



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 2137

2 AMENDMENT NO. _____. Amend House Bill 2137, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 changing Section 1204 as follows:

7 (215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

8 Sec. 1204. (A) The Director shall promulgate rules and
9 regulations which shall require each insurer licensed to write
10 property or casualty insurance in the State and each syndicate
11 doing business on the Illinois Insurance Exchange to record and
12 report its loss and expense experience and other data as may be
13 necessary to assess the relationship of insurance premiums and
14 related income as compared to insurance costs and expenses. The
15 Director may designate one or more rate service organizations
16 or advisory organizations to gather and compile such experience
17 and data. The Director shall require each insurer licensed to
18 write property or casualty insurance in this State and each
19 syndicate doing business on the Illinois Insurance Exchange to
20 submit a report, on a form furnished by the Director, showing
21 its direct writings in this State and companywide.

22 (B) Such report required by subsection (A) of this Section
23 may include, but not be limited to, the following specific
24 types of insurance written by such insurer:

1 (1) Political subdivision liability insurance reported
2 separately in the following categories:

3 (a) municipalities;

4 (b) school districts;

5 (c) other political subdivisions;

6 (2) Public official liability insurance;

7 (3) Dram shop liability insurance;

8 (4) Day care center liability insurance;

9 (5) Labor, fraternal or religious organizations
10 liability insurance;

11 (6) Errors and omissions liability insurance;

12 (7) Officers and directors liability insurance
13 reported separately as follows:

14 (a) non-profit entities;

15 (b) for-profit entities;

16 (8) Products liability insurance;

17 (9) Medical malpractice insurance;

18 (10) Attorney malpractice insurance;

19 (11) Architects and engineers malpractice insurance;

20 and

21 (12) Motor vehicle insurance reported separately for
22 commercial and private passenger vehicles as follows:

23 (a) motor vehicle physical damage insurance;

24 (b) motor vehicle liability insurance.

25 (C) Such report may include, but need not be limited to the
26 following data, both specific to this State and companywide, in
27 the aggregate or by type of insurance for the previous year on
28 a calendar year basis:

29 (1) Direct premiums written;

30 (2) Direct premiums earned;

31 (3) Number of policies;

32 (4) Net investment income, using appropriate estimates
33 where necessary;

34 (5) Losses paid;

- 1 (6) Losses incurred;
- 2 (7) Loss reserves:
- 3 (a) Losses unpaid on reported claims;
- 4 (b) Losses unpaid on incurred but not reported
- 5 claims;
- 6 (8) Number of claims:
- 7 (a) Paid claims;
- 8 (b) Arising claims;
- 9 (9) Loss adjustment expenses:
- 10 (a) Allocated loss adjustment expenses;
- 11 (b) Unallocated loss adjustment expenses;
- 12 (10) Net underwriting gain or loss;
- 13 (11) Net operation gain or loss, including net
- 14 investment income;
- 15 (12) Any other information requested by the Director.

16 (C-5) Additional information by an advisory organization
17 as defined in Section 463 of this Code.

18 (1) An advisory organization as defined in Section 463
19 of this Code shall report annually the following
20 information in such format as may be prescribed by the
21 Secretary:

22 (a) paid and incurred losses for each of the past
23 10 years;

24 (b) medical payments and medical charges, if
25 collected, for each of the past 10 years;

26 (c) the following indemnity payment information:
27 cumulative payments by accident year by calendar year
28 of development. This array will show payments made and
29 frequency of claims in the following categories:
30 medical only, permanent partial disability (PPD),
31 permanent total disability (PTD), temporary total
32 disability (TTD), and fatalities;

33 (d) injuries by frequency and severity;

34 (e) by class of employee.

1 (2) The report filed with the Secretary of Financial
2 and Professional Regulation under paragraph (1) of this
3 subsection (C-5) shall be made available, on an aggregate
4 basis, to the General Assembly and to the general public.
5 The identity of the petitioner, the respondent, the
6 attorneys, and the insurers shall not be disclosed.

7 (3) Reports required under this subsection (C-5) shall
8 be filed with the Secretary no later than September 1 in
9 2006 and no later than September 1 of each year thereafter.

10 (D) In addition to the information which may be requested
11 under subsection (C), the Director may also request on a
12 companywide, aggregate basis, Federal Income Tax recoverable,
13 net realized capital gain or loss, net unrealized capital gain
14 or loss, and all other expenses not requested in subsection (C)
15 above.

16 (E) Violations - Suspensions - Revocations.

17 (1) Any company or person subject to this Article, who
18 willfully or repeatedly fails to observe or who otherwise
19 violates any of the provisions of this Article or any rule
20 or regulation promulgated by the Director under authority
21 of this Article or any final order of the Director entered
22 under the authority of this Article shall by civil penalty
23 forfeit to the State of Illinois a sum not to exceed
24 \$2,000. Each day during which a violation occurs
25 constitutes a separate offense.

26 (2) No forfeiture liability under paragraph (1) of this
27 subsection may attach unless a written notice of apparent
28 liability has been issued by the Director and received by
29 the respondent, or the Director sends written notice of
30 apparent liability by registered or certified mail, return
31 receipt requested, to the last known address of the
32 respondent. Any respondent so notified must be granted an
33 opportunity to request a hearing within 10 days from
34 receipt of notice, or to show in writing, why he should not

1 be held liable. A notice issued under this Section must set
2 forth the date, facts and nature of the act or omission
3 with which the respondent is charged and must specifically
4 identify the particular provision of this Article, rule,
5 regulation or order of which a violation is charged.

6 (3) No forfeiture liability under paragraph (1) of this
7 subsection may attach for any violation occurring more than
8 2 years prior to the date of issuance of the notice of
9 apparent liability and in no event may the total civil
10 penalty forfeiture imposed for the acts or omissions set
11 forth in any one notice of apparent liability exceed
12 \$100,000.

13 (4) All administrative hearings conducted pursuant to
14 this Article are subject to 50 Ill. Adm. Code 2402 and all
15 administrative hearings are subject to the Administrative
16 Review Law.

17 (5) The civil penalty forfeitures provided for in this
18 Section are payable to the General Revenue Fund of the
19 State of Illinois, and may be recovered in a civil suit in
20 the name of the State of Illinois brought in the Circuit
21 Court in Sangamon County or in the Circuit Court of the
22 county where the respondent is domiciled or has its
23 principal operating office.

24 (6) In any case where the Director issues a notice of
25 apparent liability looking toward the imposition of a civil
26 penalty forfeiture under this Section that fact may not be
27 used in any other proceeding before the Director to the
28 prejudice of the respondent to whom the notice was issued,
29 unless (a) the civil penalty forfeiture has been paid, or
30 (b) a court has ordered payment of the civil penalty
31 forfeiture and that order has become final.

32 (7) When any person or company has a license or
33 certificate of authority under this Code and knowingly
34 fails or refuses to comply with a lawful order of the

1 Director requiring compliance with this Article, entered
2 after notice and hearing, within the period of time
3 specified in the order, the Director may, in addition to
4 any other penalty or authority provided, revoke or refuse
5 to renew the license or certificate of authority of such
6 person or company, or may suspend the license or
7 certificate of authority of such person or company until
8 compliance with such order has been obtained.

9 (8) When any person or company has a license or
10 certificate of authority under this Code and knowingly
11 fails or refuses to comply with any provisions of this
12 Article, the Director may, after notice and hearing, in
13 addition to any other penalty provided, revoke or refuse to
14 renew the license or certificate of authority of such
15 person or company, or may suspend the license or
16 certificate of authority of such person or company, until
17 compliance with such provision of this Article has been
18 obtained.

19 (9) No suspension or revocation under this Section may
20 become effective until 5 days from the date that the notice
21 of suspension or revocation has been personally delivered
22 or delivered by registered or certified mail to the company
23 or person. A suspension or revocation under this Section is
24 stayed upon the filing, by the company or person, of a
25 petition for judicial review under the Administrative
26 Review Law.

27 (Source: P.A. 93-32, eff. 7-1-03.)

28 Section 10. The Workers' Compensation Act is amended by
29 changing Sections 4, 7, 8, 12, 13, 13.1, 14, 16, and 19 and by
30 adding Sections 8.2, 8.3, 8.7, and 25.5 as follows:

31 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

32 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 the
11 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 any
25 such employer does not satisfy the Commission of the
26 financial ability of the employer who has filed it, the
27 Commission shall require such employer to,

28 (2) Furnish security, indemnity or a bond guaranteeing
29 the payment by the employer of the compensation provided
30 for in this Act, provided that any such employer whose
31 application and financial statement shall not have
32 satisfied the commission of his or her financial ability
33 and who shall have secured his liability in part by excess
34 liability insurance shall be required to furnish to the

1 Commission security, indemnity or bond guaranteeing his or
2 her payment up to the effective limits of the excess
3 coverage, or

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

16 Firstly, the entire compensation liability of the
17 employer to employees working at or from one location
18 shall be insured in one such insurance carrier or shall
19 be self-insured, and

20 Secondly, the employer shall submit evidence
21 satisfactorily to the Commission that his or her entire
22 liability for the compensation provided for in this Act
23 will be secured. Any provisions in any policy, or in
24 any endorsement attached thereto, attempting to limit
25 or modify in any way, the liability of the insurance
26 carriers issuing the same except as otherwise provided
27 herein shall be wholly void.

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

31 (4) Make some other provision, satisfactory to the
32 Commission, for the securing of the payment of compensation
33 provided for in this Act, and

34 (5) Upon becoming subject to this Act and thereafter as

1 often as the Commission may in writing demand, file with
2 the Commission in form prescribed by it evidence of his or
3 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 the
8 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 Section
14 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 Illinois.

24 The penalty shall not exceed \$1,000 for each day of work
25 for which the employer failed to make payments upon the premium
26 rates of the situs where the work or project is located in
27 Illinois, but the total penalty shall not exceed \$50,000 for
28 each project or each contract under which the work was
29 performed.

30 Any penalty under this subsection (a-1) must be imposed not
31 later than one year after the expiration of the applicable
32 limitation period specified in subsection (d) of Section 6 of
33 this Act. Penalties imposed under this subsection (a-1) shall
34 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.

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 employer,
8 as the case may be, shall be subject to the approval of the
9 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 Commission
18 shall send to the employer written notice of its approval
19 thereof. The certificate of compliance by the employer with the
20 provisions of subparagraphs (2) and (3) of paragraph (a) of
21 this Section shall be delivered by the insurance carrier to the
22 Illinois Workers' Compensation Commission within five days
23 after the effective date of the policy so certified. The
24 insurance so certified shall cover all compensation liability
25 occurring during the time that the insurance is in effect and
26 no further certificate need be filed in case such insurance is
27 renewed, extended or otherwise continued by such carrier. The
28 insurance so certified shall not be cancelled or in the event
29 that such insurance is not renewed, extended or otherwise
30 continued, such insurance shall not be terminated until at
31 least 10 days after receipt by the Illinois Workers'
32 Compensation Commission of notice of the cancellation or
33 termination of said insurance; provided, however, that if the
34 employer has secured insurance from another insurance carrier,

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

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

1 employees, the Commission may after reasonable notice and
2 hearing order and direct that such service or adjustment
3 company shall from and after a date fixed in such order be
4 prohibited from processing, adjusting, investigating,
5 compromising or otherwise handling claims under this Act.

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

17 All orders made by the Commission under this Section shall
18 be subject to review by the courts, said review to be taken in
19 the same manner and within the same time as provided by Section
20 19 of this Act for review of awards and decisions of the
21 Commission, upon the party seeking the review filing with the
22 clerk of the court to which said review is taken a bond in an
23 amount to be fixed and approved by the court to which the
24 review is taken, conditioned upon the payment of all
25 compensation awarded against the person taking said review
26 pending a decision thereof and further conditioned upon such
27 other obligations as the court may impose. Upon the review the
28 Circuit Court shall have power to review all questions of fact
29 as well as of law. The penalty hereinafter provided for in this
30 paragraph shall not attach and shall not begin to run until the
31 final determination of the order of the Commission.

32 (d) Whenever a panel of 3 Commissioners comprised of one
33 member of the employing class, one member of the employee
34 class, and one member not identified with either the employing

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

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

30 Any individual employer, corporate officer or director of a
31 corporate employer, partner of an employer partnership, or
32 member of an employer limited liability company who negligently
33 fails to provide coverage as required by paragraph (a) of this
34 Section is guilty of a Class A misdemeanor. This provision

1 shall not apply to any corporate officer or director of any
2 publicly-owned corporation. Each day's violation constitutes a
3 separate offense. The State's Attorney of the county in which
4 the violation occurred, or the Attorney General, shall bring
5 such actions in the name of the People of the State of
6 Illinois.

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

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

29 An employee of an uninsured employer, or the employee's
30 dependents in case death ensued, may, instead of proceeding
31 against the employer in a civil action in court, file an
32 application for adjustment of claim with the Commission in
33 accordance with the provisions of this Act and the Commission
34 shall hear and determine the application for adjustment of

1 claim in the manner in which other claims are heard and
2 determined before the Commission.

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

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

1 authority to prosecute all proceedings to enforce the civil and
2 administrative provisions of this Section before the
3 Commission. The Commission shall promulgate procedural rules
4 for enforcing this Section. All penalties collected under this
5 Section shall be deposited in the Illinois Workers'
6 Compensation Commission Operations Fund.

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

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

29 Penalties and fines collected pursuant to this paragraph
30 (d) shall be deposited upon receipt into a special fund which
31 shall be designated the Injured Workers' Benefit Fund, of which
32 the State Treasurer is ex-officio custodian, such special fund
33 to be held and disbursed in accordance with this paragraph (d)
34 for the purposes hereinafter stated in this paragraph (d), upon

1 the final order of the Commission. The Injured Workers' Benefit
2 Fund shall be deposited the same as are State funds and any
3 interest accruing thereon shall be added thereto every 6
4 months. The Injured Workers' Benefit Fund is subject to audit
5 the same as State funds and accounts and is protected by the
6 general bond given by the State Treasurer. The Injured Workers'
7 Benefit Fund is considered always appropriated for the purposes
8 of disbursements as provided in this paragraph, and shall be
9 paid out and disbursed as herein provided and shall not at any
10 time be appropriated or diverted to any other use or purpose.
11 Moneys in the Injured Workers' Benefit Fund shall be used only
12 for payment of workers' compensation benefits for injured
13 employees when the employer has failed to provide coverage as
14 determined under this paragraph (d) and has failed to pay the
15 benefits due to the injured employee. The Commission shall have
16 the right to obtain reimbursement from the employer for
17 compensation obligations paid by the Injured Workers' Benefit
18 Fund. Any such amounts obtained shall be deposited by the
19 Commission into the Injured Workers' Benefit Fund. If an
20 injured employee or his or her personal representative receives
21 payment from the Injured Workers' Benefit Fund, the State of
22 Illinois has the same rights under paragraph (b) of Section 5
23 that the employer who failed to pay the benefits due to the
24 injured employee would have had if the employer had paid those
25 benefits, and any moneys recovered by the State as a result of
26 the State's exercise of its rights under paragraph (b) of
27 Section 5 shall be deposited into the Injured Workers' Benefit
28 Fund. The custodian of the Injured Workers' Benefit Fund shall
29 be joined with the employer as a party respondent in the
30 application for adjustment of claim. After July 1, 2006, the
31 Commission shall make disbursements from the Fund once each
32 year to each eligible claimant. An eligible claimant is an
33 injured worker who has within the previous fiscal year obtained
34 a final award for benefits from the Commission against the

1 employer and the Injured Workers' Benefit Fund and has notified
2 the Commission within 90 days of receipt of such award. Within
3 a reasonable time after the end of each fiscal year, the
4 Commission shall make a disbursement to each eligible claimant.
5 At the time of disbursement, if there are insufficient moneys
6 in the Fund to pay all claims, each eligible claimant shall
7 receive a pro-rata share, as determined by the Commission, of
8 the available moneys in the Fund for that year. Payment from
9 the Injured Workers' Benefit Fund to an eligible claimant
10 pursuant to this provision shall discharge the obligations of
11 the Injured Workers' Benefit Fund regarding the award entered
12 by the Commission.

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

32 (f) No existing insurance, mutual aid, benefit or relief
33 association or department shall, by reason of anything herein
34 contained, be authorized to discontinue its operation without

1 first discharging its obligations to any and all persons
2 carrying insurance in the same or entitled to relief or
3 benefits therein.

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

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

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

29 It shall be unlawful for any employer, individually or
30 through any insurance company or service or adjustment company,
31 to discharge or to threaten to discharge, or to refuse to
32 rehire or recall to active service in a suitable capacity an
33 employee because of the exercise of his or her rights or
34 remedies granted to him or her by this Act.

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

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

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

25 If an employer is denied a renewal of self-insurance
26 privileges pursuant to application it shall retain said
27 privilege for 120 days after receipt of a notice of
28 cancellation of the privilege from the Chairman of the
29 Commission.

30 All orders made by the Chairman under this Section shall be
31 subject to review by the courts, such review to be taken in the
32 same manner and within the same time as provided by subsection
33 (f) of Section 19 of this Act for review of awards and
34 decisions of the Commission, upon the party seeking the review

1 filing with the clerk of the court to which such review is
2 taken a bond in an amount to be fixed and approved by the court
3 to which the review is taken, conditioned upon the payment of
4 all compensation awarded against the person taking such review
5 pending a decision thereof and further conditioned upon such
6 other obligations as the court may impose. Upon the review the
7 Circuit Court shall have power to review all questions of fact
8 as well as of law.

9 (Source: P.A. 92-324, eff. 8-9-01; 93-721, eff. 1-1-05.)

10 (820 ILCS 305/7) (from Ch. 48, par. 138.7)

11 Sec. 7. The amount of compensation which shall be paid for
12 an accidental injury to the employee resulting in death is:

13 (a) If the employee leaves surviving a widow, widower,
14 child or children, the applicable weekly compensation rate
15 computed in accordance with subparagraph 2 of paragraph (b) of
16 Section 8, shall be payable during the life of the widow or
17 widower and if any surviving child or children shall not be
18 physically or mentally incapacitated then until the death of
19 the widow or widower or until the youngest child shall reach
20 the age of 18, whichever shall come later; provided that if
21 such child or children shall be enrolled as a full time student
22 in any accredited educational institution, the payments shall
23 continue until such child has attained the age of 25. In the
24 event any surviving child or children shall be physically or
25 mentally incapacitated, the payments shall continue for the
26 duration of such incapacity.

27 The term "child" means a child whom the deceased employee
28 left surviving, including a posthumous child, a child legally
29 adopted, a child whom the deceased employee was legally
30 obligated to support or a child to whom the deceased employee
31 stood in loco parentis. The term "children" means the plural of
32 "child".

33 The term "physically or mentally incapacitated child or

1 children" means a child or children incapable of engaging in
2 regular and substantial gainful employment.

3 In the event of the remarriage of a widow or widower, where
4 the decedent did not leave surviving any child or children who,
5 at the time of such remarriage, are entitled to compensation
6 benefits under this Act, the surviving spouse shall be paid a
7 lump sum equal to 2 years compensation benefits and all further
8 rights of such widow or widower shall be extinguished.

9 If the employee leaves surviving any child or children
10 under 18 years of age who at the time of death shall be
11 entitled to compensation under this paragraph (a) of this
12 Section, the weekly compensation payments herein provided for
13 such child or children shall in any event continue for a period
14 of not less than 6 years.

15 Any beneficiary entitled to compensation under this
16 paragraph (a) of this Section shall receive from the special
17 fund provided in paragraph (f) of this Section, in addition to
18 the compensation herein provided, supplemental benefits in
19 accordance with paragraph (g) of Section 8.

20 (b) If no compensation is payable under paragraph (a) of
21 this Section and the employee leaves surviving a parent or
22 parents who at the time of the accident were totally dependent
23 upon the earnings of the employee then weekly payments equal to
24 the compensation rate payable in the case where the employee
25 leaves surviving a widow or widower, shall be paid to such
26 parent or parents for the duration of their lives, and in the
27 event of the death of either, for the life of the survivor.

