

# HB1549



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB1549

Introduced 1/31/2023, by Rep. Dan Ugaste

### SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that, for purposes of awarding compensation for injuries, an injury to the shoulder shall be considered an injury to a part of the arm and an injury to the hip shall be considered an injury to a part of the leg. Effective immediately.

LRB103 05094 SPS 50108 b

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 Section 8 as follows:

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

7 Sec. 8. The amount of compensation which shall be paid to  
8 the employee for an accidental injury not resulting in death  
9 is:

10 (a) The employer shall provide and pay the negotiated  
11 rate, if applicable, or the lesser of the health care  
12 provider's actual charges or according to a fee schedule,  
13 subject to Section 8.2, in effect at the time the service was  
14 rendered for all the necessary first aid, medical and surgical  
15 services, and all necessary medical, surgical and hospital  
16 services thereafter incurred, limited, however, to that which  
17 is reasonably required to cure or relieve from the effects of  
18 the accidental injury, even if a health care provider sells,  
19 transfers, or otherwise assigns an account receivable for  
20 procedures, treatments, or services covered under this Act. If  
21 the employer does not dispute payment of first aid, medical,  
22 surgical, and hospital services, the employer shall make such  
23 payment to the provider on behalf of the employee. The

1 employer shall also pay for treatment, instruction and  
2 training necessary for the physical, mental and vocational  
3 rehabilitation of the employee, including all maintenance  
4 costs and expenses incidental thereto. If as a result of the  
5 injury the employee is unable to be self-sufficient the  
6 employer shall further pay for such maintenance or  
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own  
9 physician, surgeon and hospital services at the employer's  
10 expense, or,

11 Upon agreement between the employer and the employees, or  
12 the employees' exclusive representative, and subject to the  
13 approval of the Illinois Workers' Compensation Commission, the  
14 employer shall maintain a list of physicians, to be known as a  
15 Panel of Physicians, who are accessible to the employees. The  
16 employer shall post this list in a place or places easily  
17 accessible to his employees. The employee shall have the right  
18 to make an alternative choice of physician from such Panel if  
19 he is not satisfied with the physician first selected. If, due  
20 to the nature of the injury or its occurrence away from the  
21 employer's place of business, the employee is unable to make a  
22 selection from the Panel, the selection process from the Panel  
23 shall not apply. The physician selected from the Panel may  
24 arrange for any consultation, referral or other specialized  
25 medical services outside the Panel at the employer's expense.  
26 Provided that, in the event the Commission shall find that a

1 doctor selected by the employee is rendering improper or  
2 inadequate care, the Commission may order the employee to  
3 select another doctor certified or qualified in the medical  
4 field for which treatment is required. If the employee refuses  
5 to make such change the Commission may relieve the employer of  
6 his obligation to pay the doctor's charges from the date of  
7 refusal to the date of compliance.

8 Any vocational rehabilitation counselors who provide  
9 service under this Act shall have appropriate certifications  
10 which designate the counselor as qualified to render opinions  
11 relating to vocational rehabilitation. Vocational  
12 rehabilitation may include, but is not limited to, counseling  
13 for job searches, supervising a job search program, and  
14 vocational retraining including education at an accredited  
15 learning institution. The employee or employer may petition to  
16 the Commission to decide disputes relating to vocational  
17 rehabilitation and the Commission shall resolve any such  
18 dispute, including payment of the vocational rehabilitation  
19 program by the employer.

20 The maintenance benefit shall not be less than the  
21 temporary total disability rate determined for the employee.  
22 In addition, maintenance shall include costs and expenses  
23 incidental to the vocational rehabilitation program.

24 When the employee is working light duty on a part-time  
25 basis or full-time basis and earns less than he or she would be  
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial  
2 disability benefits. Temporary partial disability benefits  
3 shall be equal to two-thirds of the difference between the  
4 average amount that the employee would be able to earn in the  
5 full performance of his or her duties in the occupation in  
6 which he or she was engaged at the time of accident and the  
7 gross amount which he or she is earning in the modified job  
8 provided to the employee by the employer or in any other job  
9 that the employee is working.

10 Every hospital, physician, surgeon or other person  
11 rendering treatment or services in accordance with the  
12 provisions of this Section shall upon written request furnish  
13 full and complete reports thereof to, and permit their records  
14 to be copied by, the employer, the employee or his dependents,  
15 as the case may be, or any other party to any proceeding for  
16 compensation before the Commission, or their attorneys.

17 Notwithstanding the foregoing, the employer's liability to  
18 pay for such medical services selected by the employee shall  
19 be limited to:

20 (1) all first aid and emergency treatment; plus

21 (2) all medical, surgical and hospital services  
22 provided by the physician, surgeon or hospital initially  
23 chosen by the employee or by any other physician,  
24 consultant, expert, institution or other provider of  
25 services recommended by said initial service provider or  
26 any subsequent provider of medical services in the chain

1 of referrals from said initial service provider; plus

2 (3) all medical, surgical and hospital services  
3 provided by any second physician, surgeon or hospital  
4 subsequently chosen by the employee or by any other  
5 physician, consultant, expert, institution or other  
6 provider of services recommended by said second service  
7 provider or any subsequent provider of medical services in  
8 the chain of referrals from said second service provider.  
9 Thereafter the employer shall select and pay for all  
10 necessary medical, surgical and hospital treatment and the  
11 employee may not select a provider of medical services at  
12 the employer's expense unless the employer agrees to such  
13 selection. At any time the employee may obtain any medical  
14 treatment he desires at his own expense. This paragraph  
15 shall not affect the duty to pay for rehabilitation  
16 referred to above.

