



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB3902

Introduced 2/26/2009, by Rep. Michael G. Connelly

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-114.5	from Ch. 108 1/2, par. 3-114.5
40 ILCS 5/4-114.2	from Ch. 108 1/2, par. 4-114.2
820 ILCS 305/8	from Ch. 48, par. 138.8
30 ILCS 805/8.33 new	

Amends the Downstate Police and Downstate Firefighters Articles of the Illinois Pension Code and the Workers' Compensation Act. Provides that the receipt of disability or survivor's benefits payable under those Articles of the Illinois Pension Code shall act as a waiver of temporary total disability benefits under specified provisions of the Workers' Compensation Act. Provides that other than certain temporary total disability benefits, the benefits payable under the Downstate Police and Downstate Fire Articles shall be reduced by an amount computed in accordance with specified provisions. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 11726 AMC 22453 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 3-114.5 and 4-114.2 as follows:

6 (40 ILCS 5/3-114.5) (from Ch. 108 1/2, par. 3-114.5)

7 Sec. 3-114.5. Waiver of temporary total disability
8 benefits and reduction ~~Reduction~~ of disability and survivor's
9 benefits for corresponding benefits payable under Workers'
10 Compensation and Workers' Occupational Diseases Acts.

11 (a) Whenever a person is entitled to a disability or
12 survivor's benefit under this Article and to benefits under the
13 Workers' Compensation Act or the Workers' Occupational
14 Diseases Act for the same injury or disease, the benefits
15 payable under this Article shall act as a waiver of temporary
16 total disability benefits under paragraph (b) of Section 8 of
17 the Workers' Compensation Act, effective as of the first date
18 for which benefits are payable under this Article. Other than
19 temporary total disability benefits under paragraph (b) of
20 Section 8 of the Workers' Compensation Act, the benefits
21 payable under this Article shall be reduced by an amount
22 computed in accordance with subsection (b) of this Section.
23 There shall be no reduction, however, for any of the following:

1 payments for medical, surgical and hospital services,
2 non-medical remedial care and treatment rendered in accordance
3 with a religious method of healing recognized by the laws of
4 this State and for artificial appliances; payments made for
5 scheduled losses for the loss of or permanent and complete or
6 permanent and partial loss of the use of any bodily member or
7 the body taken as a whole under subdivision (d)2 or subsection
8 (e) of Section 8 of the Workers' Compensation Act or Section 7
9 of the Workers' Occupational Diseases Act; payments made for
10 statutorily prescribed losses under subdivision (d)2 of
11 Section 8 of the Workers' Compensation Act or Section 7 of the
12 Workers' Occupational Diseases Act; and that portion of the
13 payments which is utilized to pay attorneys' fees and the costs
14 of securing the workers' compensation benefits under either the
15 Workers' Compensation Act or Workers' Occupational Diseases
16 Act.

17 (b) The reduction prescribed by this Section shall be
18 computed as follows:

19 (1) In the event that a person entitled to benefits
20 under this Article incurs costs or attorneys' fees in order
21 to establish his entitlement, the reduction prescribed by
22 this Section shall itself be reduced by the amount of such
23 costs and attorneys' fees.

24 (2) If the benefits deductible under this Section are
25 stated in a weekly amount, the monthly amount for the
26 purpose of this Section shall be 52 times the weekly

1 amount, divided by 12.

2 (Source: P.A. 84-1472.)

3 (40 ILCS 5/4-114.2) (from Ch. 108 1/2, par. 4-114.2)

4 Sec. 4-114.2. Waiver of temporary total disability
5 benefits and reduction ~~Reduction~~ of disability and survivor's
6 benefits for corresponding benefits payable under Workers'
7 Compensation and Workers' Occupational Diseases Acts.

