control the position was transferred.

9 (i) The employment of any teacher in a program of a special  
10 education joint agreement established under Section 3-15.14,  
11 10-22.31 or 10-22.31a shall be governed by this and succeeding  
12 Sections of this Article. For purposes of attaining and  
13 maintaining contractual continued service and computing length  
14 of continuing service as referred to in this Section and  
15 Section 24-12, employment in a special educational joint  
16 program shall be deemed a continuation of all previous  
17 certificated employment of such teacher for such joint  
18 agreement whether the employer of the teacher was the joint  
19 agreement, the regional superintendent, or one of the  
20 participating districts in the joint agreement.

21 (j) For any teacher employed after July 1, 1987 as a  
22 full-time teacher in a program of a special education joint  
23 agreement, whether the program is operated by the joint  
24 agreement or a member district on behalf of the joint  
25 agreement, in the event of a reduction in the number of  
26 programs or positions in the joint agreement in which the

1 notice of dismissal is provided on or before the end of the  
2 2010-2011 school term, the teacher in contractual continued  
3 service is eligible for employment in the joint agreement  
4 programs for which the teacher is legally qualified in order  
5 of greater length of continuing service in the joint  
6 agreement, unless an alternative method of determining the  
7 sequence of dismissal is established in a collective  
8 bargaining agreement. For any teacher employed after July 1,  
9 1987 as a full-time teacher in a program of a special education  
10 joint agreement, whether the program is operated by the joint  
11 agreement or a member district on behalf of the joint  
12 agreement, in the event of a reduction in the number of  
13 programs or positions in the joint agreement in which the  
14 notice of dismissal is provided during the 2011-2012 school  
15 term or a subsequent school term, the teacher shall be  
16 included on the honorable dismissal lists of all joint  
17 agreement programs for positions for which the teacher is  
18 qualified and is eligible for employment in such programs in  
19 accordance with subsections (b) and (c) of Section 24-12 of  
20 this Code and the applicable honorable dismissal policies of  
21 the joint agreement.

22 (k) For any teacher employed after July 1, 1987 as a  
23 full-time teacher in a program of a special education joint  
24 agreement, whether the program is operated by the joint  
25 agreement or a member district on behalf of the joint  
26 agreement, in the event of the dissolution of a joint

1 agreement, in which the notice to teachers of the dissolution  
2 is provided during the 2010-2011 school term, the teacher in  
3 contractual continued service who is legally qualified shall  
4 be assigned to any comparable position in a member district  
5 currently held by a teacher who has not entered upon  
6 contractual continued service or held by a teacher who has  
7 entered upon contractual continued service with a shorter  
8 length of contractual continued service. Any teacher employed  
9 after July 1, 1987 as a full-time teacher in a program of a  
10 special education joint agreement, whether the program is  
11 operated by the joint agreement or a member district on behalf  
12 of the joint agreement, in the event of the dissolution of a  
13 joint agreement in which the notice to teachers of the  
14 dissolution is provided during the 2011-2012 school term or a  
15 subsequent school term, the teacher who is qualified shall be  
16 included on the order of honorable dismissal lists of each  
17 member district and shall be assigned to any comparable  
18 position in any such district in accordance with subsections  
19 (b) and (c) of Section 24-12 of this Code and the applicable  
20 honorable dismissal policies of each member district.

21 (1) The governing board of the joint agreement, or the  
22 administrative district, if so authorized by the articles of  
23 agreement of the joint agreement, rather than the board of  
24 education of a school district, may carry out employment and  
25 termination actions including dismissals under this Section  
26 and Section 24-12.

1           (m) The employment of any teacher in a special education  
2 program authorized by Section 14-1.01 through 14-14.01, or a  
3 joint educational program established under Section 10-22.31a,  
4 shall be under this and the succeeding Sections of this  
5 Article, and such employment shall be deemed a continuation of  
6 the previous employment of such teacher in any of the  
7 participating districts, regardless of the participation of  
8 other districts in the program.