28 (c) If no compensation is payable under paragraphs (a) or
29 (b) of this Section and the employee leaves surviving any child
30 or children who are not entitled to compensation under the
31 foregoing paragraph (a) but who at the time of the accident
32 were nevertheless in any manner dependent upon the earnings of
33 the employee, or leaves surviving a parent or parents who at
34 the time of the accident were partially dependent upon the

1 earnings of the employee, then there shall be paid to such
2 dependent or dependents for a period of 8 years weekly
3 compensation payments at such proportion of the applicable rate
4 if the employee had left surviving a widow or widower as such
5 dependency bears to total dependency. In the event of the death
6 of any such beneficiary the share of such beneficiary shall be
7 divided equally among the surviving beneficiaries and in the
8 event of the death of the last such beneficiary all the rights
9 under this paragraph shall be extinguished.

10 (d) If no compensation is payable under paragraphs (a), (b)
11 or (c) of this Section and the employee leaves surviving any
12 grandparent, grandparents, grandchild or grandchildren or
13 collateral heirs dependent upon the employee's earnings to the
14 extent of 50% or more of total dependency, then there shall be
15 paid to such dependent or dependents for a period of 5 years
16 weekly compensation payments at such proportion of the
17 applicable rate if the employee had left surviving a widow or
18 widower as such dependency bears to total dependency. In the
19 event of the death of any such beneficiary the share of such
20 beneficiary shall be divided equally among the surviving
21 beneficiaries and in the event of the death of the last such
22 beneficiary all rights hereunder shall be extinguished.

23 (e) The compensation to be paid for accidental injury which
24 results in death, as provided in this Section, shall be paid to
25 the persons who form the basis for determining the amount of
26 compensation to be paid by the employer, the respective shares
27 to be in the proportion of their respective dependency at the
28 time of the accident on the earnings of the deceased. The
29 Commission or an Arbitrator thereof may, in its or his
30 discretion, order or award the payment to the parent or
31 grandparent of a child for the latter's support the amount of
32 compensation which but for such order or award would have been
33 paid to such child as its share of the compensation payable,
34 which order or award may be modified from time to time by the

1 Commission in its discretion with respect to the person to whom
2 shall be paid the amount of the order or award remaining unpaid
3 at the time of the modification.

4 The payments of compensation by the employer in accordance
5 with the order or award of the Commission discharges such
6 employer from all further obligation as to such compensation.

7 (f) The sum of \$8,000 ~~\$4200~~ for burial expenses shall be
8 paid by the employer to the widow or widower, other dependent,
9 next of kin or to the person or persons incurring the expense
10 of burial.

11 In the event the employer failed to provide necessary first
12 aid, medical, surgical or hospital service, he shall pay the
13 cost thereof to the person or persons entitled to compensation
14 under paragraphs (a), (b), (c) or (d) of this Section, or to
15 the person or persons incurring the obligation therefore, or
16 providing the same.

17 On January 15 and July 15, 1981, and on January 15 and July
18 15 of each year thereafter the employer shall within 60 days
19 pay a sum equal to 1/8 of 1% of all compensation payments made
20 by him after July 1, 1980, either under this Act or the
21 Workers' Occupational Diseases Act, whether by lump sum
22 settlement or weekly compensation payments, but not including
23 hospital, surgical or rehabilitation payments, made during the
24 first 6 months and during the second 6 months respectively of
25 the fiscal year next preceding the date of the payments, into a
26 special fund which shall be designated the "Second Injury
27 Fund", of which the State Treasurer is ex-officio custodian,
28 such special fund to be held and disbursed for the purposes
29 hereinafter stated in paragraphs (f) and (g) of Section 8,
30 either upon the order of the Commission or of a competent
31 court. Said special fund shall be deposited the same as are
32 State funds and any interest accruing thereon shall be added
33 thereto every 6 months. It is subject to audit the same as
34 State funds and accounts and is protected by the General bond

1 given by the State Treasurer. It is considered always
2 appropriated for the purposes of disbursements as provided in
3 Section 8, paragraph (f), of this Act, and shall be paid out
4 and disbursed as therein provided and shall not at any time be
5 appropriated or diverted to any other use or purpose.

6 On January 15, 1991, the employer shall further pay a sum
7 equal to one half of 1% of all compensation payments made by
8 him from January 1, 1990 through June 30, 1990 either under
9 this Act or under the Workers' Occupational Diseases Act,
10 whether by lump sum settlement or weekly compensation payments,
11 but not including hospital, surgical or rehabilitation
12 payments, into an additional Special Fund which shall be
13 designated as the "Rate Adjustment Fund". On March 15, 1991,
14 the employer shall pay into the Rate Adjustment Fund a sum
15 equal to one half of 1% of all such compensation payments made
16 from July 1, 1990 through December 31, 1990. Within 60 days
17 after July 15, 1991, the employer shall pay into the Rate
18 Adjustment Fund a sum equal to one half of 1% of all such
19 compensation payments made from January 1, 1991 through June
20 30, 1991. Within 60 days after January 15 of 1992 and each
21 subsequent year through 1996, the employer shall pay into the
22 Rate Adjustment Fund a sum equal to one half of 1% of all such
23 compensation payments made in the last 6 months of the
24 preceding calendar year. Within 60 days after July 15 of 1992
25 and each subsequent year through 1995, the employer shall pay
26 into the Rate Adjustment Fund a sum equal to one half of 1% of
27 all such compensation payments made in the first 6 months of
28 the same calendar year. Within 60 days after January 15 of 1997
29 and each subsequent year through 2005, the employer shall pay
30 into the Rate Adjustment Fund a sum equal to three-fourths of
31 1% of all such compensation payments made in the last 6 months
32 of the preceding calendar year. Within 60 days after July 15 of
33 1996 and each subsequent year through 2004, the employer shall
34 pay into the Rate Adjustment Fund a sum equal to three-fourths

1 of 1% of all such compensation payments made in the first 6
2 months of the same calendar year. Within 60 days after January
3 15 of 2006 and each subsequent year, the employer shall pay
4 into the Rate Adjustment Fund a sum equal to 1% of such
5 compensation payments made in the last 6 months of the
6 preceding calendar year. Within 60 days after July 15 of 2005
7 and each subsequent year, the employer shall pay into the Rate
8 Adjustment Fund a sum equal to 1% of such compensation payments
9 made in the first 6 months of the same calendar year. The
10 administrative costs of collecting assessments from employers
11 for the Rate Adjustment Fund shall be paid from the Rate
12 Adjustment Fund. The cost of an actuarial audit of the Fund
13 shall be paid from the Rate Adjustment Fund ~~and the audit shall~~
14 ~~be completed no later than July 1, 1997.~~ The State Treasurer is
15 ex officio custodian of such Special Fund and the same shall be
16 held and disbursed for the purposes hereinafter stated in
17 paragraphs (f) and (g) of Section 8 upon the order of the
18 Commission or of a competent court. The Rate Adjustment Fund
19 shall be deposited the same as are State funds and any interest
20 accruing thereon shall be added thereto every 6 months. It
21 shall be subject to audit the same as State funds and accounts
22 and shall be protected by the general bond given by the State
23 Treasurer. It is considered always appropriated for the
24 purposes of disbursements as provided in paragraphs (f) and (g)
25 of Section 8 of this Act and shall be paid out and disbursed as
26 therein provided and shall not at any time be appropriated or
27 diverted to any other use or purpose. Within 5 days after the
28 effective date of this amendatory Act of 1990, the Comptroller
29 and the State Treasurer shall transfer \$1,000,000 from the
30 General Revenue Fund to the Rate Adjustment Fund. By February
31 15, 1991, the Comptroller and the State Treasurer shall
32 transfer \$1,000,000 from the Rate Adjustment Fund to the
33 General Revenue Fund. The Comptroller and Treasurer are
34 authorized to make transfers at the request of the Chairman up

1 to a total of \$19,000,000 ~~\$15,000,000~~ from the Second Injury
2 Fund, the General Revenue Fund, and the Workers' Compensation
3 Benefit Trust Fund to the Rate Adjustment Fund to the extent
4 that there is insufficient money in the Rate Adjustment Fund to
5 pay claims and obligations. Amounts may be transferred from the
6 General Revenue Fund only if the funds in the Second Injury
7 Fund or the Workers' Compensation Benefit Trust Fund are
8 insufficient to pay claims and obligations of the Rate
9 Adjustment Fund. All amounts transferred from the Second Injury
10 Fund, the General Revenue Fund, and the Workers' Compensation
11 Benefit Trust Fund shall be repaid from the Rate Adjustment
12 Fund within 270 days of a transfer, together with interest at
13 the rate earned by moneys on deposit in the Fund or Funds from
14 which the moneys were transferred.

15 Upon a finding by the Commission, after reasonable notice
16 and hearing, that any employer has willfully and knowingly
17 failed to pay the proper amounts into the Second Injury Fund or
18 the Rate Adjustment Fund required by this Section or if such
19 payments are not made within the time periods prescribed by
20 this Section, the employer shall, in addition to such payments,
21 pay a penalty of 20% of the amount required to be paid or
22 \$2,500, whichever is greater, for each year or part thereof of
23 such failure to pay. This penalty shall only apply to
24 obligations of an employer to the Second Injury Fund or the
25 Rate Adjustment Fund accruing after the effective date of this
26 amendatory Act of 1989. All or part of such a penalty may be
27 waived by the Commission for good cause shown.

28 Any obligations of an employer to the Second Injury Fund
29 and Rate Adjustment Fund accruing prior to the effective date
30 of this amendatory Act of 1989 shall be paid in full by such
31 employer within 5 years of the effective date of this
32 amendatory Act of 1989, with at least one-fifth of such
33 obligation to be paid during each year following the effective
34 date of this amendatory Act of 1989. If the Commission finds,

1 following reasonable notice and hearing, that an employer has
2 failed to make timely payment of any obligation accruing under
3 the preceding sentence, the employer shall, in addition to all
4 other payments required by this Section, be liable for a
5 penalty equal to 20% of the overdue obligation or \$2,500,
6 whichever is greater, for each year or part thereof that
7 obligation is overdue. All or part of such a penalty may be
8 waived by the Commission for good cause shown.

9 The Chairman of the Illinois Workers' Compensation
10 Commission shall, annually, furnish to the Director of the
11 Department of Insurance a list of the amounts paid into the
12 Second Injury Fund and the Rate Adjustment Fund by each
13 insurance company on behalf of their insured employers. The
14 Director shall verify to the Chairman that the amounts paid by
15 each insurance company are accurate as best as the Director can
16 determine from the records available to the Director. The
17 Chairman shall verify that the amounts paid by each
18 self-insurer are accurate as best as the Chairman can determine
19 from records available to the Chairman. The Chairman may
20 require each self-insurer to provide information concerning
21 the total compensation payments made upon which contributions
22 to the Second Injury Fund and the Rate Adjustment Fund are
23 predicated and any additional information establishing that
24 such payments have been made into these funds. Any deficiencies
25 in payments noted by the Director or Chairman shall be subject
26 to the penalty provisions of this Act.

27 The State Treasurer, or his duly authorized
28 representative, shall be named as a party to all proceedings in
29 all cases involving claim for the loss of, or the permanent and
30 complete loss of the use of one eye, one foot, one leg, one arm
31 or one hand.

32 The State Treasurer or his duly authorized agent shall have
33 the same rights as any other party to the proceeding, including
34 the right to petition for review of any award. The reasonable

1 expenses of litigation, such as medical examinations,
2 testimony, and transcript of evidence, incurred by the State
3 Treasurer or his duly authorized representative, shall be borne
4 by the Second Injury Fund.

5 If the award is not paid within 30 days after the date the
6 award has become final, the Commission shall proceed to take
7 judgment thereon in its own name as is provided for other
8 awards by paragraph (g) of Section 19 of this Act and take the
9 necessary steps to collect the award.

10 Any person, corporation or organization who has paid or
11 become liable for the payment of burial expenses of the
12 deceased employee may in his or its own name institute
13 proceedings before the Commission for the collection thereof.

14 For the purpose of administration, receipts and
15 disbursements, the Special Fund provided for in paragraph (f)
16 of this Section shall be administered jointly with the Special
17 Fund provided for in Section 7, paragraph (f) of the Workers'
18 Occupational Diseases Act.

19 (g) All compensation, except for burial expenses provided
20 in this Section to be paid in case accident results in death,
21 shall be paid in installments equal to the percentage of the
22 average earnings as provided for in Section 8, paragraph (b) of
23 this Act, at the same intervals at which the wages or earnings
24 of the employees were paid. If this is not feasible, then the
25 installments shall be paid weekly. Such compensation may be
26 paid in a lump sum upon petition as provided in Section 9 of
27 this Act. However, in addition to the benefits provided by
28 Section 9 of this Act where compensation for death is payable
29 to the deceased's widow, widower or to the deceased's widow,
30 widower and one or more children, and where a partial lump sum
31 is applied for by such beneficiary or beneficiaries within 18
32 months after the deceased's death, the Commission may, in its
33 discretion, grant a partial lump sum of not to exceed 100 weeks
34 of the compensation capitalized at their present value upon the

1 basis of interest calculated at 3% per annum with annual rests,
2 upon a showing that such partial lump sum is for the best
3 interest of such beneficiary or beneficiaries.

4 (h) In case the injured employee is under 16 years of age
5 at the time of the accident and is illegally employed, the
6 amount of compensation payable under paragraphs (a), (b), (c),
7 (d) and (f) of this Section shall be increased 50%.

8 Nothing herein contained repeals or amends the provisions
9 of the Child Labor Law relating to the employment of minors
10 under the age of 16 years.

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 Act,
14 as amended, or a birth certificate properly and duly issued,
15 such certificate, permit or birth certificate is conclusive
16 evidence as to the age of the injured minor employee for the
17 purposes of this Section only.

18 (i) Whenever the dependents of a deceased employee are
19 aliens not residing in the United States, Mexico or Canada, the
20 amount of compensation payable is limited to the beneficiaries
21 described in paragraphs (a), (b) and (c) of this Section and is
22 50% of the compensation provided in paragraphs (a), (b) and (c)
23 of this Section, except as otherwise provided by treaty.

24 In a case where any of the persons who would be entitled to
25 compensation is living at any place outside of the United
26 States, then payment shall be made to the personal
27 representative of the deceased employee. The distribution by
28 such personal representative to the persons entitled shall be
29 made to such persons and in such manner as the Commission
30 orders.

31 (Source: P.A. 92-714, eff. 1-1-03; 93-721, eff. 1-1-05.)

32 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

33 Sec. 8. The amount of compensation which shall be paid to

1 the employee for an accidental injury not resulting in death
2 is:

3 (a) The employer shall provide and pay the negotiated rate,
4 if applicable, or the lesser of the health care provider's
5 actual charges or according to a fee schedule, subject to
6 Section 8.2, in effect at the time the service was rendered for
7 all the necessary first aid, medical and surgical services, and
8 all necessary medical, surgical and hospital services
9 thereafter incurred, limited, however, to that which is
10 reasonably required to cure or relieve from the effects of the
11 accidental injury. If the employer does not dispute payment of
12 first aid, medical, surgical, and hospital services, the
13 employer shall make such payment to the provider on behalf of
14 the employee. The employer shall also pay for treatment,
15 instruction and training necessary for the physical, mental and
16 vocational rehabilitation of the employee, including all
17 maintenance costs and expenses incidental thereto. If as a
18 result of the injury the employee is unable to be
19 self-sufficient the employer shall further pay for such
20 maintenance or institutional care as shall be required.

21 The employee may at any time elect to secure his own
22 physician, surgeon and hospital services at the employer's
23 expense, or,

24 Upon agreement between the employer and the employees, or
25 the employees' exclusive representative, and subject to the
26 approval of the Illinois Workers' Compensation Commission, the
27 employer shall maintain a list of physicians, to be known as a
28 Panel of Physicians, who are accessible to the employees. The
29 employer shall post this list in a place or places easily
30 accessible to his employees. The employee shall have the right
31 to make an alternative choice of physician from such Panel if
32 he is not satisfied with the physician first selected. If, due
33 to the nature of the injury or its occurrence away from the
34 employer's place of business, the employee is unable to make a

1 selection from the Panel, the selection process from the Panel
2 shall not apply. The physician selected from the Panel may
3 arrange for any consultation, referral or other specialized
4 medical services outside the Panel at the employer's expense.
5 Provided that, in the event the Commission shall find that a
6 doctor selected by the employee is rendering improper or
7 inadequate care, the Commission may order the employee to
8 select another doctor certified or qualified in the medical
9 field for which treatment is required. If the employee refuses
10 to make such change the Commission may relieve the employer of
11 his obligation to pay the doctor's charges from the date of
12 refusal to the date of compliance.

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

25 The maintenance benefit shall not be less than the
26 temporary total disability rate determined for the employee. In
27 addition, maintenance shall include costs and expenses
28 incidental to the vocational rehabilitation program.

29 When the employee is working light duty on a part-time
30 basis or full-time basis and earns less than he or she would be
31 earning if employed in the full capacity of the job or jobs,
32 then the employee shall be entitled to temporary partial
33 disability benefits. Temporary partial disability benefits
34 shall be equal to two-thirds of the difference between the

1 average amount that the employee would be able to earn in the
2 full performance of his or her duties in the occupation in
3 which he or she was engaged at the time of accident and the net
4 amount which he or she is earning in the modified job provided
5 to the employee by the employer or in any other job that the
6 employee is working.

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

14 Notwithstanding the foregoing, the employer's liability to
15 pay for such medical services selected by the employee shall be
16 limited to:

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

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

25 (3) all medical, surgical and hospital services
26 provided by any second physician, surgeon or hospital
27 subsequently chosen by the employee or by any other
28 physician, consultant, expert, institution or other
29 provider of services recommended by said second service
30 provider or any subsequent provider of medical services in
31 the chain of referrals from said second service provider.
32 Thereafter the employer shall select and pay for all
33 necessary medical, surgical and hospital treatment and the
34 employee may not select a provider of medical services at

1 the employer's expense unless the employer agrees to such
2 selection. At any time the employee may obtain any medical
3 treatment he desires at his own expense. This paragraph
4 shall not affect the duty to pay for rehabilitation
5 referred to above.

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

18 Where the accidental injury results in the amputation of an
19 arm, hand, leg or foot, or the enucleation of an eye, or the
20 loss of any of the natural teeth, the employer shall furnish an
21 artificial of any such members lost or damaged in accidental
22 injury arising out of and in the course of employment, and
23 shall also furnish the necessary braces in all proper and
24 necessary cases. In cases of the loss of a member or members by
25 amputation, the employer shall, whenever necessary, maintain
26 in good repair, refit or replace the artificial limbs during
27 the lifetime of the employee. Where the accidental injury
28 accompanied by physical injury results in damage to a denture,
29 eye glasses or contact eye lenses, or where the accidental
30 injury results in damage to an artificial member, the employer
31 shall replace or repair such denture, glasses, lenses, or
32 artificial member.

33 The furnishing by the employer of any such services or
34 appliances is not an admission of liability on the part of the

1 employer to pay compensation.

2 The furnishing of any such services or appliances or the
3 servicing thereof by the employer is not the payment of
4 compensation.

5 (b) If the period of temporary total incapacity for work
6 lasts more than 3 working days, weekly compensation as
7 hereinafter provided shall be paid beginning on the 4th day of
8 such temporary total incapacity and continuing as long as the
9 total temporary incapacity lasts. In cases where the temporary
10 total incapacity for work continues for a period of 14 days or
11 more from the day of the accident compensation shall commence
12 on the day after the accident.

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

24 ~~\$100.90 in case of a single person;~~

25 ~~\$105.50 in case of a married person with no~~
26 ~~children;~~

27 ~~\$108.30 in case of one child;~~

28 ~~\$113.40 in case of 2 children;~~

29 ~~\$117.40 in case of 3 children;~~

30 ~~\$124.30 in case of 4 or more children;~~

31 nor exceed the employee's average weekly wage computed in
32 accordance with the provisions of Section 10, whichever is
33 less.