17 (4) The following shall apply for injuries occurring  
18 on or after June 28, 2011 (the effective date of Public Act  
19 97-18) and only when an employer has an approved preferred  
20 provider program pursuant to Section 8.1a on the date the  
21 employee sustained his or her accidental injuries:

22 (A) The employer shall, in writing, on a form  
23 promulgated by the Commission, inform the employee of  
24 the preferred provider program;

25 (B) Subsequent to the report of an injury by an  
26 employee, the employee may choose in writing at any

1 time to decline the preferred provider program, in  
2 which case that would constitute one of the two  
3 choices of medical providers to which the employee is  
4 entitled under subsection (a)(2) or (a)(3); and

5 (C) Prior to the report of an injury by an  
6 employee, when an employee chooses non-emergency  
7 treatment from a provider not within the preferred  
8 provider program, that would constitute the employee's  
9 one choice of medical providers to which the employee  
10 is entitled under subsection (a)(2) or (a)(3).

11 When an employer and employee so agree in writing, nothing  
12 in this Act prevents an employee whose injury or disability  
13 has been established under this Act, from relying in good  
14 faith, on treatment by prayer or spiritual means alone, in  
15 accordance with the tenets and practice of a recognized church  
16 or religious denomination, by a duly accredited practitioner  
17 thereof, and having nursing services appropriate therewith,  
18 without suffering loss or diminution of the compensation  
19 benefits under this Act. However, the employee shall submit to  
20 all physical examinations required by this Act. The cost of  
21 such treatment and nursing care shall be paid by the employee  
22 unless the employer agrees to make such payment.

23 Where the accidental injury results in the amputation of  
24 an arm, hand, leg or foot, or the enucleation of an eye, or the  
25 loss of any of the natural teeth, the employer shall furnish an  
26 artificial of any such members lost or damaged in accidental

1 injury arising out of and in the course of employment, and  
2 shall also furnish the necessary braces in all proper and  
3 necessary cases. In cases of the loss of a member or members by  
4 amputation, the employer shall, whenever necessary, maintain  
5 in good repair, refit or replace the artificial limbs during  
6 the lifetime of the employee. Where the accidental injury  
7 accompanied by physical injury results in damage to a denture,  
8 eye glasses or contact eye lenses, or where the accidental  
9 injury results in damage to an artificial member, the employer  
10 shall replace or repair such denture, glasses, lenses, or  
11 artificial member.

12 The furnishing by the employer of any such services or  
13 appliances is not an admission of liability on the part of the  
14 employer to pay compensation.

15 The furnishing of any such services or appliances or the  
16 servicing thereof by the employer is not the payment of  
17 compensation.

18 (b) If the period of temporary total incapacity for work  
19 lasts more than 3 working days, weekly compensation as  
20 hereinafter provided shall be paid beginning on the 4th day of  
21 such temporary total incapacity and continuing as long as the  
22 total temporary incapacity lasts. In cases where the temporary  
23 total incapacity for work continues for a period of 14 days or  
24 more from the day of the accident compensation shall commence  
25 on the day after the accident.

26 1. The compensation rate for temporary total



1           incapacity under this paragraph (b) of this Section shall  
2           be equal to 66 2/3% of the employee's average weekly wage  
3           computed in accordance with Section 10, provided that it  
4           shall be not less than 66 2/3% of the sum of the Federal  
5           minimum wage under the Fair Labor Standards Act, or the  
6           Illinois minimum wage under the Minimum Wage Law,  
7           whichever is more, multiplied by 40 hours. This percentage  
8           rate shall be increased by 10% for each spouse and child,  
9           not to exceed 100% of the total minimum wage calculation,  
10          nor exceed the employee's average weekly wage computed in  
11          accordance with the provisions of Section 10, whichever is  
12          less.

13           2. The compensation rate in all cases other than for  
14          temporary total disability under this paragraph (b), and  
15          other than for serious and permanent disfigurement under  
16          paragraph (c) and other than for permanent partial  
17          disability under subparagraph (2) of paragraph (d) or  
18          under paragraph (e), of this Section shall be equal to 66  
19          2/3% of the employee's average weekly wage computed in  
20          accordance with the provisions of Section 10, provided  
21          that it shall be not less than 66 2/3% of the sum of the  
22          Federal minimum wage under the Fair Labor Standards Act,  
23          or the Illinois minimum wage under the Minimum Wage Law,  
24          whichever is more, multiplied by 40 hours. This percentage  
25          rate shall be increased by 10% for each spouse and child,  
26          not to exceed 100% of the total minimum wage calculation,

1 nor exceed the employee's average weekly wage computed in  
2 accordance with the provisions of Section 10, whichever is  
3 less.

4 2.1. The compensation rate in all cases of serious and  
5 permanent disfigurement under paragraph (c) and of  
6 permanent partial disability under subparagraph (2) of  
7 paragraph (d) or under paragraph (e) of this Section shall  
8 be equal to 60% of the employee's average weekly wage  
9 computed in accordance with the provisions of Section 10,  
10 provided that it shall be not less than 66 2/3% of the sum  
11 of the Federal minimum wage under the Fair Labor Standards  
12 Act, or the Illinois minimum wage under the Minimum Wage  
13 Law, whichever is more, multiplied by 40 hours. This  
14 percentage rate shall be increased by 10% for each spouse  
15 and child, not to exceed 100% of the total minimum wage  
16 calculation, nor exceed the employee's average weekly wage  
17 computed in accordance with the provisions of Section 10,  
18 whichever is less.

19 3. As used in this Section the term "child" means a  
20 child of the employee including any child legally adopted  
21 before the accident or whom at the time of the accident the  
22 employee was under legal obligation to support or to whom  
23 the employee stood in loco parentis, and who at the time of  
24 the accident was under 18 years of age and not  
25 emancipated. The term "children" means the plural of  
26 "child".