9           (n) Any teacher employed as a full-time teacher in a  
10 special education program prior to September 23, 1987 in which  
11 2 or more school districts participate for a probationary  
12 period of 2 consecutive years shall enter upon contractual  
13 continued service in each of the participating districts,  
14 subject to this and the succeeding Sections of this Article,  
15 and, notwithstanding Section 24-1.5 of this Code, in the event  
16 of the termination of the program shall be eligible for any  
17 vacant position in any of such districts for which such  
18 teacher is qualified.

19           (Source: P.A. 101-643, eff. 6-18-20.)

20           Section 10. The Workers' Compensation Act is amended by  
21 changing Section 4 as follows:

22           (820 ILCS 305/4) (from Ch. 48, par. 138.4)

23           (Text of Section from P.A. 101-40)

24           Sec. 4. (a) Any employer, including but not limited to



1 general contractors and their subcontractors, who shall come  
2 within the provisions of Section 3 of this Act, and any other  
3 employer who shall elect to provide and pay the compensation  
4 provided for in this Act shall:

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

24 If the sworn application and financial statement of  
25 any such employer does not satisfy the Commission of the  
26 financial ability of the employer who has filed it, the

1 Commission shall require such employer to,

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

12 (3) Insure his entire liability to pay such  
13 compensation in some insurance carrier authorized,  
14 licensed, or permitted to do such insurance business in  
15 this State. Every policy of an insurance carrier, insuring  
16 the payment of compensation under this Act shall cover all  
17 the employees and the entire compensation liability of the  
18 insured: Provided, however, that any employer may insure  
19 his or her compensation liability with 2 or more insurance  
20 carriers or may insure a part and qualify under subsection  
21 1, 2, or 4 for the remainder of his or her liability to pay  
22 such compensation, subject to the following two  
23 provisions:

24 Firstly, the entire compensation liability of the  
25 employer to employees working at or from one location  
26 shall be insured in one such insurance carrier or

1 shall be self-insured, and

2 Secondly, the employer shall submit evidence  
3 satisfactorily to the Commission that his or her  
4 entire liability for the compensation provided for in  
5 this Act will be secured. Any provisions in any  
6 policy, or in any endorsement attached thereto,  
7 attempting to limit or modify in any way, the  
8 liability of the insurance carriers issuing the same  
9 except as otherwise provided herein shall be wholly  
10 void.

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

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

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

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

26 (A) the employer is engaged primarily in the building

1 and construction industry; and

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

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

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

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

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

22 Any penalty under this subsection (a-1) must be imposed  
23 not later than one year after the expiration of the applicable  
24 limitation period specified in subsection (d) of Section 6 of  
25 this Act. Penalties imposed under this subsection (a-1) shall  
26 be deposited into the Illinois Workers' Compensation

1 Commission Operations Fund, a special fund that is created in  
2 the State treasury. Subject to appropriation, moneys in the  
3 Fund shall be used solely for the operations of the Illinois  
4 Workers' Compensation Commission, the salaries and benefits of  
5 the Self-Insurers Advisory Board employees, the operating  
6 costs of the Self-Insurers Advisory Board, and by the  
7 Department of Insurance for the purposes authorized in  
8 subsection (c) of Section 25.5 of this Act.

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

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

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

19 (3) Any certificate of insurance coverage document  
20 issued to a client company specifying its rights and  
21 obligations under the master policy that establishes both  
22 the identity and status of the client, as well as the dates  
23 of inception and termination of coverage, if applicable.

24 (b) The sworn application and financial statement, or  
25 security, indemnity or bond, or amount of insurance, or other  
26 provisions, filed, furnished, carried, or made by the

1 employer, as the case may be, shall be subject to the approval  
2 of the Commission.

3 Deposits under escrow agreements shall be cash, negotiable  
4 United States government bonds or negotiable general  
5 obligation bonds of the State of Illinois. Such cash or bonds  
6 shall be deposited in escrow with any State or National Bank or  
7 Trust Company having trust authority in the State of Illinois.