8 (a) Whenever a person is entitled to a disability or
9 survivor's benefit under this Article and to benefits under the
10 Workers' Compensation Act or the Workers' Occupational
11 Diseases Act for the same injury or disease, the benefits
12 payable under this Article shall act as a waiver of temporary
13 total disability benefits under paragraph (b) of Section 8 of
14 the Workers' Compensation Act, effective as of the first date
15 for which benefits are payable under this Article. Other than
16 temporary total disability benefits under paragraph (b) of
17 Section 8 of the Workers' Compensation Act, the benefits
18 payable under this Article shall be reduced by an amount
19 computed in accordance with subsection (b) of this Section.
20 There shall be no reduction, however, for any of the following:
21 payments for medical, surgical and hospital services,
22 non-medical remedial care and treatment rendered in accordance
23 with a religious method of healing recognized by the laws of
24 this State and for artificial appliances; payments made for
25 scheduled losses for the loss of or permanent and complete or

1 permanent and partial loss of the use of any bodily member or
2 the body taken as a whole under subdivision (d)2 or subsection
3 (e) of Section 8 of the Workers' Compensation Act or Section 7
4 of the Workers' Occupational Diseases Act; payments made for
5 statutorily prescribed losses under subdivision (d)2 of
6 Section 8 of the Workers' Compensation Act or Section 7 of the
7 Workers' Occupational Diseases Act; and that portion of the
8 payments which is utilized to pay attorneys' fees and the costs
9 of securing the workers' compensation benefits under either the
10 Workers' Compensation Act or Workers' Occupational Diseases
11 Act.

12 (b) The reduction prescribed by this Section shall be
13 computed as follows:

14 (1) In the event that a person entitled to benefits
15 under this Article incurs costs or attorneys' fees in order
16 to establish his entitlement, the reduction prescribed by
17 this Section shall itself be reduced by the amount of such
18 costs and attorneys' fees.

19 (2) If the benefits deductible under this Section are
20 stated in a weekly amount, the monthly amount for the
21 purpose of this Section shall be 52 times the weekly
22 amount, divided by 12.

23 (Source: P.A. 84-1039.)

24 Section 10. The Workers' Compensation Act is amended by
25 changing Section 8 as follows:

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,

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

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

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

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

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

26 Every hospital, physician, surgeon or other person

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

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

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

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

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

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

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

19 Where the accidental injury results in the amputation of an
20 arm, hand, leg or foot, or the enucleation of an eye, or the
21 loss of any of the natural teeth, the employer shall furnish an
22 artificial of any such members lost or damaged in accidental
23 injury arising out of and in the course of employment, and
24 shall also furnish the necessary braces in all proper and
25 necessary cases. In cases of the loss of a member or members by
26 amputation, the employer shall, whenever necessary, maintain

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

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

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

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

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

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

9 2. The compensation rate in all cases other than for
10 temporary total disability under this paragraph (b), and
11 other than for serious and permanent disfigurement under
12 paragraph (c) and other than for permanent partial
13 disability under subparagraph (2) of paragraph (d) or under
14 paragraph (e), of this Section shall be equal to 66 2/3% of
15 the employee's average weekly wage computed in accordance
16 with the provisions of Section 10, provided that it shall
17 be not less than 66 2/3% of the sum of the Federal minimum
18 wage under the Fair Labor Standards Act, or the Illinois
19 minimum wage under the Minimum Wage Law, whichever is more,
20 multiplied by 40 hours. This percentage rate shall be
21 increased by 10% for each spouse and child, not to exceed
22 100% of the total minimum wage calculation,
23 nor exceed the employee's average weekly wage computed in
24 accordance with the provisions of Section 10, whichever is
25 less.

26 2.1. The compensation rate in all cases of serious and

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

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

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

26 The maximum weekly compensation rate from July 1, 1975,

1 except as hereinafter provided, shall be 100% of the
2 State's average weekly wage in covered industries under the
3 Unemployment Insurance Act, that being the wage that most
4 closely approximates the State's average weekly wage.

