



Sen. John J. Cullerton

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LRB097 08743 KTG 70272 a

1 AMENDMENT TO HOUSE BILL 2891

2 AMENDMENT NO. _____. Amend House Bill 2891, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Workers' Compensation Act is amended by
6 changing Section 19 as follows:

7 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

13 1. Whenever any claimant misconceives his remedy and
14 files an application for adjustment of claim under this Act
15 and it is subsequently discovered, at any time before final
16 disposition of such cause, that the claim for disability or

1 death which was the basis for such application should
2 properly have been made under the Workers' Occupational
3 Diseases Act, then the provisions of Section 19, paragraph
4 (a-1) of the Workers' Occupational Diseases Act having
5 reference to such application shall apply.

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

26 (b) The Arbitrator shall make such inquiries and

1 investigations as he or they shall deem necessary and may
2 examine and inspect all books, papers, records, places, or
3 premises relating to the questions in dispute and hear such
4 proper evidence as the parties may submit.

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

9 The Arbitrator may find that the disabling condition is
10 temporary and has not yet reached a permanent condition and may
11 order the payment of compensation up to the date of the
12 hearing, which award shall be reviewable and enforceable in the
13 same manner as other awards, and in no instance be a bar to a
14 further hearing and determination of a further amount of
15 temporary total compensation or of compensation for permanent
16 disability, but shall be conclusive as to all other questions
17 except the nature and extent of said disability.

18 The decision of the Arbitrator shall be filed with the
19 Commission which Commission shall immediately send to each
20 party or his attorney a copy of such decision, together with a
21 notification of the time when it was filed. As of the effective
22 date of this amendatory Act of the 94th General Assembly, all
23 decisions of the Arbitrator shall set forth in writing findings
24 of fact and conclusions of law, separately stated, if requested
25 by either party. Unless a petition for review is filed by
26 either party within 30 days after the receipt by such party of

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

23 Whether the employee is working or not, if the employee is
24 not receiving or has not received medical, surgical, or
25 hospital services or other services or compensation as provided
26 in paragraph (a) of Section 8, or compensation as provided in

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

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

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

1 (b-1) If the employee is not receiving medical, surgical or
2 hospital services as provided in paragraph (a) of Section 8 or
3 compensation as provided in paragraph (b) of Section 8, the
4 employee, in accordance with Commission Rules, may file a
5 petition for an emergency hearing by an Arbitrator on the issue
6 of whether or not he is entitled to receive payment of such
7 compensation or services as provided therein. Such petition
8 shall have priority over all other petitions and shall be heard
9 by the Arbitrator and Commission with all convenient speed.

10 Such petition shall contain the following information and
11 shall be served on the employer at least 15 days before it is
12 filed:

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

14 (ii) the approximate location of the accident;

15 (iii) a description of the accident;

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

17 (v) the identity of the person, if known, to whom the
18 accident was reported and the date on which it was
19 reported;

20 (vi) the name and title of the person, if known,
21 representing the employer with whom the employee conferred
22 in any effort to obtain compensation pursuant to paragraph
23 (b) of Section 8 of this Act or medical, surgical or
24 hospital services pursuant to paragraph (a) of Section 8 of
25 this Act and the date of such conference;

26 (vii) a statement that the employer has refused to pay

1 compensation pursuant to paragraph (b) of Section 8 of this
2 Act or for medical, surgical or hospital services pursuant
3 to paragraph (a) of Section 8 of this Act;

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

7 (ix) the dates of treatment related to the accident by
8 medical practitioners, and the names and addresses of such
9 practitioners, including the dates of treatment related to
10 the accident at any hospitals and the names and addresses
11 of such hospitals, and a signed authorization permitting
12 the employer to examine all medical records of all
13 practitioners and hospitals named pursuant to this
14 paragraph;

15 (x) a copy of a signed report by a medical
16 practitioner, relating to the employee's current inability
17 to return to work because of the injuries incurred as a
18 result of the accident or such other documents or
19 affidavits which show that the employee is entitled to
20 receive compensation pursuant to paragraph (b) of Section 8
21 of this Act or medical, surgical or hospital services
22 pursuant to paragraph (a) of Section 8 of this Act. Such
23 reports, documents or affidavits shall state, if possible,
24 the history of the accident given by the employee, and
25 describe the injury and medical diagnosis, the medical
26 services for such injury which the employee has received