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

1 however, that if the employer has secured insurance from  
2 another insurance carrier, or has otherwise secured the  
3 payment of compensation in accordance with this Section, and  
4 such insurance or other security becomes effective prior to  
5 the expiration of the 10 days, cancellation or termination  
6 may, at the option of the insurance carrier indicated in such  
7 notice, be effective as of the effective date of such other  
8 insurance or security.

9 (c) Whenever the Commission shall find that any  
10 corporation, company, association, aggregation of individuals,  
11 reciprocal or interinsurers exchange, or other insurer  
12 effecting workers' compensation insurance in this State shall  
13 be insolvent, financially unsound, or unable to fully meet all  
14 payments and liabilities assumed or to be assumed for  
15 compensation insurance in this State, or shall practice a  
16 policy of delay or unfairness toward employees in the  
17 adjustment, settlement, or payment of benefits due such  
18 employees, the Commission may after reasonable notice and  
19 hearing order and direct that such corporation, company,  
20 association, aggregation of individuals, reciprocal or  
21 interinsurers exchange, or insurer, shall from and after a  
22 date fixed in such order discontinue the writing of any such  
23 workers' compensation insurance in this State. Subject to such  
24 modification of the order as the Commission may later make on  
25 review of the order, as herein provided, it shall thereupon be  
26 unlawful for any such corporation, company, association,

1 aggregation of individuals, reciprocal or interinsurers  
2 exchange, or insurer to effect any workers' compensation  
3 insurance in this State. A copy of the order shall be served  
4 upon the Director of Insurance by registered mail. Whenever  
5 the Commission finds that any service or adjustment company  
6 used or employed by a self-insured employer or by an insurance  
7 carrier to process, adjust, investigate, compromise or  
8 otherwise handle claims under this Act, has practiced or is  
9 practicing a policy of delay or unfairness toward employees in  
10 the adjustment, settlement or payment of benefits due such  
11 employees, the Commission may after reasonable notice and  
12 hearing order and direct that such service or adjustment  
13 company shall from and after a date fixed in such order be  
14 prohibited from processing, adjusting, investigating,  
15 compromising or otherwise handling claims under this Act.

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



1 All orders made by the Commission under this Section shall  
2 be subject to review by the courts, said review to be taken in  
3 the same manner and within the same time as provided by Section  
4 19 of this Act for review of awards and decisions of the  
5 Commission, upon the party seeking the review filing with the  
6 clerk of the court to which said review is taken a bond in an  
7 amount to be fixed and approved by the court to which the  
8 review is taken, conditioned upon the payment of all  
9 compensation awarded against the person taking said review  
10 pending a decision thereof and further conditioned upon such  
11 other obligations as the court may impose. Upon the review the  
12 Circuit Court shall have power to review all questions of fact  
13 as well as of law. The penalty hereinafter provided for in this  
14 paragraph shall not attach and shall not begin to run until the  
15 final determination of the order of the Commission.

16 (d) Whenever a Commissioner, with due process and after a  
17 hearing, determines an employer has knowingly failed to  
18 provide coverage as required by paragraph (a) of this Section,  
19 the failure shall be deemed an immediate serious danger to  
20 public health, safety, and welfare sufficient to justify  
21 service by the Commission of a work-stop order on such  
22 employer, requiring the cessation of all business operations  
23 of such employer at the place of employment or job site. If a  
24 business is declared to be extra hazardous, as defined in  
25 Section 3, a Commissioner may issue an emergency work-stop  
26 order on such an employer ex parte, prior to holding a hearing,

1 requiring the cessation of all business operations of such  
2 employer at the place of employment or job site while awaiting  
3 the ruling of the Commission. Whenever a Commissioner issues  
4 an emergency work-stop order, the Commission shall issue a  
5 notice of emergency work-stop hearing to be posted at the  
6 employer's places of employment and job sites. Any law  
7 enforcement agency in the State shall, at the request of the  
8 Commission, render any assistance necessary to carry out the  
9 provisions of this Section, including, but not limited to,  
10 preventing any employee of such employer from remaining at a  
11 place of employment or job site after a work-stop order has  
12 taken effect. Any work-stop order shall be lifted upon proof  
13 of insurance as required by this Act. Any orders under this  
14 Section are appealable under Section 19(f) to the Circuit  
15 Court.

