



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2363

Introduced 2/14/2008, by Sen. Dan Cronin

SYNOPSIS AS INTRODUCED:

See Index

Amends the Workers' Compensation Act and the Workers' Occupational Diseases Act. Makes numerous changes as follows: provides that an injury by accident is compensable only if the accident was the prevailing factor in causing both the resulting medical condition and disability; makes changes regarding notice of accidents; makes changes in computation of compensation paid to certain employees who, before the accident for which an employee claims compensation, had sustained an injury; makes changes regarding review of awards; limits certain cumulative awards for partial disability; provides for certification of permanent partial or total disability by physicians; provides that no compensation is payable for certain injuries involving alcohol or drugs; changes qualifications for Illinois Workers' Compensation Commission commissioners and arbitrators; contains provisions regarding evidentiary matters and statutory construction; makes changes regarding the duties of the Workers' Compensation Advisory Board; requires performance audits of arbitrators; and provides that an employer and the exclusive representative of its employees may agree to establish binding obligations and procedures relating to workers' compensation. Makes other changes. Effective immediately.

LRB095 18015 WGH 44098 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 6, 8, 11, 13, 13.1, and 14 and by adding
6 Sections 23.1 and 31 as follows:

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

8 Sec. 1. This Act may be cited as the Workers' Compensation
9 Act.

10 (a) The term "employer" as used in this Act means:

11 1. The State and each county, city, town, township,
12 incorporated village, school district, body politic, or
13 municipal corporation therein.

14 2. Every person, firm, public or private corporation,
15 including hospitals, public service, eleemosynary, religious
16 or charitable corporations or associations who has any person
17 in service or under any contract for hire, express or implied,
18 oral or written, and who is engaged in any of the enterprises
19 or businesses enumerated in Section 3 of this Act, or who at or
20 prior to the time of the accident to the employee for which
21 compensation under this Act may be claimed, has in the manner
22 provided in this Act elected to become subject to the
23 provisions of this Act, and who has not, prior to such

1 accident, effected a withdrawal of such election in the manner
2 provided in this Act.

3 3. Any one engaging in any business or enterprise referred
4 to in subsections 1 and 2 of Section 3 of this Act who
5 undertakes to do any work enumerated therein, is liable to pay
6 compensation to his own immediate employees in accordance with
7 the provisions of this Act, and in addition thereto if he
8 directly or indirectly engages any contractor whether
9 principal or sub-contractor to do any such work, he is liable
10 to pay compensation to the employees of any such contractor or
11 sub-contractor unless such contractor or sub-contractor has
12 insured, in any company or association authorized under the
13 laws of this State to insure the liability to pay compensation
14 under this Act, or guaranteed his liability to pay such
15 compensation. With respect to any time limitation on the filing
16 of claims provided by this Act, the timely filing of a claim
17 against a contractor or subcontractor, as the case may be,
18 shall be deemed to be a timely filing with respect to all
19 persons upon whom liability is imposed by this paragraph.

20 In the event any such person pays compensation under this
21 subsection he may recover the amount thereof from the
22 contractor or sub-contractor, if any, and in the event the
23 contractor pays compensation under this subsection he may
24 recover the amount thereof from the sub-contractor, if any.

25 This subsection does not apply in any case where the
26 accident occurs elsewhere than on, in or about the immediate

1 premises on which the principal has contracted that the work be
2 done.

3 4. Where an employer operating under and subject to the
4 provisions of this Act loans an employee to another such
5 employer and such loaned employee sustains a compensable
6 accidental injury in the employment of such borrowing employer
7 and where such borrowing employer does not provide or pay the
8 benefits or payments due such injured employee, such loaning
9 employer is liable to provide or pay all benefits or payments
10 due such employee under this Act and as to such employee the
11 liability of such loaning and borrowing employers is joint and
12 several, provided that such loaning employer is in the absence
13 of agreement to the contrary entitled to receive from such
14 borrowing employer full reimbursement for all sums paid or
15 incurred pursuant to this paragraph together with reasonable
16 attorneys' fees and expenses in any hearings before the
17 Illinois Workers' Compensation Commission or in any action to
18 secure such reimbursement. Where any benefit is provided or
19 paid by such loaning employer the employee has the duty of
20 rendering reasonable cooperation in any hearings, trials or
21 proceedings in the case, including such proceedings for
22 reimbursement.

23 Where an employee files an Application for Adjustment of
24 Claim with the Illinois Workers' Compensation Commission
25 alleging that his claim is covered by the provisions of the
26 preceding paragraph, and joining both the alleged loaning and

1 borrowing employers, they and each of them, upon written demand
2 by the employee and within 7 days after receipt of such demand,
3 shall have the duty of filing with the Illinois Workers'
4 Compensation Commission a written admission or denial of the
5 allegation that the claim is covered by the provisions of the
6 preceding paragraph and in default of such filing or if any
7 such denial be ultimately determined not to have been bona fide
8 then the provisions of Paragraph K of Section 19 of this Act
9 shall apply.

10 An employer whose business or enterprise or a substantial
11 part thereof consists of hiring, procuring or furnishing
12 employees to or for other employers operating under and subject
13 to the provisions of this Act for the performance of the work
14 of such other employers and who pays such employees their
15 salary or wages notwithstanding that they are doing the work of
16 such other employers shall be deemed a loaning employer within
17 the meaning and provisions of this Section.

18 (b) The term "employee" as used in this Act means:

19 1. Every person in the service of the State, including
20 members of the General Assembly, members of the Commerce
21 Commission, members of the Illinois Workers' Compensation
22 Commission, and all persons in the service of the University of
23 Illinois, county, including deputy sheriffs and assistant
24 state's attorneys, city, town, township, incorporated village
25 or school district, body politic, or municipal corporation
26 therein, whether by election, under appointment or contract of

1 hire, express or implied, oral or written, including all
2 members of the Illinois National Guard while on active duty in
3 the service of the State, and all probation personnel of the
4 Juvenile Court appointed pursuant to Article VI of the Juvenile
5 Court Act of 1987, and including any official of the State, any
6 county, city, town, township, incorporated village, school
7 district, body politic or municipal corporation therein except
8 any duly appointed member of a police department in any city
9 whose population exceeds 200,000 according to the last Federal
10 or State census, and except any member of a fire insurance
11 patrol maintained by a board of underwriters in this State. A
12 duly appointed member of a fire department in any city, the
13 population of which exceeds 200,000 according to the last
14 federal or State census, is an employee under this Act only
15 with respect to claims brought under paragraph (c) of Section
16 8.

17 One employed by a contractor who has contracted with the
18 State, or a county, city, town, township, incorporated village,
19 school district, body politic or municipal corporation
20 therein, through its representatives, is not considered as an
21 employee of the State, county, city, town, township,
22 incorporated village, school district, body politic or
23 municipal corporation which made the contract.