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

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

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

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

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

21 4.1. Any provision herein to the contrary
22 notwithstanding, the weekly compensation rate for
23 compensation payments under subparagraph 18 of paragraph
24 (e) of this Section and under paragraph (f) of this Section
25 and under paragraph (a) of Section 7 and for amputation of
26 a member or enucleation of an eye under paragraph (e) of

1 this Section, shall in no event be less than 50% of the
2 State's average weekly wage in covered industries under the
3 Unemployment Insurance Act.

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

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

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

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

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

7 Compensation under this paragraph (b) is subject to the
8 provisions of Sections 3-114.5 and 4-114.2 of the Illinois
9 Pension Code.

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

22 No compensation is payable under this paragraph where
23 compensation is payable under paragraphs (d), (e) or (f) of
24 this Section.

25 A duly appointed member of a fire department in a city, the
26 population of which exceeds 200,000 according to the last

1 federal or State census, is eligible for compensation under
2 this paragraph only where such serious and permanent
3 disfigurement results from burns.

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

17 2. If, as a result of the accident, the employee sustains
18 serious and permanent injuries not covered by paragraphs (c)
19 and (e) of this Section or having sustained injuries covered by
20 the aforesaid paragraphs (c) and (e), he shall have sustained
21 in addition thereto other injuries which injuries do not
22 incapacitate him from pursuing the duties of his employment but
23 which would disable him from pursuing other suitable
24 occupations, or which have otherwise resulted in physical
25 impairment; or if such injuries partially incapacitate him from
26 pursuing the duties of his usual and customary line of

1 employment but do not result in an impairment of earning
2 capacity, or having resulted in an impairment of earning
3 capacity, the employee elects to waive his right to recover
4 under the foregoing subparagraph 1 of paragraph (d) of this
5 Section then in any of the foregoing events, he shall receive
6 in addition to compensation for temporary total disability
7 under paragraph (b) of this Section, compensation at the rate
8 provided in subparagraph 2.1 of paragraph (b) of this Section
9 for that percentage of 500 weeks that the partial disability
10 resulting from the injuries covered by this paragraph bears to
11 total disability. If the employee shall have sustained a
12 fracture of one or more vertebra or fracture of the skull, the
13 amount of compensation allowed under this Section shall be not
14 less than 6 weeks for a fractured skull and 6 weeks for each
15 fractured vertebra, and in the event the employee shall have
16 sustained a fracture of any of the following facial bones:
17 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
18 mandible, the amount of compensation allowed under this Section
19 shall be not less than 2 weeks for each such fractured bone,
20 and for a fracture of each transverse process not less than 3
21 weeks. In the event such injuries shall result in the loss of a
22 kidney, spleen or lung, the amount of compensation allowed
23 under this Section shall be not less than 10 weeks for each
24 such organ. Compensation awarded under this subparagraph 2
25 shall not take into consideration injuries covered under
26 paragraphs (c) and (e) of this Section and the compensation

1 provided in this paragraph shall not affect the employee's
2 right to compensation payable under paragraphs (b), (c) and (e)
3 of this Section for the disabilities therein covered.

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

14 1. Thumb-

15 70 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 76 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 2. First, or index finger-

21 40 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 43 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 3. Second, or middle finger-

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

4 38 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 4. Third, or ring finger-

7 25 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 27 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 5. Fourth, or little finger-

13 20 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 22 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 6. Great toe-

19 35 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 38 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 7. Each toe other than great toe-

25 12 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 13 weeks if the accidental injury occurs on or
3 after February 1, 2006.

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

13 9. Hand-

14 190 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 205 weeks if the accidental injury occurs on or
18 after February 1, 2006.

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

25 10. Arm-

26 235 weeks if the accidental injury occurs on or

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

3 253 weeks if the accidental injury occurs on or
4 after February 1, 2006.

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

24 11. Foot-

25 155 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.