1 and is receiving, the physical activities which the
2 employee cannot currently perform as a result of any
3 impairment or disability due to such injury, and the
4 prognosis for recovery;

5 (xi) complete copies of any reports, records,
6 documents and affidavits in the possession of the employee
7 on which the employee will rely to support his allegations,
8 provided that the employer shall pay the reasonable cost of
9 reproduction thereof;

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

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

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

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

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

23 No document or other evidence not previously identified by
24 either party with the petition or written response, or by any
25 other means before the hearing, may be introduced into evidence
26 without good cause. If, at the hearing, material information is

1 discovered which was not previously disclosed, the Arbitrator
2 may extend the time for closing proof on the motion of a party
3 for a reasonable period of time which may be more than 30 days.
4 No evidence may be introduced pursuant to this paragraph as to
5 permanent disability. No award may be entered for permanent
6 disability pursuant to this paragraph. Either party may
7 introduce into evidence the testimony taken by deposition of
8 any medical practitioner.

9 The Commission shall adopt rules, regulations and
10 procedures whereby the final decision of the Commission is
11 filed not later than 90 days from the date the petition for
12 review is filed but in no event later than 180 days from the
13 date the petition for an emergency hearing is filed with the
14 Illinois Workers' Compensation Commission.

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

26 (c) (1) At a reasonable time in advance of and in

1 connection with the hearing under Section 19(e) or 19(h), the
2 Commission may on its own motion order an impartial physical or
3 mental examination of a petitioner whose mental or physical
4 condition is in issue, when in the Commission's discretion it
5 appears that such an examination will materially aid in the
6 just determination of the case. The examination shall be made
7 by a member or members of a panel of physicians chosen for
8 their special qualifications by the Illinois State Medical
9 Society. The Commission shall establish procedures by which a
10 physician shall be selected from such list.

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

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

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

20 (5) The examination shall be made, and the physician or
21 physicians, if called, shall testify, without cost to the
22 parties. The Commission shall determine the compensation and
23 the pay of the physician or physicians. The compensation for
24 this service shall not exceed the usual and customary amount
25 for such service.

26 (6) The fees and payment thereof of all attorneys and

1 physicians for services authorized by the Commission under this
2 Act shall, upon request of either the employer or the employee
3 or the beneficiary affected, be subject to the review and
4 decision of the Commission.

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

18 (e) This paragraph shall apply to all hearings before the
19 Commission. Such hearings may be held in its office or
20 elsewhere as the Commission may deem advisable. The taking of
21 testimony on such hearings may be had before any member of the
22 Commission. If a petition for review and agreed statement of
23 facts or transcript of evidence is filed, as provided herein,
24 the Commission shall promptly review the decision of the
25 Arbitrator and all questions of law or fact which appear from
26 the statement of facts or transcript of evidence.

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

14 In the event either party requests oral argument, such
15 argument shall be had before a panel of 3 members of the
16 Commission (or before all available members pursuant to the
17 determination of 7 members of the Commission that such argument
18 be held before all available members of the Commission)
19 pursuant to the rules and regulations of the Commission. A
20 panel of 3 members, which shall be comprised of not more than
21 one representative citizen of the employing class and not more
22 than one representative citizen of the employee class, shall
23 hear the argument; provided that if all the issues in dispute
24 are solely the nature and extent of the permanent partial
25 disability, if any, a majority of the panel may deny the
26 request for such argument and such argument shall not be held;

1 and provided further that 7 members of the Commission may
2 determine that the argument be held before all available
3 members of the Commission. A decision of the Commission shall
4 be approved by a majority of Commissioners present at such
5 hearing if any; provided, if no such hearing is held, a
6 decision of the Commission shall be approved by a majority of a
7 panel of 3 members of the Commission as described in this
8 Section. The Commission shall give 10 days' notice to the
9 parties or their attorneys of the time and place of such taking
10 of testimony and of such argument.

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

1 such other proceedings in the case as such party may desire to
2 have reviewed, such statement of facts or transcript of
3 evidence to be authenticated by the signature of the parties or
4 their attorneys, and in the event that they do not agree, then
5 the authentication of such transcript of evidence shall be by
6 the signature of any member of the Commission.