34 2. The compensation rate in all cases other than for

1 temporary total disability under this paragraph (b), and
2 other than for serious and permanent disfigurement under
3 paragraph (c) and other than for permanent partial
4 disability under subparagraph (2) of paragraph (d) or under
5 paragraph (e), of this Section shall be equal to 66 2/3% of
6 the employee's average weekly wage computed in accordance
7 with the provisions of Section 10, provided that it shall
8 be not less than 66 2/3% of the sum of the Federal minimum
9 wage under the Fair Labor Standards Act, or the Illinois
10 minimum wage under the Minimum Wage Law, whichever is more,
11 multiplied by 40 hours. This percentage rate shall be
12 increased by 10% for each spouse and child, not to exceed
13 100% of the total minimum wage calculation, the following
14 amounts in the following cases:

15 ~~\$80.90 in case of a single person;~~

16 ~~\$83.20 in case of a married person with no~~
17 ~~children;~~

18 ~~\$86.10 in case of one child;~~

19 ~~\$88.90 in case of 2 children;~~

20 ~~\$91.80 in case of 3 children;~~

21 ~~\$96.90 in case of 4 or more children;~~

22 nor exceed the employee's average weekly wage computed in
23 accordance with the provisions of Section 10, whichever is
24 less.

25 2.1. The compensation rate in all cases of serious and
26 permanent disfigurement under paragraph (c) and of
27 permanent partial disability under subparagraph (2) of
28 paragraph (d) or under paragraph (e) of this Section shall
29 be equal to 60% of the employee's average weekly wage
30 computed in accordance with the provisions of Section 10,
31 provided that it shall be not less than 66 2/3% of the sum
32 of the Federal minimum wage under the Fair Labor Standards
33 Act, or the Illinois minimum wage under the Minimum Wage
34 Law, whichever is more, multiplied by 40 hours. This

1 percentage rate shall be increased by 10% for each spouse
2 and child, not to exceed 100% of the total minimum wage
3 calculation, the following amounts in the following cases:

4 ~~\$80.90 in case of a single person;~~

5 ~~\$83.20 in case of a married person with no~~
6 ~~children;~~

7 ~~\$86.10 in case of one child;~~

8 ~~\$88.90 in case of 2 children;~~

9 ~~\$91.80 in case of 3 children;~~

10 ~~\$96.90 in case of 4 or more children;~~

11 nor exceed the employee's average weekly wage computed in
12 accordance with the provisions of Section 10, whichever is
13 less.

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

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

24 The maximum weekly compensation rate from July 1, 1975,
25 except as hereinafter provided, shall be 100% of the
26 State's average weekly wage in covered industries under the
27 Unemployment Insurance Act, that being the wage that most
28 closely approximates the State's average weekly wage.

29 The maximum weekly compensation rate, for the period
30 July 1, 1984, through June 30, 1987, except as hereinafter
31 provided, shall be \$293.61. Effective July 1, 1987 and on
32 July 1 of each year thereafter the maximum weekly
33 compensation rate, except as hereinafter provided, shall
34 be determined as follows: if during the preceding 12 month

1 period there shall have been an increase in the State's
2 average weekly wage in covered industries under the
3 Unemployment Insurance Act, the weekly compensation rate
4 shall be proportionately increased by the same percentage
5 as the percentage of increase in the State's average weekly
6 wage in covered industries under the Unemployment
7 Insurance Act during such period.

8 The maximum weekly compensation rate, for the period
9 January 1, 1981 through December 31, 1983, except as
10 hereinafter provided, shall be 100% of the State's average
11 weekly wage in covered industries under the Unemployment
12 Insurance Act in effect on January 1, 1981. Effective
13 January 1, 1984 and on January 1, of each year thereafter
14 the maximum weekly compensation rate, except as
15 hereinafter provided, shall be determined as follows: if
16 during the preceding 12 month period there shall have been
17 an increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act, the
19 weekly compensation rate shall be proportionately
20 increased by the same percentage as the percentage of
21 increase in the State's average weekly wage in covered
22 industries under the Unemployment Insurance Act during
23 such period.

24 From July 1, 1977 and thereafter such maximum weekly
25 compensation rate in death cases under Section 7, and
26 permanent total disability cases under paragraph (f) or
27 subparagraph 18 of paragraph (3) of this Section and for
28 temporary total disability under paragraph (b) of this
29 Section and for amputation of a member or enucleation of an
30 eye under paragraph (e) of this Section shall be increased
31 to 133-1/3% of the State's average weekly wage in covered
32 industries under the Unemployment Insurance Act.

33 For injuries occurring on or after February 1, 2006,
34 the maximum weekly benefit under paragraph (d)1 of this

1 Section shall be 100% of the State's average weekly wage in
2 covered industries under the Unemployment Insurance Act.

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

12 4.2. Any provision to the contrary notwithstanding,
13 the total compensation payable under Section 7 shall not
14 exceed the greater of \$500,000 ~~\$250,000~~ or 25 ~~20~~ years.

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

21 6. The Department of Employment Security of the State
22 shall on or before the first day of December, 1977, and on
23 or before the first day of June, 1978, and on the first day
24 of each December and June of each year thereafter, publish
25 the State's average weekly wage in covered industries under
26 the Unemployment Insurance Act and the Illinois Workers'
27 Compensation Commission shall on the 15th day of January,
28 1978 and on the 15th day of July, 1978 and on the 15th day
29 of each January and July of each year thereafter, post and
30 publish the State's average weekly wage in covered
31 industries under the Unemployment Insurance Act as last
32 determined and published by the Department of Employment
33 Security. The amount when so posted and published shall be
34 conclusive and shall be applicable as the basis of

1 computation of compensation rates until the next posting
2 and publication as aforesaid.

3 7. The payment of compensation by an employer or his
4 insurance carrier to an injured employee shall not
5 constitute an admission of the employer's liability to pay
6 compensation.

7 (c) For any serious and permanent disfigurement to the
8 hand, head, face, neck, arm, leg below the knee or the chest
9 above the axillary line, the employee is entitled to
10 compensation for such disfigurement, the amount determined by
11 agreement at any time or by arbitration under this Act, at a
12 hearing not less than 6 months after the date of the accidental
13 injury, which amount shall not exceed 162 ~~150~~ weeks at the
14 applicable rate provided in subparagraph 2.1 of paragraph (b)
15 of this Section.

16 No compensation is payable under this paragraph where
17 compensation is payable under paragraphs (d), (e) or (f) of
18 this Section.

19 A duly appointed member of a fire department in a city, the
20 population of which exceeds 200,000 according to the last
21 federal or State census, is eligible for compensation under
22 this paragraph only where such serious and permanent
23 disfigurement results from burns.

24 (d) 1. If, after the accidental injury has been sustained,
25 the employee as a result thereof becomes partially
26 incapacitated from pursuing his usual and customary line of
27 employment, he shall, except in cases compensated under the
28 specific schedule set forth in paragraph (e) of this Section,
29 receive compensation for the duration of his disability,
30 subject to the limitations as to maximum amounts fixed in
31 paragraph (b) of this Section, equal to 66-2/3% of the
32 difference between the average amount which he would be able to
33 earn in the full performance of his duties in the occupation in
34 which he was engaged at the time of the accident and the

1 average amount which he is earning or is able to earn in some
2 suitable employment or business after the accident.

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

1 under this Section shall be not less than 10 weeks for each
2 such organ. Compensation awarded under this subparagraph 2
3 shall not take into consideration injuries covered under
4 paragraphs (c) and (e) of this Section and the compensation
5 provided in this paragraph shall not affect the employee's
6 right to compensation payable under paragraphs (b), (c) and (e)
7 of this Section for the disabilities therein covered.

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

18 1. Thumb-~~76~~ 70 weeks.

19 2. First, or index finger-~~43~~ 40 weeks.

20 3. Second, or middle finger-~~38~~ 35 weeks.

21 4. Third, or ring finger-~~27~~ 25 weeks.

22 5. Fourth, or little finger-~~22~~ 20 weeks.

23 6. Great toe-~~38~~ 35 weeks.

24 7. Each toe other than great toe-~~13~~ 12 weeks.

25 8. The loss of the first or distal phalanx of the thumb
26 or of any finger or toe shall be considered to be equal to
27 the loss of one-half of such thumb, finger or toe and the
28 compensation payable shall be one-half of the amount above
29 specified. The loss of more than one phalanx shall be
30 considered as the loss of the entire thumb, finger or toe.
31 In no case shall the amount received for more than one
32 finger exceed the amount provided in this schedule for the
33 loss of a hand.

34 9. Hand-~~205~~ 190 weeks. The loss of 2 or more digits, or

1 one or more phalanges of 2 or more digits, of a hand may be
2 compensated on the basis of partial loss of use of a hand,
3 provided, further, that the loss of 4 digits, or the loss
4 of use of 4 digits, in the same hand shall constitute the
5 complete loss of a hand.

6 10. Arm-~~253~~ ~~235~~ weeks. Where an accidental injury
7 results in the amputation of an arm below the elbow, such
8 injury shall be compensated as a loss of an arm. Where an
9 accidental injury results in the amputation of an arm above
10 the elbow, compensation for an additional 17 ~~15~~ weeks shall
11 be paid, except where the accidental injury results in the
12 amputation of an arm at the shoulder joint, or so close to
13 shoulder joint that an artificial arm cannot be used, or
14 results in the disarticulation of an arm at the shoulder
15 joint, in which case compensation for an additional 70 ~~65~~
16 weeks shall be paid.

17 11. Foot-167 ~~155~~ weeks.

18 12. Leg-215 ~~200~~ weeks. Where an accidental injury
19 results in the amputation of a leg below the knee, such
20 injury shall be compensated as loss of a leg. Where an
21 accidental injury results in the amputation of a leg above
22 the knee, compensation for an additional 27 ~~25~~ weeks shall
23 be paid, except where the accidental injury results in the
24 amputation of a leg at the hip joint, or so close to the
25 hip joint that an artificial leg cannot be used, or results
26 in the disarticulation of a leg at the hip joint, in which
27 case compensation for an additional 81 ~~75~~ weeks shall be
28 paid.

29 13. Eye-162 ~~150~~ weeks. Where an accidental injury
30 results in the enucleation of an eye, compensation for an
31 additional 11 ~~10~~ weeks shall be paid.

32 14. Loss of hearing of one ear-54 ~~50~~ weeks; total and
33 permanent loss of hearing of both ears-215 ~~200~~ weeks.

34 15. Testicle-54 ~~50~~ weeks; both testicles-162 ~~150~~

1 weeks.

2 16. For the permanent partial loss of use of a member
3 or sight of an eye, or hearing of an ear, compensation
4 during that proportion of the number of weeks in the
5 foregoing schedule provided for the loss of such member or
6 sight of an eye, or hearing of an ear, which the partial
7 loss of use thereof bears to the total loss of use of such
8 member, or sight of eye, or hearing of an ear.

9 (a) Loss of hearing for compensation purposes
10 shall be confined to the frequencies of 1,000, 2,000
11 and 3,000 cycles per second. Loss of hearing ability
12 for frequency tones above 3,000 cycles per second are
13 not to be considered as constituting disability for
14 hearing.

15 (b) The percent of hearing loss, for purposes of
16 the determination of compensation claims for
17 occupational deafness, shall be calculated as the
18 average in decibels for the thresholds of hearing for
19 the frequencies of 1,000, 2,000 and 3,000 cycles per
20 second. Pure tone air conduction audiometric
21 instruments, approved by nationally recognized
22 authorities in this field, shall be used for measuring
23 hearing loss. If the losses of hearing average 30
24 decibels or less in the 3 frequencies, such losses of
25 hearing shall not then constitute any compensable
26 hearing disability. If the losses of hearing average 85
27 decibels or more in the 3 frequencies, then the same
28 shall constitute and be total or 100% compensable
29 hearing loss.

30 (c) In measuring hearing impairment, the lowest
31 measured losses in each of the 3 frequencies shall be
32 added together and divided by 3 to determine the
33 average decibel loss. For every decibel of loss
34 exceeding 30 decibels an allowance of 1.82% shall be

1 made up to the maximum of 100% which is reached at 85
2 decibels.

3 (d) If a hearing loss is established to have
4 existed on July 1, 1975 by audiometric testing the
5 employer shall not be liable for the previous loss so
6 established nor shall he be liable for any loss for
7 which compensation has been paid or awarded.

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

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

17	Sound Level DBA	
18	Slow Response	Hours Per Day
19	90	8
20	92	6
21	95	4
22	97	3
23	100	2
24	102	1-1/2
25	105	1
26	110	1/2
27	115	1/4

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

30 17. In computing the compensation to be paid to any
31 employee who, before the accident for which he claims
32 compensation, had before that time sustained an injury
33 resulting in the loss by amputation or partial loss by
34 amputation of any member, including hand, arm, thumb or

1 fingers, leg, foot or any toes, such loss or partial loss
2 of any such member shall be deducted from any award made
3 for the subsequent injury. For the permanent loss of use or
4 the permanent partial loss of use of any such member or the
5 partial loss of sight of an eye, for which compensation has
6 been paid, then such loss shall be taken into consideration
7 and deducted from any award for the subsequent injury.

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

15 Any employee who has previously suffered the loss or
16 permanent and complete loss of the use of any of such
17 members, and in a subsequent independent accident loses
18 another or suffers the permanent and complete loss of the
19 use of any one of such members the employer for whom the
20 injured employee is working at the time of the last
21 independent accident is liable to pay compensation only for
22 the loss or permanent and complete loss of the use of the
23 member occasioned by the last independent accident.

24 19. In a case of specific loss and the subsequent death
25 of such injured employee from other causes than such injury
26 leaving a widow, widower, or dependents surviving before
27 payment or payment in full for such injury, then the amount
28 due for such injury is payable to the widow or widower and,
29 if there be no widow or widower, then to such dependents,
30 in the proportion which such dependency bears to total
31 dependency.

32 Beginning July 1, 1980, and every 6 months thereafter, the
33 Commission shall examine the Second Injury Fund and when, after
34 deducting all advances or loans made to such Fund, the amount

1 therein is \$500,000 then the amount required to be paid by
2 employers pursuant to paragraph (f) of Section 7 shall be
3 reduced by one-half. When the Second Injury Fund reaches the
4 sum of \$600,000 then the payments shall cease entirely.
5 However, when the Second Injury Fund has been reduced to
6 \$400,000, payment of one-half of the amounts required by
7 paragraph (f) of Section 7 shall be resumed, in the manner
8 herein provided, and when the Second Injury Fund has been
9 reduced to \$300,000, payment of the full amounts required by
10 paragraph (f) of Section 7 shall be resumed, in the manner
11 herein provided. The Commission shall make the changes in
12 payment effective by general order, and the changes in payment
13 become immediately effective for all cases coming before the
14 Commission thereafter either by settlement agreement or final
15 order, irrespective of the date of the accidental injury.

16 On August 1, 1996 and on February 1 and August 1 of each
17 subsequent year, the Commission shall examine the special fund
18 designated as the "Rate Adjustment Fund" and when, after
19 deducting all advances or loans made to said fund, the amount
20 therein is \$4,000,000, the amount required to be paid by
21 employers pursuant to paragraph (f) of Section 7 shall be
22 reduced by one-half. When the Rate Adjustment Fund reaches the
23 sum of \$5,000,000 the payment therein shall cease entirely.
24 However, when said Rate Adjustment Fund has been reduced to
25 \$3,000,000 the amounts required by paragraph (f) of Section 7
26 shall be resumed in the manner herein provided.

27 (f) In case of complete disability, which renders the
28 employee wholly and permanently incapable of work, or in the
29 specific case of total and permanent disability as provided in
30 subparagraph 18 of paragraph (e) of this Section, compensation
31 shall be payable at the rate provided in subparagraph 2 of
32 paragraph (b) of this Section for life.

33 An employee entitled to benefits under paragraph (f) of
34 this Section shall also be entitled to receive from the Rate

1 Adjustment Fund provided in paragraph (f) of Section 7 of the
2 supplementary benefits provided in paragraph (g) of this
3 Section 8.

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

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

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

33 The custodian of the Second Injury Fund provided for in
34 paragraph (f) of Section 7 shall be joined with the employer as

1 a party respondent in the application for adjustment of claim.
2 The application for adjustment of claim shall state briefly and
3 in general terms the approximate time and place and manner of
4 the loss of the first member.

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

26 As of July 1, 1980 to July 1, 1982, all claims against and
27 obligations of the Second Injury Fund shall become claims
28 against and obligations of the Rate Adjustment Fund to the
29 extent there is insufficient money in the Second Injury Fund to
30 pay such claims and obligations. In that case, all references
31 to "Second Injury Fund" in this Section shall also include the
32 Rate Adjustment Fund.

33 (g) Every award for permanent total disability entered by
34 the Commission on and after July 1, 1965 under which

1 compensation payments shall become due and payable after the
2 effective date of this amendatory Act, and every award for
3 death benefits or permanent total disability entered by the
4 Commission on and after the effective date of this amendatory
5 Act shall be subject to annual adjustments as to the amount of
6 the compensation rate therein provided. Such adjustments shall
7 first be made on July 15, 1977, and all awards made and entered
8 prior to July 1, 1975 and on July 15 of each year thereafter.
9 In all other cases such adjustment shall be made on July 15 of
10 the second year next following the date of the entry of the
11 award and shall further be made on July 15 annually thereafter.
12 If during the intervening period from the date of the entry of
13 the award, or the last periodic adjustment, there shall have
14 been an increase in the State's average weekly wage in covered
15 industries under the Unemployment Insurance Act, the weekly
16 compensation rate shall be proportionately increased by the
17 same percentage as the percentage of increase in the State's
18 average weekly wage in covered industries under the
19 Unemployment Insurance Act. The increase in the compensation
20 rate under this paragraph shall in no event bring the total
21 compensation rate to an amount greater than the prevailing
22 maximum rate at the time that the annual adjustment is made.
23 Such increase shall be paid in the same manner as herein
24 provided for payments under the Second Injury Fund to the
25 injured employee, or his dependents, as the case may be, out of
26 the Rate Adjustment Fund provided in paragraph (f) of Section 7
27 of this Act. Payments shall be made at the same intervals as
28 provided in the award or, at the option of the Commission, may
29 be made in quarterly payment on the 15th day of January, April,
30 July and October of each year. In the event of a decrease in
31 such average weekly wage there shall be no change in the then
32 existing compensation rate. The within paragraph shall not
33 apply to cases where there is disputed liability and in which a
34 compromise lump sum settlement between the employer and the

1 injured employee, or his dependents, as the case may be, has
2 been duly approved by the Illinois Workers' Compensation
3 Commission.

4 Provided, that in cases of awards entered by the Commission
5 for injuries occurring before July 1, 1975, the increases in
6 the compensation rate adjusted under the foregoing provision of
7 this paragraph (g) shall be limited to increases in the State's
8 average weekly wage in covered industries under the
9 Unemployment Insurance Act occurring after July 1, 1975.

10 For every accident occurring after the effective date of
11 this amendatory Act of the 94th General Assembly, the annual
12 adjustments to the compensation rate in awards for death
13 benefits or permanent total disability, as provided in this
14 Act, shall be paid by the employer. The adjustment shall be
15 made by the employer on July 15 of the second year next
16 following the date of the entry of the award and shall further
17 be made on July 15 annually thereafter. If during the
18 intervening period from the date of the entry of the award, or
19 the last periodic adjustment, there shall have been an increase
20 in the State's average weekly wage in covered industries under
21 the Unemployment Insurance Act, the employer shall increase the
22 weekly compensation rate proportionately by the same
23 percentage as the percentage of increase in the State's average
24 weekly wage in covered industries under the Unemployment
25 Insurance Act. The increase in the compensation rate under this
26 paragraph shall in no event bring the total compensation rate
27 to an amount greater than the prevailing maximum rate at the
28 time that the annual adjustment is made. In the event of a
29 decrease in such average weekly wage there shall be no change
30 in the then existing compensation rate. Such increase shall be
31 paid by the employer in the same manner and at the same
32 intervals as the payment of compensation in the award. This
33 paragraph shall not apply to cases where there is disputed
34 liability and in which a compromise lump sum settlement between

1 the employer and the injured employee, or his or her
2 dependents, as the case may be, has been duly approved by the
3 Illinois Workers' Compensation Commission.