1           4. All weekly compensation rates provided under  
2           subparagraphs 1, 2 and 2.1 of this paragraph (b) of this  
3           Section shall be subject to the following limitations:

4           The maximum weekly compensation rate from July 1,  
5           1975, except as hereinafter provided, shall be 100% of the  
6           State's average weekly wage in covered industries under  
7           the Unemployment Insurance Act, that being the wage that  
8           most closely approximates the State's average weekly wage.

9           The maximum weekly compensation rate, for the period  
10          July 1, 1984, through June 30, 1987, except as hereinafter  
11          provided, shall be \$293.61. Effective July 1, 1987 and on  
12          July 1 of each year thereafter the maximum weekly  
13          compensation rate, except as hereinafter provided, shall  
14          be determined as follows: if during the preceding 12 month  
15          period there shall have been an increase in the State's  
16          average weekly wage in covered industries under the  
17          Unemployment Insurance Act, the weekly compensation rate  
18          shall be proportionately increased by the same percentage  
19          as the percentage of increase in the State's average  
20          weekly wage in covered industries under the Unemployment  
21          Insurance Act during such period.

22          The maximum weekly compensation rate, for the period  
23          January 1, 1981 through December 31, 1983, except as  
24          hereinafter provided, shall be 100% of the State's average  
25          weekly wage in covered industries under the Unemployment  
26          Insurance Act in effect on January 1, 1981. Effective

1           January 1, 1984 and on January 1, of each year thereafter  
2           the maximum weekly compensation rate, except as  
3           hereinafter provided, shall be determined as follows: if  
4           during the preceding 12 month period there shall have been  
5           an increase in the State's average weekly wage in covered  
6           industries under the Unemployment Insurance Act, the  
7           weekly compensation rate shall be proportionately  
8           increased by the same percentage as the percentage of  
9           increase in the State's average weekly wage in covered  
10          industries under the Unemployment Insurance Act during  
11          such period.

12           From July 1, 1977 and thereafter such maximum weekly  
13          compensation rate in death cases under Section 7, and  
14          permanent total disability cases under paragraph (f) or  
15          subparagraph 18 of paragraph (3) of this Section and for  
16          temporary total disability under paragraph (b) of this  
17          Section and for amputation of a member or enucleation of  
18          an eye under paragraph (e) of this Section shall be  
19          increased to 133-1/3% of the State's average weekly wage  
20          in covered industries under the Unemployment Insurance  
21          Act.

22           For injuries occurring on or after February 1, 2006,  
23          the maximum weekly benefit under paragraph (d)1 of this  
24          Section shall be 100% of the State's average weekly wage  
25          in covered industries under the Unemployment Insurance  
26          Act.

1           4.1. Any provision herein to the contrary  
2 notwithstanding, the weekly compensation rate for  
3 compensation payments under subparagraph 18 of paragraph  
4 (e) of this Section and under paragraph (f) of this  
5 Section and under paragraph (a) of Section 7 and for  
6 amputation of a member or enucleation of an eye under  
7 paragraph (e) of this Section, shall in no event be less  
8 than 50% of the State's average weekly wage in covered  
9 industries under the Unemployment Insurance Act.

10           4.2. Any provision to the contrary notwithstanding,  
11 the total compensation payable under Section 7 shall not  
12 exceed the greater of \$500,000 or 25 years.

13           5. For the purpose of this Section this State's  
14 average weekly wage in covered industries under the  
15 Unemployment Insurance Act on July 1, 1975 is hereby fixed  
16 at \$228.16 per week and the computation of compensation  
17 rates shall be based on the aforesaid average weekly wage  
18 until modified as hereinafter provided.

19           6. The Department of Employment Security of the State  
20 shall on or before the first day of December, 1977, and on  
21 or before the first day of June, 1978, and on the first day  
22 of each December and June of each year thereafter, publish  
23 the State's average weekly wage in covered industries  
24 under the Unemployment Insurance Act and the Illinois  
25 Workers' Compensation Commission shall on the 15th day of  
26 January, 1978 and on the 15th day of July, 1978 and on the

1 15th day of each January and July of each year thereafter,  
2 post and publish the State's average weekly wage in  
3 covered industries under the Unemployment Insurance Act as  
4 last determined and published by the Department of  
5 Employment Security. The amount when so posted and  
6 published shall be conclusive and shall be applicable as  
7 the basis of computation of compensation rates until the  
8 next posting and publication as aforesaid.

9 7. The payment of compensation by an employer or his  
10 insurance carrier to an injured employee shall not  
11 constitute an admission of the employer's liability to pay  
12 compensation.

13 (c) For any serious and permanent disfigurement to the  
14 hand, head, face, neck, arm, leg below the knee or the chest  
15 above the axillary line, the employee is entitled to  
16 compensation for such disfigurement, the amount determined by  
17 agreement at any time or by arbitration under this Act, at a  
18 hearing not less than 6 months after the date of the accidental  
19 injury, which amount shall not exceed 150 weeks (if the  
20 accidental injury occurs on or after the effective date of  
21 this amendatory Act of the 94th General Assembly but before  
22 February 1, 2006) or 162 weeks (if the accidental injury  
23 occurs on or after February 1, 2006) at the applicable rate  
24 provided in subparagraph 2.1 of paragraph (b) of this Section.

25 No compensation is payable under this paragraph where  
26 compensation is payable under paragraphs (d), (e) or (f) of

1 this Section.

2 A duly appointed member of a fire department in a city, the  
3 population of which exceeds 500,000 according to the last  
4 federal or State census, is eligible for compensation under  
5 this paragraph only where such serious and permanent  
6 disfigurement results from burns.