24 2. Every person in the service of another under any
25 contract of hire, express or implied, oral or written,
26 including persons whose employment is outside of the State of

1 Illinois where the contract of hire is made within the State of
2 Illinois, persons whose employment results in fatal or
3 non-fatal injuries within the State of Illinois where the
4 contract of hire is made outside of the State of Illinois, and
5 persons whose employment is principally localized within the
6 State of Illinois, regardless of the place of the accident or
7 the place where the contract of hire was made, and including
8 aliens, and minors who, for the purpose of this Act are
9 considered the same and have the same power to contract,
10 receive payments and give quittances therefor, as adult
11 employees.

12 3. Every sole proprietor and every partner of a business
13 may elect to be covered by this Act.

14 An employee or his dependents under this Act who shall have
15 a cause of action by reason of any injury, disablement or death
16 arising out of and in the course of his employment may elect to
17 pursue his remedy in the State where injured or disabled, or in
18 the State where the contract of hire is made, or in the State
19 where the employment is principally localized.

20 However, any employer may elect to provide and pay
21 compensation to any employee other than those engaged in the
22 usual course of the trade, business, profession or occupation
23 of the employer by complying with Sections 2 and 4 of this Act.
24 Employees are not included within the provisions of this Act
25 when excluded by the laws of the United States relating to
26 liability of employers to their employees for personal injuries

1 where such laws are held to be exclusive.

2 The term "employee" does not include persons performing
3 services as real estate broker, broker-salesman, or salesman
4 when such persons are paid by commission only.

5 (c) "Commission" means the Industrial Commission created
6 by Section 5 of "The Civil Administrative Code of Illinois",
7 approved March 7, 1917, as amended, or the Illinois Workers'
8 Compensation Commission created by Section 13 of this Act.

9 (d) "Injury" means an injury which has arisen out of and in
10 the course of employment. An injury by accident is compensable
11 only if the accident was the prevailing factor in causing both
12 the resulting medical condition and disability. "Prevailing
13 factor" means the primary factor, in relation to any other
14 factor, causing both the resulting medical condition and
15 disability.

16 (1) An injury shall be deemed to arise out of and in
17 the course of the employment only if:

18 (A) It is reasonably apparent, upon consideration
19 of all the circumstances, that the accident is the
20 prevailing factor in causing the injury; and

21 (B) It does not come from a hazard or risk
22 unrelated to the employment to which workers would have
23 been equally exposed outside of and unrelated to the
24 employment in normal nonemployment life.

25 (2) An injury resulting directly or indirectly from
26 idiopathic causes is not compensable.

1 (3) A cardiovascular, pulmonary, respiratory, or other
2 disease or cerebrovascular accident or myocardial
3 infarction suffered by a worker is an injury only if the
4 accident is the prevailing factor in causing the resulting
5 medical condition.

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

7 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

8 Sec. 6. (a) Every employer within the provisions of this
9 Act, shall, under the rules and regulations prescribed by the
10 Commission, post printed notices in their respective places of
11 employment in such number and at such places as may be
12 determined by the Commission, containing such information
13 relative to this Act as in the judgment of the Commission may
14 be necessary to aid employees to safeguard their rights under
15 this Act in event of injury.

16 In addition thereto, the employer shall post in a
17 conspicuous place on the place of the employment a printed or
18 typewritten notice stating whether he is insured or whether he
19 has qualified and is operating as a self-insured employer. In
20 the event the employer is insured, the notice shall state the
21 name and address of his insurance carrier, the number of the
22 insurance policy, its effective date and the date of
23 termination. In the event of the termination of the policy for
24 any reason prior to the termination date stated, the posted
25 notice shall promptly be corrected accordingly. In the event

1 the employer is operating as a self-insured employer the notice
2 shall state the name and address of the company, if any,
3 servicing the compensation payments of the employer, and the
4 name and address of the person in charge of making compensation
5 payments.

6 (b) Every employer subject to this Act shall maintain
7 accurate records of work-related deaths, injuries and illness
8 other than minor injuries requiring only first aid treatment
9 and which do not involve medical treatment, loss of
10 consciousness, restriction of work or motion, or transfer to
11 another job and file with the Commission, in writing, a report
12 of all accidental deaths, injuries and illnesses arising out of
13 and in the course of the employment resulting in the loss of
14 more than 3 scheduled work days. In the case of death such
15 report shall be made no later than 2 working days following the
16 accidental death. In all other cases such report shall be made
17 between the 15th and 25th of each month unless required to be
18 made sooner by rule of the Commission. In case the injury
19 results in permanent disability, a further report shall be made
20 as soon as it is determined that such permanent disability has
21 resulted or will result from the injury. All reports shall
22 state the date of the injury, including the time of day or
23 night, the nature of the employer's business, the name,
24 address, age, sex, conjugal condition of the injured person,
25 the specific occupation of the injured person, the direct cause
26 of the injury and the nature of the accident, the character of

1 the injury, the length of disability, and in case of death the
2 length of disability before death, the wages of the injured
3 person, whether compensation has been paid to the injured
4 person, or to his or her legal representative or his heirs or
5 next of kin, the amount of compensation paid, the amount paid
6 for physicians', surgeons' and hospital bills, and by whom
7 paid, and the amount paid for funeral or burial expenses if
8 known. The reports shall be made on forms and in the manner as
9 prescribed by the Commission and shall contain such further
10 information as the Commission shall deem necessary and require.
11 The making of these reports releases the employer from making
12 such reports to any other officer of the State and shall
13 satisfy the reporting provisions as contained in the "Health
14 and Safety Act" and "An Act in relation to safety inspections
15 and education in industrial and commercial establishments and
16 to repeal an Act therein named", approved July 18, 1955, as now
17 or hereafter amended. The reports filed with the Commission
18 pursuant to this Section shall be made available by the
19 Commission to the Director of Labor or his representatives and
20 to all other departments of the State of Illinois which shall
21 require such information for the proper discharge of their
22 official duties. Failure to file with the Commission any of the
23 reports required in this Section is a petty offense.

24 Except as provided in this paragraph, all reports filed
25 hereunder shall be confidential and any person having access to
26 such records filed with the Illinois Workers' Compensation

1 Commission as herein required, who shall release any
2 information therein contained including the names or otherwise
3 identify any persons sustaining injuries or disabilities, or
4 give access to such information to any unauthorized person,
5 shall be subject to discipline or discharge, and in addition
6 shall be guilty of a Class B misdemeanor. The Commission shall
7 compile and distribute to interested persons aggregate
8 statistics, taken from the reports filed hereunder. The
9 aggregate statistics shall not give the names or otherwise
10 identify persons sustaining injuries or disabilities or the
11 employer of any injured or disabled person.

