



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3790

Introduced 6/21/2011, by Rep. Tom Cross, Jason Barickman, Mark H. Beaubien, Jr., Patricia R. Bellock, Mike Bost, et al.

SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Central Management Services Law of the Civil Administrative Code of Illinois, the Code of Civil Procedure, and the Workers' Compensation Act. Makes numerous changes concerning the following in relation to workers' compensation: plans by the Department of Central Management Services for State employees, creation of the State Workers' Compensation Program Advisory Board, subpoenas, burden of proof, Commissioner and arbitrator standards of conduct, employee leasing companies, citations, construction employer collective bargaining, negotiated rate, wage differential, preferred provider programs, permanent partial disability, out-of-state fees, fee schedules, electronic claims, utilization review programs, employee intoxication, Commissioner qualifications, the Workers' Compensation Advisory Board, arbitrator appointments, prohibitions on gifts, claims brought by commission employees, carpal tunnel syndrome, fraud, sentencing, advisory premium rates, and insurance oversight. Makes other changes. Contains a severability provision. Effective immediately.

LRB097 12223 RLC 56677 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Department of Central Management Services
5 Law of the Civil Administrative Code of Illinois is amended by
6 changing Sections 405-105 and 405-411 as follows:

7 (20 ILCS 405/405-105) (was 20 ILCS 405/64.1)

8 Sec. 405-105. Fidelity, surety, property, and casualty
9 insurance. The Department shall establish and implement a
10 program to coordinate the handling of all fidelity, surety,
11 property, and casualty insurance exposures of the State and the
12 departments, divisions, agencies, branches, and universities
13 of the State. In performing this responsibility, the Department
14 shall have the power and duty to do the following:

15 (1) Develop and maintain loss and exposure data on all
16 State property.

17 (2) Study the feasibility of establishing a
18 self-insurance plan for State property and prepare
19 estimates of the costs of reinsurance for risks beyond the
20 realistic limits of the self-insurance.

21 (3) Prepare a plan for centralizing the purchase of
22 property and casualty insurance on State property under a
23 master policy or policies and purchase the insurance

1 contracted for as provided in the Illinois Purchasing Act.

2 (4) Evaluate existing provisions for fidelity bonds
3 required of State employees and recommend changes that are
4 appropriate commensurate with risk experience and the
5 determinations respecting self-insurance or reinsurance so
6 as to permit reduction of costs without loss of coverage.

7 (5) Investigate procedures for inclusion of school
8 districts, public community college districts, and other
9 units of local government in programs for the centralized
10 purchase of insurance.

11 (6) Implement recommendations of the State Property
12 Insurance Study Commission that the Department finds
13 necessary or desirable in the performance of its powers and
14 duties under this Section to achieve efficient and
15 comprehensive risk management.

16 (7) Prepare and, in the discretion of the Director,
17 implement a plan providing for the purchase of public
18 liability insurance or for self-insurance for public
19 liability or for a combination of purchased insurance and
20 self-insurance for public liability (i) covering the State
21 and drivers of motor vehicles owned, leased, or controlled
22 by the State of Illinois pursuant to the provisions and
23 limitations contained in the Illinois Vehicle Code, (ii)
24 covering other public liability exposures of the State and
25 its employees within the scope of their employment, and
26 (iii) covering drivers of motor vehicles not owned, leased,

1 or controlled by the State but used by a State employee on
2 State business, in excess of liability covered by an
3 insurance policy obtained by the owner of the motor vehicle
4 or in excess of the dollar amounts that the Department
5 shall determine to be reasonable. Any contract of insurance
6 let under this Law shall be by bid in accordance with the
7 procedure set forth in the Illinois Purchasing Act. Any
8 provisions for self-insurance shall conform to subdivision
9 (11).

10 The term "employee" as used in this subdivision (7) and
11 in subdivision (11) means a person while in the employ of
12 the State who is a member of the staff or personnel of a
13 State agency, bureau, board, commission, committee,
14 department, university, or college or who is a State
15 officer, elected official, commissioner, member of or ex
16 officio member of a State agency, bureau, board,
17 commission, committee, department, university, or college,
18 or a member of the National Guard while on active duty
19 pursuant to orders of the Governor of the State of
20 Illinois, or any other person while using a licensed motor
21 vehicle owned, leased, or controlled by the State of
22 Illinois with the authorization of the State of Illinois,
23 provided the actual use of the motor vehicle is within the
24 scope of that authorization and within the course of State
25 service.

26 Subsequent to payment of a claim on behalf of an

1 employee pursuant to this Section and after reasonable
2 advance written notice to the employee, the Director may
3 exclude the employee from future coverage or limit the
4 coverage under the plan if (i) the Director determines that
5 the claim resulted from an incident in which the employee
6 was grossly negligent or had engaged in willful and wanton
7 misconduct or (ii) the Director determines that the
8 employee is no longer an acceptable risk based on a review
9 of prior accidents in which the employee was at fault and
10 for which payments were made pursuant to this Section.

11 The Director is authorized to promulgate
12 administrative rules that may be necessary to establish and
13 administer the plan.

14 Appropriations from the Road Fund shall be used to pay
15 auto liability claims and related expenses involving
16 employees of the Department of Transportation, the
17 Illinois State Police, and the Secretary of State.

18 (8) Charge, collect, and receive from all other
19 agencies of the State government fees or monies equivalent
20 to the cost of purchasing the insurance.