7 (d) 1. If, after the accidental injury has been sustained,  
8 the employee as a result thereof becomes partially  
9 incapacitated from pursuing his usual and customary line of  
10 employment, he shall, except in cases compensated under the  
11 specific schedule set forth in paragraph (e) of this Section,  
12 receive compensation for the duration of his disability,  
13 subject to the limitations as to maximum amounts fixed in  
14 paragraph (b) of this Section, equal to 66-2/3% of the  
15 difference between the average amount which he would be able  
16 to earn in the full performance of his duties in the occupation  
17 in which he was engaged at the time of the accident and the  
18 average amount which he is earning or is able to earn in some  
19 suitable employment or business after the accident. For  
20 accidental injuries that occur on or after September 1, 2011,  
21 an award for wage differential under this subsection shall be  
22 effective only until the employee reaches the age of 67 or 5  
23 years from the date the award becomes final, whichever is  
24 later.

25 2. If, as a result of the accident, the employee sustains  
26 serious and permanent injuries not covered by paragraphs (c)

1 and (e) of this Section or having sustained injuries covered  
2 by the aforesaid paragraphs (c) and (e), he shall have  
3 sustained in addition thereto other injuries which injuries do  
4 not incapacitate him from pursuing the duties of his  
5 employment but which would disable him from pursuing other  
6 suitable occupations, or which have otherwise resulted in  
7 physical impairment; or if such injuries partially  
8 incapacitate him from pursuing the duties of his usual and  
9 customary line of employment but do not result in an  
10 impairment of earning capacity, or having resulted in an  
11 impairment of earning capacity, the employee elects to waive  
12 his right to recover under the foregoing subparagraph 1 of  
13 paragraph (d) of this Section then in any of the foregoing  
14 events, he shall receive in addition to compensation for  
15 temporary total disability under paragraph (b) of this  
16 Section, compensation at the rate provided in subparagraph 2.1  
17 of paragraph (b) of this Section for that percentage of 500  
18 weeks that the partial disability resulting from the injuries  
19 covered by this paragraph bears to total disability. If the  
20 employee shall have sustained a fracture of one or more  
21 vertebra or fracture of the skull, the amount of compensation  
22 allowed under this Section shall be not less than 6 weeks for a  
23 fractured skull and 6 weeks for each fractured vertebra, and  
24 in the event the employee shall have sustained a fracture of  
25 any of the following facial bones: nasal, lachrymal, vomer,  
26 zygoma, maxilla, palatine or mandible, the amount of



1 compensation allowed under this Section shall be not less than  
2 2 weeks for each such fractured bone, and for a fracture of  
3 each transverse process not less than 3 weeks. In the event  
4 such injuries shall result in the loss of a kidney, spleen or  
5 lung, the amount of compensation allowed under this Section  
6 shall be not less than 10 weeks for each such organ.  
7 Compensation awarded under this subparagraph 2 shall not take  
8 into consideration injuries covered under paragraphs (c) and  
9 (e) of this Section and the compensation provided in this  
10 paragraph shall not affect the employee's right to  
11 compensation payable under paragraphs (b), (c) and (e) of this  
12 Section for the disabilities therein covered.

13 (e) For accidental injuries in the following schedule, the  
14 employee shall receive compensation for the period of  
15 temporary total incapacity for work resulting from such  
16 accidental injury, under subparagraph 1 of paragraph (b) of  
17 this Section, and shall receive in addition thereto  
18 compensation for a further period for the specific loss herein  
19 mentioned, but shall not receive any compensation under any  
20 other provisions of this Act. The following listed amounts  
21 apply to either the loss of or the permanent and complete loss  
22 of use of the member specified, such compensation for the  
23 length of time as follows:

24 1. Thumb-

25 70 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 76 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

4 2. First, or index finger-

5 40 weeks if the accidental injury occurs on or  
6 after the effective date of this amendatory Act of the  
7 94th General Assembly but before February 1, 2006.

8 43 weeks if the accidental injury occurs on or  
9 after February 1, 2006.

10 3. Second, or middle finger-

11 35 weeks if the accidental injury occurs on or  
12 after the effective date of this amendatory Act of the  
13 94th General Assembly but before February 1, 2006.

14 38 weeks if the accidental injury occurs on or  
15 after February 1, 2006.

16 4. Third, or ring finger-

17 25 weeks if the accidental injury occurs on or  
18 after the effective date of this amendatory Act of the  
19 94th General Assembly but before February 1, 2006.

20 27 weeks if the accidental injury occurs on or  
21 after February 1, 2006.

22 5. Fourth, or little finger-

23 20 weeks if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the  
25 94th General Assembly but before February 1, 2006.

26 22 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 6. Great toe-

3 35 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 38 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

8 7. Each toe other than great toe-

9 12 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

12 13 weeks if the accidental injury occurs on or  
13 after February 1, 2006.

14 8. The loss of the first or distal phalanx of the thumb  
15 or of any finger or toe shall be considered to be equal to  
16 the loss of one-half of such thumb, finger or toe and the  
17 compensation payable shall be one-half of the amount above  
18 specified. The loss of more than one phalanx shall be  
19 considered as the loss of the entire thumb, finger or toe.  
20 In no case shall the amount received for more than one  
21 finger exceed the amount provided in this schedule for the  
22 loss of a hand.

23 9. Hand-

24 190 weeks if the accidental injury occurs on or  
25 after the effective date of this amendatory Act of the  
26 94th General Assembly but before February 1, 2006.

1           205 weeks if the accidental injury occurs on or  
2 after February 1, 2006.

3           190 weeks if the accidental injury occurs on or  
4 after June 28, 2011 (the effective date of Public Act  
5 97-18) and if the accidental injury involves carpal  
6 tunnel syndrome due to repetitive or cumulative  
7 trauma, in which case the permanent partial disability  
8 shall not exceed 15% loss of use of the hand, except  
9 for cause shown by clear and convincing evidence and  
10 in which case the award shall not exceed 30% loss of  
11 use of the hand.