4 The annual adjustments for every award of death benefits or
5 permanent total disability involving accidents occurring
6 before the effective date of this amendatory Act of the 94th
7 General Assembly shall continue to be paid from the Rate
8 Adjustment Fund pursuant to this paragraph and Section 7(f) of
9 this Act.

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

19 (h-1) In case an injured employee is under legal disability
20 at the time when any right or privilege accrues to him or her
21 under this Act, a guardian may be appointed pursuant to law,
22 and may, on behalf of such person under legal disability, claim
23 and exercise any such right or privilege with the same effect
24 as if the employee himself or herself had claimed or exercised
25 the right or privilege. No limitations of time provided by this
26 Act run so long as the employee who is under legal disability
27 is without a conservator or guardian.

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

32 However, where an employer has on file an employment
33 certificate issued pursuant to the Child Labor Law or work
34 permit issued pursuant to the Federal Fair Labor Standards Act,

1 as amended, or a birth certificate properly and duly issued,
2 such certificate, permit or birth certificate is conclusive
3 evidence as to the age of the injured minor employee for the
4 purposes of this Section.

5 Nothing herein contained repeals or amends the provisions
6 of the Child Labor Law relating to the employment of minors
7 under the age of 16 years.

8 (j) 1. In the event the injured employee receives benefits,
9 including medical, surgical or hospital benefits under any
10 group plan covering non-occupational disabilities contributed
11 to wholly or partially by the employer, which benefits should
12 not have been payable if any rights of recovery existed under
13 this Act, then such amounts so paid to the employee from any
14 such group plan as shall be consistent with, and limited to,
15 the provisions of paragraph 2 hereof, shall be credited to or
16 against any compensation payment for temporary total
17 incapacity for work or any medical, surgical or hospital
18 benefits made or to be made under this Act. In such event, the
19 period of time for giving notice of accidental injury and
20 filing application for adjustment of claim does not commence to
21 run until the termination of such payments. This paragraph does
22 not apply to payments made under any group plan which would
23 have been payable irrespective of an accidental injury under
24 this Act. Any employer receiving such credit shall keep such
25 employee safe and harmless from any and all claims or
26 liabilities that may be made against him by reason of having
27 received such payments only to the extent of such credit.

28 Any excess benefits paid to or on behalf of a State
29 employee by the State Employees' Retirement System under
30 Article 14 of the Illinois Pension Code on a death claim or
31 disputed disability claim shall be credited against any
32 payments made or to be made by the State of Illinois to or on
33 behalf of such employee under this Act, except for payments for
34 medical expenses which have already been incurred at the time

1 of the award. The State of Illinois shall directly reimburse
2 the State Employees' Retirement System to the extent of such
3 credit.

4 2. Nothing contained in this Act shall be construed to give
5 the employer or the insurance carrier the right to credit for
6 any benefits or payments received by the employee other than
7 compensation payments provided by this Act, and where the
8 employee receives payments other than compensation payments,
9 whether as full or partial salary, group insurance benefits,
10 bonuses, annuities or any other payments, the employer or
11 insurance carrier shall receive credit for each such payment
12 only to the extent of the compensation that would have been
13 payable during the period covered by such payment.

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

22 (Source: P.A. 93-721, eff. 1-1-05.)

23 (820 ILCS 305/8.2 new)

24 Sec. 8.2. Fee schedule.

25 (a) Except as provided for in subsection (c), on and after
26 February 1, 2006, the maximum allowable payment for procedures,
27 treatments, or services covered under this Act shall be 90% of
28 the 80th percentile of charges and fees as determined by the
29 Commission utilizing information provided by employers' and
30 insurers' national databases, with a minimum of 12,000,000
31 Illinois line item charges and fees comprised of health care
32 provider and hospital charges and fees as of August 1, 2004 but
33 not earlier than August 1, 2002. These charges and fees are

1 provider billed amounts and shall not include discounted
2 charges. The 80th percentile is the point on an ordered data
3 set from low to high such that 80% of the cases are below or
4 equal to that point and at most 20% are above or equal to that
5 point. The Commission shall adjust these historical charges and
6 fees as of August 1, 2004 by the Consumer Price Index-U for the
7 period August 1, 2004 through September 30, 2005. The
8 Commission shall establish fee schedules for procedures,
9 treatments, or services for hospital inpatient, hospital
10 outpatient, emergency room and trauma, ambulatory surgical
11 treatment centers, and professional services. These charges
12 and fees shall be designated by geozip or any smaller
13 geographic unit. The data shall in no way identify or tend to
14 identify any patient, employer, or health care provider. As
15 used in this Section, "geozip" means a three-digit zip code
16 based on data similarities, geographical similarities, and
17 frequencies. A geozip does not cross state boundaries. As used
18 in this Section, "three-digit zip code" means a geographic area
19 in which all zip codes have the same first 3 digits. If a
20 geozip does not have the necessary number of charges and fees
21 to calculate a valid percentile for a specific procedure,
22 treatment, or service, the Commission may combine data from the
23 geozip with up to 4 other geozips that are demographically and
24 economically similar and exhibit similarities in data and
25 frequencies until the Commission reaches 9 charges or fees for
26 that specific procedure, treatment, or service. In cases where
27 the compiled data contains less than 9 charges or fees for a
28 procedure, treatment, or service, reimbursement shall occur at
29 76% of charges and fees as determined by the Commission in a
30 manner consistent with the provisions of this paragraph. The
31 Commission has the authority to set the maximum allowable
32 payment to providers of out-of-state procedures, treatments,
33 or services covered under this Act in a manner consistent with
34 this Section. Not later than September 30 in 2006 and each year

1 thereafter, the Commission shall automatically increase or
2 decrease the maximum allowable payment for a procedure,
3 treatment, or service established and in effect on January 1 of
4 that year by the percentage change in the Consumer Price
5 Index-U for the 12 month period ending August 31 of that year.
6 The increase or decrease shall become effective on January 1 of
7 the following year. As used in this Section, "Consumer Price
8 Index-U" means the index published by the Bureau of Labor
9 Statistics of the U.S. Department of Labor, that measures the
10 average change in prices of all goods and services purchased by
11 all urban consumers, U.S. city average, all items, 1982-84=100.

12 (b) Notwithstanding the provisions of subsection (a), if
13 the Commission finds that there is a significant limitation on
14 access to quality health care in either a specific field of
15 health care services or a specific geographic limitation on
16 access to health care, it may change the Consumer Price Index-U
17 increase or decrease for that specific field or specific
18 geographic limitation on access to health care to address that
19 limitation.

20 (c) The Commission shall establish by rule a process to
21 review those medical cases or outliers that involve
22 extra-ordinary treatment to determine whether to make an
23 additional adjustment to the maximum payment within a fee
24 schedule for a procedure, treatment, or service.

25 (d) When a patient notifies a provider that the treatment,
26 procedure, or service being sought is for a work-related
27 illness or injury and furnishes the provider the name and
28 address of the responsible employer, the provider shall bill
29 the employer directly. The employer shall make payment and
30 providers shall submit bills and records in accordance with the
31 provisions of this Section. All payments to providers for
32 treatment provided pursuant to this Act shall be made within 60
33 days of receipt of the bills as long as the claim contains
34 substantially all the required data elements necessary to

1 adjudicate the bills. In the case of nonpayment to a provider
2 within 60 days of receipt of the bill which contained
3 substantially all of the required data elements necessary to
4 adjudicate the bill or nonpayment to a provider of a portion of
5 such a bill up to the lesser of the actual charge or the
6 payment level set by the Commission in the fee schedule
7 established in this Section, the bill, or portion of the bill,
8 shall incur interest at a rate of 1% per month payable to the
9 provider.

10 (e) Except as provided in subsections (e-5), (e-10), and
11 (e-15), a provider shall not hold an employee liable for costs
12 related to a non-disputed procedure, treatment, or service
13 rendered in connection with a compensable injury. The
14 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
15 shall not apply if an employee provides information to the
16 provider regarding participation in a group health plan. If the
17 employee participates in a group health plan, the provider may
18 submit a claim for services to the group health plan. If the
19 claim for service is covered by the group health plan, the
20 employee's responsibility shall be limited to applicable
21 deductibles, co-payments, or co-insurance. Except as provided
22 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
23 shall not bill or otherwise attempt to recover from the
24 employee the difference between the provider's charge and the
25 amount paid by the employer or the insurer on a compensable
26 injury.

27 (e-5) If an employer notifies a provider that the employer
28 does not consider the illness or injury to be compensable under
29 this Act, the provider may seek payment of the provider's
30 actual charges from the employee for any procedure, treatment,
31 or service rendered. Once an employee informs the provider that
32 there is an application filed with the Commission to resolve a
33 dispute over payment of such charges, the provider shall cease
34 any and all efforts to collect payment for the services that

1 are the subject of the dispute. Any statute of limitations or
2 statute of repose applicable to the provider's efforts to
3 collect payment from the employee shall be tolled from the date
4 that the employee files the application with the Commission
5 until the date that the provider is permitted to resume
6 collection efforts under the provisions of this Section.

7 (e-10) If an employer notifies a provider that the employer
8 will pay only a portion of a bill for any procedure, treatment,
9 or service rendered in connection with a compensable illness or
10 disease, the provider may seek payment from the employee for
11 the remainder of the amount of the bill up to the lesser of the
12 actual charge, negotiated rate, if applicable, or the payment
13 level set by the Commission in the fee schedule established in
14 this Section. Once an employee informs the provider that there
15 is an application filed with the Commission to resolve a
16 dispute over payment of such charges, the provider shall cease
17 any and all efforts to collect payment for the services that
18 are the subject of the dispute. Any statute of limitations or
19 statute of repose applicable to the provider's efforts to
20 collect payment from the employee shall be tolled from the date
21 that the employee files the application with the Commission
22 until the date that the provider is permitted to resume
23 collection efforts under the provisions of this Section.

24 (e-15) When there is a dispute over the compensability of
25 or amount of payment for a procedure, treatment, or service,
26 and a case is pending or proceeding before an Arbitrator or the
27 Commission, the provider may mail the employee reminders that
28 the employee will be responsible for payment of any procedure,
29 treatment or service rendered by the provider. The reminders
30 must state that they are not bills, to the extent practicable
31 include itemized information, and state that the employee need
32 not pay until such time as the provider is permitted to resume
33 collection efforts under this Section. The reminders shall not
34 be provided to any credit rating agency. The reminders may

1 request that the employee furnish the provider with information
2 about the proceeding under this Act, such as the file number,
3 names of parties, and status of the case. If an employee fails
4 to respond to such request for information or fails to furnish
5 the information requested within 90 days of the date of the
6 reminder, the provider is entitled to resume any and all
7 efforts to collect payment from the employee for the services
8 rendered to the employee and the employee shall be responsible
9 for payment of any outstanding bills for a procedure,
10 treatment, or service rendered by a provider.

11 (e-20) Upon a final award or judgment by an Arbitrator or
12 the Commission, or a settlement agreed to by the employer and
13 the employee, a provider may resume any and all efforts to
14 collect payment from the employee for the services rendered to
15 the employee and the employee shall be responsible for payment
16 of any outstanding bills for a procedure, treatment, or service
17 rendered by a provider as well as the interest awarded under
18 subsection (d) of this Section. In the case of a procedure,
19 treatment, or service deemed compensable, the provider shall
20 not require a payment rate, excluding the interest provisions
21 under subsection (d), greater than the lesser of the actual
22 charge or the payment level set by the Commission in the fee
23 schedule established in this Section. Payment for services
24 deemed not covered or not compensable under this Act is the
25 responsibility of the employee unless a provider and employee
26 have agreed otherwise in writing. Services not covered or not
27 compensable under this Act are not subject to the fee schedule
28 in this Section.

29 (f) Nothing in this Act shall prohibit an employer or
30 insurer from contracting with a health care provider or group
31 of health care providers for reimbursement levels for benefits
32 under this Act different from those provided in this Section.

33 (g) On or before January 1, 2010 the Commission shall
34 provide to the Governor and General Assembly a report regarding

1 the implementation of the medical fee schedule and the index
2 used for annual adjustment to that schedule as described in
3 this Section.

4 (820 ILCS 305/8.3 new)

5 Sec. 8.3. Workers' Compensation Medical Fee Advisory
6 Board. There is created a Workers' Compensation Medical Fee
7 Advisory Board consisting of 9 members appointed by the
8 Governor with the advice and consent of the Senate. Three
9 members of the Advisory Board shall be representative citizens
10 chosen from the employee class, 3 members shall be
11 representative citizens chosen from the employing class, and 3
12 members shall be representative citizens chosen from the
13 medical provider class. Each member shall serve a 4-year term
14 and shall continue to serve until a successor is appointed. A
15 vacancy on the Advisory Board shall be filled by the Governor
16 for the unexpired term.

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

21 The Advisory Board shall advise the Commission on
22 establishment of fees for medical services and accessibility of
23 medical treatment.

24 (820 ILCS 305/8.7 new)

25 Sec. 8.7. Utilization review programs.

26 (a) As used in this Section:

27 "Utilization review" means the evaluation of proposed or
28 provided health care services to determine the appropriateness
29 of both the level of health care services medically necessary
30 and the quality of health care services provided to a patient,
31 including, but not limited to, evaluation of their efficiency,
32 efficacy, and appropriateness of treatment, hospitalization,

1 or office visits based on medically accepted standards. The
2 evaluation must be accomplished by means of a system that
3 identifies the utilization of health care services based on
4 standards of care or nationally recognized peer review
5 guidelines as well as nationally recognized evidence based upon
6 standards as provided in this Act. Utilization techniques may
7 include prospective review, second opinions, concurrent
8 review, discharge planning, peer review, independent medical
9 examinations, and retrospective review. Nothing in this
10 Section applies to prospective review of necessary first aid or
11 emergency treatment.

12 (b) No person may conduct a utilization review program for
13 workers' compensation services in this State unless once every
14 2 years the person registers the utilization review program
15 with the Department of Financial and Professional Regulation
16 and certifies compliance with the Workers' Compensation
17 Utilization Management standards or Health Utilization
18 Management Standards of URAC sufficient to achieve URAC
19 accreditation or submits evidence of accreditation by URAC for
20 its Workers' Compensation Utilization Management Standards or
21 Health Utilization Management Standards. Nothing in this Act
22 shall be construed to require an employer or insurer or its
23 subcontractors to become URAC accredited.

24 (c) In addition, the Secretary of Financial and
25 Professional Regulation may certify alternative utilization
26 review standards of national accreditation organizations or
27 entities in order for plans to comply with this Section. Any
28 alternative utilization review standards shall meet or exceed
29 those standards required under subsection (b).

30 (d) This registration shall include submission of all of
31 the following information regarding utilization review program
32 activities:

33 (1) The name, address, and telephone number of the
34 utilization review programs.

1 (2) The organization and governing structure of the
2 utilization review programs.

3 (3) The number of lives for which utilization review is
4 conducted by each utilization review program.

5 (4) Hours of operation of each utilization review
6 program.

7 (5) Description of the grievance process for each
8 utilization review program.

9 (6) Number of covered lives for which utilization
10 review was conducted for the previous calendar year for
11 each utilization review program.

12 (7) Written policies and procedures for protecting
13 confidential information according to applicable State and
14 federal laws for each utilization review program.

15 (e) A utilization review program shall have written
16 procedures to ensure that patient-specific information
17 obtained during the process of utilization review will be:

18 (1) kept confidential in accordance with applicable
19 State and federal laws; and

20 (2) shared only with the employee, the employee's
21 designee, and the employee's health care provider, and
22 those who are authorized by law to receive the information.
23 Summary data shall not be considered confidential if it
24 does not provide information to allow identification of
25 individual patients or health care providers.

26 Only a health care professional may make determinations
27 regarding the medical necessity of health care services during
28 the course of utilization review.

29 When making retrospective reviews, utilization review
30 programs shall base reviews solely on the medical information
31 available to the attending physician or ordering provider at
32 the time the health care services were provided.

33 (f) If the Department of Financial and Professional
34 Regulation finds that a utilization review program is not in

1 compliance with this Section, the Department shall issue a
2 corrective action plan and allow a reasonable amount of time
3 for compliance with the plan. If the utilization review program
4 does not come into compliance, the Department may issue a cease
5 and desist order. Before issuing a cease and desist order under
6 this Section, the Department shall provide the utilization
7 review program with a written notice of the reasons for the
8 order and allow a reasonable amount of time to supply
9 additional information demonstrating compliance with the
10 requirements of this Section and to request a hearing. The
11 hearing notice shall be sent by certified mail, return receipt
12 requested, and the hearing shall be conducted in accordance
13 with the Illinois Administrative Procedure Act.

14 (g) A utilization review program subject to a corrective
15 action may continue to conduct business until a final decision
16 has been issued by the Department.

17 (h) The Secretary of Financial and Professional Regulation
18 may by rule establish a registration fee for each person
19 conducting a utilization review program.

20 (i) A utilization review will be considered by the
21 Commission, along with all other evidence and in the same
22 manner as all other evidence, in the determination of the
23 reasonableness and necessity of the medical bills or treatment.
24 Nothing in this Section shall be construed to diminish the
25 rights of employees to reasonable and necessary medical
26 treatment or employee choice of health care provider under
27 Section 8(a) or the rights of employers to medical examinations
28 under Section 12.

29 (j) When an employer denies payment of or refuses to
30 authorize payment of first aid, medical, surgical, or hospital
31 services under Section 8(a) of this Act, if that denial or
32 refusal to authorize complies with a utilization review program
33 registered under this Section and complies with all other
34 requirements of this Section, then there shall be a rebuttable

1 presumption that the employer shall not be responsible for
2 payment of additional compensation pursuant to Section 19(k) of
3 this Act and if that denial or refusal to authorize does not
4 comply with a utilization review program registered under this
5 Section and does not comply with all other requirements of this
6 Section, then that will be considered by the Commission, along
7 with all other evidence and in the same manner as all other
8 evidence, in the determination of whether the employer may be
9 responsible for the payment of additional compensation
10 pursuant to Section 19(k) of this Act.

11 (820 ILCS 305/12) (from Ch. 48, par. 138.12)

12 Sec. 12. An employee entitled to receive disability
13 payments shall be required, if requested by the employer, to
14 submit himself, at the expense of the employer, for examination
15 to a duly qualified medical practitioner or surgeon selected by
16 the employer, at any time and place reasonably convenient for
17 the employee, either within or without the State of Illinois,
18 for the purpose of determining the nature, extent and probable
19 duration of the injury received by the employee, and for the
20 purpose of ascertaining the amount of compensation which may be
21 due the employee from time to time for disability according to
22 the provisions of this Act. An employee may also be required to
23 submit himself for examination by medical experts under
24 subsection (c) of Section 19.

25 An employer requesting such an examination, of an employee
26 residing within the State of Illinois, shall deliver to the
27 employee with the notice of the time and place of examination
28 ~~pay in advance of the time fixed for the examination~~ sufficient
29 money to defray the necessary expense of travel by the most
30 convenient means to and from the place of examination, and the
31 cost of meals necessary during the trip, and if the examination
32 or travel to and from the place of examination causes any loss
33 of working time on the part of the employee, the employer shall

1 reimburse him for such loss of wages upon the basis of his
2 average daily wage. Such examination shall be made in the
3 presence of a duly qualified medical practitioner or surgeon
4 provided and paid for by the employee, if such employee so
5 desires.

6 In all cases where the examination is made by a surgeon
7 engaged by the employer, and the injured employee has no
8 surgeon present at such examination, it shall be the duty of
9 the surgeon making the examination at the instance of the
10 employer to deliver to the injured employee, or his
11 representative, a statement in writing of the condition and
12 extent of the injury to the same extent that said surgeon
13 reports to the employer and the same shall be an exact copy of
14 that furnished to the employer, said copy to be furnished the
15 employee, or his representative as soon as practicable but not
16 later than 48 hours before the time the case is set for
17 hearing. Such delivery shall be made in person either to the
18 employee or his representative, or by registered mail to
19 either, and the receipt of either shall be proof of such
20 delivery. If such surgeon refuses to furnish the employee with
21 such statement to the same extent as that furnished the
22 employer said surgeon shall not be permitted to testify at the
23 hearing next following said examination.