21 (9) Establish, through the Director, charges for risk
22 management services rendered to State agencies by the
23 Department. The State agencies so charged shall reimburse
24 the Department by vouchers drawn against their respective
25 appropriations. The reimbursement shall be determined by
26 the Director as amounts sufficient to reimburse the

1 Department for expenditures incurred in rendering the
2 service.

3 The Department shall charge the employing State agency
4 or university for workers' compensation payments for
5 temporary total disability paid to any employee after the
6 employee has received temporary total disability payments
7 for 120 days if the employee's treating physician has
8 issued a release to return to work with restrictions and
9 the employee is able to perform modified duty work but the
10 employing State agency or university does not return the
11 employee to work at modified duty. Modified duty shall be
12 duties assigned that may or may not be delineated as part
13 of the duties regularly performed by the employee. Modified
14 duties shall be assigned within the prescribed
15 restrictions established by the treating physician and the
16 physician who performed the independent medical
17 examination. The amount of all reimbursements shall be
18 deposited into the Workers' Compensation Revolving Fund
19 which is hereby created as a revolving fund in the State
20 treasury. In addition to any other purpose authorized by
21 law, moneys in the Fund shall be used, subject to
22 appropriation, to pay these or other temporary total
23 disability claims of employees of State agencies and
24 universities.

25 Beginning with fiscal year 1996, all amounts recovered
26 by the Department through subrogation in workers'

1 compensation and workers' occupational disease cases shall
2 be deposited into the Workers' Compensation Revolving Fund
3 created under this subdivision (9).

4 (10) Establish rules, procedures, and forms to be used
5 by State agencies in the administration and payment of
6 workers' compensation claims. The Department shall
7 initially evaluate and determine the compensability of any
8 injury that is the subject of a workers' compensation claim
9 and provide for the administration and payment of such a
10 claim for all State agencies. The Director may delegate to
11 any agency with the agreement of the agency head the
12 responsibility for evaluation, administration, and payment
13 of that agency's claims.

14 (10a) If the Director determines it would be in the
15 best interests of the State and its employees, prepare and
16 implement a plan providing for: (i) the purchase of
17 workers' compensation insurance for workers' compensation
18 liability; (ii) third-party administration of
19 self-insurance, in whole or in part, for workers'
20 compensation liability; or (iii) a combination of
21 purchased insurance and self-insurance for workers'
22 compensation liability, including reinsurance or stop-loss
23 insurance. Any contract for insurance or third-party
24 administration shall be on terms consistent with State
25 policy; awarded in compliance with the Illinois
26 Procurement Code; and based on, but not limited to, the

1 following criteria: administrative cost, service
2 capabilities of the carrier or other contractor and
3 premiums, fees, or charges. By April 1 of each year, the
4 Director must report and provide information to the State
5 Workers' Compensation Program Advisory Board concerning
6 the status of the State workers' compensation program for
7 the next fiscal year. Information includes, but is not
8 limited to, documents, reports of negotiations, bid
9 invitations, requests for proposals, specifications,
10 copies of proposed and final contracts or agreements, and
11 any other materials concerning contracts or agreements for
12 the program. By the first of each month thereafter, the
13 Director must provide updated, and any new, information to
14 the State Workers' Compensation Program Advisory Board
15 until the State workers' compensation program for the next
16 fiscal year is determined.

17 (11) Any plan for public liability self-insurance
18 implemented under this Section shall provide that (i) the
19 Department shall attempt to settle and may settle any
20 public liability claim filed against the State of Illinois
21 or any public liability claim filed against a State
22 employee on the basis of an occurrence in the course of the
23 employee's State employment; (ii) any settlement of such a
24 claim is not subject to fiscal year limitations and must be
25 approved by the Director and, in cases of settlements
26 exceeding \$100,000, by the Governor; and (iii) a settlement

1 of any public liability claim against the State or a State
2 employee shall require an unqualified release of any right
3 of action against the State and the employee for acts
4 within the scope of the employee's employment giving rise
5 to the claim.

6 Whenever and to the extent that a State employee
7 operates a motor vehicle or engages in other activity
8 covered by self-insurance under this Section, the State of
9 Illinois shall defend, indemnify, and hold harmless the
10 employee against any claim in tort filed against the
11 employee for acts or omissions within the scope of the
12 employee's employment in any proper judicial forum and not
13 settled pursuant to this subdivision (11), provided that
14 this obligation of the State of Illinois shall not exceed a
15 maximum liability of \$2,000,000 for any single occurrence
16 in connection with the operation of a motor vehicle or
17 \$100,000 per person per occurrence for any other single
18 occurrence, or \$500,000 for any single occurrence in
19 connection with the provision of medical care by a licensed
20 physician employee.

21 Any claims against the State of Illinois under a
22 self-insurance plan that are not settled pursuant to this
23 subdivision (11) shall be heard and determined by the Court
24 of Claims and may not be filed or adjudicated in any other
25 forum. The Attorney General of the State of Illinois or the
26 Attorney General's designee shall be the attorney with

1 respect to all public liability self-insurance claims that
2 are not settled pursuant to this subdivision (11) and
3 therefore result in litigation. The payment of any award of
4 the Court of Claims entered against the State relating to
5 any public liability self-insurance claim shall act as a
6 release against any State employee involved in the
7 occurrence.