12 (c) Notice of the accident shall be given to the employer
13 immediately after the accident ~~as soon as practicable~~, but not
14 later than 72 hours after the occurrence of the accident.
15 Notice of the accident may be given to the employer up to 45
16 days after the accident. Provided:

17 (1) In case of the legal disability of the employee or any
18 dependent of a deceased employee who may be entitled to
19 compensation under the provisions of this Act, the limitations
20 of time by this Act provided do not begin to run against such
21 person under legal disability until a guardian has been
22 appointed.

23 (2) In cases of injuries sustained by exposure to
24 radiological materials or equipment, notice shall be given to
25 the employer within 90 days subsequent to the time that the
26 employee knows or suspects that he has received an excessive

1 dose of radiation.

2 No defect or inaccuracy of such notice shall be a bar to
3 the maintenance of proceedings on arbitration or otherwise by
4 the employee unless the employer proves that he is unduly
5 prejudiced in such proceedings by such defect or inaccuracy,
6 including but not limited to, that such defect or inaccuracy of
7 notice adversely impacted the employer's ability to properly
8 investigate the claim of accident.

9 Notice of the accident shall give the approximate date and
10 place of the accident, if known, and may be given orally or in
11 writing.

12 (d) Every employer shall notify each injured employee who
13 has been granted compensation under the provisions of Section 8
14 of this Act of his rights to rehabilitation services and advise
15 him of the locations of available public rehabilitation centers
16 and any other such services of which the employer has
17 knowledge.

18 In any case, other than one where the injury was caused by
19 exposure to radiological materials or equipment or asbestos
20 unless the application for compensation is filed with the
21 Commission within 3 years after the date of the accident, where
22 no compensation has been paid, or within 2 years after the date
23 of the last payment of compensation, where any has been paid,
24 whichever shall be later, the right to file such application
25 shall be barred.

26 In any case of injury caused by exposure to radiological

1 materials or equipment or asbestos, unless application for
2 compensation is filed with the Commission within 25 years after
3 the last day that the employee was employed in an environment
4 of hazardous radiological activity or asbestos, the right to
5 file such application shall be barred.

6 If in any case except one where the injury was caused by
7 exposure to radiological materials or equipment or asbestos,
8 the accidental injury results in death application for
9 compensation for death may be filed with the Commission within
10 3 years after the date of death where no compensation has been
11 paid or within 2 years after the date of the last payment of
12 compensation where any has been paid, whichever shall be later,
13 but not thereafter.

14 If an accidental injury caused by exposure to radiological
15 material or equipment or asbestos results in death within 25
16 years after the last day that the employee was so exposed
17 application for compensation for death may be filed with the
18 Commission within 3 years after the date of death, where no
19 compensation has been paid, or within 2 years after the date of
20 the last payment of compensation where any has been paid,
21 whichever shall be later, but not thereafter.

22 (e) Any contract or agreement made by any employer or his
23 agent or attorney with any employee or any other beneficiary of
24 any claim under the provisions of this Act within 7 days after
25 the injury shall be presumed to be fraudulent.

26 (f) Any condition or impairment of health of an employee

1 employed as a firefighter, emergency medical technician (EMT),
2 or paramedic which results directly or indirectly from any
3 bloodborne pathogen, lung or respiratory disease or condition,
4 heart or vascular disease or condition, hypertension,
5 tuberculosis, or cancer resulting in any disability
6 (temporary, permanent, total, or partial) to the employee shall
7 be rebuttably presumed to arise out of and in the course of the
8 employee's firefighting, EMT, or paramedic employment and,
9 further, shall be rebuttably presumed to be causally connected
10 to the hazards or exposures of the employment. This presumption
11 shall also apply to any hernia or hearing loss suffered by an
12 employee employed as a firefighter, EMT, or paramedic. However,
13 this presumption shall not apply to any employee who has been
14 employed as a firefighter, EMT, or paramedic for less than 5
15 years at the time he or she files an Application for Adjustment
16 of Claim concerning this condition or impairment with the
17 Illinois Workers' Compensation Commission. The Finding and
18 Decision of the Illinois Workers' Compensation Commission
19 under only the rebuttable presumption provision of this
20 subsection shall not be admissible or be deemed res judicata in
21 any disability claim under the Illinois Pension Code arising
22 out of the same medical condition; however, this sentence makes
23 no change to the law set forth in *Krohe v. City of Bloomington*,
24 204 Ill.2d 392.

25 (Source: P.A. 95-316, eff. 1-1-08.)

1 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

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

26 Upon agreement between the employer and the employees, or

1 the employees' exclusive representative, and subject to the
2 approval of the Illinois Workers' Compensation Commission, the
3 employer shall maintain a list of physicians, to be known as a
4 Panel of Physicians, who are accessible to the employees. The
5 employer shall post this list in a place or places easily
6 accessible to his employees. The employee shall have the right
7 to make an alternative choice of physician from such Panel if
8 he is not satisfied with the physician first selected. If, due
9 to the nature of the injury or its occurrence away from the
10 employer's place of business, the employee is unable to make a
11 selection from the Panel, the selection process from the Panel
12 shall not apply. The physician selected from the Panel may
13 arrange for any consultation, referral or other specialized
14 medical services outside the Panel at the employer's expense.
15 Provided that, in the event the Commission shall find that a
16 doctor selected by the employee is rendering improper or
17 inadequate care, the Commission may order the employee to
18 select another doctor certified or qualified in the medical
19 field for which treatment is required. If the employee refuses
20 to make such change the Commission may relieve the employer of
21 his obligation to pay the doctor's charges from the date of
22 refusal to the date of compliance.

23 Any vocational rehabilitation counselors who provide
24 service under this Act shall have appropriate certifications
25 which designate the counselor as qualified to render opinions
26 relating to vocational rehabilitation. Vocational

1 rehabilitation may include, but is not limited to, counseling
2 for job searches, supervising a job search program, and
3 vocational retraining including education at an accredited
4 learning institution. The employee or employer may petition to
5 the Commission to decide disputes relating to vocational
6 rehabilitation and the Commission shall resolve any such
7 dispute, including payment of the vocational rehabilitation
8 program by the employer.

9 The maintenance benefit shall not be less than the
10 temporary total disability rate determined for the employee. In
11 addition, maintenance shall include costs and expenses
12 incidental to the vocational rehabilitation program.

13 When the employee is working light duty on a part-time
14 basis or full-time basis and earns less than he or she would be
15 earning if employed in the full capacity of the job or jobs,
16 then the employee shall be entitled to temporary partial
17 disability benefits. Temporary partial disability benefits
18 shall be equal to two-thirds of the difference between the
19 average amount that the employee would be able to earn in the
20 full performance of his or her duties in the occupation in
21 which he or she was engaged at the time of accident and the net
22 amount which he or she is earning in the modified job provided
23 to the employee by the employer or in any other job that the
24 employee is working.