12           The loss of 2 or more digits, or one or more phalanges  
13 of 2 or more digits, of a hand may be compensated on the  
14 basis of partial loss of use of a hand, provided, further,  
15 that the loss of 4 digits, or the loss of use of 4 digits,  
16 in the same hand shall constitute the complete loss of a  
17 hand.

18           10. Arm-

19           235 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22           253 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24           Where an accidental injury results in the amputation  
25 of an arm below the elbow, such injury shall be  
26 compensated as a loss of an arm. Where an accidental

1 injury results in the amputation of an arm above the  
2 elbow, compensation for an additional 15 weeks (if the  
3 accidental injury occurs on or after the effective date of  
4 this amendatory Act of the 94th General Assembly but  
5 before February 1, 2006) or an additional 17 weeks (if the  
6 accidental injury occurs on or after February 1, 2006)  
7 shall be paid, except where the accidental injury results  
8 in the amputation of an arm at the shoulder joint, or so  
9 close to shoulder joint that an artificial arm cannot be  
10 used, or results in the disarticulation of an arm at the  
11 shoulder joint, in which case compensation for an  
12 additional 65 weeks (if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006) or an  
15 additional 70 weeks (if the accidental injury occurs on or  
16 after February 1, 2006) shall be paid.

17 For purposes of awards under this subparagraph 10,  
18 injuries to the shoulder shall be considered injuries to  
19 part of the arm. The change made by this amendatory Act of  
20 the 103rd General Assembly to this subparagraph 10 is  
21 declarative of existing law and is not a new enactment.

22 11. Foot-

23 155 weeks if the accidental injury occurs on or  
24 after the effective date of this amendatory Act of the  
25 94th General Assembly but before February 1, 2006.

26 167 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 12. Leg-

3 200 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 215 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

8 Where an accidental injury results in the amputation  
9 of a leg below the knee, such injury shall be compensated  
10 as loss of a leg. Where an accidental injury results in the  
11 amputation of a leg above the knee, compensation for an  
12 additional 25 weeks (if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006) or an  
15 additional 27 weeks (if the accidental injury occurs on or  
16 after February 1, 2006) shall be paid, except where the  
17 accidental injury results in the amputation of a leg at  
18 the hip joint, or so close to the hip joint that an  
19 artificial leg cannot be used, or results in the  
20 disarticulation of a leg at the hip joint, in which case  
21 compensation for an additional 75 weeks (if the accidental  
22 injury occurs on or after the effective date of this  
23 amendatory Act of the 94th General Assembly but before  
24 February 1, 2006) or an additional 81 weeks (if the  
25 accidental injury occurs on or after February 1, 2006)  
26 shall be paid.

1           For purposes of awards under this subparagraph 12,  
2           injuries to the hip shall be considered injuries to part  
3           of the leg. The change made by this amendatory Act of the  
4           103rd General Assembly to this subparagraph 12 is  
5           declarative of existing law and it not a new enactment.

6           13. Eye-

7                   150 weeks if the accidental injury occurs on or  
8                   after the effective date of this amendatory Act of the  
9                   94th General Assembly but before February 1, 2006.

10                   162 weeks if the accidental injury occurs on or  
11                   after February 1, 2006.

12           Where an accidental injury results in the enucleation  
13           of an eye, compensation for an additional 10 weeks (if the  
14           accidental injury occurs on or after the effective date of  
15           this amendatory Act of the 94th General Assembly but  
16           before February 1, 2006) or an additional 11 weeks (if the  
17           accidental injury occurs on or after February 1, 2006)  
18           shall be paid.

19           14. Loss of hearing of one ear-

20                   50 weeks if the accidental injury occurs on or  
21                   after the effective date of this amendatory Act of the  
22                   94th General Assembly but before February 1, 2006.

23                   54 weeks if the accidental injury occurs on or  
24                   after February 1, 2006.

25           Total and permanent loss of hearing of both ears-

26                   200 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the  
2 94th General Assembly but before February 1, 2006.

3 215 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 15. Testicle-

6 50 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 54 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 Both testicles-

12 150 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 162 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 16. For the permanent partial loss of use of a member  
18 or sight of an eye, or hearing of an ear, compensation  
19 during that proportion of the number of weeks in the  
20 foregoing schedule provided for the loss of such member or  
21 sight of an eye, or hearing of an ear, which the partial  
22 loss of use thereof bears to the total loss of use of such  
23 member, or sight of eye, or hearing of an ear.

24 (a) Loss of hearing for compensation purposes  
25 shall be confined to the frequencies of 1,000, 2,000  
26 and 3,000 cycles per second. Loss of hearing ability



1 for frequency tones above 3,000 cycles per second are  
2 not to be considered as constituting disability for  
3 hearing.

4 (b) The percent of hearing loss, for purposes of  
5 the determination of compensation claims for  
6 occupational deafness, shall be calculated as the  
7 average in decibels for the thresholds of hearing for  
8 the frequencies of 1,000, 2,000 and 3,000 cycles per  
9 second. Pure tone air conduction audiometric  
10 instruments, approved by nationally recognized  
11 authorities in this field, shall be used for measuring  
12 hearing loss. If the losses of hearing average 30  
13 decibels or less in the 3 frequencies, such losses of  
14 hearing shall not then constitute any compensable  
15 hearing disability. If the losses of hearing average  
16 85 decibels or more in the 3 frequencies, then the same  
17 shall constitute and be total or 100% compensable  
18 hearing loss.

19 (c) In measuring hearing impairment, the lowest  
20 measured losses in each of the 3 frequencies shall be  
21 added together and divided by 3 to determine the  
22 average decibel loss. For every decibel of loss  
23 exceeding 30 decibels an allowance of 1.82% shall be  
24 made up to the maximum of 100% which is reached at 85  
25 decibels.