7 If a reporter does not for any reason furnish a transcript
8 of the proceedings before the Arbitrator in any case for use on
9 a hearing for review before the Commission, within the
10 limitations of time as fixed in this Section, the Commission
11 may, in its discretion, order a trial de novo before the
12 Commission in such case upon application of either party. The
13 applications for adjustment of claim and other documents in the
14 nature of pleadings filed by either party, together with the
15 decisions of the Arbitrator and of the Commission and the
16 statement of facts or transcript of evidence hereinbefore
17 provided for in paragraphs (b) and (c) shall be the record of
18 the proceedings of the Commission, and shall be subject to
19 review as hereinafter provided.

20 At the request of either party or on its own motion, the
21 Commission shall set forth in writing the reasons for the
22 decision, including findings of fact and conclusions of law
23 separately stated. The Commission shall by rule adopt a format
24 for written decisions for the Commission and arbitrators. The
25 written decisions shall be concise and shall succinctly state
26 the facts and reasons for the decision. The Commission may

1 adopt in whole or in part, the decision of the arbitrator as
2 the decision of the Commission. When the Commission does so
3 adopt the decision of the arbitrator, it shall do so by order.
4 Whenever the Commission adopts part of the arbitrator's
5 decision, but not all, it shall include in the order the
6 reasons for not adopting all of the arbitrator's decision. When
7 a majority of a panel, after deliberation, has arrived at its
8 decision, the decision shall be filed as provided in this
9 Section without unnecessary delay, and without regard to the
10 fact that a member of the panel has expressed an intention to
11 dissent. Any member of the panel may file a dissent. Any
12 dissent shall be filed no later than 10 days after the decision
13 of the majority has been filed.

14 Decisions rendered by the Commission and dissents, if any,
15 shall be published together by the Commission. The conclusions
16 of law set out in such decisions shall be regarded as
17 precedents by arbitrators for the purpose of achieving a more
18 uniform administration of this Act.

19 (f) The decision of the Commission acting within its
20 powers, according to the provisions of paragraph (e) of this
21 Section shall, in the absence of fraud, be conclusive unless
22 reviewed as in this paragraph hereinafter provided. However,
23 the Arbitrator or the Commission may on his or its own motion,
24 or on the motion of either party, correct any clerical error or
25 errors in computation within 15 days after the date of receipt
26 of any award by such Arbitrator or any decision on review of

1 the Commission and shall have the power to recall the original
2 award on arbitration or decision on review, and issue in lieu
3 thereof such corrected award or decision. Where such correction
4 is made the time for review herein specified shall begin to run
5 from the date of the receipt of the corrected award or
6 decision.

7 (1) Except in cases of claims against the State of
8 Illinois other than those claims under Section 18.1, in
9 which case the decision of the Commission shall not be
10 subject to judicial review, the Circuit Court of the county
11 where any of the parties defendant may be found, or if none
12 of the parties defendant can be found in this State then
13 the Circuit Court of the county where the accident
14 occurred, shall by summons to the Commission have power to
15 review all questions of law and fact presented by such
16 record.

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

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

18 The Commission shall not be required to certify the
19 record of their proceedings to the Circuit Court, unless
20 the party commencing the proceedings for review in the
21 Circuit Court as above provided, shall pay to the
22 Commission the sum of 80¢ per page of testimony taken
23 before the Commission, and 35¢ per page of all other
24 matters contained in such record, except as otherwise
25 provided by Section 20 of this Act. Payment for photostatic
26 copies of exhibit shall be extra. It shall be the duty of

1 the Commission upon such payment, or failure to pay as
2 permitted under Section 20 of this Act, to prepare a true
3 and correct typewritten copy of such testimony and a true
4 and correct copy of all other matters contained in such
5 record and certified to by the Secretary or Assistant
6 Secretary thereof.