24 If the employee refuses so to submit himself to examination
25 or unnecessarily obstructs the same, his right to compensation
26 payments shall be temporarily suspended until such examination
27 shall have taken place, and no compensation shall be payable
28 under this Act for such period.

29 It shall be the duty of surgeons treating an injured
30 employee who is likely to die, and treating him at the instance
31 of the employer, to have called in another surgeon to be
32 designated and paid for by either the injured employee or by
33 the person or persons who would become his beneficiary or
34 beneficiaries, to make an examination before the death of such

1 injured employee.

2 In all cases where the examination is made by a surgeon
3 engaged by the injured employee, and the employer has no
4 surgeon present at such examination, it shall be the duty of
5 the surgeon making the examination at the instance of the
6 employee, to deliver to the employer, or his representative, a
7 statement in writing of the condition and extent of the injury
8 to the same extent that said surgeon reports to the employee
9 and the same shall be an exact copy of that furnished to the
10 employee, said copy to be furnished the employer, or his
11 representative, as soon as practicable but not later than 48
12 hours before the time the case is set for hearing. Such
13 delivery shall be made in person either to the employer, or his
14 representative, or by registered mail to either, and the
15 receipt of either shall be proof of such delivery. If such
16 surgeon refuses to furnish the employer with such statement to
17 the same extent as that furnished the employee, said surgeon
18 shall not be permitted to testify at the hearing next following
19 said examination.

20 (Source: P.A. 81-1482.)

21 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

22 Sec. 13. There is created an Illinois Workers' Compensation
23 Commission consisting of 10 ~~7~~ members to be appointed by the
24 Governor, by and with the consent of the Senate, 3 ~~2~~ of whom
25 shall be representative citizens of the employing class
26 operating under this Act and 3 ~~2~~ of whom shall be
27 representative citizens of the class of employees covered under
28 this Act, and 4 ~~3~~ of whom shall be representative citizens not
29 identified with either the employing or employee classes. Not
30 more than 6 ~~4~~ members of the Commission shall be of the same
31 political party.

32 One of the ~~3~~ members not identified with either the
33 employing or employee classes shall be designated by the

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

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

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

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

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

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

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

28 (e) observation of experienced arbitrators and
29 Commissioners conducting hearings of cases, combined with
30 the opportunity to discuss evidence presented and rulings
31 made;

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

1 (g) writing skills.

2 A formal and ongoing professional development program
3 including, but not limited to, the above-noted areas shall be
4 implemented to keep Commissioners informed of recent
5 developments and issues and to assist them in maintaining and
6 enhancing their professional competence.

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

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

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

27 The Illinois Workers' Compensation Commission shall
28 administer this Act.

29 In the promulgation of procedural rules, the determination
30 of cases heard en banc, and other matters determined by the
31 full Commission, the Chairman's vote shall break a tie in the
32 event of a tie vote.

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

1 (a) After the effective date of this amendatory Act of
2 1989, 3 members, at least one of each political party, and
3 one of whom shall be a representative citizen of the
4 employing class operating under this Act, one of whom shall
5 be a representative citizen of the class of employees
6 covered under this Act, and one of whom shall be a
7 representative citizen not identified with either the
8 employing or employee classes, shall be appointed to hold
9 office until the third Monday in January of 1993, and until
10 their successors are appointed and qualified, and 4
11 members, one of whom shall be a representative citizen of
12 the employing class operating under this Act, one of whom
13 shall be a representative citizen of the class of employees
14 covered in this Act, and two of whom shall be
15 representative citizens not identified with either the
16 employing or employee classes, one of whom shall be
17 designated by the Governor as Chairman (at least one of
18 each of the two major political parties) shall be appointed
19 to hold office until the third Monday of January in 1991,
20 and until their successors are appointed and qualified.

21 (a-5) Notwithstanding any other provision of this
22 Section, the term of each member of the Commission who was
23 appointed by the Governor and is in office on June 30, 2003
24 shall terminate at the close of business on that date or
25 when all of the successor members to be appointed pursuant
26 to this amendatory Act of the 93rd General Assembly have
27 been appointed by the Governor, whichever occurs later. As
28 soon as possible, the Governor shall appoint persons to
29 fill the vacancies created by this amendatory Act. Of the
30 initial commissioners appointed pursuant to this
31 amendatory Act of the 93rd General Assembly, 3 shall be
32 appointed for terms ending on the third Monday in January,
33 2005, and 4 shall be appointed for terms ending on the
34 third Monday in January, 2007.

1 (a-10) After the effective date of this amendatory Act
2 of the 94th General Assembly, the Commission shall be
3 increased to 10 members. As soon as possible after the
4 effective date of this amendatory Act of the 94th General
5 Assembly, the Governor shall appoint, by and with the
6 consent of the Senate, the 3 members added to the
7 Commission under this amendatory Act of the 94th General
8 Assembly, one of whom shall be a representative citizen of
9 the employing class operating under this Act, one of whom
10 shall be a representative of the class of employees covered
11 under this Act, and one of whom shall be a representative
12 citizen not identified with either the employing or
13 employee classes. Of the members appointed under this
14 amendatory Act of the 94th General Assembly, one shall be
15 appointed for a term ending on the third Monday in January,
16 2007, and 2 shall be appointed for terms ending on the
17 third Monday in January, 2009, and until their successors
18 are appointed and qualified.

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

26 The Chairman shall receive an annual salary of \$42,500, or
27 a salary set by the Compensation Review Board, whichever is
28 greater, and each other member shall receive an annual salary
29 of \$38,000, or a salary set by the Compensation Review Board,
30 whichever is greater.

31 In case of a vacancy in the office of a Commissioner during
32 the recess of the Senate, the Governor shall make a temporary
33 appointment until the next meeting of the Senate, when he shall
34 nominate some person to fill such office. Any person so

1 nominated who is confirmed by the Senate shall hold office
2 during the remainder of the term and until his successor is
3 appointed and qualified.

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

13 Notwithstanding any other provision of this Act, in the
14 event the Chairman shall make a finding that a member is or
15 will be unavailable to fulfill the responsibilities of his or
16 her office, the Chairman shall advise the Governor and the
17 member in writing and shall designate a certified arbitrator to
18 serve as acting Commissioner. The certified arbitrator shall
19 act as a Commissioner until the member resumes the duties of
20 his or her office or until a new member is appointed by the
21 Governor, by and with the consent of the Senate, if a vacancy
22 occurs in the office of the Commissioner, but in no event shall
23 a certified arbitrator serve in the capacity of Commissioner
24 for more than 6 months from the date of appointment by the
25 Chairman. A finding by the Chairman that a member is or will be
26 unavailable to fulfill the responsibilities of his or her
27 office shall be based upon notice to the Chairman by a member
28 that he or she will be unavailable or facts and circumstances
29 made known to the Chairman which lead him to reasonably find
30 that a member is unavailable to fulfill the responsibilities of
31 his or her office. The designation of a certified arbitrator to
32 act as a Commissioner shall be considered representative of
33 citizens not identified with either the employing or employee
34 classes and the arbitrator shall serve regardless of his or her

1 political affiliation. A certified arbitrator who serves as an
2 acting Commissioner shall have all the rights and powers of a
3 Commissioner, including salary.

4 Notwithstanding any other provision of this Act, the
5 Governor shall appoint a special panel of Commissioners
6 comprised of 3 members who shall be chosen by the Governor, by
7 and with the consent of the Senate, from among the current
8 ranks of certified arbitrators. Three members shall hold office
9 until the Commission in consultation with the Governor
10 determines that the caseload on review has been reduced
11 sufficiently to allow cases to proceed in a timely manner or
12 for a term of 18 months from the effective date of their
13 appointment by the Governor, whichever shall be earlier. The 3
14 members shall be considered representative of citizens not
15 identified with either the employing or employee classes and
16 shall serve regardless of political affiliation. Each of the 3
17 members shall have only such rights and powers of a
18 Commissioner necessary to dispose of those cases assigned to
19 the special panel. Each of the 3 members appointed to the
20 special panel shall receive the same salary as other
21 Commissioners for the duration of the panel.

22 The Commission may have an Executive Director; if so, the
23 Executive Director shall be appointed by the Governor with the
24 advice and consent of the Senate. The salary and duties of the
25 Executive Director shall be fixed by the Commission.

26 On the effective date of this amendatory Act of the 93rd
27 General Assembly, the name of the Industrial Commission is
28 changed to the Illinois Workers' Compensation Commission.
29 References in any law, appropriation, rule, form, or other
30 document: (i) to the Industrial Commission are deemed, in
31 appropriate contexts, to be references to the Illinois Workers'
32 Compensation Commission for all purposes; (ii) to the
33 Industrial Commission Operations Fund are deemed, in
34 appropriate contexts, to be references to the Illinois Workers'

1 Compensation Commission Operations Fund for all purposes;
2 (iii) to the Industrial Commission Operations Fund Fee are
3 deemed, in appropriate contexts, to be references to the
4 Illinois Workers' Compensation Commission Operations Fund Fee
5 for all purposes; and (iv) to the Industrial Commission
6 Operations Fund Surcharge are deemed, in appropriate contexts,
7 to be references to the Illinois Workers' Compensation
8 Commission Operations Fund Surcharge for all purposes.

9 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05.)

10 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

11 Sec. 13.1. (a) There is created a Workers' Compensation
12 Advisory Board hereinafter referred to as the Advisory Board.
13 After the effective date of this amendatory Act of the 94th
14 General Assembly, the Advisory Board shall consist,~~consisting~~
15 of 12 ~~9~~ members appointed by the Governor with the advice and
16 consent of the Senate. Six ~~Three~~ members of the Advisory Board
17 shall be representative citizens chosen from the employee
18 class, and 6 ~~3~~ members shall be representative citizens chosen
19 from the employing class ~~and 3 members shall be representative~~
20 ~~citizens not identified with either the employing or employee~~
21 ~~class.~~ The Chairman of the Commission shall serve as the ex
22 officio Chairman of the Advisory Board. After the effective
23 date of this amendatory Act of the 94th General Assembly each
24 member of the Advisory Board shall serve a ~~4-year~~ term ending
25 on the third Monday in January 2007 and shall continue to serve
26 until his or her successor is appointed and qualified. Members
27 of the Advisory Board shall thereafter be appointed for 4 year
28 terms from the third Monday in January of the year of their
29 appointment, and until their successors are appointed and
30 qualified. ~~The Governor shall select one of the members not~~
31 ~~identified with either the employing or employee class to serve~~
32 ~~as Chairman.~~ Seven ~~Five~~ members of the Advisory Board shall
33 constitute a quorum to do business, but in no case shall there

1 be less than one representative from each class, ~~employee,~~
2 ~~employing and representative citizen not identified with~~
3 ~~either the employing or employee class.~~ A vacancy on the
4 Advisory Board shall be filled by the Governor for the
5 unexpired term.

6 (b) Members of the Advisory Board shall receive no
7 compensation for their services but shall be reimbursed for
8 expenses incurred in the performance of their duties by the
9 Commission from appropriations made to the Commission for such
10 purpose.

11 (c) The Advisory Board shall aid the Commission in
12 formulating policies, discussing problems, setting priorities
13 of expenditures and establishing short and long range
14 administrative goals. Prior to making appointments to the
15 Commission the Governor shall request that the Advisory Board
16 make recommendations as to candidates to consider for
17 appointment and the Advisory Board may then make such
18 recommendations.

19 (Source: P.A. 86-998.)

20 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

21 Sec. 14. The Commission shall appoint a secretary, an
22 assistant secretary, and arbitrators and shall employ such
23 assistants and clerical help as may be necessary.

24 Each arbitrator appointed after November 22, 1977 shall be
25 required to demonstrate in writing and in accordance with the
26 rules and regulations of the Illinois Department of Central
27 Management Services his or her knowledge of and expertise in
28 the law of and judicial processes of the Workers' Compensation
29 Act and the Occupational Diseases Act.

30 A formal training program for newly-hired arbitrators
31 shall be implemented. The training program shall include the
32 following:

33 (a) substantive and procedural aspects of the

1 arbitrator position;

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

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

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

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

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

15 (g) writing skills.

16 A formal and ongoing professional development program
17 including, but not limited to, the above-noted areas shall be
18 implemented to keep arbitrators informed of recent
19 developments and issues and to assist them in maintaining and
20 enhancing their professional competence.

21 Each arbitrator shall devote full time to his or her duties
22 and shall serve when assigned as an acting Commissioner when a
23 Commissioner is unavailable in accordance with the provisions
24 of Section 13 of this Act. Any arbitrator who is an
25 attorney-at-law shall not engage in the practice of law, nor
26 shall any arbitrator hold any other office or position of
27 profit under the United States or this State or any municipal
28 corporation or political subdivision of this State.
29 Notwithstanding any other provision of this Act to the
30 contrary, an arbitrator who serves as an acting Commissioner in
31 accordance with the provisions of Section 13 of this Act shall
32 continue to serve in the capacity of Commissioner until a
33 decision is reached in every case heard by that arbitrator
34 while serving as an acting Commissioner.

1 Each arbitrator appointed after the effective date of this
2 amendatory Act of 1989 shall be appointed for a term of 6
3 years. Each arbitrator shall be appointed for a subsequent term
4 unless the Chairman makes a recommendation to the Commission,
5 no later than 60 days prior to the expiration of the term, not
6 to reappoint the arbitrator. Notice of such a recommendation
7 shall also be given to the arbitrator no later than 60 days
8 prior to the expiration of the term. Upon such recommendation
9 by the Chairman, the arbitrator shall be appointed for a
10 subsequent term unless 8 ~~5~~ of 10 ~~7~~ members of the Commission,
11 including the Chairman, vote not to reappoint the arbitrator.

12 All arbitrators shall be subject to the provisions of the
13 Personnel Code, and the performance of all arbitrators shall be
14 reviewed by the Chairman on an annual basis. The Chairman shall
15 allow input from the Commissioners in all such reviews.

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

20 The members of the Commission, Arbitrators and other
21 employees whose duties require them to travel, shall have
22 reimbursed to them their actual traveling expenses and
23 disbursements made or incurred by them in the discharge of
24 their official duties while away from their place of residence
25 in the performance of their duties.

26 The Commission shall provide itself with a seal for the
27 authentication of its orders, awards and proceedings upon which
28 shall be inscribed the name of the Commission and the words
29 "Illinois--Seal".

30 The Secretary or Assistant Secretary, under the direction
31 of the Commission, shall have charge and custody of the seal of
32 the Commission and also have charge and custody of all records,
33 files, orders, proceedings, decisions, awards and other
34 documents on file with the Commission. He shall furnish

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

11 (Source: P.A. 93-721, eff. 1-1-05.)

12 (820 ILCS 305/16) (from Ch. 48, par. 138.16)

13 Sec. 16. The Commission shall make and publish procedural
14 rules and orders for carrying out the duties imposed upon it by
15 law and for determining the extent of disability sustained,
16 which rules and orders shall be deemed prima facie reasonable
17 and valid.

18 The process and procedure before the Commission shall be as
19 simple and summary as reasonably may be.

20 The Commission upon application of either party may issue
21 dedimus potestatem directed to a commissioner, notary public,
22 justice of the peace or any other officer authorized by law to
23 administer oaths, to take the depositions of such witness or
24 witnesses as may be necessary in the judgment of such
25 applicant. Such dedimus potestatem may issue to any of the
26 officers aforesaid in any state or territory of the United
27 States. When the deposition of any witness resident of a
28 foreign country is desired to be taken, the dedimus shall be
29 directed to and the deposition taken before a consul, vice
30 consul or other authorized representative of the government of
31 the United States of America, whose station is in the country
32 where the witness whose deposition is to be taken resides. In
33 countries where the government of the United States has no

1 consul or other diplomatic representative, then depositions in
2 such case shall be taken through the appropriate judicial
3 authority of that country; or where treaties provide for other
4 methods of taking depositions, then the same may be taken as in
5 such treaties provided. The Commission shall have the power to
6 adopt necessary rules to govern the issue of such dedimus
7 potestatem.

8 The Commission, or any member thereof, or any Arbitrator
9 designated by the Commission shall have the power to administer
10 oaths, subpoena and examine witnesses; to issue subpoenas duces
11 tecum, requiring the production of such books, papers, records
12 and documents as may be evidence of any matter under inquiry
13 and to examine and inspect the same and such places or premises
14 as may relate to the question in dispute. The Commission, or
15 any member thereof, or any Arbitrator designated by the
16 Commission, shall on written request of either party to the
17 dispute, issue subpoenas for the attendance of such witnesses
18 and production of such books, papers, records and documents as
19 shall be designated in the applications, and the parties
20 applying for such subpoena shall advance the officer and
21 witness fees provided for in civil actions pending in circuit
22 courts of this State, except as otherwise provided by Section
23 20 of this Act. Service of such subpoena shall be made by any
24 sheriff or other person. In case any person refuses to comply
25 with an order of the Commission or subpoenas issued by it or by
26 any member thereof, or any Arbitrator designated by the
27 Commission or to permit an inspection of places or premises, or
28 to produce any books, papers, records or documents, or any
29 witness refuses to testify to any matters regarding which he or
30 she may be lawfully interrogated, the Circuit Court of the
31 county in which the hearing or matter is pending, on
32 application of any member of the Commission or any Arbitrator
33 designated by the Commission, shall compel obedience by
34 attachment proceedings, as for contempt, as in a case of

1 disobedience of the requirements of a subpoena from such court
2 on a refusal to testify therein.

3 The records, reports, and bills kept by a treating
4 hospital, treating physician, or other treating healthcare
5 provider that renders treatment to the employee as a result of
6 accidental injuries in question, certified to as true and
7 correct by the hospital, physician, or other healthcare
8 provider or by designated agents of the hospital, physician, or
9 other healthcare provider, ~~superintendent or other officer in~~
10 charge, showing the medical and surgical treatment given an
11 injured employee by ~~in~~ such hospital, physician, or other
12 healthcare provider, shall be admissible without any further
13 proof as evidence of the medical and surgical matters stated
14 therein, but shall not be conclusive proof of such matters.
15 There shall be a rebuttable presumption that any such records,
16 reports, and bills received in response to Commission subpoena
17 are certified to be true and correct. This paragraph does not
18 restrict, limit, or prevent the admissibility of records,
19 reports, or bills that are otherwise admissible. This provision
20 does not apply to reports prepared by treating providers for
21 use in litigation.

22 The Commission at its expense shall provide an official
23 court reporter to take the testimony and record of proceedings
24 at the hearings before an Arbitrator or the Commission, who
25 shall furnish a transcript of such testimony or proceedings to
26 either party requesting it, upon payment therefor at the rate
27 of \$1.00 per page for the original and 35 cents per page for
28 each copy of such transcript. Payment for photostatic copies of
29 exhibits shall be extra. If the Commission has determined, as
30 provided in Section 20 of this Act, that the employee is a poor
31 person, a transcript of such testimony and proceedings,
32 including photostatic copies of exhibits, shall be furnished to
33 such employee at the Commission's expense.

34 The Commission shall have the power to determine the

1 reasonableness and fix the amount of any fee of compensation
2 charged by any person, including attorneys, physicians,
3 surgeons and hospitals, for any service performed in connection
4 with this Act, or for which payment is to be made under this
5 Act or rendered in securing any right under this Act.

6 Whenever the Commission shall find that the employer, his
7 or her agent, service company or insurance carrier has been
8 guilty of delay or unfairness towards an employee in the
9 adjustment, settlement or payment of benefits due such employee
10 within the purview of the provisions of paragraph (c) of
11 Section 4 of this Act; or has been guilty of unreasonable or
12 vexatious delay, intentional under-payment of compensation
13 benefits, or has engaged in frivolous defenses which do not
14 present a real controversy, within the purview of the
15 provisions of paragraph (k) of Section 19 of this Act, the
16 Commission may assess all or any part of the attorney's fees
17 and costs against such employer and his or her insurance
18 carrier.

19 (Source: P.A. 86-998.)