26 (d) If a hearing loss is established to have

1           existed on July 1, 1975 by audiometric testing the  
 2           employer shall not be liable for the previous loss so  
 3           established nor shall he be liable for any loss for  
 4           which compensation has been paid or awarded.

5           (e) No consideration shall be given to the  
 6           question of whether or not the ability of an employee  
 7           to understand speech is improved by the use of a  
 8           hearing aid.

9           (f) No claim for loss of hearing due to industrial  
 10          noise shall be brought against an employer or allowed  
 11          unless the employee has been exposed for a period of  
 12          time sufficient to cause permanent impairment to noise  
 13          levels in excess of the following:

14          Sound Level DBA

15                    Slow Response	Hours Per Day
16                    90	8
17                    92	6
18                    95	4
19                    97	3
20                    100	2
21                    102	1-1/2
22                    105	1
23                    110	1/2
24                    115	1/4

25           This subparagraph (f) shall not be applied in cases of  
 26           hearing loss resulting from trauma or explosion.

1           17. In computing the compensation to be paid to any  
2           employee who, before the accident for which he claims  
3           compensation, had before that time sustained an injury  
4           resulting in the loss by amputation or partial loss by  
5           amputation of any member, including hand, arm, thumb or  
6           fingers, leg, foot or any toes, such loss or partial loss  
7           of any such member shall be deducted from any award made  
8           for the subsequent injury. For the permanent loss of use  
9           or the permanent partial loss of use of any such member or  
10          the partial loss of sight of an eye, for which  
11          compensation has been paid, then such loss shall be taken  
12          into consideration and deducted from any award for the  
13          subsequent injury.

14          18. The specific case of loss of both hands, both  
15          arms, or both feet, or both legs, or both eyes, or of any  
16          two thereof, or the permanent and complete loss of the use  
17          thereof, constitutes total and permanent disability, to be  
18          compensated according to the compensation fixed by  
19          paragraph (f) of this Section. These specific cases of  
20          total and permanent disability do not exclude other cases.

21          Any employee who has previously suffered the loss or  
22          permanent and complete loss of the use of any of such  
23          members, and in a subsequent independent accident loses  
24          another or suffers the permanent and complete loss of the  
25          use of any one of such members the employer for whom the  
26          injured employee is working at the time of the last

1 independent accident is liable to pay compensation only  
2 for the loss or permanent and complete loss of the use of  
3 the member occasioned by the last independent accident.

4 19. In a case of specific loss and the subsequent  
5 death of such injured employee from other causes than such  
6 injury leaving a widow, widower, or dependents surviving  
7 before payment or payment in full for such injury, then  
8 the amount due for such injury is payable to the widow or  
9 widower and, if there be no widow or widower, then to such  
10 dependents, in the proportion which such dependency bears  
11 to total dependency.

12 Beginning July 1, 1980, and every 6 months thereafter, the  
13 Commission shall examine the Second Injury Fund and when,  
14 after deducting all advances or loans made to such Fund, the  
15 amount therein is \$500,000 then the amount required to be paid  
16 by employers pursuant to paragraph (f) of Section 7 shall be  
17 reduced by one-half. When the Second Injury Fund reaches the  
18 sum of \$600,000 then the payments shall cease entirely.  
19 However, when the Second Injury Fund has been reduced to  
20 \$400,000, payment of one-half of the amounts required by  
21 paragraph (f) of Section 7 shall be resumed, in the manner  
22 herein provided, and when the Second Injury Fund has been  
23 reduced to \$300,000, payment of the full amounts required by  
24 paragraph (f) of Section 7 shall be resumed, in the manner  
25 herein provided. The Commission shall make the changes in  
26 payment effective by general order, and the changes in payment

1 become immediately effective for all cases coming before the  
2 Commission thereafter either by settlement agreement or final  
3 order, irrespective of the date of the accidental injury.

4 On August 1, 1996 and on February 1 and August 1 of each  
5 subsequent year, the Commission shall examine the special fund  
6 designated as the "Rate Adjustment Fund" and when, after  
7 deducting all advances or loans made to said fund, the amount  
8 therein is \$4,000,000, the amount required to be paid by  
9 employers pursuant to paragraph (f) of Section 7 shall be  
10 reduced by one-half. When the Rate Adjustment Fund reaches the  
11 sum of \$5,000,000 the payment therein shall cease entirely.  
12 However, when said Rate Adjustment Fund has been reduced to  
13 \$3,000,000 the amounts required by paragraph (f) of Section 7  
14 shall be resumed in the manner herein provided.

15 (f) In case of complete disability, which renders the  
16 employee wholly and permanently incapable of work, or in the  
17 specific case of total and permanent disability as provided in  
18 subparagraph 18 of paragraph (e) of this Section, compensation  
19 shall be payable at the rate provided in subparagraph 2 of  
20 paragraph (b) of this Section for life.

21 An employee entitled to benefits under paragraph (f) of  
22 this Section shall also be entitled to receive from the Rate  
23 Adjustment Fund provided in paragraph (f) of Section 7 of the  
24 supplementary benefits provided in paragraph (g) of this  
25 Section 8.

26 If any employee who receives an award under this paragraph

1 afterwards returns to work or is able to do so, and earns or is  
2 able to earn as much as before the accident, payments under  
3 such award shall cease. If such employee returns to work, or is  
4 able to do so, and earns or is able to earn part but not as  
5 much as before the accident, such award shall be modified so as  
6 to conform to an award under paragraph (d) of this Section. If  
7 such award is terminated or reduced under the provisions of  
8 this paragraph, such employees have the right at any time  
9 within 30 months after the date of such termination or  
10 reduction to file petition with the Commission for the purpose  
11 of determining whether any disability exists as a result of  
12 the original accidental injury and the extent thereof.