16 Any individual employer, corporate officer or director of  
17 a corporate employer, partner of an employer partnership, or  
18 member of an employer limited liability company who knowingly  
19 fails to provide coverage as required by paragraph (a) of this  
20 Section is guilty of a Class 4 felony. This provision shall not  
21 apply to any corporate officer or director of any  
22 publicly-owned corporation. Each day's violation constitutes a  
23 separate offense. The State's Attorney of the county in which  
24 the violation occurred, or the Attorney General, shall bring  
25 such actions in the name of the People of the State of  
26 Illinois, or may, in addition to other remedies provided in

1 this Section, bring an action for an injunction to restrain  
2 the violation or to enjoin the operation of any such employer.

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

14 The criminal penalties in this subsection (d) shall not  
15 apply where there exists a good faith dispute as to the  
16 existence of an employment relationship. Evidence of good  
17 faith shall include, but not be limited to, compliance with  
18 the definition of employee as used by the Internal Revenue  
19 Service.

20 All investigative actions must be acted upon within 90  
21 days of the issuance of the complaint. Employers who are  
22 subject to and who knowingly fail to comply with this Section  
23 shall not be entitled to the benefits of this Act during the  
24 period of noncompliance, but shall be liable in an action  
25 under any other applicable law of this State. In the action,  
26 such employer shall not avail himself or herself of the

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

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

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

24 An investigator with the Illinois Workers' Compensation  
25 Commission Insurance Compliance Division may issue a citation  
26 to any employer that is not in compliance with its obligation

1 to have workers' compensation insurance under this Act. The  
2 amount of the fine shall be based on the period of time the  
3 employer was in non-compliance, but shall be no less than  
4 \$500, and shall not exceed \$10,000. An employer that has been  
5 issued a citation shall pay the fine to the Commission and  
6 provide to the Commission proof that it obtained the required  
7 workers' compensation insurance within 10 days after the  
8 citation was issued. This Section does not affect any other  
9 obligations this Act imposes on employers.

10 Upon a finding by the Commission, after reasonable notice  
11 and hearing, of the knowing and willful failure or refusal of  
12 an employer to comply with any of the provisions of paragraph  
13 (a) of this Section, the failure or refusal of an employer,  
14 service or adjustment company, or an insurance carrier to  
15 comply with any order of the Illinois Workers' Compensation  
16 Commission pursuant to paragraph (c) of this Section  
17 disqualifying him or her to operate as a self insurer and  
18 requiring him or her to insure his or her liability, or the  
19 knowing and willful failure of an employer to comply with a  
20 citation issued by an investigator with the Illinois Workers'  
21 Compensation Commission Insurance Compliance Division, the  
22 Commission may assess a civil penalty of up to \$500 per day for  
23 each day of such failure or refusal after the effective date of  
24 this amendatory Act of 1989. The minimum penalty under this  
25 Section shall be the sum of \$10,000. Each day of such failure  
26 or refusal shall constitute a separate offense. The Commission

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

21 If an employer is found to be in non-compliance with any  
22 provisions of paragraph (a) of this Section more than once,  
23 all minimum penalties will double. Therefore, upon the failure  
24 or refusal of an employer, service or adjustment company, or  
25 insurance carrier to comply with any order of the Commission  
26 pursuant to paragraph (c) of this Section disqualifying him or

1 her to operate as a self-insurer and requiring him or her to  
2 insure his or her liability, or the knowing and willful  
3 failure of an employer to comply with a citation issued by an  
4 investigator with the Illinois Workers' Compensation  
5 Commission Insurance Compliance Division, the Commission may  
6 assess a civil penalty of up to \$1,000 per day for each day of  
7 such failure or refusal after the effective date of this  
8 amendatory Act of the 101st General Assembly. The minimum  
9 penalty under this Section shall be the sum of \$20,000. In  
10 addition, employers with 2 or more violations of any  
11 provisions of paragraph (a) of this Section may not  
12 self-insure for one year or until all penalties are paid.