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

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

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

26 1. Whenever any claimant misconceives his remedy and
27 files an application for adjustment of claim under this Act
28 and it is subsequently discovered, at any time before final
29 disposition of such cause, that the claim for disability or
30 death which was the basis for such application should
31 properly have been made under the Workers' Occupational
32 Diseases Act, then the provisions of Section 19, paragraph
33 (a-1) of the Workers' Occupational Diseases Act having

1 reference to such application shall apply.

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

22 (b) The Arbitrator shall make such inquiries and
23 investigations as he or they shall deem necessary and may
24 examine and inspect all books, papers, records, places, or
25 premises relating to the questions in dispute and hear such
26 proper evidence as the parties may submit.

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

31 The Arbitrator may find that the disabling condition is
32 temporary and has not yet reached a permanent condition and may
33 order the payment of compensation up to the date of the
34 hearing, which award shall be reviewable and enforceable in the

1 same manner as other awards, and in no instance be a bar to a
2 further hearing and determination of a further amount of
3 temporary total compensation or of compensation for permanent
4 disability, but shall be conclusive as to all other questions
5 except the nature and extent of said disability.

6 The decision of the Arbitrator shall be filed with the
7 Commission which Commission shall immediately send to each
8 party or his attorney a copy of such decision, together with a
9 notification of the time when it was filed. As of the effective
10 date of this amendatory Act of the 94th General Assembly
11 ~~Beginning January 1, 1981,~~ all decisions of the Arbitrator
12 shall set forth in writing findings of fact and conclusions of
13 law, separately stated, if requested by either party. Unless a
14 petition for review is filed by either party within 30 days
15 after the receipt by such party of the copy of the decision and
16 notification of time when filed, and unless such party
17 petitioning for a review shall within 35 days after the receipt
18 by him of the copy of the decision, file with the Commission
19 either an agreed statement of the facts appearing upon the
20 hearing before the Arbitrator, or if such party shall so elect
21 a correct transcript of evidence of the proceedings at such
22 hearings, then the decision shall become the decision of the
23 Commission and in the absence of fraud shall be conclusive. The
24 Petition for Review shall contain a statement of the
25 petitioning party's specific exceptions to the decision of the
26 arbitrator. The jurisdiction of the Commission to review the
27 decision of the arbitrator shall not be limited to the
28 exceptions stated in the Petition for Review. The Commission,
29 or any member thereof, may grant further time not exceeding 30
30 days, in which to file such agreed statement or transcript of
31 evidence. Such agreed statement of facts or correct transcript
32 of evidence, as the case may be, shall be authenticated by the
33 signatures of the parties or their attorneys, and in the event
34 they do not agree as to the correctness of the transcript of

1 evidence it shall be authenticated by the signature of the
2 Arbitrator designated by the Commission.

3 Whether the employee is working or not, if the employee is
4 not receiving or has not received medical, surgical, or
5 hospital services or other services or compensation as provided
6 in paragraph (a) of Section 8, or compensation as provided in
7 paragraph (b) of Section 8, the employee may at any time
8 petition for an expedited hearing by an Arbitrator on the issue
9 of whether or not he or she is entitled to receive payment of
10 the services or compensation. Provided the employer continues
11 to pay compensation pursuant to paragraph (b) of Section 8, the
12 employer may at any time petition for an expedited hearing on
13 the issue of whether or not the employee is entitled to receive
14 medical, surgical, or hospital services or other services or
15 compensation as provided in paragraph (a) of Section 8, or
16 compensation as provided in paragraph (b) of Section 8. When an
17 employer has petitioned for an expedited hearing, the employer
18 shall continue to pay compensation as provided in paragraph (b)
19 of Section 8 unless the arbitrator renders a decision that the
20 employee is not entitled to the benefits that are the subject
21 of the expedited hearing or unless the employee's treating
22 physician has released the employee to return to work at his or
23 her regular job with the employer or the employee actually
24 returns to work at any other job. If the arbitrator renders a
25 decision that the employee is not entitled to the benefits that
26 are the subject of the expedited hearing a petition for review
27 filed by the employee shall receive the same priority as if the
28 employee had filed a petition for an expedited hearing by an
29 Arbitrator. Neither party shall be entitled to an expedited
30 hearing when the employee has returned to work and the sole
31 issue in dispute amounts to less than 12 weeks of unpaid
32 compensation pursuant to paragraph (b) of Section 8.

33 Expedited hearings shall have priority over all other
34 petitions and shall be heard by the Arbitrator and Commission

1 with all convenient speed. Any party requesting an expedited
2 hearing shall give notice of a request for an expedited hearing
3 under this paragraph. A copy of the Application for Adjustment
4 of Claim shall be attached to the notice. The Commission shall
5 adopt rules and procedures under which the final decision of
6 the Commission under this paragraph is filed not later than 180
7 days from the date that the Petition for Review is filed with
8 the Commission.

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

25 (b-1) If the employee is not receiving medical, surgical or
26 hospital services as provided in paragraph (a) of Section 8 or
27 compensation as provided in paragraph (b) of Section 8, the
28 employee, in accordance with Commission Rules, may file a
29 petition for an emergency hearing by an Arbitrator on the issue
30 of whether or not he is entitled to receive payment of such
31 compensation or services as provided therein. Such petition
32 shall have priority over all other petitions and shall be heard
33 by the Arbitrator and Commission with all convenient speed.

34 Such petition shall contain the following information and

1 shall be served on the employer at least 15 days before it is
2 filed:

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

4 (ii) the approximate location of the accident;

5 (iii) a description of the accident;

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

7 (v) the identity of the person, if known, to whom the
8 accident was reported and the date on which it was
9 reported;

10 (vi) the name and title of the person, if known,
11 representing the employer with whom the employee conferred
12 in any effort to obtain compensation pursuant to paragraph
13 (b) of Section 8 of this Act or medical, surgical or
14 hospital services pursuant to paragraph (a) of Section 8 of
15 this Act and the date of such conference;

16 (vii) a statement that the employer has refused to pay
17 compensation pursuant to paragraph (b) of Section 8 of this
18 Act or for medical, surgical or hospital services pursuant
19 to paragraph (a) of Section 8 of this Act;

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

23 (ix) the dates of treatment related to the accident by
24 medical practitioners, and the names and addresses of such
25 practitioners, including the dates of treatment related to
26 the accident at any hospitals and the names and addresses
27 of such hospitals, and a signed authorization permitting
28 the employer to examine all medical records of all
29 practitioners and hospitals named pursuant to this
30 paragraph;

31 (x) a copy of a signed report by a medical
32 practitioner, relating to the employee's current inability
33 to return to work because of the injuries incurred as a
34 result of the accident or such other documents or

1 affidavits which show that the employee is entitled to
2 receive compensation pursuant to paragraph (b) of Section 8
3 of this Act or medical, surgical or hospital services
4 pursuant to paragraph (a) of Section 8 of this Act. Such
5 reports, documents or affidavits shall state, if possible,
6 the history of the accident given by the employee, and
7 describe the injury and medical diagnosis, the medical
8 services for such injury which the employee has received
9 and is receiving, the physical activities which the
10 employee cannot currently perform as a result of any
11 impairment or disability due to such injury, and the
12 prognosis for recovery;

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

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

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

24 Fifteen days after receipt by the employer of the petition
25 with the required information the employee may file said
26 petition and required information and shall serve notice of the
27 filing upon the employer. The employer may file a motion
28 addressed to the sufficiency of the petition. If an objection
29 has been filed to the sufficiency of the petition, the
30 arbitrator shall rule on the objection within 2 working days.
31 If such an objection is filed, the time for filing the final
32 decision of the Commission as provided in this paragraph shall
33 be tolled until the arbitrator has determined that the petition
34 is sufficient.

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

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

23 No document or other evidence not previously identified by
24 either party with the petition or written response, or by any
25 other means before the hearing, may be introduced into evidence
26 without good cause. If, at the hearing, material information is
27 discovered which was not previously disclosed, the Arbitrator
28 may extend the time for closing proof on the motion of a party
29 for a reasonable period of time which may be more than 30 days.
30 No evidence may be introduced pursuant to this paragraph as to
31 permanent disability. No award may be entered for permanent
32 disability pursuant to this paragraph. Either party may
33 introduce into evidence the testimony taken by deposition of
34 any medical practitioner.

1 The Commission shall adopt rules, regulations and
2 procedures whereby the final decision of the Commission is
3 filed not later than 90 days from the date the petition for
4 review is filed but in no event later than 180 days from the
5 date the petition for an emergency hearing is filed with the
6 Illinois Workers' Compensation Commission.

7 All service required pursuant to this paragraph (b-1) must
8 be by personal service or by certified mail and with evidence
9 of receipt. In addition for the purposes of this paragraph, all
10 service on the employer must be at the premises where the
11 accident occurred if the premises are owned or operated by the
12 employer. Otherwise service must be at the employee's principal
13 place of employment by the employer. If service on the employer
14 is not possible at either of the above, then service shall be
15 at the employer's principal place of business. After initial
16 service in each case, service shall be made on the employer's
17 attorney or designated representative.

18 (c) (1) At a reasonable time in advance of and in
19 connection with the hearing under Section 19(e) or 19(h), the
20 Commission may on its own motion order an impartial physical or
21 mental examination of a petitioner whose mental or physical
22 condition is in issue, when in the Commission's discretion it
23 appears that such an examination will materially aid in the
24 just determination of the case. The examination shall be made
25 by a member or members of a panel of physicians chosen for
26 their special qualifications by the Illinois State Medical
27 Society. The Commission shall establish procedures by which a
28 physician shall be selected from such list.

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

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

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

4 (5) The examination shall be made, and the physician or
5 physicians, if called, shall testify, without cost to the
6 parties. The Commission shall determine the compensation and
7 the pay of the physician or physicians. The compensation for
8 this service shall not exceed the usual and customary amount
9 for such service.

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

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

28 (e) This paragraph shall apply to all hearings before the
29 Commission. Such hearings may be held in its office or
30 elsewhere as the Commission may deem advisable. The taking of
31 testimony on such hearings may be had before any member of the
32 Commission. If a petition for review and agreed statement of
33 facts or transcript of evidence is filed, as provided herein,
34 the Commission shall promptly review the decision of the

1 Arbitrator and all questions of law or fact which appear from
2 the statement of facts or transcript of evidence.

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

16 In the event either party requests oral argument, such
17 argument shall be had before a panel of 3 members of the
18 Commission (or before all available members pursuant to the
19 determination of 7 ~~5~~ members of the Commission that such
20 argument be held before all available members of the
21 Commission) pursuant to the rules and regulations of the
22 Commission. A panel of 3 members, which shall be comprised of
23 not more than one representative citizen of the employing class
24 and not more than one representative citizen of the employee
25 class, shall hear the argument; provided that if all the issues
26 in dispute are solely the nature and extent of the permanent
27 partial disability, if any, a majority of the panel may deny
28 the request for such argument and such argument shall not be
29 held; and provided further that 7 ~~5~~ members of the Commission
30 may determine that the argument be held before all available
31 members of the Commission. A decision of the Commission shall
32 be approved by a majority of Commissioners present at such
33 hearing if any; provided, if no such hearing is held, a
34 decision of the Commission shall be approved by a majority of a

1 panel of 3 members of the Commission as described in this
2 Section. The Commission shall give 10 days' notice to the
3 parties or their attorneys of the time and place of such taking
4 of testimony and of such argument.

5 In any case the Commission in its decision may find
6 specially upon any question or questions of law or fact which
7 shall be submitted in writing by either party whether ultimate
8 or otherwise; provided that on issues other than nature and
9 extent of the disability, if any, the Commission in its
10 decision shall find specially upon any question or questions of
11 law or fact, whether ultimate or otherwise, which are submitted
12 in writing by either party; provided further that not more than
13 5 such questions may be submitted by either party. Any party
14 may, within 20 days after receipt of notice of the Commission's
15 decision, or within such further time, not exceeding 30 days,
16 as the Commission may grant, file with the Commission either an
17 agreed statement of the facts appearing upon the hearing, or,
18 if such party shall so elect, a correct transcript of evidence
19 of the additional proceedings presented before the Commission,
20 in which report the party may embody a correct statement of
21 such other proceedings in the case as such party may desire to
22 have reviewed, such statement of facts or transcript of
23 evidence to be authenticated by the signature of the parties or
24 their attorneys, and in the event that they do not agree, then
25 the authentication of such transcript of evidence shall be by
26 the signature of any member of the Commission.

27 If a reporter does not for any reason furnish a transcript
28 of the proceedings before the Arbitrator in any case for use on
29 a hearing for review before the Commission, within the
30 limitations of time as fixed in this Section, the Commission
31 may, in its discretion, order a trial de novo before the
32 Commission in such case upon application of either party. The
33 applications for adjustment of claim and other documents in the
34 nature of pleadings filed by either party, together with the

1 decisions of the Arbitrator and of the Commission and the
2 statement of facts or transcript of evidence hereinbefore
3 provided for in paragraphs (b) and (c) shall be the record of
4 the proceedings of the Commission, and shall be subject to
5 review as hereinafter provided.

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

26 Decisions rendered by the Commission and dissents, if any,
27 shall be published together by the Commission. The conclusions
28 of law set out in such decisions shall be regarded as
29 precedents by arbitrators for the purpose of achieving a more
30 uniform administration of this Act.

31 (f) The decision of the Commission acting within its
32 powers, according to the provisions of paragraph (e) of this
33 Section shall, in the absence of fraud, be conclusive unless
34 reviewed as in this paragraph hereinafter provided. However,

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

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

20 A proceeding for review shall be commenced within 20
21 days of the receipt of notice of the decision of the
22 Commission. The summons shall be issued by the clerk of
23 such court upon written request returnable on a designated
24 return day, not less than 10 or more than 60 days from the
25 date of issuance thereof, and the written request shall
26 contain the last known address of other parties in interest
27 and their attorneys of record who are to be served by
28 summons. Service upon any member of the Commission or the
29 Secretary or the Assistant Secretary thereof shall be
30 service upon the Commission, and service upon other parties
31 in interest and their attorneys of record shall be by
32 summons, and such service shall be made upon the Commission
33 and other parties in interest by mailing notices of the
34 commencement of the proceedings and the return day of the

1 summons to the office of the Commission and to the last
2 known place of residence of other parties in interest or
3 their attorney or attorneys of record. The clerk of the
4 court issuing the summons shall on the day of issue mail
5 notice of the commencement of the proceedings which shall
6 be done by mailing a copy of the summons to the office of
7 the Commission, and a copy of the summons to the other
8 parties in interest or their attorney or attorneys of
9 record and the clerk of the court shall make certificate
10 that he has so sent said notices in pursuance of this
11 Section, which shall be evidence of service on the
12 Commission and other parties in interest.

13 The Commission shall not be required to certify the
14 record of their proceedings to the Circuit Court, unless
15 the party commencing the proceedings for review in the
16 Circuit Court as above provided, shall pay to the
17 Commission the sum of 80¢ per page of testimony taken
18 before the Commission, and 35¢ per page of all other
19 matters contained in such record, except as otherwise
20 provided by Section 20 of this Act. Payment for photostatic
21 copies of exhibit shall be extra. It shall be the duty of
22 the Commission upon such payment, or failure to pay as
23 permitted under Section 20 of this Act, to prepare a true
24 and correct typewritten copy of such testimony and a true
25 and correct copy of all other matters contained in such
26 record and certified to by the Secretary or Assistant
27 Secretary thereof.

28 In its decision on review the Commission shall
29 determine in each particular case the amount of the
30 probable cost of the record to be filed as a part of the
31 summons in that case and no request for a summons may be
32 filed and no summons shall issue unless the party seeking
33 to review the decision of the Commission shall exhibit to
34 the clerk of the Circuit Court proof of payment by filing a

1 receipt showing payment or an affidavit of the attorney
2 setting forth that payment has been made of the sums so
3 determined to the Secretary or Assistant Secretary of the
4 Commission, except as otherwise provided by Section 20 of
5 this Act.

6 (2) No such summons shall issue unless the one against
7 whom the Commission shall have rendered an award for the
8 payment of money shall upon the filing of his written
9 request for such summons file with the clerk of the court a
10 bond conditioned that if he shall not successfully
11 prosecute the review, he will pay the award and the costs
12 of the proceedings in the courts. The amount of the bond
13 shall be fixed by any member of the Commission and the
14 surety or sureties of the bond shall be approved by the
15 clerk of the court. The acceptance of the bond by the clerk
16 of the court shall constitute evidence of his approval of
17 the bond.

18 Every county, city, town, township, incorporated
19 village, school district, body politic or municipal
20 corporation against whom the Commission shall have
21 rendered an award for the payment of money shall not be
22 required to file a bond to secure the payment of the award
23 and the costs of the proceedings in the court to authorize
24 the court to issue such summons.

25 The court may confirm or set aside the decision of the
26 Commission. If the decision is set aside and the facts
27 found in the proceedings before the Commission are
28 sufficient, the court may enter such decision as is
29 justified by law, or may remand the cause to the Commission
30 for further proceedings and may state the questions
31 requiring further hearing, and give such other
32 instructions as may be proper. Appeals shall be taken to
33 the Appellate Court in accordance with Supreme Court Rules
34 22(g) and 303. Appeals shall be taken from the Appellate

1 Court to the Supreme Court in accordance with Supreme Court
2 Rule 315.

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

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

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

33 Judgment shall not be entered until 15 days' notice of the
34 time and place of the application for the entry of judgment

1 shall be served upon the employer by filing such notice with
2 the Commission, which Commission shall, in case it has on file
3 the address of the employer or the name and address of its
4 agent upon whom notices may be served, immediately send a copy
5 of the notice to the employer or such designated agent.

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

12 However, as to accidents occurring subsequent to July 1,
13 1955, which are covered by any agreement or award under this
14 Act providing for compensation in installments made as a result
15 of such accident, such agreement or award may at any time
16 within 30 months, or 60 months in the case of an award under
17 Section 8(d)1, after such agreement or award be reviewed by the
18 Commission at the request of either the employer or the
19 employee on the ground that the disability of the employee has
20 subsequently recurred, increased, diminished or ended.

21 On such review, compensation payments may be
22 re-established, increased, diminished or ended. The Commission
23 shall give 15 days' notice to the parties of the hearing for
24 review. Any employee, upon any petition for such review being
25 filed by the employer, shall be entitled to one day's notice
26 for each 100 miles necessary to be traveled by him in attending
27 the hearing of the Commission upon the petition, and 3 days in
28 addition thereto. Such employee shall, at the discretion of the
29 Commission, also be entitled to 5 cents per mile necessarily
30 traveled by him within the State of Illinois in attending such
31 hearing, not to exceed a distance of 300 miles, to be taxed by
32 the Commission as costs and deposited with the petition of the
33 employer.

34 When compensation which is payable in accordance with an

1 award or settlement contract approved by the Commission, is
2 ordered paid in a lump sum by the Commission, no review shall
3 be had as in this paragraph mentioned.

4 (i) Each party, upon taking any proceedings or steps
5 whatsoever before any Arbitrator, Commission or court, shall
6 file with the Commission his address, or the name and address
7 of any agent upon whom all notices to be given to such party
8 shall be served, either personally or by registered mail,
9 addressed to such party or agent at the last address so filed
10 with the Commission. In the event such party has not filed his
11 address, or the name and address of an agent as above provided,
12 service of any notice may be had by filing such notice with the
13 Commission.

14 (j) Whenever in any proceeding testimony has been taken or
15 a final decision has been rendered and after the taking of such
16 testimony or after such decision has become final, the injured
17 employee dies, then in any subsequent proceedings brought by
18 the personal representative or beneficiaries of the deceased
19 employee, such testimony in the former proceeding may be
20 introduced with the same force and effect as though the witness
21 having so testified were present in person in such subsequent
22 proceedings and such final decision, if any, shall be taken as
23 final adjudication of any of the issues which are the same in
24 both proceedings.

25 (k) In case where there has been any unreasonable or
26 vexatious delay of payment or intentional underpayment of
27 compensation, or proceedings have been instituted or carried on
28 by the one liable to pay the compensation, which do not present
29 a real controversy, but are merely frivolous or for delay, then
30 the Commission may award compensation additional to that
31 otherwise payable under this Act equal to 50% of the amount
32 payable at the time of such award. Failure to pay compensation
33 in accordance with the provisions of Section 8, paragraph (b)
34 of this Act, shall be considered unreasonable delay.