25 Every hospital, physician, surgeon or other person
26 rendering treatment or services in accordance with the

1 provisions of this Section shall upon written request furnish
2 full and complete reports thereof to, and permit their records
3 to be copied by, the employer, the employee or his dependents,
4 as the case may be, or any other party to any proceeding for
5 compensation before the Commission, or their attorneys.

6 Notwithstanding the foregoing, the employer's liability to
7 pay for such medical services selected by the employee shall be
8 limited to:

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

10 (2) all medical, surgical and hospital services
11 provided by the physician, surgeon or hospital initially
12 chosen by the employee or by any other physician,
13 consultant, expert, institution or other provider of
14 services recommended by said initial service provider or
15 any subsequent provider of medical services in the chain of
16 referrals from said initial service provider; plus

17 (3) all medical, surgical and hospital services
18 provided by any second physician, surgeon or hospital
19 subsequently chosen by the employee or by any other
20 physician, consultant, expert, institution or other
21 provider of services recommended by said second service
22 provider or any subsequent provider of medical services in
23 the chain of referrals from said second service provider.
24 Thereafter the employer shall select and pay for all
25 necessary medical, surgical and hospital treatment and the
26 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

1 the lifetime of the employee. Where the accidental injury
2 accompanied by physical injury results in damage to a denture,
3 eye glasses or contact eye lenses, or where the accidental
4 injury results in damage to an artificial member, the employer
5 shall replace or repair such denture, glasses, lenses, or
6 artificial member.

7 The furnishing by the employer of any such services or
8 appliances is not an admission of liability on the part of the
9 employer to pay compensation.

10 The furnishing of any such services or appliances or the
11 servicing thereof by the employer is not the payment of
12 compensation.

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

21 1. The compensation rate for temporary total
22 incapacity under this paragraph (b) of this Section shall
23 be equal to 66 2/3% of the employee's average weekly wage
24 computed in accordance with Section 10, provided that it
25 shall be not less than 66 2/3% of the sum of the Federal
26 minimum wage under the Fair Labor Standards Act, or the

1 Illinois minimum wage under the Minimum Wage Law, whichever
2 is more, multiplied by 40 hours. This percentage rate shall
3 be increased by 10% for each spouse and child, not to
4 exceed 100% of the total minimum wage calculation,
5 nor exceed the employee's average weekly wage computed in
6 accordance with the provisions of Section 10, whichever is
7 less.

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

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

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

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

25 The maximum weekly compensation rate from July 1, 1975,
26 except as hereinafter provided, shall be 100% of the

1 State's average weekly wage in covered industries under the
2 Unemployment Insurance Act, that being the wage that most
3 closely approximates the State's average weekly wage.

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

17 The maximum weekly compensation rate, for the period
18 January 1, 1981 through December 31, 1983, except as
19 hereinafter provided, shall be 100% of the State's average
20 weekly wage in covered industries under the Unemployment
21 Insurance Act in effect on January 1, 1981. Effective
22 January 1, 1984 and on January 1, of each year thereafter
23 the maximum weekly compensation rate, except as
24 hereinafter provided, shall be determined as follows: if
25 during the preceding 12 month period there shall have been
26 an increase in the State's average weekly wage in covered

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

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

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

20 4.1. Any provision herein to the contrary
21 notwithstanding, the weekly compensation rate for
22 compensation payments under subparagraph 18 of paragraph
23 (e) of this Section and under paragraph (f) of this Section
24 and under paragraph (a) of Section 7 and for amputation of
25 a member or enucleation of an eye under paragraph (e) of
26 this Section, shall in no event be less than 50% of the

1 State's average weekly wage in covered industries under the
2 Unemployment Insurance Act.

3 4.2. Any provision to the contrary notwithstanding,
4 the total compensation payable under Section 7 shall not
5 exceed the greater of \$500,000 or 25 years.

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

12 6. The Department of Employment Security of the State
13 shall on or before the first day of December, 1977, and on
14 or before the first day of June, 1978, and on the first day
15 of each December and June of each year thereafter, publish
16 the State's average weekly wage in covered industries under
17 the Unemployment Insurance Act and the Illinois Workers'
18 Compensation Commission shall on the 15th day of January,
19 1978 and on the 15th day of July, 1978 and on the 15th day
20 of each January and July of each year thereafter, post and
21 publish the State's average weekly wage in covered
22 industries under the Unemployment Insurance Act as last
23 determined and published by the Department of Employment
24 Security. The amount when so posted and published shall be
25 conclusive and shall be applicable as the basis of
26 computation of compensation rates until the next posting

1 and publication as aforesaid.

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

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

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

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

26 (d) 1. If, after the accidental injury has been sustained,

1 the employee as a result thereof becomes partially
2 incapacitated from pursuing his usual and customary line of
3 employment, he shall, except in cases compensated under the
4 specific schedule set forth in paragraph (e) of this Section,
5 receive compensation for the duration of his disability,
6 subject to the limitations as to maximum amounts fixed in
7 paragraph (b) of this Section, equal to 66-2/3% of the
8 difference between the average amount which he would be able to
9 earn in the full performance of his duties in the occupation in
10 which he was engaged at the time of the accident and the
11 average amount which he is earning or is able to earn in some
12 suitable employment or business after the accident.

13 In computing the compensation to be paid to any employee
14 who, before the accident for which he or she now claims
15 compensation, had previously sustained an injury or injuries
16 resulting in a difference in earnings between the average
17 amount which he or she would have been able to earn in the full
18 performance of his or her duties in the occupation in which he
19 or she had been engaged at the time of the previous accident or
20 accidents and the average amount which he or she was thereafter
21 earning or was found to be able to earn in some suitable
22 employment or business after the previous accident or
23 accidents, there shall be deducted, from any award or
24 settlement made for the subsequent injury, the permanent loss
25 of earnings previously sustained.

26 An award or settlement under this Section may at any time

1 be reviewed by the Commission, at the request of the employer,
2 on the grounds that the earnings of the employee have
3 subsequently increased, or that, due to the employee leaving
4 the work force, the earning of wages has ended, or that the
5 earnings differential has ended or been eliminated for other
6 reasons. Upon such review, compensation payments may be ordered
7 to be diminished or to cease. The Commission shall give 60 days
8 notice to the parties of the hearing for review.