7 In its decision on review the Commission shall
8 determine in each particular case the amount of the
9 probable cost of the record to be filed as a part of the
10 summons in that case and no request for a summons may be
11 filed and no summons shall issue unless the party seeking
12 to review the decision of the Commission shall exhibit to
13 the clerk of the Circuit Court proof of payment by filing a
14 receipt showing payment or an affidavit of the attorney
15 setting forth that payment has been made of the sums so
16 determined to the Secretary or Assistant Secretary of the
17 Commission, except as otherwise provided by Section 20 of
18 this Act.

19 (2) No such summons shall issue unless the one against
20 whom the Commission shall have rendered an award for the
21 payment of money shall upon the filing of his written
22 request for such summons file with the clerk of the court a
23 bond conditioned that if he shall not successfully
24 prosecute the review, he will pay the award and the costs
25 of the proceedings in the courts. The amount of the bond
26 shall be fixed by any member of the Commission and the

1 surety or sureties of the bond shall be approved by the
2 clerk of the court. The acceptance of the bond by the clerk
3 of the court shall constitute evidence of his approval of
4 the bond.

5 Every county, city, town, township, incorporated
6 village, school district, body politic or municipal
7 corporation against whom the Commission shall have
8 rendered an award for the payment of money shall not be
9 required to file a bond to secure the payment of the award
10 and the costs of the proceedings in the court to authorize
11 the court to issue such summons.

12 The court may confirm or set aside the decision of the
13 Commission. If the decision is set aside and the facts
14 found in the proceedings before the Commission are
15 sufficient, the court may enter such decision as is
16 justified by law, or may remand the cause to the Commission
17 for further proceedings and may state the questions
18 requiring further hearing, and give such other
19 instructions as may be proper. Appeals shall be taken to
20 the Appellate Court in accordance with Supreme Court Rules
21 22(g) and 303. Appeals shall be taken from the Appellate
22 Court to the Supreme Court in accordance with Supreme Court
23 Rule 315.

24 It shall be the duty of the clerk of any court
25 rendering a decision affecting or affirming an award of the
26 Commission to promptly furnish the Commission with a copy

1 of such decision, without charge.

2 The decision of a majority of the members of the panel
3 of the Commission, shall be considered the decision of the
4 Commission.

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

1 subsequent proceedings for review, as provided in this Act.

2 Judgment shall not be entered until 15 days' notice of the
3 time and place of the application for the entry of judgment
4 shall be served upon the employer by filing such notice with
5 the Commission, which Commission shall, in case it has on file
6 the address of the employer or the name and address of its
7 agent upon whom notices may be served, immediately send a copy
8 of the notice to the employer or such designated agent.

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

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

24 On such review, compensation payments may be
25 re-established, increased, diminished or ended. The Commission
26 shall give 15 days' notice to the parties of the hearing for

1 review. Any employee, upon any petition for such review being
2 filed by the employer, shall be entitled to one day's notice
3 for each 100 miles necessary to be traveled by him in attending
4 the hearing of the Commission upon the petition, and 3 days in
5 addition thereto. Such employee shall, at the discretion of the
6 Commission, also be entitled to 5 cents per mile necessarily
7 traveled by him within the State of Illinois in attending such
8 hearing, not to exceed a distance of 300 miles, to be taxed by
9 the Commission as costs and deposited with the petition of the
10 employer.

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

15 (i) Each party, upon taking any proceedings or steps
16 whatsoever before any Arbitrator, Commission or court, shall
17 file with the Commission his address, or the name and address
18 of any agent upon whom all notices to be given to such party
19 shall be served, either personally or by registered mail,
20 addressed to such party or agent at the last address so filed
21 with the Commission. In the event such party has not filed his
22 address, or the name and address of an agent as above provided,
23 service of any notice may be had by filing such notice with the
24 Commission.

25 (j) Whenever in any proceeding testimony has been taken or
26 a final decision has been rendered and after the taking of such

1 testimony or after such decision has become final, the injured
2 employee dies, then in any subsequent proceedings brought by
3 the personal representative or beneficiaries of the deceased
4 employee, such testimony in the former proceeding may be
5 introduced with the same force and effect as though the witness
6 having so testified were present in person in such subsequent
7 proceedings and such final decision, if any, shall be taken as
8 final adjudication of any of the issues which are the same in
9 both proceedings.