2 167 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 12. Leg-

5 200 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.

8 215 weeks if the accidental injury occurs on or
9 after February 1, 2006.

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

1 after February 1, 2006) shall be paid.

2 13. Eye-

3 150 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.

6 162 weeks if the accidental injury occurs on or
7 after February 1, 2006.

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

15 14. Loss of hearing of one ear-

16 50 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 54 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 Total and permanent loss of hearing of both ears-

22 200 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.

25 215 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 15. Testicle-

2 50 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 54 weeks if the accidental injury occurs on or
6 after February 1, 2006.

7 Both testicles-

8 150 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.

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

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

20 (a) Loss of hearing for compensation purposes
21 shall be confined to the frequencies of 1,000, 2,000
22 and 3,000 cycles per second. Loss of hearing ability
23 for frequency tones above 3,000 cycles per second are
24 not to be considered as constituting disability for
25 hearing.

26 (b) The percent of hearing loss, for purposes of

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

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

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

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

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

10 Sound Level DBA

11	Slow Response	Hours Per Day
12	90	8
13	92	6
14	95	4
15	97	3
16	100	2
17	102	1-1/2
18	105	1
19	110	1/2
20	115	1/4

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

23 17. In computing the compensation to be paid to any
24 employee who, before the accident for which he claims
25 compensation, had before that time sustained an injury
26 resulting in the loss by amputation or partial loss by

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

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

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

25 19. In a case of specific loss and the subsequent death
26 of such injured employee from other causes than such injury

1 leaving a widow, widower, or dependents surviving before
2 payment or payment in full for such injury, then the amount
3 due for such injury is payable to the widow or widower and,
4 if there be no widow or widower, then to such dependents,
5 in the proportion which such dependency bears to total
6 dependency.

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

25 On August 1, 1996 and on February 1 and August 1 of each
26 subsequent year, the Commission shall examine the special fund

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

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

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

21 If any employee who receives an award under this paragraph
22 afterwards returns to work or is able to do so, and earns or is
23 able to earn as much as before the accident, payments under
24 such award shall cease. If such employee returns to work, or is
25 able to do so, and earns or is able to earn part but not as much
26 as before the accident, such award shall be modified so as to

1 conform to an award under paragraph (d) of this Section. If
2 such award is terminated or reduced under the provisions of
3 this paragraph, such employees have the right at any time
4 within 30 months after the date of such termination or
5 reduction to file petition with the Commission for the purpose
6 of determining whether any disability exists as a result of the
7 original accidental injury and the extent thereof.

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

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

24 The custodian of the Second Injury Fund provided for in
25 paragraph (f) of Section 7 shall be joined with the employer as
26 a party respondent in the application for adjustment of claim.

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

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

25 As of July 1, 1980 to July 1, 1982, all claims against and
26 obligations of the Second Injury Fund shall become claims

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

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

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

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

25 For every accident occurring on or after July 20, 2005 but
26 before the effective date of this amendatory Act of the 94th

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

1 approved by the Illinois Workers' Compensation Commission.

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

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

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

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

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

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

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

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

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

19 2. Nothing contained in this Act shall be construed to give
20 the employer or the insurance carrier the right to credit for
21 any benefits or payments received by the employee other than
22 compensation payments provided by this Act, and where the
23 employee receives payments other than compensation payments,
24 whether as full or partial salary, group insurance benefits,
25 bonuses, annuities or any other payments, the employer or
26 insurance carrier shall receive credit for each such payment

1 only to the extent of the compensation that would have been
2 payable during the period covered by such payment.

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

11 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
12 94-695, eff. 11-16-05.)

13 Section 90. The State Mandates Act is amended by adding
14 Section 8.33 as follows:

15 (30 ILCS 805/8.33 new)

16 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
17 of this Act, no reimbursement by the State is required for the
18 implementation of any mandate created by this amendatory Act of
19 the 96th General Assembly.

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