8 (12) Administer a plan the purpose of which is to make
9 payments on final settlements or final judgments in
10 accordance with the State Employee Indemnification Act.
11 The plan shall be funded through appropriations from the
12 General Revenue Fund specifically designated for that
13 purpose, except that indemnification expenses for
14 employees of the Department of Transportation, the
15 Illinois State Police, and the Secretary of State shall be
16 paid from the Road Fund. The term "employee" as used in
17 this subdivision (12) has the same meaning as under
18 subsection (b) of Section 1 of the State Employee
19 Indemnification Act. Subject to sufficient appropriation,
20 the Director shall approve payment of any claim, without
21 regard to fiscal year limitations, presented to the
22 Director that is supported by a final settlement or final
23 judgment when the Attorney General and the chief officer of
24 the public body against whose employee the claim or cause
25 of action is asserted certify to the Director that the
26 claim is in accordance with the State Employee

1 Indemnification Act and that they approve of the payment.
2 In no event shall an amount in excess of \$150,000 be paid
3 from this plan to or for the benefit of any claimant.

4 (13) Administer a plan the purpose of which is to make
5 payments on final settlements or final judgments for
6 employee wage claims in situations where there was an
7 appropriation relevant to the wage claim, the fiscal year
8 and lapse period have expired, and sufficient funds were
9 available to pay the claim. The plan shall be funded
10 through appropriations from the General Revenue Fund
11 specifically designated for that purpose.

12 Subject to sufficient appropriation, the Director is
13 authorized to pay any wage claim presented to the Director
14 that is supported by a final settlement or final judgment
15 when the chief officer of the State agency employing the
16 claimant certifies to the Director that the claim is a
17 valid wage claim and that the fiscal year and lapse period
18 have expired. Payment for claims that are properly
19 submitted and certified as valid by the Director shall
20 include interest accrued at the rate of 7% per annum from
21 the forty-fifth day after the claims are received by the
22 Department or 45 days from the date on which the amount of
23 payment is agreed upon, whichever is later, until the date
24 the claims are submitted to the Comptroller for payment.
25 When the Attorney General has filed an appearance in any
26 proceeding concerning a wage claim settlement or judgment,

1 the Attorney General shall certify to the Director that the
2 wage claim is valid before any payment is made. In no event
3 shall an amount in excess of \$150,000 be paid from this
4 plan to or for the benefit of any claimant.

5 Nothing in Public Act 84-961 shall be construed to
6 affect in any manner the jurisdiction of the Court of
7 Claims concerning wage claims made against the State of
8 Illinois.

9 (14) Prepare and, in the discretion of the Director,
10 implement a program for self-insurance for official
11 fidelity and surety bonds for officers and employees as
12 authorized by the Official Bond Act.

13 (Source: P.A. 96-928, eff. 6-15-10.)

14 (20 ILCS 405/405-411)

15 Sec. 405-411. Consolidation of workers' compensation
16 functions.

17 (a) Notwithstanding any other law to the contrary, the
18 Director of Central Management Services, working in
19 cooperation with the Director of any other agency, department,
20 board, or commission directly responsible to the Governor, may
21 direct the consolidation, within the Department of Central
22 Management Services, of those workers' compensation functions
23 at that agency, department, board, or commission that are
24 suitable for centralization.

25 Upon receipt of the written direction to transfer workers'

1 compensation functions to the Department of Central Management
2 Services, the personnel, equipment, and property (both real and
3 personal) directly relating to the transferred functions shall
4 be transferred to the Department of Central Management
5 Services, and the relevant documents, records, and
6 correspondence shall be transferred or copied, as the Director
7 may prescribe.

8 (b) Upon receiving written direction from the Director of
9 Central Management Services, the Comptroller and Treasurer are
10 authorized to transfer the unexpended balance of any
11 appropriations related to the workers' compensation functions
12 transferred to the Department of Central Management Services
13 and shall make the necessary fund transfers from the General
14 Revenue Fund, any special fund in the State treasury, or any
15 other federal or State trust fund held by the Treasurer to the
16 Workers' Compensation Revolving Fund for use by the Department
17 of Central Management Services in support of workers'
18 compensation functions or any other related costs or expenses
19 of the Department of Central Management Services.

20 (c) The rights of employees and the State and its agencies
21 under the Personnel Code and applicable collective bargaining
22 agreements or under any pension, retirement, or annuity plan
23 shall not be affected by any transfer under this Section.

24 (d) The functions transferred to the Department of Central
25 Management Services by this Section shall be vested in and
26 shall be exercised by the Department of Central Management

1 Services. Each act done in the exercise of those functions
2 shall have the same legal effect as if done by the agencies,
3 offices, divisions, departments, bureaus, boards and
4 commissions from which they were transferred.

5 Every person or other entity shall be subject to the same
6 obligations and duties and any penalties, civil or criminal,
7 arising therefrom, and shall have the same rights arising from
8 the exercise of such rights, powers, and duties as had been
9 exercised by the agencies, offices, divisions, departments,
10 bureaus, boards, and commissions from which they were
11 transferred.

12 Whenever reports or notices are now required to be made or
13 given or papers or documents furnished or served by any person
14 in regards to the functions transferred to or upon the
15 agencies, offices, divisions, departments, bureaus, boards,
16 and commissions from which the functions were transferred, the
17 same shall be made, given, furnished or served in the same
18 manner to or upon the Department of Central Management
19 Services.