9 2. If, as a result of the accident, the employee sustains
10 serious and permanent injuries not covered by paragraphs (c)
11 and (e) of this Section or having sustained injuries covered by
12 the aforesaid paragraphs (c) and (e), he shall have sustained
13 in addition thereto other injuries which injuries do not
14 incapacitate him from pursuing the duties of his employment but
15 which would disable him from pursuing other suitable
16 occupations, or which have otherwise resulted in physical
17 impairment; or if such injuries partially incapacitate him from
18 pursuing the duties of his usual and customary line of
19 employment but do not result in an impairment of earning
20 capacity, or having resulted in an impairment of earning
21 capacity, the employee elects to waive his right to recover
22 under the foregoing subparagraph 1 of paragraph (d) of this
23 Section then in any of the foregoing events, he shall receive
24 in addition to compensation for temporary total disability
25 under paragraph (b) of this Section, compensation at the rate
26 provided in subparagraph 2.1 of paragraph (b) of this Section

1 for that percentage of 500 weeks that the partial disability
2 resulting from the injuries covered by this paragraph bears to
3 total disability. If the employee shall have sustained a
4 fracture of one or more vertebra or fracture of the skull, the
5 amount of compensation allowed under this Section shall be not
6 less than 6 weeks for a fractured skull and 6 weeks for each
7 fractured vertebra, and in the event the employee shall have
8 sustained a fracture of any of the following facial bones:
9 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
10 mandible, the amount of compensation allowed under this Section
11 shall be not less than 2 weeks for each such fractured bone,
12 and for a fracture of each transverse process not less than 3
13 weeks. In the event such injuries shall result in the loss of a
14 kidney, spleen or lung, the amount of compensation allowed
15 under this Section shall be not less than 10 weeks for each
16 such organ. Compensation awarded under this subparagraph 2
17 shall not take into consideration injuries covered under
18 paragraphs (c) and (e) of this Section and the compensation
19 provided in this paragraph shall not affect the employee's
20 right to compensation payable under paragraphs (b), (c) and (e)
21 of this Section for the disabilities therein covered.

22 In computing the compensation to be paid any employee who,
23 before the accident for which he or she claims compensation,
24 had previously sustained an injury resulting in the payment of
25 compensation for a percentage of partial disability under this
26 paragraph (d)2, that percentage of partial disability shall be

1 deducted from any award or settlement made under this paragraph
2 (d) 2 for a subsequent injury.

3 Nothing in this Act shall permit cumulative awards or
4 settlements for compensation for partial disability under this
5 paragraph (d)2 to exceed 500 weeks, which shall constitute
6 complete loss of use of the body as a whole.

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

17 1. Thumb-

18 70 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 76 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 2. First, or index finger-

24 40 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 3. Second, or middle finger-

4 35 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

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

9 4. Third, or ring finger-

10 25 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 27 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 5. Fourth, or little finger-

16 20 weeks if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the
18 94th General Assembly but before February 1, 2006.

19 22 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 6. Great toe-

22 35 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 38 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 7. Each toe other than great toe-

2 12 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 13 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 8. The loss of the first or distal phalanx of the thumb
8 or of any finger or toe shall be considered to be equal to
9 the loss of one-half of such thumb, finger or toe and the
10 compensation payable shall be one-half of the amount above
11 specified. The loss of more than one phalanx shall be
12 considered as the loss of the entire thumb, finger or toe.
13 In no case shall the amount received for more than one
14 finger exceed the amount provided in this schedule for the
15 loss of a hand.

16 9. Hand-

17 190 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 205 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 The loss of 2 or more digits, or one or more phalanges
23 of 2 or more digits, of a hand may be compensated on the
24 basis of partial loss of use of a hand, provided, further,
25 that the loss of 4 digits, or the loss of use of 4 digits,
26 in the same hand shall constitute the complete loss of a

1 hand.

2 10. Arm-

3 235 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 253 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 Where an accidental injury results in the amputation of
9 an arm below the elbow, such injury shall be compensated as
10 a loss of an arm. Where an accidental injury results in the
11 amputation of an arm above the elbow, compensation for an
12 additional 15 weeks (if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the 94th
14 General Assembly but before February 1, 2006) or an
15 additional 17 weeks (if the accidental injury occurs on or
16 after February 1, 2006) shall be paid, except where the
17 accidental injury results in the amputation of an arm at
18 the shoulder joint, or so close to shoulder joint that an
19 artificial arm cannot be used, or results in the
20 disarticulation of an arm at the shoulder joint, in which
21 case compensation for an additional 65 weeks (if the
22 accidental injury occurs on or after the effective date of
23 this amendatory Act of the 94th General Assembly but before
24 February 1, 2006) or an additional 70 weeks (if the
25 accidental injury occurs on or after February 1, 2006)
26 shall be paid.

1 11. Foot-

2 155 weeks if the accidental injury occurs on or
3 after the effective date of this amendatory Act of the
4 94th General Assembly but before February 1, 2006.

5 167 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 12. Leg-

8 200 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 215 weeks if the accidental injury occurs on or
12 after February 1, 2006.

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

1 after the effective date of this amendatory Act of the 94th
2 General Assembly but before February 1, 2006) or an
3 additional 81 weeks (if the accidental injury occurs on or
4 after February 1, 2006) shall be paid.

5 13. Eye-

6 150 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 162 weeks if the accidental injury occurs on or
10 after February 1, 2006.

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

18 14. Loss of hearing of one ear-

19 50 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 54 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 Total and permanent loss of hearing of both ears-

25 200 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

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

2 215 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 15. Testicle-

5 50 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 54 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 Both testicles-

11 150 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 162 weeks if the accidental injury occurs on or
15 after February 1, 2006.

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

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

1 not to be considered as constituting disability for
2 hearing.

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

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

25 (d) If a hearing loss is established to have
26 existed on July 1, 1975 by audiometric testing the

1 employer shall not be liable for the previous loss so
 2 established nor shall he be liable for any loss for
 3 which compensation has been paid or awarded.

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

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

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

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

26 17. In computing the compensation to be paid to any

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

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

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

1 member occasioned by the last independent accident.

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

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

1 order, irrespective of the date of the accidental injury.

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

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

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

24 If any employee who receives an award under this paragraph
25 afterwards returns to work or is able to do so, and earns or is
26 able to earn as much as before the accident, payments under

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

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

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

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

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

1 according to the terms of the awards.