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

26 Any individual employer, corporate officer or director of

1 a corporate employer, partner of an employer partnership, or  
2 member of an employer limited liability company who, with the  
3 intent to avoid payment of compensation under this Act to an  
4 injured employee or the employee's dependents, knowingly  
5 transfers, sells, encumbers, assigns, or in any manner  
6 disposes of, conceals, secretes, or destroys any property  
7 belonging to the employer, officer, director, partner, or  
8 member is guilty of a Class 4 felony.

9 Penalties and fines collected pursuant to this paragraph  
10 (d) shall be deposited upon receipt into a special fund which  
11 shall be designated the Injured Workers' Benefit Fund, of  
12 which the State Treasurer is ex-officio custodian, such  
13 special fund to be held and disbursed in accordance with this  
14 paragraph (d) for the purposes hereinafter stated in this  
15 paragraph (d), upon the final order of the Commission. The  
16 Injured Workers' Benefit Fund shall be deposited the same as  
17 are State funds and any interest accruing thereon shall be  
18 added thereto every 6 months. The Injured Workers' Benefit  
19 Fund is subject to audit the same as State funds and accounts  
20 and is protected by the general bond given by the State  
21 Treasurer. The Injured Workers' Benefit Fund is considered  
22 always appropriated for the purposes of disbursements as  
23 provided in this paragraph, and shall be paid out and  
24 disbursed as herein provided and shall not at any time be  
25 appropriated or diverted to any other use or purpose. Moneys  
26 in the Injured Workers' Benefit Fund shall be used only for



1 payment of workers' compensation benefits for injured  
2 employees when the employer has failed to provide coverage as  
3 determined under this paragraph (d) and has failed to pay the  
4 benefits due to the injured employee. The Commission shall  
5 have the right to obtain reimbursement from the employer for  
6 compensation obligations paid by the Injured Workers' Benefit  
7 Fund. Any such amounts obtained shall be deposited by the  
8 Commission into the Injured Workers' Benefit Fund. If an  
9 injured employee or his or her personal representative  
10 receives payment from the Injured Workers' Benefit Fund, the  
11 State of Illinois has the same rights under paragraph (b) of  
12 Section 5 that the employer who failed to pay the benefits due  
13 to the injured employee would have had if the employer had paid  
14 those benefits, and any moneys recovered by the State as a  
15 result of the State's exercise of its rights under paragraph  
16 (b) of Section 5 shall be deposited into the Injured Workers'  
17 Benefit Fund. The custodian of the Injured Workers' Benefit  
18 Fund shall be joined with the employer as a party respondent in  
19 the application for adjustment of claim. After July 1, 2006,  
20 the Commission shall make disbursements from the Fund once  
21 each year to each eligible claimant. An eligible claimant is  
22 an injured worker who has within the previous fiscal year  
23 obtained a final award for benefits from the Commission  
24 against the employer and the Injured Workers' Benefit Fund and  
25 has notified the Commission within 90 days of receipt of such  
26 award. Within a reasonable time after the end of each fiscal

1 year, the Commission shall make a disbursement to each  
2 eligible claimant. At the time of disbursement, if there are  
3 insufficient moneys in the Fund to pay all claims, each  
4 eligible claimant shall receive a pro-rata share, as  
5 determined by the Commission, of the available moneys in the  
6 Fund for that year. Payment from the Injured Workers' Benefit  
7 Fund to an eligible claimant pursuant to this provision shall  
8 discharge the obligations of the Injured Workers' Benefit Fund  
9 regarding the award entered by the Commission.

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

1 benefit or relief association among employees for the payment  
2 of additional accident or sick benefits.

3 (f) No existing insurance, mutual aid, benefit or relief  
4 association or department shall, by reason of anything herein  
5 contained, be authorized to discontinue its operation without  
6 first discharging its obligations to any and all persons  
7 carrying insurance in the same or entitled to relief or  
8 benefits therein.

9 (g) Any contract, oral, written or implied, of employment  
10 providing for relief benefit, or insurance or any other device  
11 whereby the employee is required to pay any premium or  
12 premiums for insurance against the compensation provided for  
13 in this Act shall be null and void. Any employer withholding  
14 from the wages of any employee any amount for the purpose of  
15 paying any such premium shall be guilty of a Class B  
16 misdemeanor.