20 This Section does not affect any act done, ratified, or
21 cancelled or any right occurring or established or any action
22 or proceeding had or commenced in an administrative, civil, or
23 criminal cause regarding the functions transferred, but those
24 proceedings may be continued by the Department of Central
25 Management Services.

26 This Section does not affect the legality of any rules in

1 the Illinois Administrative Code regarding the functions
2 transferred in this Section that are in force on the effective
3 date of this Section. If necessary, however, the affected
4 agencies shall propose, adopt, or repeal rules, rule
5 amendments, and rule recodifications as appropriate to
6 effectuate this Section.

7 (e) There is hereby created within the Department of
8 Central Management Services an advisory body to be known as the
9 State Workers' Compensation Program Advisory Board to review,
10 assess, and provide recommendations to improve the State
11 workers' compensation program and to ensure that the State
12 manages the program in the interests of injured workers and
13 taxpayers. The Governor shall appoint one person to the Board,
14 who shall serve as the Chairperson. The Speaker of the House of
15 Representatives, the Minority Leader of the House of
16 Representatives, the President of the Senate, and the Minority
17 Leader of the Senate shall each appoint one person to the
18 Board. Each member initially appointed to the Board shall serve
19 a term ending December 31, 2013, and each Board member
20 appointed thereafter shall serve a 3-year term. A Board member
21 shall continue to serve on the Board until his or her successor
22 is appointed. In addition, the Director of the Department of
23 Central Management Services, the Attorney General, the
24 Director of the Department of Insurance, the Secretary of the
25 Department of Transportation, the Director of the Department of
26 Corrections, the Secretary of the Department of Human Services,

1 the Director of the Department of Revenue, and the Chairman of
2 the Illinois Workers' Compensation Commission, or their
3 designees, shall serve as ex officio, non-voting members of the
4 Board. Members of the Board shall not receive compensation but
5 shall be reimbursed from the Workers' Compensation Revolving
6 Fund for reasonable expenses incurred in the necessary
7 performance of their duties, and the Department of Central
8 Management Services shall provide administrative support to
9 the Board. The Board shall meet at least 3 times per year or
10 more often if the Board deems it necessary or proper. By
11 September 30, 2011, the Board shall issue a written report, to
12 be delivered to the Governor, the Director of the Department of
13 Central Management Services, and the General Assembly, with a
14 recommended set of best practices for the State workers'
15 compensation program. By July 1 of each year thereafter, the
16 Board shall issue a written report, to be delivered to those
17 same persons or entities, with recommendations on how to
18 improve upon such practices.

19 (Source: P.A. 93-839, eff. 7-30-04.)

20 Section 10. The Code of Civil Procedure is amended by
21 changing Section 8-802 as follows:

22 (735 ILCS 5/8-802) (from Ch. 110, par. 8-802)

23 Sec. 8-802. Physician and patient. No physician or surgeon
24 shall be permitted to disclose any information he or she may

1 have acquired in attending any patient in a professional
2 character, necessary to enable him or her professionally to
3 serve the patient, except only (1) in trials for homicide when
4 the disclosure relates directly to the fact or immediate
5 circumstances of the homicide, (2) in actions, civil or
6 criminal, against the physician for malpractice, (3) with the
7 expressed consent of the patient, or in case of his or her
8 death or disability, of his or her personal representative or
9 other person authorized to sue for personal injury or of the
10 beneficiary of an insurance policy on his or her life, health,
11 or physical condition, (4) in all actions brought by or against
12 the patient, his or her personal representative, a beneficiary
13 under a policy of insurance, or the executor or administrator
14 of his or her estate wherein the patient's physical or mental
15 condition is an issue, (5) upon an issue as to the validity of
16 a document as a will of the patient, (6) in any criminal action
17 where the charge is either first degree murder by abortion,
18 attempted abortion or abortion, (7) in actions, civil or
19 criminal, arising from the filing of a report in compliance
20 with the Abused and Neglected Child Reporting Act, (8) to any
21 department, agency, institution or facility which has custody
22 of the patient pursuant to State statute or any court order of
23 commitment, (9) in prosecutions where written results of blood
24 alcohol tests are admissible pursuant to Section 11-501.4 of
25 the Illinois Vehicle Code, (10) in prosecutions where written
26 results of blood alcohol tests are admissible under Section

1 5-11a of the Boat Registration and Safety Act, (11) in criminal
2 actions arising from the filing of a report of suspected
3 terrorist offense in compliance with Section 29D-10(p)(7) of
4 the Criminal Code of 1961, or (12) upon the issuance of a
5 subpoena pursuant to Section 38 of the Medical Practice Act of
6 1987; the issuance of a subpoena pursuant to Section 25.1 of
7 the Illinois Dental Practice Act; ~~or~~ the issuance of a subpoena
8 pursuant to Section 22 of the Nursing Home Administrators
9 Licensing and Disciplinary Act; or the issuance of a subpoena
10 pursuant to Section 25.5 of the Workers' Compensation Act.

11 In the event of a conflict between the application of this
12 Section and the Mental Health and Developmental Disabilities
13 Confidentiality Act to a specific situation, the provisions of
14 the Mental Health and Developmental Disabilities
15 Confidentiality Act shall control.

16 (Source: P.A. 95-478, eff. 8-27-07.)