13 Disability as enumerated in subdivision 18, paragraph (e)  
14 of this Section is considered complete disability.

15 If an employee who had previously incurred loss or the  
16 permanent and complete loss of use of one member, through the  
17 loss or the permanent and complete loss of the use of one hand,  
18 one arm, one foot, one leg, or one eye, incurs permanent and  
19 complete disability through the loss or the permanent and  
20 complete loss of the use of another member, he shall receive,  
21 in addition to the compensation payable by the employer and  
22 after such payments have ceased, an amount from the Second  
23 Injury Fund provided for in paragraph (f) of Section 7, which,  
24 together with the compensation payable from the employer in  
25 whose employ he was when the last accidental injury was  
26 incurred, will equal the amount payable for permanent and

1 complete disability as provided in this paragraph of this  
2 Section.

3 The custodian of the Second Injury Fund provided for in  
4 paragraph (f) of Section 7 shall be joined with the employer as  
5 a party respondent in the application for adjustment of claim.  
6 The application for adjustment of claim shall state briefly  
7 and in general terms the approximate time and place and manner  
8 of the loss of the first member.

9 In its award the Commission or the Arbitrator shall  
10 specifically find the amount the injured employee shall be  
11 weekly paid, the number of weeks compensation which shall be  
12 paid by the employer, the date upon which payments begin out of  
13 the Second Injury Fund provided for in paragraph (f) of  
14 Section 7 of this Act, the length of time the weekly payments  
15 continue, the date upon which the pension payments commence  
16 and the monthly amount of the payments. The Commission shall  
17 30 days after the date upon which payments out of the Second  
18 Injury Fund have begun as provided in the award, and every  
19 month thereafter, prepare and submit to the State Comptroller  
20 a voucher for payment for all compensation accrued to that  
21 date at the rate fixed by the Commission. The State  
22 Comptroller shall draw a warrant to the injured employee along  
23 with a receipt to be executed by the injured employee and  
24 returned to the Commission. The endorsed warrant and receipt  
25 is a full and complete acquittance to the Commission for the  
26 payment out of the Second Injury Fund. No other appropriation

1 or warrant is necessary for payment out of the Second Injury  
2 Fund. The Second Injury Fund is appropriated for the purpose  
3 of making payments according to the terms of the awards.

4 As of July 1, 1980 to July 1, 1982, all claims against and  
5 obligations of the Second Injury Fund shall become claims  
6 against and obligations of the Rate Adjustment Fund to the  
7 extent there is insufficient money in the Second Injury Fund  
8 to pay such claims and obligations. In that case, all  
9 references to "Second Injury Fund" in this Section shall also  
10 include the Rate Adjustment Fund.

11 (g) Every award for permanent total disability entered by  
12 the Commission on and after July 1, 1965 under which  
13 compensation payments shall become due and payable after the  
14 effective date of this amendatory Act, and every award for  
15 death benefits or permanent total disability entered by the  
16 Commission on and after the effective date of this amendatory  
17 Act shall be subject to annual adjustments as to the amount of  
18 the compensation rate therein provided. Such adjustments shall  
19 first be made on July 15, 1977, and all awards made and entered  
20 prior to July 1, 1975 and on July 15 of each year thereafter.  
21 In all other cases such adjustment shall be made on July 15 of  
22 the second year next following the date of the entry of the  
23 award and shall further be made on July 15 annually  
24 thereafter. If during the intervening period from the date of  
25 the entry of the award, or the last periodic adjustment, there  
26 shall have been an increase in the State's average weekly wage



1 in covered industries under the Unemployment Insurance Act,  
2 the weekly compensation rate shall be proportionately  
3 increased by the same percentage as the percentage of increase  
4 in the State's average weekly wage in covered industries under  
5 the Unemployment Insurance Act. The increase in the  
6 compensation rate under this paragraph shall in no event bring  
7 the total compensation rate to an amount greater than the  
8 prevailing maximum rate at the time that the annual adjustment  
9 is made. Such increase shall be paid in the same manner as  
10 herein provided for payments under the Second Injury Fund to  
11 the injured employee, or his dependents, as the case may be,  
12 out of the Rate Adjustment Fund provided in paragraph (f) of  
13 Section 7 of this Act. Payments shall be made at the same  
14 intervals as provided in the award or, at the option of the  
15 Commission, may be made in quarterly payment on the 15th day of  
16 January, April, July and October of each year. In the event of  
17 a decrease in such average weekly wage there shall be no change  
18 in the then existing compensation rate. The within paragraph  
19 shall not apply to cases where there is disputed liability and  
20 in which a compromise lump sum settlement between the employer  
21 and the injured employee, or his dependents, as the case may  
22 be, has been duly approved by the Illinois Workers'  
23 Compensation Commission.

24 Provided, that in cases of awards entered by the  
25 Commission for injuries occurring before July 1, 1975, the  
26 increases in the compensation rate adjusted under the

1 foregoing provision of this paragraph (g) shall be limited to  
2 increases in the State's average weekly wage in covered  
3 industries under the Unemployment Insurance Act occurring  
4 after July 1, 1975.