17 In the event the employer does not pay the compensation  
18 for which he or she is liable, then an insurance company,  
19 association or insurer which may have insured such employer  
20 against such liability shall become primarily liable to pay to  
21 the employee, his or her personal representative or  
22 beneficiary the compensation required by the provisions of  
23 this Act to be paid by such employer. The insurance carrier may  
24 be made a party to the proceedings in which the employer is a  
25 party and an award may be entered jointly against the employer  
26 and the insurance carrier.

1 (h) It shall be unlawful for any employer, insurance  
2 company, or service or adjustment company to interfere with,  
3 demote, restrain, or coerce an employee in any manner  
4 whatsoever in the exercise of the rights or remedies granted  
5 to him or her by this Act or to discriminate, attempt to  
6 discriminate, or threaten to discriminate against an employee  
7 in any way because of his or her exercise of the rights or  
8 remedies granted to him or her by this Act.

9 It shall be unlawful for any employer, individually or  
10 through any insurance company or service or adjustment  
11 company, to demote, to discharge or to threaten to discharge,  
12 or to refuse to rehire or recall to active service in a  
13 suitable capacity an employee because of the exercise of his  
14 or her rights or remedies granted to him or her by this Act.

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

20 (j) Within 45 days of receipt of an initial application or  
21 application to renew self-insurance privileges the  
22 Self-Insurers Advisory Board shall review and submit for  
23 approval by the Chairman of the Commission recommendations of  
24 disposition of all initial applications to self-insure and all  
25 applications to renew self-insurance privileges filed by  
26 private self-insurers pursuant to the provisions of this

1 Section and Section 4a-9 of this Act. Each private  
2 self-insurer shall submit with its initial and renewal  
3 applications the application fee required by Section 4a-4 of  
4 this Act.

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

14 If an employer is denied a renewal of self-insurance  
15 privileges pursuant to application it shall retain said  
16 privilege for 120 days after receipt of a notice of  
17 cancellation of the privilege from the Chairman of the  
18 Commission.

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

1 payment of all compensation awarded against the person taking  
2 such review pending a decision thereof and further conditioned  
3 upon such other obligations as the court may impose. Upon the  
4 review the Circuit Court shall have power to review all  
5 questions of fact as well as of law.

6 (Source: P.A. 101-40, eff. 1-1-20.)

7 (Text of Section from P.A. 101-384)

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

13 (1) File with the Commission annually an application  
14 for approval as a self-insurer which shall include a  
15 current financial statement, and annually, thereafter, an  
16 application for renewal of self-insurance, which shall  
17 include a current financial statement. Said application  
18 and financial statement shall be signed and sworn to by  
19 the president or vice president and secretary or assistant  
20 secretary of the employer if it be a corporation, or by all  
21 of the partners, if it be a copartnership, or by the owner  
22 if it be neither a copartnership nor a corporation. All  
23 initial applications and all applications for renewal of  
24 self-insurance must be submitted at least 60 days prior to  
25 the requested effective date of self-insurance. An

1 employer may elect to provide and pay compensation as  
2 provided for in this Act as a member of a group workers'  
3 compensation pool under Article V 3/4 of the Illinois  
4 Insurance Code. If an employer becomes a member of a group  
5 workers' compensation pool, the employer shall not be  
6 relieved of any obligations imposed by this Act.