17 Section 15. The Workers' Compensation Act is amended by
18 changing Sections 1, 4, 8, 8.2, 8.7, 11, 13, 13.1, 14, 18, 19,
19 and 25.5 and by adding Sections 1.1, 4b, 8.1a, 8.1b, 8.2a, 16b,
20 18.1, 29.1, and 29.2 as follows:

21 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

22 Sec. 1. This Act may be cited as the Workers' Compensation
23 Act.

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

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

4 2. Every person, firm, public or private corporation,
5 including hospitals, public service, eleemosynary, religious
6 or charitable corporations or associations who has any person
7 in service or under any contract for hire, express or implied,
8 oral or written, and who is engaged in any of the enterprises
9 or businesses enumerated in Section 3 of this Act, or who at or
10 prior to the time of the accident to the employee for which
11 compensation under this Act may be claimed, has in the manner
12 provided in this Act elected to become subject to the
13 provisions of this Act, and who has not, prior to such
14 accident, effected a withdrawal of such election in the manner
15 provided in this Act.

16 3. Any one engaging in any business or enterprise referred
17 to in subsections 1 and 2 of Section 3 of this Act who
18 undertakes to do any work enumerated therein, is liable to pay
19 compensation to his own immediate employees in accordance with
20 the provisions of this Act, and in addition thereto if he
21 directly or indirectly engages any contractor whether
22 principal or sub-contractor to do any such work, he is liable
23 to pay compensation to the employees of any such contractor or
24 sub-contractor unless such contractor or sub-contractor has
25 insured, in any company or association authorized under the
26 laws of this State to insure the liability to pay compensation

1 under this Act, or guaranteed his liability to pay such
2 compensation. With respect to any time limitation on the filing
3 of claims provided by this Act, the timely filing of a claim
4 against a contractor or subcontractor, as the case may be,
5 shall be deemed to be a timely filing with respect to all
6 persons upon whom liability is imposed by this paragraph.

7 In the event any such person pays compensation under this
8 subsection he may recover the amount thereof from the
9 contractor or sub-contractor, if any, and in the event the
10 contractor pays compensation under this subsection he may
11 recover the amount thereof from the sub-contractor, if any.

12 This subsection does not apply in any case where the
13 accident occurs elsewhere than on, in or about the immediate
14 premises on which the principal has contracted that the work be
15 done.

16 4. Where an employer operating under and subject to the
17 provisions of this Act loans an employee to another such
18 employer and such loaned employee sustains a compensable
19 accidental injury in the employment of such borrowing employer
20 and where such borrowing employer does not provide or pay the
21 benefits or payments due such injured employee, such loaning
22 employer is liable to provide or pay all benefits or payments
23 due such employee under this Act and as to such employee the
24 liability of such loaning and borrowing employers is joint and
25 several, provided that such loaning employer is in the absence
26 of agreement to the contrary entitled to receive from such

1 borrowing employer full reimbursement for all sums paid or
2 incurred pursuant to this paragraph together with reasonable
3 attorneys' fees and expenses in any hearings before the
4 Illinois Workers' Compensation Commission or in any action to
5 secure such reimbursement. Where any benefit is provided or
6 paid by such loaning employer the employee has the duty of
7 rendering reasonable cooperation in any hearings, trials or
8 proceedings in the case, including such proceedings for
9 reimbursement.

10 Where an employee files an Application for Adjustment of
11 Claim with the Illinois Workers' Compensation Commission
12 alleging that his claim is covered by the provisions of the
13 preceding paragraph, and joining both the alleged loaning and
14 borrowing employers, they and each of them, upon written demand
15 by the employee and within 7 days after receipt of such demand,
16 shall have the duty of filing with the Illinois Workers'
17 Compensation Commission a written admission or denial of the
18 allegation that the claim is covered by the provisions of the
19 preceding paragraph and in default of such filing or if any
20 such denial be ultimately determined not to have been bona fide
21 then the provisions of Paragraph K of Section 19 of this Act
22 shall apply.

23 An employer whose business or enterprise or a substantial
24 part thereof consists of hiring, procuring or furnishing
25 employees to or for other employers operating under and subject
26 to the provisions of this Act for the performance of the work

1 of such other employers and who pays such employees their
2 salary or wages notwithstanding that they are doing the work of
3 such other employers shall be deemed a loaning employer within
4 the meaning and provisions of this Section.

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

6 1. Every person in the service of the State, including
7 members of the General Assembly, members of the Commerce
8 Commission, members of the Illinois Workers' Compensation
9 Commission, and all persons in the service of the University of
10 Illinois, county, including deputy sheriffs and assistant
11 state's attorneys, city, town, township, incorporated village
12 or school district, body politic, or municipal corporation
13 therein, whether by election, under appointment or contract of
14 hire, express or implied, oral or written, including all
15 members of the Illinois National Guard while on active duty in
16 the service of the State, and all probation personnel of the
17 Juvenile Court appointed pursuant to Article VI of the Juvenile
18 Court Act of 1987, and including any official of the State, any
19 county, city, town, township, incorporated village, school
20 district, body politic or municipal corporation therein except
21 any duly appointed member of a police department in any city
22 whose population exceeds 200,000 according to the last Federal
23 or State census, and except any member of a fire insurance
24 patrol maintained by a board of underwriters in this State. A
25 duly appointed member of a fire department in any city, the
26 population of which exceeds 200,000 according to the last

1 federal or State census, is an employee under this Act only
2 with respect to claims brought under paragraph (c) of Section
3 8.