5 For every accident occurring on or after July 20, 2005 but  
6 before the effective date of this amendatory Act of the 94th  
7 General Assembly (Senate Bill 1283 of the 94th General  
8 Assembly), the annual adjustments to the compensation rate in  
9 awards for death benefits or permanent total disability, as  
10 provided in this Act, shall be paid by the employer. The  
11 adjustment shall be made by the employer on July 15 of the  
12 second year next following the date of the entry of the award  
13 and shall further be made on July 15 annually thereafter. If  
14 during the intervening period from the date of the entry of the  
15 award, or the last periodic adjustment, there shall have been  
16 an increase in the State's average weekly wage in covered  
17 industries under the Unemployment Insurance Act, the employer  
18 shall increase the weekly compensation rate proportionately by  
19 the same percentage as the percentage of increase in the  
20 State's average weekly wage in covered industries under the  
21 Unemployment Insurance Act. The increase in the compensation  
22 rate under this paragraph shall in no event bring the total  
23 compensation rate to an amount greater than the prevailing  
24 maximum rate at the time that the annual adjustment is made. In  
25 the event of a decrease in such average weekly wage there shall  
26 be no change in the then existing compensation rate. Such

1 increase shall be paid by the employer in the same manner and  
2 at the same intervals as the payment of compensation in the  
3 award. This paragraph shall not apply to cases where there is  
4 disputed liability and in which a compromise lump sum  
5 settlement between the employer and the injured employee, or  
6 his or her dependents, as the case may be, has been duly  
7 approved by the Illinois Workers' Compensation Commission.

8 The annual adjustments for every award of death benefits  
9 or permanent total disability involving accidents occurring  
10 before July 20, 2005 and accidents occurring on or after the  
11 effective date of this amendatory Act of the 94th General  
12 Assembly (Senate Bill 1283 of the 94th General Assembly) shall  
13 continue to be paid from the Rate Adjustment Fund pursuant to  
14 this paragraph and Section 7(f) of this Act.

15 (h) In case death occurs from any cause before the total  
16 compensation to which the employee would have been entitled  
17 has been paid, then in case the employee leaves any widow,  
18 widower, child, parent (or any grandchild, grandparent or  
19 other lineal heir or any collateral heir dependent at the time  
20 of the accident upon the earnings of the employee to the extent  
21 of 50% or more of total dependency) such compensation shall be  
22 paid to the beneficiaries of the deceased employee and  
23 distributed as provided in paragraph (g) of Section 7.

24 (h-1) In case an injured employee is under legal  
25 disability at the time when any right or privilege accrues to  
26 him or her under this Act, a guardian may be appointed pursuant

1 to law, and may, on behalf of such person under legal  
2 disability, claim and exercise any such right or privilege  
3 with the same effect as if the employee himself or herself had  
4 claimed or exercised the right or privilege. No limitations of  
5 time provided by this Act run so long as the employee who is  
6 under legal disability is without a conservator or guardian.

7 (i) In case the injured employee is under 16 years of age  
8 at the time of the accident and is illegally employed, the  
9 amount of compensation payable under paragraphs (b), (c), (d),  
10 (e) and (f) of this Section is increased 50%.

11 However, where an employer has on file an employment  
12 certificate issued pursuant to the Child Labor Law or work  
13 permit issued pursuant to the Federal Fair Labor Standards  
14 Act, as amended, or a birth certificate properly and duly  
15 issued, such certificate, permit or birth certificate is  
16 conclusive evidence as to the age of the injured minor  
17 employee for the purposes of this Section.

18 Nothing herein contained repeals or amends the provisions  
19 of the Child Labor Law relating to the employment of minors  
20 under the age of 16 years.

21 (j) 1. In the event the injured employee receives  
22 benefits, including medical, surgical or hospital benefits  
23 under any group plan covering non-occupational disabilities  
24 contributed to wholly or partially by the employer, which  
25 benefits should not have been payable if any rights of  
26 recovery existed under this Act, then such amounts so paid to

1 the employee from any such group plan as shall be consistent  
2 with, and limited to, the provisions of paragraph 2 hereof,  
3 shall be credited to or against any compensation payment for  
4 temporary total incapacity for work or any medical, surgical  
5 or hospital benefits made or to be made under this Act. In such  
6 event, the period of time for giving notice of accidental  
7 injury and filing application for adjustment of claim does not  
8 commence to run until the termination of such payments. This  
9 paragraph does not apply to payments made under any group plan  
10 which would have been payable irrespective of an accidental  
11 injury under this Act. Any employer receiving such credit  
12 shall keep such employee safe and harmless from any and all  
13 claims or liabilities that may be made against him by reason of  
14 having received such payments only to the extent of such  
15 credit.

16 Any excess benefits paid to or on behalf of a State  
17 employee by the State Employees' Retirement System under  
18 Article 14 of the Illinois Pension Code on a death claim or  
19 disputed disability claim shall be credited against any  
20 payments made or to be made by the State of Illinois to or on  
21 behalf of such employee under this Act, except for payments  
22 for medical expenses which have already been incurred at the  
23 time of the award. The State of Illinois shall directly  
24 reimburse the State Employees' Retirement System to the extent  
25 of such credit.

26 2. Nothing contained in this Act shall be construed to

1 give the employer or the insurance carrier the right to credit  
2 for any benefits or payments received by the employee other  
3 than compensation payments provided by this Act, and where the  
4 employee receives payments other than compensation payments,  
5 whether as full or partial salary, group insurance benefits,  
6 bonuses, annuities or any other payments, the employer or  
7 insurance carrier shall receive credit for each such payment  
8 only to the extent of the compensation that would have been  
9 payable during the period covered by such payment.

10 3. The extension of time for the filing of an Application  
11 for Adjustment of Claim as provided in paragraph 1 above shall  
12 not apply to those cases where the time for such filing had  
13 expired prior to the date on which payments or benefits  
14 enumerated herein have been initiated or resumed. Provided  
15 however that this paragraph 3 shall apply only to cases  
16 wherein the payments or benefits hereinabove enumerated shall  
17 be received after July 1, 1969.

18 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11;  
19 97-813, eff. 7-13-12.)

20 Section 99. Effective date. This Act takes effect upon  
21 becoming law.