7 If the sworn application and financial statement of  
8 any such employer does not satisfy the Commission of the  
9 financial ability of the employer who has filed it, the  
10 Commission shall require such employer to,

11 (2) Furnish security, indemnity or a bond guaranteeing  
12 the payment by the employer of the compensation provided  
13 for in this Act, provided that any such employer whose  
14 application and financial statement shall not have  
15 satisfied the commission of his or her financial ability  
16 and who shall have secured his liability in part by excess  
17 liability insurance shall be required to furnish to the  
18 Commission security, indemnity or bond guaranteeing his or  
19 her payment up to the effective limits of the excess  
20 coverage, or

21 (3) Insure his entire liability to pay such  
22 compensation in some insurance carrier authorized,  
23 licensed, or permitted to do such insurance business in  
24 this State. Every policy of an insurance carrier, insuring  
25 the payment of compensation under this Act shall cover all  
26 the employees and the entire compensation liability of the

1       insured: Provided, however, that any employer may insure  
2       his or her compensation liability with 2 or more insurance  
3       carriers or may insure a part and qualify under subsection  
4       1, 2, or 4 for the remainder of his or her liability to pay  
5       such compensation, subject to the following two  
6       provisions:

7                Firstly, the entire compensation liability of the  
8       employer to employees working at or from one location  
9       shall be insured in one such insurance carrier or  
10       shall be self-insured, and

11               Secondly, the employer shall submit evidence  
12       satisfactorily to the Commission that his or her  
13       entire liability for the compensation provided for in  
14       this Act will be secured. Any provisions in any  
15       policy, or in any endorsement attached thereto,  
16       attempting to limit or modify in any way, the  
17       liability of the insurance carriers issuing the same  
18       except as otherwise provided herein shall be wholly  
19       void.

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

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

26               (5) Upon becoming subject to this Act and thereafter



1 as often as the Commission may in writing demand, file  
2 with the Commission in form prescribed by it evidence of  
3 his or her compliance with the provision of this Section.

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

9 (A) the employer is engaged primarily in the building  
10 and construction industry; and

11 (B) subdivision (a)(3) of this Section applies to the  
12 employer or the employer is a member of a group  
13 self-insurance plan as defined in subsection (1) of  
14 Section 4a.

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

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

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

25 The penalty shall not exceed \$1,000 for each day of work  
26 for which the employer failed to make payments upon the

1 premium rates of the situs where the work or project is located  
2 in Illinois, but the total penalty shall not exceed \$50,000  
3 for each project or each contract under which the work was  
4 performed.

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

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

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

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

26 (3) Any certificate of insurance coverage document

1 issued to a client company specifying its rights and  
2 obligations under the master policy that establishes both  
3 the identity and status of the client, as well as the dates  
4 of inception and termination of coverage, if applicable.

5 (b) The sworn application and financial statement, or  
6 security, indemnity or bond, or amount of insurance, or other  
7 provisions, filed, furnished, carried, or made by the  
8 employer, as the case may be, shall be subject to the approval  
9 of the Commission.

10 Deposits under escrow agreements shall be cash, negotiable  
11 United States government bonds or negotiable general  
12 obligation bonds of the State of Illinois. Such cash or bonds  
13 shall be deposited in escrow with any State or National Bank or  
14 Trust Company having trust authority in the State of Illinois.

15 Upon the approval of the sworn application and financial  
16 statement, security, indemnity or bond or amount of insurance,  
17 filed, furnished or carried, as the case may be, the  
18 Commission shall send to the employer written notice of its  
19 approval thereof. The certificate of compliance by the  
20 employer with the provisions of subparagraphs (2) and (3) of  
21 paragraph (a) of this Section shall be delivered by the  
22 insurance carrier to the Illinois Workers' Compensation  
23 Commission within five days after the effective date of the  
24 policy so certified. The insurance so certified shall cover  
25 all compensation liability occurring during the time that the  
26 insurance is in effect and no further certificate need be

1 filed in case such insurance is renewed, extended or otherwise  
2 continued by such carrier. The insurance so certified shall  
3 not be cancelled or in the event that such insurance is not  
4 renewed, extended or otherwise continued, such insurance shall  
5 not be terminated until at least 10 days after receipt by the  
6 Illinois Workers' Compensation Commission of notice of the  
7 cancellation or termination of said insurance; provided,  
8 however, that if the employer has secured insurance from  
9 another insurance carrier, or has otherwise secured the  
10 payment of compensation in accordance with this Section, and  
11 such insurance or other security becomes effective prior to  
12 the expiration of the 10 days, cancellation or termination  
13 may, at the option of the insurance carrier indicated in such  
14 notice, be effective as of the effective date of such other  
15 insurance or security.