1 When determining whether this subsection (k) shall apply,
2 the Commission shall consider whether an Arbitrator has
3 determined that the claim is not compensable or whether the
4 employer has made payments under Section 8(j).

5 (1) If the employee has made written demand for payment of
6 benefits under Section 8(a) or Section 8(b), the employer shall
7 have 14 days after receipt of the demand to set forth in
8 writing the reason for the delay. In the case of demand for
9 payment of medical benefits under Section 8(a), the time for
10 the employer to respond shall not commence until the expiration
11 of the allotted 60 days specified under Section 8.2(d). In case
12 the employer or his or her insurance carrier shall without good
13 and just cause fail, neglect, refuse, or unreasonably delay the
14 payment of benefits under Section 8(a) or Section 8(b), the
15 Arbitrator or the Commission shall allow to the employee
16 additional compensation in the sum of \$30 per day for each day
17 that the benefits under Section 8(a) or Section 8(b) have been
18 so withheld or refused, not to exceed \$10,000. A delay in
19 payment of 14 days or more shall create a rebuttable
20 presumption of unreasonable delay. In case the employer or his
21 insurance carrier shall without good and just cause fail,
22 neglect, refuse or unreasonably delay the payment of weekly
23 compensation benefits due to an injured employee during the
24 period of temporary total disability the arbitrator or the
25 Commission shall allow to the employee additional compensation
26 in the sum of \$10 per day for each day that a weekly
27 compensation payment has been so withheld or refused, provided
28 that such additional compensation shall not exceed the sum of
29 \$2,500. A delay in payment of 14 days or more shall create a
30 rebuttable presumption of unreasonable delay.

31 (m) If the commission finds that an accidental injury was
32 directly and proximately caused by the employer's wilful
33 violation of a health and safety standard under the Health and
34 Safety Act in force at the time of the accident, the arbitrator

1 or the Commission shall allow to the injured employee or his
2 dependents, as the case may be, additional compensation equal
3 to 25% of the amount which otherwise would be payable under the
4 provisions of this Act exclusive of this paragraph. The
5 additional compensation herein provided shall be allowed by an
6 appropriate increase in the applicable weekly compensation
7 rate.

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

21 The employer or his insurance carrier may tender the
22 payments due under the award to stop the further accrual of
23 interest on such award notwithstanding the prosecution by
24 either party of review, certiorari, appeal to the Supreme Court
25 or other steps to reverse, vacate or modify the award.

26 (o) By the 15th day of each month each insurer providing
27 coverage for losses under this Act shall notify each insured
28 employer of any compensable claim incurred during the preceding
29 month and the amounts paid or reserved on the claim including a
30 summary of the claim and a brief statement of the reasons for
31 compensability. A cumulative report of all claims incurred
32 during a calendar year or continued from the previous year
33 shall be furnished to the insured employer by the insurer
34 within 30 days after the end of that calendar year.

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

17 (p) After filing an application for adjustment of claim but
18 prior to the hearing on arbitration the parties may voluntarily
19 agree to submit such application for adjustment of claim for
20 decision by an arbitrator under this subsection (p) where such
21 application for adjustment of claim raises only a dispute over
22 temporary total disability, permanent partial disability or
23 medical expenses. Such agreement shall be in writing in such
24 form as provided by the Commission. Applications for adjustment
25 of claim submitted for decision by an arbitrator under this
26 subsection (p) shall proceed according to rule as established
27 by the Commission. The Commission shall promulgate rules
28 including, but not limited to, rules to ensure that the parties
29 are adequately informed of their rights under this subsection
30 (p) and of the voluntary nature of proceedings under this
31 subsection (p). The findings of fact made by an arbitrator
32 acting within his or her powers under this subsection (p) in
33 the absence of fraud shall be conclusive. However, the
34 arbitrator may on his own motion, or the motion of either

1 party, correct any clerical errors or errors in computation
2 within 15 days after the date of receipt of such award of the
3 arbitrator and shall have the power to recall the original
4 award on arbitration, and issue in lieu thereof such corrected
5 award. The decision of the arbitrator under this subsection (p)
6 shall be considered the decision of the Commission and
7 proceedings for review of questions of law arising from the
8 decision may be commenced by either party pursuant to
9 subsection (f) of Section 19. The Advisory Board established
10 under Section 13.1 shall compile a list of certified Commission
11 arbitrators, each of whom shall be approved by at least 7
12 members of the Advisory Board. The chairman shall select 5
13 persons from such list to serve as arbitrators under this
14 subsection (p). By agreement, the parties shall select one
15 arbitrator from among the 5 persons selected by the chairman
16 except that if the parties do not agree on an arbitrator from
17 among the 5 persons, the parties may, by agreement, select an
18 arbitrator of the American Arbitration Association, whose fee
19 shall be paid by the State in accordance with rules promulgated
20 by the Commission. Arbitration under this subsection (p) shall
21 be voluntary.

22 (Source: P.A. 93-721, eff. 1-1-05.)

23 (820 ILCS 305/25.5 new)

24 Sec. 25.5. Unlawful acts; penalties.

25 (a) It is unlawful for any person, company, corporation,
26 insurance carrier, healthcare provider, or other entity to:

27 (1) Intentionally present or cause to be presented any
28 false or fraudulent claim for the payment of any workers'
29 compensation benefit.

30 (2) Intentionally make or cause to be made any false or
31 fraudulent material statement or material representation
32 for the purpose of obtaining or denying any workers'
33 compensation benefit.

1 (3) Intentionally make or cause to be made any false or
2 fraudulent statements with regard to entitlement to
3 workers' compensation benefits with the intent to prevent
4 an injured worker from making a legitimate claim for any
5 workers' compensation benefits.

6 (4) Intentionally prepare or provide an invalid,
7 false, or counterfeit certificate of insurance as proof of
8 workers' compensation insurance.

9 (5) Intentionally make or cause to be made any false or
10 fraudulent material statement or material representation
11 for the purpose of obtaining workers' compensation
12 insurance at less than the proper rate for that insurance.

13 (6) Intentionally make or cause to be made any false or
14 fraudulent material statement or material representation
15 on an initial or renewal self-insurance application or
16 accompanying financial statement for the purpose of
17 obtaining self-insurance status or reducing the amount of
18 security that may be required to be furnished pursuant to
19 Section 4 of this Act.

20 (7) Intentionally make or cause to be made any false or
21 fraudulent material statement to the Division of
22 Insurance's fraud and insurance non-compliance unit in the
23 course of an investigation of fraud or insurance
24 non-compliance.

25 (8) Intentionally assist, abet, solicit, or conspire
26 with any person, company, or other entity to commit any of
27 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)
28 of this subsection (a).

29 For the purposes of paragraphs (2), (3), (5), (6), and (7),
30 the term "statement" includes any writing, notice, proof of
31 injury, bill for services, hospital or doctor records and
32 reports, or X-ray and test results.

33 (b) Any person violating subsection (a) is guilty of a
34 Class 4 felony. Any person or entity convicted of any violation

1 of this Section shall be ordered to pay complete restitution to
2 any person or entity so defrauded in addition to any fine or
3 sentence imposed as a result of the conviction.

4 (c) The Division of Insurance of the Department of
5 Financial and Professional Regulation shall establish a fraud
6 and insurance non-compliance unit responsible for
7 investigating incidences of fraud and insurance non-compliance
8 pursuant to this Section. The size of the staff of the unit
9 shall be subject to appropriation by the General Assembly. It
10 shall be the duty of the fraud and insurance non-compliance
11 unit to determine the identity of insurance carriers,
12 employers, employees, or other persons or entities who have
13 violated the fraud and insurance non-compliance provisions of
14 this Section. The fraud and insurance non-compliance unit shall
15 report violations of the fraud and insurance non-compliance
16 provisions of this Section to the Attorney General or to the
17 State's Attorney of the county in which the offense allegedly
18 occurred, either of whom has the authority to prosecute
19 violations under this Section.

20 With respect to the subject of any investigation being
21 conducted, the fraud and insurance non-compliance unit shall
22 have the general power of subpoena of the Division of
23 Insurance.

24 (d) Any person may report allegations of insurance
25 non-compliance and fraud pursuant to this Section to the
26 Division of Insurance's fraud and insurance non-compliance
27 unit whose duty it shall be to investigate the report. The unit
28 shall notify the Commission of reports of insurance
29 non-compliance. Any person reporting an allegation of
30 insurance non-compliance or fraud against either an employee or
31 employer under this Section must identify himself. Except as
32 provided in this subsection and in subsection (e), all reports
33 shall remain confidential except to refer an investigation to
34 the Attorney General or State's Attorney for prosecution or if

1 the fraud and insurance non-compliance unit's investigation
2 reveals that the conduct reported may be in violation of other
3 laws or regulations of the State of Illinois the unit may
4 report such conduct to the appropriate governmental agency
5 charged with administering such laws and regulations. Any
6 person who intentionally makes a false report under this
7 Section to the fraud and insurance non-compliance unit is
8 guilty of a Class A misdemeanor.

9 (e) In order for the fraud and insurance non-compliance
10 unit to investigate a report of fraud by an employee, (i) the
11 employee must have filed with the Commission an Application for
12 Adjustment of Claim and the employee must have either received
13 or attempted to receive benefits under this Act that are
14 related to the reported fraud or (ii) the employee must have
15 made a written demand for the payment of benefits that are
16 related to the reported fraud. Upon receipt of a report of
17 fraud, the employee or employer shall receive immediate notice
18 of the reported conduct, including the verified name and
19 address of the complainant if that complainant is connected to
20 the case and the nature of the reported conduct. The fraud and
21 insurance non-compliance unit shall resolve all reports of
22 fraud against employees or employers within 120 days of receipt
23 of the report. There shall be no immunity, under this Act or
24 otherwise, for any person who files a false report or who files
25 a report without good and just cause. Confidentiality of
26 medical information shall be strictly maintained.
27 Investigations that are not referred for prosecution shall be
28 immediately expunged and shall not be disclosed except that the
29 employee or employer who was the subject of the report and the
30 person making the report shall be notified that the
31 investigation is being closed, at which time the name of any
32 complainant not connected to the case shall be disclosed to the
33 employee or the employer. It is unlawful for any employer,
34 insurance carrier, or service adjustment company to file or

1 threaten to file a report of fraud against an employee because
2 of the exercise by the employee of the rights and remedies
3 granted to the employee by this Act.

4 For purposes of this subsection (e), "employer" means any
5 employer, insurance carrier, third party administrator,
6 self-insured, or similar entity.

7 For purposes of this subsection (e), "complainant" refers
8 to the person contacting the fraud and insurance non-compliance
9 unit to initiate the complaint.

10 (f) Any person convicted of fraud related to workers'
11 compensation pursuant to this Section shall be subject to the
12 penalties prescribed in the Criminal Code of 1961 and shall be
13 ineligible to receive or retain any compensation, disability,
14 or medical benefits as defined in this Act if the compensation,
15 disability, or medical benefits were owed or received as a
16 result of fraud for which the recipient of the compensation,
17 disability, or medical benefit was convicted. This subsection
18 applies to accidental injuries or diseases that occur on or
19 after the effective date of this amendatory Act of the 94th
20 General Assembly.

21 (g) Civil liability. Any person convicted of fraud who
22 knowingly obtains, attempts to obtain, or causes to be obtained
23 any benefits under this Act by the making of a false claim or
24 who knowingly misrepresents any material fact shall be civilly
25 liable to the payor of benefits or the insurer or the payor's
26 or insurer's subrogee or assignee in an amount equal to 3 times
27 the value of the benefits or insurance coverage wrongfully
28 obtained or twice the value of the benefits or insurance
29 coverage attempted to be obtained, plus reasonable attorney's
30 fees and expenses incurred by the payor or the payor's subrogee
31 or assignee who successfully brings a claim under this
32 subsection. This subsection applies to accidental injuries or
33 diseases that occur on or after the effective date of this
34 amendatory Act of the 94th General Assembly.

1 (h) All proceedings under this Section shall be reported by
2 the fraud and insurance non-compliance unit on an annual basis
3 to the Workers' Compensation Advisory Board.

4 Section 15. The Workers' Occupational Diseases Act is
5 amended by changing Sections 12 and 19 as follows:

6 (820 ILCS 310/12) (from Ch. 48, par. 172.47)

7 Sec. 12. (a) An employee entitled to receive disability
8 payments shall be required, if requested by the employer, to
9 submit himself, at the expense of the employer, for examination
10 to a duly qualified medical practitioner or surgeon selected by
11 the employer, at any time and place reasonably convenient for
12 the employee, either within or without the State of Illinois,
13 for the purpose of determining the nature, extent and probable
14 duration of the occupational disease and the disability
15 therefrom suffered by the employee, and for the purpose of
16 ascertaining the amount of compensation which may be due the
17 employee from time to time for disability according to the
18 provisions of this Act. An employee may also be required to
19 submit himself for examination by medical experts under
20 subsection (c) of Section 19.

21 An employer requesting such an examination, of an employee
22 residing within the State of Illinois, shall deliver to the
23 employee with the notice of the time and place of examination
24 ~~pay in advance of the time fixed for the examination~~ sufficient
25 money to defray the necessary expense of travel by the most
26 convenient means to and from the place of examination, and the
27 cost of meals necessary during the trip, and if the examination
28 or travel to and from the place of examination causes any loss
29 of working time on the part of the employee, the employer shall
30 reimburse him for such loss of wages upon the basis of his
31 average daily wage. Such examination shall be made in the
32 presence of a duly qualified medical practitioner or surgeon

1 provided and paid for by the employee, if such employee so
2 desires.

3 In all cases where the examination is made by a physician
4 or surgeon engaged by the employer, and the employee has no
5 physician or surgeon present at such examination, it shall be
6 the duty of the physician or surgeon making the examination at
7 the instance of the employer to deliver to the employee, or his
8 representative, a statement in writing of the examination and
9 findings to the same extent that said physician or surgeon
10 reports to the employer and the same shall be an exact copy of
11 that furnished to the employer, said copy to be furnished the
12 employee, or his representative as soon as practicable but not
13 later than the time the case is set for hearing. Such delivery
14 shall be made in person either to the employee or his
15 representative, or by registered mail to either, and the
16 receipt of either shall be proof of such delivery. If such
17 physician or surgeon refuses to furnish the employee with such
18 statement to the same extent as that furnished the employer
19 said physician or surgeon shall not be permitted to testify at
20 the hearing next following said examination.

21 If the employee refuses so to submit himself to examination
22 or unnecessarily obstructs the same, his right to compensation
23 payment shall be temporarily suspended until such examination
24 shall have taken place, and no compensation shall be payable
25 under this Act for such period.

26 It shall be the duty of physicians or surgeons treating an
27 employee who is likely to die, and treating him at the instance
28 of the employer, to have called in another physician or surgeon
29 to be designated and paid for by either the employee or by the
30 person or persons who would become his beneficiary or
31 beneficiaries, to make an examination before the death of such
32 employee.

33 In all cases where the examination is made by a physician
34 or surgeon engaged by the employee, and the employer has no

1 physician or surgeon present at such examination, it shall be
2 the duty of the physician or surgeon making the examination at
3 the instance of the employee, to deliver to the employer, or
4 his representative, a statement in writing of the condition and
5 extent of the examination and findings to the same extent that
6 said physician or surgeon reports to the employee and the same
7 shall be an exact copy of that furnished to the employee, said
8 copy to be furnished the employer, or his representative, as
9 soon as practicable but not later than the time the case is set
10 for hearing. Such delivery shall be made in person either to
11 the employer, or his representative, or by registered mail to
12 either, and the receipt of either shall be proof of such
13 delivery. If such physician or surgeon refuses to furnish the
14 employer with such statement to the same extent as that
15 furnished the employee, said physician or surgeon shall not be
16 permitted to testify at the hearing next following said
17 examination.

18 (b) Whenever, after the death of an employee, any party in
19 interest files an application for adjustment of claim under
20 this Act, and it appears that an autopsy may disclose material
21 evidence as to whether or not such death was due to the
22 inhalation of silica or asbestos dust, the commission, upon
23 petition of either party, may order an autopsy at the expense
24 of the party requesting same, and if such autopsy is so
25 ordered, the commission shall designate a competent
26 pathologist to perform the same, and shall give the parties in
27 interest such reasonable notice of the time and place thereof
28 as will afford a reasonable opportunity to witness such autopsy
29 in person or by a representative.

30 It shall be the duty of such pathologist to perform such
31 autopsy as, in his best judgment, is required to ascertain the
32 cause of death. Such pathologist shall make a complete written
33 report of all his findings to the commission (including
34 laboratory results described as such, if any). The said report

1 of the pathologist shall contain his findings on post-mortem
2 examination and said report shall not contain any conclusion of
3 the said pathologist based upon the findings so reported.

4 Said report shall be placed on file with the commission,
5 and shall be a public record. Said report, or a certified copy
6 thereof, may be introduced by either party on any hearing as
7 evidence of the findings therein stated, but shall not be
8 conclusive evidence of such findings, and either party may
9 rebut any part thereof.

10 Where an autopsy has been performed at any time with the
11 express or implied consent of any interested party, and without
12 some opposing party, if known or reasonably ascertainable,
13 having reasonable notice of and reasonable opportunity of
14 witnessing the same, all evidence obtained by such autopsy
15 shall be barred upon objection at any hearing. This paragraph
16 shall not apply to autopsies by a coroner's physician in the
17 discharge of his official duties.

18 (Source: P.A. 81-1482.)

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

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

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

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

27 A. The approximate date of the last day of the last
28 exposure and the approximate date of the disablement.

29 B. The general nature and character of the illness
30 or disease claimed.

31 C. The name and address of the employer by whom
32 employed on the last day of the last exposure and if
33 employed by any other employer after such last exposure

1 and before disablement the name and address of such
2 other employer or employers.

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

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

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

21 Whenever any claimant misconceives his remedy and
22 files an application for adjustment of claim under the
23 Workers' Compensation Act and it is subsequently
24 discovered, at any time before final disposition of such
25 cause that the claim for injury or death which was the
26 basis for such application should properly have been made
27 under this Act, then the application so filed under the
28 Workers' Compensation Act may be amended in form, substance
29 or both to assert claim for such disability or death under
30 this Act and it shall be deemed to have been so filed as
31 amended on the date of the original filing thereof, and
32 such compensation may be awarded as is warranted by the
33 whole evidence pursuant to the provisions of this Act. When
34 such amendment is submitted, further or additional

1 evidence may be heard by the Arbitrator or Commission when
2 deemed necessary; provided, that nothing in this Section
3 contained shall be construed to be or permit a waiver of
4 any provisions of this Act with reference to notice, but
5 notice if given shall be deemed to be a notice under the
6 provisions of this Act if given within the time required
7 herein.

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

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

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

26 The decision of the Arbitrator shall be filed with the
27 Commission which Commission shall immediately send to each
28 party or his attorney a copy of such decision, together with a
29 notification of the time when it was filed. As of the effective
30 date of this amendatory Act of the 94th General Assembly
31 ~~Beginning January 1, 1981,~~ all decisions of the Arbitrator
32 shall set forth in writing findings of fact and conclusions of
33 law, separately stated, if requested by either party. Unless a
34 petition for review is filed by either party within 30 days

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

23 Whether the employee is working or not, if the employee is
24 not receiving or has not received medical, surgical, or
25 hospital services or other services or compensation as provided
26 in paragraph (a) of Section 8 of the Workers' Compensation Act,
27 or compensation as provided in paragraph (b) of Section 8 of
28 the Workers' Compensation Act, the employee may at any time
29 petition for an expedited hearing by an Arbitrator on the issue
30 of whether or not he or she is entitled to receive payment of
31 the services or compensation. Provided the employer continues
32 to pay compensation pursuant to paragraph (b) of Section 8 of
33 the Workers' Compensation Act, the employer may at any time
34 petition for an expedited hearing on the issue of whether or

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

23 Expedited hearings shall have priority over all other
24 petitions and shall be heard by the Arbitrator and Commission
25 with all convenient speed. Any party requesting an expedited
26 hearing shall give notice of a request for an expedited hearing
27 under this paragraph. A copy of the Application for Adjustment
28 of Claim shall be attached to the notice. The Commission shall
29 adopt rules and procedures under which the final decision of
30 the Commission under this paragraph is filed not later than 180
31 days from the date that the Petition for Review is filed with
32 the Commission.