4 One employed by a contractor who has contracted with the
5 State, or a county, city, town, township, incorporated village,
6 school district, body politic or municipal corporation
7 therein, through its representatives, is not considered as an
8 employee of the State, county, city, town, township,
9 incorporated village, school district, body politic or
10 municipal corporation which made the contract.

11 2. Every person in the service of another under any
12 contract of hire, express or implied, oral or written,
13 including persons whose employment is outside of the State of
14 Illinois where the contract of hire is made within the State of
15 Illinois, persons whose employment results in fatal or
16 non-fatal injuries within the State of Illinois where the
17 contract of hire is made outside of the State of Illinois, and
18 persons whose employment is principally localized within the
19 State of Illinois, regardless of the place of the accident or
20 the place where the contract of hire was made, and including
21 aliens, and minors who, for the purpose of this Act are
22 considered the same and have the same power to contract,
23 receive payments and give quittances therefor, as adult
24 employees.

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

1 An employee or his dependents under this Act who shall have
2 a cause of action by reason of any injury, disablement or death
3 arising out of and in the course of his employment may elect to
4 pursue his remedy in the State where injured or disabled, or in
5 the State where the contract of hire is made, or in the State
6 where the employment is principally localized.

7 However, any employer may elect to provide and pay
8 compensation to any employee other than those engaged in the
9 usual course of the trade, business, profession or occupation
10 of the employer by complying with Sections 2 and 4 of this Act.
11 Employees are not included within the provisions of this Act
12 when excluded by the laws of the United States relating to
13 liability of employers to their employees for personal injuries
14 where such laws are held to be exclusive.

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

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

22 (d) To obtain compensation under this Act, an employee
23 bears the burden of showing, by a preponderance of the
24 evidence, that he or she has sustained accidental injuries
25 arising out of and in the course of the employment.

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

1 (820 ILCS 305/1.1 new)

2 Sec. 1.1. Standards of conduct.

3 (a) Commissioners and arbitrators shall dispose of all
4 Workers' Compensation matters promptly, officially and fairly,
5 without bias or prejudice. Commissioners and arbitrators shall
6 be faithful to the law and maintain professional competence in
7 it. They shall be unswayed by partisan interests, public
8 clamor, or fear of criticism. Commissioners and arbitrators
9 shall take appropriate action or initiate appropriate
10 disciplinary measures against a Commissioner, arbitrator,
11 lawyer, or others for unprofessional conduct of which the
12 Commissioner or arbitrator may become aware.

13 (b) Except as otherwise provided in this Act, the Canons of
14 the Code of Judicial Conduct as adopted by the Supreme Court of
15 Illinois govern the hearing and non-hearing conduct of members
16 of the Commission and arbitrators under this Act. The
17 Commission may set additional rules and standards, not less
18 stringent than those rules and standards established by the
19 Code of Judicial Conduct, for the conduct of arbitrators.

20 (c) The following provisions of the Code of Judicial
21 Conduct do not apply under this Section:

22 (1) Canon 3(B), relating to administrative
23 responsibilities of Judges.

24 (2) Canon 6(C), relating to annual filings of economic
25 interests. Instead of filing declarations of economic

1 interests with the Clerk of the Illinois Supreme Court
2 under Illinois Supreme Court Rule 68, members of the
3 Commission and arbitrators shall make filings
4 substantially similar to those required by Rule 68 with the
5 Chairman, and such filings shall be made available for
6 examination by the public.

7 (d) An arbitrator or a Commissioner may accept an
8 uncompensated appointment to a governmental committee,
9 commission or other position that is concerned with issues of
10 policy on matters which may come before the arbitrator or
11 Commissioner if such appointment neither affects his or her
12 independent professional judgment nor the conduct of his or her
13 duties.

14 (e) Decisions of an arbitrator or a Commissioner shall be
15 based exclusively on evidence in the record of the proceeding
16 and material that has been officially noticed. Any findings of
17 fact made by the arbitrator based on inquiries, investigations,
18 examinations, or inspections undertaken by the arbitrator
19 shall be entered into the record of the proceeding.

20 (f) Nothing in this Section shall prohibit an arbitrator
21 from holding a pre-trial conference in accordance with the
22 rules of the Commission.

23 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

24 Sec. 4. (a) Any employer, including but not limited to
25 general contractors and their subcontractors, who shall come

1 within the provisions of Section 3 of this Act, and any other
2 employer who shall elect to provide and pay the compensation
3 provided for in this Act shall:

4 (1) File with the Commission annually an application
5 for approval as a self-insurer which shall include a
6 current financial statement, and annually, thereafter, an
7 application for renewal of self-insurance, which shall
8 include a current financial statement. Said application
9 and financial statement shall be signed and sworn to by the
10 president or vice president and secretary or assistant
11 secretary of the employer if it be a corporation, or by all
12 of the partners, if it be a copartnership, or by the owner
13 if it be neither a copartnership nor a corporation. All
14 initial applications and all applications for renewal of
15 self-insurance must be submitted at least 60 days prior to
16 the requested effective date of self-insurance. An
17 employer may elect to provide and pay compensation as
18 provided for in this Act as a member of a group workers'
19 compensation pool under Article V 3/4 of the Illinois
20 Insurance Code. If an employer becomes a member of a group
21 workers' compensation pool, the employer shall not be
22 relieved of any obligations imposed by this Act.