16 (c) Whenever the Commission shall find that any  
17 corporation, company, association, aggregation of individuals,  
18 reciprocal or interinsurers exchange, or other insurer  
19 effecting workers' compensation insurance in this State shall  
20 be insolvent, financially unsound, or unable to fully meet all  
21 payments and liabilities assumed or to be assumed for  
22 compensation insurance in this State, or shall practice a  
23 policy of delay or unfairness toward employees in the  
24 adjustment, settlement, or payment of benefits due such  
25 employees, the Commission may after reasonable notice and  
26 hearing order and direct that such corporation, company,

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

23 Whenever the Commission finds that any self-insured  
24 employer has practiced or is practicing delay or unfairness  
25 toward employees in the adjustment, settlement or payment of  
26 benefits due such employees, the Commission may, after

1 reasonable notice and hearing, order and direct that after a  
2 date fixed in the order such self-insured employer shall be  
3 disqualified to operate as a self-insurer and shall be  
4 required to insure his entire liability to pay compensation in  
5 some insurance carrier authorized, licensed and permitted to  
6 do such insurance business in this State, as provided in  
7 subparagraph 3 of paragraph (a) of this Section.

8 All orders made by the Commission under this Section shall  
9 be subject to review by the courts, said review to be taken in  
10 the same manner and within the same time as provided by Section  
11 19 of this Act for review of awards and decisions of the  
12 Commission, upon the party seeking the review filing with the  
13 clerk of the court to which said review is taken a bond in an  
14 amount to be fixed and approved by the court to which the  
15 review is taken, conditioned upon the payment of all  
16 compensation awarded against the person taking said 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. The penalty hereinafter provided for in this  
21 paragraph shall not attach and shall not begin to run until the  
22 final determination of the order of the Commission.

23 (d) Whenever a panel of 3 Commissioners comprised of one  
24 member of the employing class, one representative of a labor  
25 organization recognized under the National Labor Relations Act  
26 or an attorney who has represented labor organizations or has

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

20 Any individual employer, corporate officer or director of  
21 a corporate employer, partner of an employer partnership, or  
22 member of an employer limited liability company who knowingly  
23 fails to provide coverage as required by paragraph (a) of this  
24 Section is guilty of a Class 4 felony. This provision shall not  
25 apply to any corporate officer or director of any  
26 publicly-owned corporation. Each day's violation constitutes a

1 separate offense. The State's Attorney of the county in which  
2 the violation occurred, or the Attorney General, shall bring  
3 such actions in the name of the People of the State of  
4 Illinois, or may, in addition to other remedies provided in  
5 this Section, bring an action for an injunction to restrain  
6 the violation or to enjoin the operation of any such employer.

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

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

24 Employers who are subject to and who knowingly fail to  
25 comply with this Section shall not be entitled to the benefits  
26 of this Act during the period of noncompliance, but shall be



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

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

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

26 An investigator with the Illinois Workers' Compensation

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25           (i) If an employer elects to obtain a life insurance  
26 policy on his employees, he may also elect to apply such



1 benefits in satisfaction of all or a portion of the death  
2 benefits payable under this Act, in which case, the employer's  
3 compensation premium shall be reduced accordingly.

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

15 The Chairman of the Commission shall promptly act upon all  
16 initial applications and applications for renewal in full  
17 accordance with the recommendations of the Board or, should  
18 the Chairman disagree with any recommendation of disposition  
19 of the Self-Insurer's Advisory Board, he shall within 30 days  
20 of receipt of such recommendation provide to the Board in  
21 writing the reasons supporting his decision. The Chairman  
22 shall also promptly notify the employer of his decision within  
23 15 days of receipt of the recommendation of the Board.

24 If an employer is denied a renewal of self-insurance  
25 privileges pursuant to application it shall retain said  
26 privilege for 120 days after receipt of a notice of

1 cancellation of the privilege from the Chairman of the  
2 Commission.

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

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

17 Section 99. Effective date. This Act takes effect upon  
18 becoming law."