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

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

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

22 Provided, that in cases of awards entered by the Commission
23 for injuries occurring before July 1, 1975, the increases in
24 the compensation rate adjusted under the foregoing provision of
25 this paragraph (g) shall be limited to increases in the State's
26 average weekly wage in covered industries under the

1 Unemployment Insurance Act occurring after July 1, 1975.

2 For every accident occurring on or after July 20, 2005 but
3 before the effective date of this amendatory Act of the 94th
4 General Assembly (Senate Bill 1283 of the 94th General
5 Assembly), the annual adjustments to the compensation rate in
6 awards for death benefits or permanent total disability, as
7 provided in this Act, shall be paid by the employer. The
8 adjustment shall be made by the employer on July 15 of the
9 second year next following the date of the entry of the award
10 and shall further be made on July 15 annually thereafter. If
11 during the intervening period from the date of the entry of the
12 award, or the last periodic adjustment, there shall have been
13 an increase in the State's average weekly wage in covered
14 industries under the Unemployment Insurance Act, the employer
15 shall increase the weekly compensation rate proportionately by
16 the same percentage as the percentage of increase in the
17 State's average weekly wage in covered industries under the
18 Unemployment Insurance Act. The increase in the compensation
19 rate under this paragraph shall in no event bring the total
20 compensation rate to an amount greater than the prevailing
21 maximum rate at the time that the annual adjustment is made. In
22 the event of a decrease in such average weekly wage there shall
23 be no change in the then existing compensation rate. Such
24 increase shall be paid by the employer in the same manner and
25 at the same intervals as the payment of compensation in the
26 award. This paragraph shall not apply to cases where there is

1 disputed liability and in which a compromise lump sum
2 settlement between the employer and the injured employee, or
3 his or her dependents, as the case may be, has been duly
4 approved by the Illinois Workers' Compensation Commission.

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

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

21 (h-1) In case an injured employee is under legal disability
22 at the time when any right or privilege accrues to him or her
23 under this Act, a guardian may be appointed pursuant to law,
24 and may, on behalf of such person under legal disability, claim
25 and exercise any such right or privilege with the same effect
26 as if the employee himself or herself had claimed or exercised

1 the right or privilege. No limitations of time provided by this
2 Act run so long as the employee who is under legal disability
3 is without a conservator or guardian.

4 (i) 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 (b), (c), (d),
7 (e) and (f) of this Section is increased 50%.

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

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

18 (j) 1. In the event the injured employee receives benefits,
19 including medical, surgical or hospital benefits under any
20 group plan covering non-occupational disabilities contributed
21 to wholly or partially by the employer, which benefits should
22 not have been payable if any rights of recovery existed under
23 this Act, then such amounts so paid to the employee from any
24 such group plan as shall be consistent with, and limited to,
25 the provisions of paragraph 2 hereof, shall be credited to or
26 against any compensation payment for temporary total

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

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

22 2. Nothing contained in this Act shall be construed to give
23 the employer or the insurance carrier the right to credit for
24 any benefits or payments received by the employee other than
25 compensation payments provided by this Act, and where the
26 employee receives payments other than compensation payments,

1 whether as full or partial salary, group insurance benefits,
2 bonuses, annuities or any other payments, the employer or
3 insurance carrier shall receive credit for each such payment
4 only to the extent of the compensation that would have been
5 payable during the period covered by such payment.

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

14 (k) For accidental injuries that occur on or after the
15 effective date of this amendatory Act of the 95th General
16 Assembly, permanent partial or total disability shall be
17 certified by a physician and demonstrated by use of medically
18 defined objective measurements that include, but are not
19 limited to: loss of range of motion; loss of strength; measured
20 atrophy of tissue mass consistent with the injury. In
21 determining the impairment, subjective complaints shall not be
22 considered unless supported by and clearly related to objective
23 measurements. The current edition of the American Medical
24 Association's "Guide to the Evaluation of Permanent
25 Impairment" shall be applied in determining the level of
26 disability under this Act.

1 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
2 94-695, eff. 11-16-05.)

3 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

4 Sec. 11. The compensation herein provided, together with
5 the provisions of this Act, shall be the measure of the
6 responsibility of any employer engaged in any of the
7 enterprises or businesses enumerated in Section 3 of this Act,
8 or of any employer who is not engaged in any such enterprises
9 or businesses, but who has elected to provide and pay
10 compensation for accidental injuries sustained by any employee
11 arising out of and in the course of the employment according to
12 the provisions of this Act, and whose election to continue
13 under this Act, has not been nullified by any action of his
14 employees as provided for in this Act.

15 Accidental injuries incurred while participating in
16 voluntary recreational programs including but not limited to
17 athletic events, parties and picnics do not arise out of and in
18 the course of the employment even though the employer pays some
19 or all of the cost thereof. This exclusion shall not apply in
20 the event that the injured employee was ordered or assigned by
21 his employer to participate in the program.

22 Accidental injuries incurred while participating as a
23 patient in a drug or alcohol rehabilitation program do not
24 arise out of and in the course of employment even though the
25 employer pays some or all of the costs thereof.

1 Any injury to or disease or death of an employee arising
2 from the administration of a vaccine, including without
3 limitation smallpox vaccine, to prepare for, or as a response
4 to, a threatened or potential bioterrorist incident to the
5 employee as part of a voluntary inoculation program in
6 connection with the person's employment or in connection with
7 any governmental program or recommendation for the inoculation
8 of workers in the employee's occupation, geographical area, or
9 other category that includes the employee is deemed to arise
10 out of and in the course of the employment for all purposes
11 under this Act. This paragraph added by this amendatory Act of
12 the 93rd General Assembly is declarative of existing law and is
13 not a new enactment.

14 No compensation shall be payable if the injury was caused
15 primarily by the intoxication of the employee, or if the injury
16 was caused by the influence of alcohol or any narcotic drugs,
17 barbiturates, or other stimulants not prescribed by a
18 physician, or by the combined influence of alcohol and any
19 other drug or drugs that affected the employee to such an
20 extent that the Commission determines that the intoxication
21 constituted a departure from employment. Evidence of the
22 concentration of alcohol or a drug or combination thereof in a
23 person's blood or breath at the time alleged, as determined by
24 analysis of the person's blood, urine, breath, or other bodily
25 substance, shall be admissible in any hearing to determine
26 compensability. Should the employee refuse to submit to such

1 analysis, it shall be presumed, in the absence of substantial
2 evidence to the contrary, that the accident was caused by the
3 intoxication of the employee. If there was at the time of the
4 injury 0.08% or more by weight of alcohol in the employee's
5 blood or breath or there is any amount of a drug, substance or
6 compound in the person's breath, blood, or urine resulting from
7 the unlawful use or consumption of cannabis listed in the
8 Cannabis Control Act, a controlled substance listed in the
9 Illinois Controlled Substances Act, or an intoxicating
10 compound listed in the Use of Intoxicating Compounds Act, it
11 shall be presumed, in the absence of substantial evidence to
12 the contrary, that the injury was caused by the intoxication of
13 the employee. Percentage by weight of alcohol in the blood
14 shall be based upon grams of alcohol per 100 milliliters of
15 blood. Percentage by weight of alcohol in the breath shall be
16 based upon grams of alcohol per 210 liters of breath.

17 (Source: P.A. 93-829, eff. 7-28-04.)

18 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

19 Sec. 13. There is created an Illinois Workers' Compensation
20 Commission consisting of 10 members to be appointed by the
21 Governor, by and with the consent of the Senate, 3 of whom
22 shall be representative citizens of the employing class
23 operating under this Act and 3 of whom shall be representative
24 citizens of the class of employees covered under this Act, and
25 4 of whom shall be representative citizens not identified with

1 either the employing or employee classes. Not more than 6
2 members of the Commission shall be of the same political party.