33 Where 2 or more insurance carriers, private self-insureds,
34 or a group workers' compensation pool under Article V 3/4 of

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

16 (b-1) If the employee is not receiving, pursuant to Section
17 7, medical, surgical or hospital services of the type provided
18 for in paragraph (a) of Section 8 of the Workers' Compensation
19 Act or compensation of the type provided for in paragraph (b)
20 of Section 8 of the Workers' Compensation Act, the employee, in
21 accordance with Commission Rules, may file a petition for an
22 emergency hearing by an Arbitrator on the issue of whether or
23 not he is entitled to receive payment of such compensation or
24 services as provided therein. Such petition shall have priority
25 over all other petitions and shall be heard by the Arbitrator
26 and Commission with all convenient speed.

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

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

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

32 (iii) a description of the last exposure;

33 (iv) the nature of the disability incurred by the
34 employee;

1 (v) the identity of the person, if known, to whom the
2 disability was reported and the date on which it was
3 reported;

4 (vi) the name and title of the person, if known,
5 representing the employer with whom the employee conferred
6 in any effort to obtain pursuant to Section 7 compensation
7 of the type provided for in paragraph (b) of Section 8 of
8 the Workers' Compensation Act or medical, surgical or
9 hospital services of the type provided for in paragraph (a)
10 of Section 8 of the Workers' Compensation Act and the date
11 of such conference;

12 (vii) a statement that the employer has refused to pay
13 compensation pursuant to Section 7 of the type provided for
14 in paragraph (b) of Section 8 of the Workers' Compensation
15 Act or for medical, surgical or hospital services pursuant
16 to Section 7 of the type provided for in paragraph (a) of
17 Section 8 of the Workers' Compensation Act;

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

21 (ix) the dates of treatment related to the disability
22 by medical practitioners, and the names and addresses of
23 such practitioners, including the dates of treatment
24 related to the disability at any hospitals and the names
25 and addresses of such hospitals, and a signed authorization
26 permitting the employer to examine all medical records of
27 all practitioners and hospitals named pursuant to this
28 paragraph;

29 (x) a copy of a signed report by a medical
30 practitioner, relating to the employee's current inability
31 to return to work because of the disability incurred as a
32 result of the exposure or such other documents or
33 affidavits which show that the employee is entitled to
34 receive pursuant to Section 7 compensation of the type

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

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

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

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

23 Fifteen days after receipt by the employer of the petition
24 with the required information the employee may file said
25 petition and required information and shall serve notice of the
26 filing upon the employer. The employer may file a motion
27 addressed to the sufficiency of the petition. If an objection
28 has been filed to the sufficiency of the petition, the
29 arbitrator shall rule on the objection within 2 working days.
30 If such an objection is filed, the time for filing the final
31 decision of the Commission as provided in this paragraph shall
32 be tolled until the arbitrator has determined that the petition
33 is sufficient.

34 The employer shall, within 15 days after receipt of the

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

17 Any employer who does not timely file and serve a written
18 response without good cause may not introduce any evidence to
19 dispute any claim of the employee but may cross examine the
20 employee or any witness brought by the employee and otherwise
21 be heard.

22 No document or other evidence not previously identified by
23 either party with the petition or written response, or by any
24 other means before the hearing, may be introduced into evidence
25 without good cause. If, at the hearing, material information is
26 discovered which was not previously disclosed, the Arbitrator
27 may extend the time for closing proof on the motion of a party
28 for a reasonable period of time which may be more than 30 days.
29 No evidence may be introduced pursuant to this paragraph as to
30 permanent disability. No award may be entered for permanent
31 disability pursuant to this paragraph. Either party may
32 introduce into evidence the testimony taken by deposition of
33 any medical practitioner.

34 The Commission shall adopt rules, regulations and

1 procedures whereby the final decision of the Commission is
2 filed not later than 90 days from the date the petition for
3 review is filed but in no event later than 180 days from the
4 date the petition for an emergency hearing is filed with the
5 Illinois Workers' Compensation Commission.

6 All service required pursuant to this paragraph (b-1) must
7 be by personal service or by certified mail and with evidence
8 of receipt. In addition, for the purposes of this paragraph,
9 all service on the employer must be at the premises where the
10 accident occurred if the premises are owned or operated by the
11 employer. Otherwise service must be at the employee's principal
12 place of employment by the employer. If service on the employer
13 is not possible at either of the above, then service shall be
14 at the employer's principal place of business. After initial
15 service in each case, service shall be made on the employer's
16 attorney or designated representative.

17 (c) (1) At a reasonable time in advance of and in
18 connection with the hearing under Section 19(e) or 19(h), the
19 Commission may on its own motion order an impartial physical or
20 mental examination of a petitioner whose mental or physical
21 condition is in issue, when in the Commission's discretion it
22 appears that such an examination will materially aid in the
23 just determination of the case. The examination shall be made
24 by a member or members of a panel of physicians chosen for
25 their special qualifications by the Illinois State Medical
26 Society. The Commission shall establish procedures by which a
27 physician shall be selected from such list.

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

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

34 (4) Either party or the Commission may call the examining

1 physician or physicians to testify. Any physician so called
2 shall be subject to cross-examination.

3 (5) The examination shall be made, and the physician or
4 physicians, if called, shall testify, without cost to the
5 parties. The Commission shall determine the compensation and
6 the pay of the physician or physicians. The compensation for
7 this service shall not exceed the usual and customary amount
8 for such service.

9 The fees and payment thereof of all attorneys and
10 physicians for services authorized by the Commission under this
11 Act shall, upon request of either the employer or the employee
12 or the beneficiary affected, be subject to the review and
13 decision of the Commission.

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

27 (e) This paragraph shall apply to all hearings before the
28 Commission. Such hearings may be held in its office or
29 elsewhere as the Commission may deem advisable. The taking of
30 testimony on such hearings may be had before any member of the
31 Commission. If a petition for review and agreed statement of
32 facts or transcript of evidence is filed, as provided herein,
33 the Commission shall promptly review the decision of the
34 Arbitrator and all questions of law or fact which appear from

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

12 In the event either party requests oral argument, such
13 argument shall be had before a panel of 3 members of the
14 Commission (or before all available members pursuant to the
15 determination of 7 ~~5~~ members of the Commission that such
16 argument be held before all available members of the
17 Commission) pursuant to the rules and regulations of the
18 Commission. A panel of 3 members, which shall be comprised of
19 not more than one representative citizen of the employing class
20 and not more than one representative citizen of the employee
21 class, shall hear the argument; provided that if all the issues
22 in dispute are solely the nature and extent of the permanent
23 partial disability, if any, a majority of the panel may deny
24 the request for such argument and such argument shall not be
25 held; and provided further that 7 ~~5~~ members of the Commission
26 may determine that the argument be held before all available
27 members of the Commission. A decision of the Commission shall
28 be approved by a majority of Commissioners present at such
29 hearing if any; provided, if no such hearing is held, a
30 decision of the Commission shall be approved by a majority of a
31 panel of 3 members of the Commission as described in this
32 Section. The Commission shall give 10 days' notice to the
33 parties or their attorneys of the time and place of such taking
34 of testimony and of such argument.

1 In any case the Commission in its decision may in its
2 discretion find specially upon any question or questions of law
3 or facts which shall be submitted in writing by either party
4 whether ultimate or otherwise; provided that on issues other
5 than nature and extent of the disablement, if any, the
6 Commission in its decision shall find specially upon any
7 question or questions of law or fact, whether ultimate or
8 otherwise, which are submitted in writing by either party;
9 provided further that not more than 5 such questions may be
10 submitted by either party. Any party may, within 20 days after
11 receipt of notice of the Commission's decision, or within such
12 further time, not exceeding 30 days, as the Commission may
13 grant, file with the Commission either an agreed statement of
14 the facts appearing upon the hearing, or, if such party shall
15 so elect, a correct transcript of evidence of the additional
16 proceedings presented before the Commission in which report the
17 party may embody a correct statement of such other proceedings
18 in the case as such party may desire to have reviewed, such
19 statement of facts or transcript of evidence to be
20 authenticated by the signature of the parties or their
21 attorneys, and in the event that they do not agree, then the
22 authentication of such transcript of evidence shall be by the
23 signature of any member of the Commission.

24 If a reporter does not for any reason furnish a transcript
25 of the proceedings before the Arbitrator in any case for use on
26 a hearing for review before the Commission, within the
27 limitations of time as fixed in this Section, the Commission
28 may, in its discretion, order a trial de novo before the
29 Commission in such case upon application of either party. The
30 applications for adjustment of claim and other documents in the
31 nature of pleadings filed by either party, together with the
32 decisions of the Arbitrator and of the Commission and the
33 statement of facts or transcript of evidence hereinbefore
34 provided for in paragraphs (b) and (c) shall be the record of

1 the proceedings of the Commission, and shall be subject to
2 review as hereinafter provided.

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

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

29 (f) The decision of the Commission acting within its
30 powers, according to the provisions of paragraph (e) of this
31 Section shall, in the absence of fraud, be conclusive unless
32 reviewed as in this paragraph hereinafter provided. However,
33 the Arbitrator or the Commission may on his or its own motion,
34 or on the motion of either party, correct any clerical error or

1 errors in computation within 15 days after the date of receipt
2 of any award by such Arbitrator or any decision on review of
3 the Commission, and shall have the power to recall the original
4 award on arbitration or decision on review, and issue in lieu
5 thereof such corrected award or decision. Where such correction
6 is made the time for review herein specified shall begin to run
7 from the date of the receipt of the corrected award or
8 decision.

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

18 A proceeding for review shall be commenced within 20
19 days of the receipt of notice of the decision of the
20 Commission. The summons shall be issued by the clerk of
21 such court upon written request returnable on a designated
22 return day, not less than 10 or more than 60 days from the
23 date of issuance thereof, and the written request shall
24 contain the last known address of other parties in interest
25 and their attorneys of record who are to be served by
26 summons. Service upon any member of the Commission or the
27 Secretary or the Assistant Secretary thereof shall be
28 service upon the Commission, and service upon other parties
29 in interest and their attorneys of record shall be by
30 summons, and such service shall be made upon the Commission
31 and other parties in interest by mailing notices of the
32 commencement of the proceedings and the return day of the
33 summons to the office of the Commission and to the last
34 known place of residence of other parties in interest or

1 their attorney or attorneys of record. The clerk of the
2 court issuing the summons shall on the day of issue mail
3 notice of the commencement of the proceedings which shall
4 be done by mailing a copy of the summons to the office of
5 the Commission, and a copy of the summons to the other
6 parties in interest or their attorney or attorneys of
7 record and the clerk of the court shall make certificate
8 that he has so sent such notices in pursuance of this
9 Section, which shall be evidence of service on the
10 Commission and other parties in interest.

11 The Commission shall not be required to certify the
12 record of their proceedings in the Circuit Court unless the
13 party commencing the proceedings for review in the Circuit
14 Court as above provided, shall pay to the Commission the
15 sum of 80 cents per page of testimony taken before the
16 Commission, and 35 cents per page of all other matters
17 contained in such record, except as otherwise provided by
18 Section 20 of this Act. Payment for photostatic copies of
19 exhibit shall be extra. It shall be the duty of the
20 Commission upon such payment, or failure to pay as
21 permitted under Section 20 of this Act, to prepare a true
22 and correct typewritten copy of such testimony and a true
23 and correct copy of all other matters contained in such
24 record and certified to by the Secretary or Assistant
25 Secretary thereof.

26 In its decision on review the Commission shall
27 determine in each particular case the amount of the
28 probable cost of the record to be filed as a return to the
29 summons in that case and no request for a summons may be
30 filed and no summons shall issue unless the party seeking
31 to review the decision of the Commission shall exhibit to
32 the clerk of the Circuit Court proof of payment by filing a
33 receipt showing payment or an affidavit of the attorney
34 setting forth that payment has been made of the sums so

1 determined to the Secretary or Assistant Secretary of the
2 Commission.

3 (2) No such summons shall issue unless the one against
4 whom the Commission shall have rendered an award for the
5 payment of money shall upon the filing of his written
6 request for such summons file with the clerk of the court a
7 bond conditioned that if he shall not successfully
8 prosecute the review, he will pay the award and the costs
9 of the proceedings in the court. The amount of the bond
10 shall be fixed by any member of the Commission and the
11 surety or sureties of the bond shall be approved by the
12 clerk of the court. The acceptance of the bond by the clerk
13 of the court shall constitute evidence of his approval of
14 the bond.

15 Every county, city, town, township, incorporated
16 village, school district, body politic or municipal
17 corporation having a population of 500,000 or more against
18 whom the Commission shall have rendered an award for the
19 payment of money shall not be required to file a bond to
20 secure the payment of the award and the costs of the
21 proceedings in the court to authorize the court to issue
22 such summons.

23 The court may confirm or set aside the decision of the
24 Commission. If the decision is set aside and the facts
25 found in the proceedings before the Commission are
26 sufficient, the court may enter such decision as is
27 justified by law, or may remand the cause to the Commission
28 for further proceedings and may state the questions
29 requiring further hearing, and give such other
30 instructions as may be proper. Appeals shall be taken to
31 the Appellate Court in accordance with Supreme Court Rules
32 22(g) and 303. Appeals shall be taken from the Appellate
33 Court to the Supreme Court in accordance with Supreme Court
34 Rule 315.

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

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

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

31 Judgment shall not be entered until 15 days' notice of the
32 time and place of the application for the entry of judgment
33 shall be served upon the employer by filing such notice with
34 the Commission, which Commission shall, in case it has on file

1 the address of the employer or the name and address of its
2 agent upon whom notices may be served, immediately send a copy
3 of the notice to the employer or such designated agent.

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

10 However, as to disablements occurring subsequently to July
11 1, 1955, which are covered by any agreement or award under this
12 Act providing for compensation in installments made as a result
13 of such disablement, such agreement or award may at any time
14 within 30 months after such agreement or award be reviewed by
15 the Commission at the request of either the employer or the
16 employee on the ground that the disability of the employee has
17 subsequently recurred, increased, diminished or ended.

18 On such review compensation payments may be
19 re-established, increased, diminished or ended. The Commission
20 shall give 15 days' notice to the parties of the hearing for
21 review. Any employee, upon any petition for such review being
22 filed by the employer, shall be entitled to one day's notice
23 for each 100 miles necessary to be traveled by him in attending
24 the hearing of the Commission upon the petition, and 3 days in
25 addition thereto. Such employee shall, at the discretion of the
26 Commission, also be entitled to 5 cents per mile necessarily
27 traveled by him within the State of Illinois in attending such
28 hearing, not to exceed a distance of 300 miles, to be taxed by
29 the Commission as costs and deposited with the petition of the
30 employer.

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

1 (i) Each party, upon taking any proceedings or steps
2 whatsoever before any Arbitrator, Commission or court, shall
3 file with the Commission his address, or the name and address
4 of any agent upon whom all notices to be given to such party
5 shall be served, either personally or by registered mail,
6 addressed to such party or agent at the last address so filed
7 with the Commission. In the event such party has not filed his
8 address, or the name and address of an agent as above provided,
9 service of any notice may be had by filing such notice with the
10 Commission.

11 (j) Whenever in any proceeding testimony has been taken or
12 a final decision has been rendered, and after the taking of
13 such testimony or after such decision has become final, the
14 employee dies, then in any subsequent proceeding brought by the
15 personal representative or beneficiaries of the deceased
16 employee, such testimony in the former proceeding may be
17 introduced with the same force and effect as though the witness
18 having so testified were present in person in such subsequent
19 proceedings and such final decision, if any, shall be taken as
20 final adjudication of any of the issues which are the same in
21 both proceedings.

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

32 When determining whether this subsection (k) shall apply,
33 the Commission shall consider whether an arbitrator has
34 determined that the claim is not compensable or whether the

1 employer has made payments under Section 8(j) of the Workers'
2 Compensation Act.

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

22 (l) By the 15th day of each month each insurer providing
23 coverage for losses under this Act shall notify each insured
24 employer of any compensable claim incurred during the preceding
25 month and the amounts paid or reserved on the claim including a
26 summary of the claim and a brief statement of the reasons for
27 compensability. A cumulative report of all claims incurred
28 during a calendar year or continued from the previous year
29 shall be furnished to the insured employer by the insurer
30 within 30 days after the end of that calendar year.

31 The insured employer may challenge, in proceeding before
32 the Commission, payments made by the insurer without
33 arbitration and payments made after a case is determined to be
34 noncompensable. If the Commission finds that the case was not

1 compensable, the insurer shall purge its records as to that
2 employer of any loss or expense associated with the claim,
3 reimburse the employer for attorneys fee arising from the
4 challenge and for any payment required of the employer to the
5 Rate Adjustment Fund or the Second Injury Fund, and may not
6 effect the loss or expense for rate making purposes. The
7 employee shall not be required to refund the challenged
8 payment. The decision of the Commission may be reviewed in the
9 same manner as in arbitrated cases. No challenge may be
10 initiated under this paragraph more than 3 years after the
11 payment is made. An employer may waive the right of challenge
12 under this paragraph on a case by case basis.

13 (m) After filing an application for adjustment of claim but
14 prior to the hearing on arbitration the parties may voluntarily
15 agree to submit such application for adjustment of claim for
16 decision by an arbitrator under this subsection (m) where such
17 application for adjustment of claim raises only a dispute over
18 temporary total disability, permanent partial disability or
19 medical expenses. Such agreement shall be in writing in such
20 form as provided by the Commission. Applications for adjustment
21 of claim submitted for decision by an arbitrator under this
22 subsection (m) shall proceed according to rule as established
23 by the Commission. The Commission shall promulgate rules
24 including, but not limited to, rules to ensure that the parties
25 are adequately informed of their rights under this subsection
26 (m) and of the voluntary nature of proceedings under this
27 subsection (m). The findings of fact made by an arbitrator
28 acting within his or her powers under this subsection (m) in
29 the absence of fraud shall be conclusive. However, the
30 arbitrator may on his own motion, or the motion of either
31 party, correct any clerical errors or errors in computation
32 within 15 days after the date of receipt of such award of the
33 arbitrator and shall have the power to recall the original
34 award on arbitration, and issue in lieu thereof such corrected

1 award. The decision of the arbitrator under this subsection (m)
2 shall be considered the decision of the Commission and
3 proceedings for review of questions of law arising from the
4 decision may be commenced by either party pursuant to
5 subsection (f) of Section 19. The Advisory Board established
6 under Section 13.1 of the Workers' Compensation Act shall
7 compile a list of certified Commission arbitrators, each of
8 whom shall be approved by at least 7 members of the Advisory
9 Board. The chairman shall select 5 persons from such list to
10 serve as arbitrators under this subsection (m). By agreement,
11 the parties shall select one arbitrator from among the 5
12 persons selected by the chairman except, that if the parties do
13 not agree on an arbitrator from among the 5 persons, the
14 parties may, by agreement, select an arbitrator of the American
15 Arbitration Association, whose fee shall be paid by the State
16 in accordance with rules promulgated by the Commission.
17 Arbitration under this subsection (m) shall be voluntary.

18 (Source: P.A. 93-721, eff. 1-1-05.)

19 Section 95. Applicability. The amendatory changes to the
20 first paragraph of subsection (f) of Section 7 relating to
21 payment for burial expenses, subsections (a) and (b) of Section
22 8, and subsections (h), (k), and (l) of Section 19 of the
23 Workers' Compensation Act and subsections (k) and (k-1) of
24 Section 19 of the Workers' Occupational Diseases Act apply to
25 accidental injuries or diseases that occur on or after February
26 1, 2006.

27 Section 98. Inseverability. The provisions of this Act are
28 mutually dependent and inseverable. If any provision or its
29 application to any person or circumstance is held invalid, then
30 this entire Act is invalid.

31 Section 99. Effective date. This Act takes effect upon

1 becoming law.".