10 (k) In case where there has been any unreasonable or
11 vexatious delay in the authorization of medical treatment or in
12 the ~~of~~ payment of compensation or an intentional underpayment
13 of compensation, or proceedings have been instituted or carried
14 on by the one liable to pay the compensation, which do not
15 present a real controversy, but are merely frivolous or for
16 delay, then the Commission may award compensation additional to
17 that otherwise payable under this Act equal to 50% of the
18 amount payable at the time of such award. Failure to pay
19 compensation in accordance with the provisions of Section 8,
20 paragraph (b) of this Act, shall be considered unreasonable
21 delay.

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

26 (l) If the employee has made written demand for payment of

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

16 (m) If the commission finds that an accidental injury was
17 directly and proximately caused by the employer's wilful
18 violation of a health and safety standard under the Health and
19 Safety Act in force at the time of the accident, the arbitrator
20 or the Commission shall allow to the injured employee or his
21 dependents, as the case may be, additional compensation equal
22 to 25% of the amount which otherwise would be payable under the
23 provisions of this Act exclusive of this paragraph. The
24 additional compensation herein provided shall be allowed by an
25 appropriate increase in the applicable weekly compensation
26 rate.

1 (n) After June 30, 1984, decisions of the Illinois Workers'
2 Compensation Commission reviewing an award of an arbitrator of
3 the Commission shall draw interest at a rate equal to the yield
4 on indebtedness issued by the United States Government with a
5 26-week maturity next previously auctioned on the day on which
6 the decision is filed. Said rate of interest shall be set forth
7 in the Arbitrator's Decision. Interest shall be drawn from the
8 date of the arbitrator's award on all accrued compensation due
9 the employee through the day prior to the date of payments.
10 However, when an employee appeals an award of an Arbitrator or
11 the Commission, and the appeal results in no change or a
12 decrease in the award, interest shall not further accrue from
13 the date of such appeal.

14 The employer or his insurance carrier may tender the
15 payments due under the award to stop the further accrual of
16 interest on such award notwithstanding the prosecution by
17 either party of review, certiorari, appeal to the Supreme Court
18 or other steps to reverse, vacate or modify the award.

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

1 within 30 days after the end of that calendar year.

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

18 (p) After filing an application for adjustment of claim but
19 prior to the hearing on arbitration the parties may voluntarily
20 agree to submit such application for adjustment of claim for
21 decision by an arbitrator under this subsection (p) where such
22 application for adjustment of claim raises only a dispute over
23 temporary total disability, permanent partial disability or
24 medical expenses. Such agreement shall be in writing in such
25 form as provided by the Commission. Applications for adjustment
26 of claim submitted for decision by an arbitrator under this

1 subsection (p) shall proceed according to rule as established
2 by the Commission. The Commission shall promulgate rules
3 including, but not limited to, rules to ensure that the parties
4 are adequately informed of their rights under this subsection
5 (p) and of the voluntary nature of proceedings under this
6 subsection (p). The findings of fact made by an arbitrator
7 acting within his or her powers under this subsection (p) in
8 the absence of fraud shall be conclusive. However, the
9 arbitrator may on his own motion, or the motion of either
10 party, correct any clerical errors or errors in computation
11 within 15 days after the date of receipt of such award of the
12 arbitrator and shall have the power to recall the original
13 award on arbitration, and issue in lieu thereof such corrected
14 award. The decision of the arbitrator under this subsection (p)
15 shall be considered the decision of the Commission and
16 proceedings for review of questions of law arising from the
17 decision may be commenced by either party pursuant to
18 subsection (f) of Section 19. The Advisory Board established
19 under Section 13.1 shall compile a list of certified Commission
20 arbitrators, each of whom shall be approved by at least 7
21 members of the Advisory Board. The chairman shall select 5
22 persons from such list to serve as arbitrators under this
23 subsection (p). By agreement, the parties shall select one
24 arbitrator from among the 5 persons selected by the chairman
25 except that if the parties do not agree on an arbitrator from
26 among the 5 persons, the parties may, by agreement, select an

1 arbitrator of the American Arbitration Association, whose fee
2 shall be paid by the State in accordance with rules promulgated
3 by the Commission. Arbitration under this subsection (p) shall
4 be voluntary.

5 (Source: P.A. 97-18, eff. 6-28-11.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law."