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

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

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

23 (a) substantive and procedural aspects of the office of
24 Commissioner;

25 (b) current issues in workers' compensation law and
26 practice;

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

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

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

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

13 (g) writing skills.

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

19 The Commissioner candidates, other than the Chairman, must
20 meet one of the following qualifications: (a) licensed to
21 practice law in the State of Illinois; or (b) served as an
22 arbitrator at the Illinois Workers' Compensation Commission
23 for at least 3 years; or (c) has at least 4 years of
24 professional labor relations experience. The Chairman
25 candidate must have public or private sector management and
26 budget experience, as determined by the Governor.

1 Beginning January 1, 2010 and thereafter, Commissioner
2 candidates, other than the Chairman, must meet one of the
3 following qualifications: (a) licensed to practice law in the
4 State of Illinois with 10 years of experience in workers'
5 compensation; or (b) served as an arbitrator at the Illinois
6 Workers' Compensation Commission for at least 10 years; or (c)
7 has at least 10 years of professional labor relations
8 experience that includes workers' compensation
9 responsibilities.

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

17 Commissioners shall weigh the evidence impartially without
18 giving the benefit of the doubt to any party when weighing
19 evidence and resolving factual conflicts.

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

25 The Illinois Workers' Compensation Commission shall
26 administer this Act.

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

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

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

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

15 (a-10) After the effective date of this amendatory Act
16 of the 94th General Assembly, the Commission shall be
17 increased to 10 members. As soon as possible after the
18 effective date of this amendatory Act of the 94th General
19 Assembly, the Governor shall appoint, by and with the
20 consent of the Senate, the 3 members added to the
21 Commission under this amendatory Act of the 94th General
22 Assembly, one of whom shall be a representative citizen of
23 the employing class operating under this Act, one of whom
24 shall be a representative of the class of employees covered
25 under this Act, and one of whom shall be a representative
26 citizen not identified with either the employing or

1 employee classes. Of the members appointed under this
2 amendatory Act of the 94th General Assembly, one shall be
3 appointed for a term ending on the third Monday in January,
4 2007, and 2 shall be appointed for terms ending on the
5 third Monday in January, 2009, and until their successors
6 are appointed and qualified.

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

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

19 In case of a vacancy in the office of a Commissioner during
20 the recess of the Senate, the Governor shall make a temporary
21 appointment until the next meeting of the Senate, when he shall
22 nominate some person to fill such office. Any person so
23 nominated who is confirmed by the Senate shall hold office
24 during the remainder of the term and until his successor is
25 appointed and qualified.

26 The Illinois Workers' Compensation Commission created by

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

9 Notwithstanding any other provision of this Act, in the
10 event the Chairman shall make a finding that a member is or
11 will be unavailable to fulfill the responsibilities of his or
12 her office, the Chairman shall advise the Governor and the
13 member in writing and shall designate a certified arbitrator to
14 serve as acting Commissioner. The certified arbitrator shall
15 act as a Commissioner until the member resumes the duties of
16 his or her office or until a new member is appointed by the
17 Governor, by and with the consent of the Senate, if a vacancy
18 occurs in the office of the Commissioner, but in no event shall
19 a certified arbitrator serve in the capacity of Commissioner
20 for more than 6 months from the date of appointment by the
21 Chairman. A finding by the Chairman that a member is or will be
22 unavailable to fulfill the responsibilities of his or her
23 office shall be based upon notice to the Chairman by a member
24 that he or she will be unavailable or facts and circumstances
25 made known to the Chairman which lead him to reasonably find
26 that a member is unavailable to fulfill the responsibilities of

1 his or her office. The designation of a certified arbitrator to
2 act as a Commissioner shall be considered representative of
3 citizens not identified with either the employing or employee
4 classes and the arbitrator shall serve regardless of his or her
5 political affiliation. A certified arbitrator who serves as an
6 acting Commissioner shall have all the rights and powers of a
7 Commissioner, including salary.

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

26 The Commission may have an Executive Director; if so, the

1 Executive Director shall be appointed by the Governor with the
2 advice and consent of the Senate. The salary and duties of the
3 Executive Director shall be fixed by the Commission.

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

21 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;
22 94-277, eff. 7-20-05.)

23 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

24 Sec. 13.1. (a) There is created a Workers' Compensation
25 Advisory Board hereinafter referred to as the Advisory Board.

1 After the effective date of this amendatory Act of the 94th
2 General Assembly, the Advisory Board shall consist of 12
3 members appointed by the Governor with the advice and consent
4 of the Senate. Six members of the Advisory Board shall be
5 representative citizens chosen from the employee class, and 6
6 members shall be representative citizens chosen from the
7 employing class. The Chairman of the Commission shall serve as
8 the ex officio Chairman of the Advisory Board. After the
9 effective date of this amendatory Act of the 94th General
10 Assembly, each member of the Advisory Board shall serve a term
11 ending on the third Monday in January 2007 and shall continue
12 to serve until his or her successor is appointed and qualified.
13 Members of the Advisory Board shall thereafter be appointed for
14 4 year terms from the third Monday in January of the year of
15 their appointment, and until their successors are appointed and
16 qualified. Seven members of the Advisory Board shall constitute
17 a quorum to do business, but in no case shall there be less
18 than one representative from each class. A vacancy on the
19 Advisory Board shall be filled by the Governor for the
20 unexpired term.

21 (b) Members of the Advisory Board shall receive no
22 compensation for their services but shall be reimbursed for
23 expenses incurred in the performance of their duties by the
24 Commission from appropriations made to the Commission for such
25 purpose.

26 (c) The Advisory Board shall aid the Commission in

1 formulating policies, discussing problems, setting priorities
2 of expenditures, reviewing advisory rates filed by an advisory
3 organization as defined in Section 463 of the Illinois
4 Insurance Code, making appointment of arbitrators and
5 establishing short and long range administrative goals. Prior
6 to making appointments to the Commission, the Governor shall
7 request that the Advisory Board make recommendations as to
8 candidates to consider for appointment and the Advisory Board
9 may then make such recommendations. Prior to the reappointment
10 of any arbitrator after January 1, 2008, the Chairman shall
11 perform a performance audit of the arbitrator and shall submit
12 the performance audit report to the Advisory Board. Prior to
13 appointment or reappointment of arbitrators after January 1,
14 2008, the Chairman shall request that the Advisory Board make
15 recommendations as to candidates to consider for appointment
16 and the Advisory Board may then make such recommendations. A
17 recommendation by the Advisory Board of appointment or
18 reappointment of any arbitrator shall be by a vote of a
19 majority of the members appointed to the Advisory Board. This
20 amendatory Act of the 95th General Assembly shall be consistent
21 with the appointment of arbitrators as provided in Section 14
22 of this Act.