23 If the sworn application and financial statement of any
24 such employer does not satisfy the Commission of the
25 financial ability of the employer who has filed it, the
26 Commission shall require such employer to,

1 (2) Furnish security, indemnity or a bond guaranteeing
2 the payment by the employer of the compensation provided
3 for in this Act, provided that any such employer whose
4 application and financial statement shall not have
5 satisfied the commission of his or her financial ability
6 and who shall have secured his liability in part by excess
7 liability insurance shall be required to furnish to the
8 Commission security, indemnity or bond guaranteeing his or
9 her payment up to the effective limits of the excess
10 coverage, or

11 (3) Insure his entire liability to pay such
12 compensation in some insurance carrier authorized,
13 licensed, or permitted to do such insurance business in
14 this State. Every policy of an insurance carrier, insuring
15 the payment of compensation under this Act shall cover all
16 the employees and the entire compensation liability of the
17 insured: Provided, however, that any employer may insure
18 his or her compensation liability with 2 or more insurance
19 carriers or may insure a part and qualify under subsection
20 1, 2, or 4 for the remainder of his or her liability to pay
21 such compensation, subject to the following two
22 provisions:

23 Firstly, the entire compensation liability of the
24 employer to employees working at or from one location
25 shall be insured in one such insurance carrier or shall
26 be self-insured, and

1 Secondly, the employer shall submit evidence
2 satisfactorily to the Commission that his or her entire
3 liability for the compensation provided for in this Act
4 will be secured. Any provisions in any policy, or in
5 any endorsement attached thereto, attempting to limit
6 or modify in any way, the liability of the insurance
7 carriers issuing the same except as otherwise provided
8 herein shall be wholly void.

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

12 (4) Make some other provision, satisfactory to the
13 Commission, for the securing of the payment of compensation
14 provided for in this Act, and

15 (5) Upon becoming subject to this Act and thereafter as
16 often as the Commission may in writing demand, file with
17 the Commission in form prescribed by it evidence of his or
18 her compliance with the provision of this Section.

19 (a-1) Regardless of its state of domicile or its principal
20 place of business, an employer shall make payments to its
21 insurance carrier or group self-insurance fund, where
22 applicable, based upon the premium rates of the situs where the
23 work or project is located in Illinois if:

24 (A) the employer is engaged primarily in the building
25 and construction industry; and

26 (B) subdivision (a) (3) of this Section applies to the

1 employer or the employer is a member of a group
2 self-insurance plan as defined in subsection (1) of Section
3 4a.

4 The Illinois Workers' Compensation Commission shall impose
5 a penalty upon an employer for violation of this subsection
6 (a-1) if:

7 (i) the employer is given an opportunity at a hearing
8 to present evidence of its compliance with this subsection
9 (a-1); and

10 (ii) after the hearing, the Commission finds that the
11 employer failed to make payments upon the premium rates of
12 the situs where the work or project is located in Illinois.

13 The penalty shall not exceed \$1,000 for each day of work
14 for which the employer failed to make payments upon the premium
15 rates of the situs where the work or project is located in
16 Illinois, but the total penalty shall not exceed \$50,000 for
17 each project or each contract under which the work was
18 performed.

19 Any penalty under this subsection (a-1) must be imposed not
20 later than one year after the expiration of the applicable
21 limitation period specified in subsection (d) of Section 6 of
22 this Act. Penalties imposed under this subsection (a-1) shall
23 be deposited into the Illinois Workers' Compensation
24 Commission Operations Fund, a special fund that is created in
25 the State treasury. Subject to appropriation, moneys in the
26 Fund shall be used solely for the operations of the Illinois

1 Workers' Compensation Commission and by the Department of
2 Insurance ~~Financial and Professional Regulation~~ for the
3 purposes authorized in subsection (c) of Section 25.5 of this
4 Act.

5 (a-2) Every Employee Leasing Company (ELC), as defined in
6 Section 15 of the Employee Leasing Company Act, shall at a
7 minimum provide the following information to the Commission or
8 any entity designated by the Commission regarding each workers'
9 compensation insurance policy issued to the ELC:

10 (1) Any client company of the ELC listed as an
11 additional named insured.

12 (2) Any informational schedule attached to the master
13 policy that identifies any individual client company's
14 name, FEIN, and job location.

15 (3) Any certificate of insurance coverage document
16 issued to a client company specifying its rights and
17 obligations under the master policy that establishes both
18 the identity and status of the client, as well as the dates
19 of inception and termination of coverage, if applicable.

20 (b) The sworn application and financial statement, or
21 security, indemnity or bond, or amount of insurance, or other
22 provisions, filed, furnished, carried, or made by the employer,
23 as the case may be, shall be subject to the approval of the
24 Commission.

25 Deposits under escrow agreements shall be cash, negotiable
26 United States government bonds or negotiable general

1 obligation bonds of the State of Illinois. Such cash or bonds
2 shall be deposited in escrow with any State or National Bank or
3 Trust Company having trust authority in the State of Illinois.