23 (Source: P.A. 94-277, eff. 7-20-05; 94-695, eff. 11-16-05.)

24 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

25 Sec. 14. The Commission shall appoint a secretary, an

1 assistant secretary, and arbitrators and shall employ such
2 assistants and clerical help as may be necessary.

3 Each arbitrator appointed after November 22, 1977 shall be
4 required to demonstrate in writing and in accordance with the
5 rules and regulations of the Illinois Department of Central
6 Management Services his or her knowledge of and expertise in
7 the law of and judicial processes of the Workers' Compensation
8 Act and the Occupational Diseases Act.

9 Each arbitrator appointed after January 1, 2008 must meet
10 one of the following qualifications: (a) licensed to practice
11 law in the State of Illinois with 10 years of experience in
12 workers' compensation; or (b) has at least 10 years of
13 professional labor relations experience that includes workers'
14 compensation responsibilities.

15 Arbitrators shall weigh the evidence impartially without
16 giving the benefit of the doubt to any party when weighing
17 evidence and resolving factual conflicts.

18 A formal training program for newly-hired arbitrators
19 shall be implemented. The training program shall include the
20 following:

21 (a) substantive and procedural aspects of the
22 arbitrator position;

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

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

1 counseling;

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

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

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

10 (g) writing skills.

11 A formal and ongoing professional development program
12 including, but not limited to, the above-noted areas shall be
13 implemented to keep arbitrators informed of recent
14 developments and issues and to assist them in maintaining and
15 enhancing their professional competence.

16 Each arbitrator shall devote full time to his or her duties
17 and shall serve when assigned as an acting Commissioner when a
18 Commissioner is unavailable in accordance with the provisions
19 of Section 13 of this Act. Any arbitrator who is an
20 attorney-at-law shall not engage in the practice of law, nor
21 shall any arbitrator hold any other office or position of
22 profit under the United States or this State or any municipal
23 corporation or political subdivision of this State.
24 Notwithstanding any other provision of this Act to the
25 contrary, an arbitrator who serves as an acting Commissioner in
26 accordance with the provisions of Section 13 of this Act shall

1 continue to serve in the capacity of Commissioner until a
2 decision is reached in every case heard by that arbitrator
3 while serving as an acting Commissioner.

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

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

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

23 The members of the Commission, Arbitrators and other
24 employees whose duties require them to travel, shall have
25 reimbursed to them their actual traveling expenses and
26 disbursements made or incurred by them in the discharge of

1 their official duties while away from their place of residence
2 in the performance of their duties.

3 The Commission shall provide itself with a seal for the
4 authentication of its orders, awards and proceedings upon which
5 shall be inscribed the name of the Commission and the words
6 "Illinois--Seal".

7 The Secretary or Assistant Secretary, under the direction
8 of the Commission, shall have charge and custody of the seal of
9 the Commission and also have charge and custody of all records,
10 files, orders, proceedings, decisions, awards and other
11 documents on file with the Commission. He shall furnish
12 certified copies, under the seal of the Commission, of any such
13 records, files, orders, proceedings, decisions, awards and
14 other documents on file with the Commission as may be required.
15 Certified copies so furnished by the Secretary or Assistant
16 Secretary shall be received in evidence before the Commission
17 or any Arbitrator thereof, and in all courts, provided that the
18 original of such certified copy is otherwise competent and
19 admissible in evidence. The Secretary or Assistant Secretary
20 shall perform such other duties as may be prescribed from time
21 to time by the Commission.

22 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

23 (820 ILCS 305/23.1 new)

24 Sec. 23.1. Collective bargaining agreements. Any employer
25 or group of employers, and the recognized or certified and

1 exclusive representative of its employees, may agree to
2 establish certain binding obligations and procedures relating
3 to workers' compensation. This agreement must be limited to the
4 following, but need not include all of the following:

5 (1) An alternative dispute resolution system to
6 supplement, modify, or replace the procedural or dispute
7 resolution provisions of this Act. The system may include
8 mediation, arbitration, or other dispute resolution
9 proceedings, the results of which may be final and binding
10 upon the parties.

11 (2) A list of providers of medical treatment that may
12 be the exclusive source of all medical and related
13 treatment provided under this Act.

14 (3) A list of providers which may be the exclusive
15 source of impartial medical (physical or mental)
16 examinations under this Act.

17 (4) The creation of a transitional or modified return
18 to work program.

19 (5) A list of individuals and companies for the
20 provision of vocational rehabilitation or retraining
21 programs.

22 (6) The establishment of safety committees and safety
23 procedures.

24 (7) The adoption of a 24-hour health care coverage
25 plan.

26 (b) A copy of the agreement identifying the employer or the

1 group of employers and the local union, district, or council
2 shall be filed with the Illinois Workers' Compensation
3 Commission. Upon filing, the agreement shall be valid and
4 binding.

5 (c) Nothing in this Section shall allow any agreement that
6 diminishes an employee's entitlement to benefits as otherwise
7 set forth in this Act. For the purposes of this Section, the
8 procedural rights and dispute resolution agreements under
9 paragraphs (1) through (7) of subsection (a) are not agreements
10 that diminish an employee's entitlement to benefits. Any
11 agreement that diminishes the employee's entitlement to
12 benefits as set forth in this Act is null and void.

13 (d) If the employer is insured under this Act, it shall, in
14 the manner provided in the insurance contract, provide notice
15 to its insurance carrier of its intent to enter into an
16 agreement as provided in this Section with its employees.

17 (820 ILCS 305/31 new)

18 Sec. 31. Construction of Act. Arbitrators, Commissioners,
19 and any reviewing courts shall construe the provisions of this
20 Act strictly.

21 Section 10. The Workers' Occupational Diseases Act is
22 amended by adding Section 28 as follows:

23 (820 ILCS 310/28 new)

1 Sec. 28. Construction of Act. Arbitrators, Commissioners,
2 and any reviewing courts shall construe the provisions of this
3 Act strictly.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.

1 INDEX
2 Statutes amended in order of appearance

3	820 ILCS 305/1	from Ch. 48, par. 138.1
4	820 ILCS 305/6	from Ch. 48, par. 138.6
5	820 ILCS 305/8	from Ch. 48, par. 138.8
6	820 ILCS 305/11	from Ch. 48, par. 138.11
7	820 ILCS 305/13	from Ch. 48, par. 138.13
8	820 ILCS 305/13.1	from Ch. 48, par. 138.13-1
9	820 ILCS 305/14	from Ch. 48, par. 138.14
10	820 ILCS 305/23.1 new	
11	820 ILCS 305/31 new	
12	820 ILCS 310/28 new	