4 Upon the approval of the sworn application and financial
5 statement, security, indemnity or bond or amount of insurance,
6 filed, furnished or carried, as the case may be, the Commission
7 shall send to the employer written notice of its approval
8 thereof. The certificate of compliance by the employer with the
9 provisions of subparagraphs (2) and (3) of paragraph (a) of
10 this Section shall be delivered by the insurance carrier to the
11 Illinois Workers' Compensation Commission within five days
12 after the effective date of the policy so certified. The
13 insurance so certified shall cover all compensation liability
14 occurring during the time that the insurance is in effect and
15 no further certificate need be filed in case such insurance is
16 renewed, extended or otherwise continued by such carrier. The
17 insurance so certified shall not be cancelled or in the event
18 that such insurance is not renewed, extended or otherwise
19 continued, such insurance shall not be terminated until at
20 least 10 days after receipt by the Illinois Workers'
21 Compensation Commission of notice of the cancellation or
22 termination of said insurance; provided, however, that if the
23 employer has secured insurance from another insurance carrier,
24 or has otherwise secured the payment of compensation in
25 accordance with this Section, and such insurance or other
26 security becomes effective prior to the expiration of the 10

1 days, cancellation or termination may, at the option of the
2 insurance carrier indicated in such notice, be effective as of
3 the effective date of such other insurance or security.

4 (c) Whenever the Commission shall find that any
5 corporation, company, association, aggregation of individuals,
6 reciprocal or interinsurers exchange, or other insurer
7 effecting workers' compensation insurance in this State shall
8 be insolvent, financially unsound, or unable to fully meet all
9 payments and liabilities assumed or to be assumed for
10 compensation insurance in this State, or shall practice a
11 policy of delay or unfairness toward employees in the
12 adjustment, settlement, or payment of benefits due such
13 employees, the Commission may after reasonable notice and
14 hearing order and direct that such corporation, company,
15 association, aggregation of individuals, reciprocal or
16 interinsurers exchange, or insurer, shall from and after a date
17 fixed in such order discontinue the writing of any such
18 workers' compensation insurance in this State. Subject to such
19 modification of the order as the Commission may later make on
20 review of the order, as herein provided, it shall thereupon be
21 unlawful for any such corporation, company, association,
22 aggregation of individuals, reciprocal or interinsurers
23 exchange, or insurer to effect any workers' compensation
24 insurance in this State. A copy of the order shall be served
25 upon the Director of Insurance by registered mail. Whenever the
26 Commission finds that any service or adjustment company used or

1 employed by a self-insured employer or by an insurance carrier
2 to process, adjust, investigate, compromise or otherwise
3 handle claims under this Act, has practiced or is practicing a
4 policy of delay or unfairness toward employees in the
5 adjustment, settlement or payment of benefits due such
6 employees, the Commission may after reasonable notice and
7 hearing order and direct that such service or adjustment
8 company shall from and after a date fixed in such order be
9 prohibited from processing, adjusting, investigating,
10 compromising or otherwise handling claims under this Act.

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

22 All orders made by the Commission under this Section shall
23 be subject to review by the courts, said review to be taken in
24 the same manner and within the same time as provided by Section
25 19 of this Act for review of awards and decisions of the
26 Commission, upon the party seeking the review filing with the

1 clerk of the court to which said review is taken a bond in an
2 amount to be fixed and approved by the court to which the
3 review is taken, conditioned upon the payment of all
4 compensation awarded against the person taking said review
5 pending a decision thereof and further conditioned upon such
6 other obligations as the court may impose. Upon the review the
7 Circuit Court shall have power to review all questions of fact
8 as well as of law. The penalty hereinafter provided for in this
9 paragraph shall not attach and shall not begin to run until the
10 final determination of the order of the Commission.

11 (d) Whenever a panel of 3 Commissioners comprised of one
12 member of the employing class, one member of the employee
13 class, and one member not identified with either the employing
14 or employee class, with due process and after a hearing,
15 determines an employer has knowingly failed to provide coverage
16 as required by paragraph (a) of this Section, the failure shall
17 be deemed an immediate serious danger to public health, safety,
18 and welfare sufficient to justify service by the Commission of
19 a work-stop order on such employer, requiring the cessation of
20 all business operations of such employer at the place of
21 employment or job site. Any law enforcement agency in the State
22 shall, at the request of the Commission, render any assistance
23 necessary to carry out the provisions of this Section,
24 including, but not limited to, preventing any employee of such
25 employer from remaining at a place of employment or job site
26 after a work-stop order has taken effect. Any work-stop order

1 shall be lifted upon proof of insurance as required by this
2 Act. Any orders under this Section are appealable under Section
3 19(f) to the Circuit Court.

4 Any individual employer, corporate officer or director of a
5 corporate employer, partner of an employer partnership, or
6 member of an employer limited liability company who knowingly
7 fails to provide coverage as required by paragraph (a) of this
8 Section is guilty of a Class 4 felony. This provision shall not
9 apply to any corporate officer or director of any
10 publicly-owned corporation. Each day's violation constitutes a
11 separate offense. The State's Attorney of the county in which
12 the violation occurred, or the Attorney General, shall bring
13 such actions in the name of the People of the State of
14 Illinois, or may, in addition to other remedies provided in
15 this Section, bring an action for an injunction to restrain the
16 violation or to enjoin the operation of any such employer.

17 Any individual employer, corporate officer or director of a
18 corporate employer, partner of an employer partnership, or
19 member of an employer limited liability company who negligently
20 fails to provide coverage as required by paragraph (a) of this
21 Section is guilty of a Class A misdemeanor. This provision
22 shall not apply to any corporate officer or director of any
23 publicly-owned corporation. Each day's violation constitutes a
24 separate offense. The State's Attorney of the county in which
25 the violation occurred, or the Attorney General, shall bring
26 such actions in the name of the People of the State of

1 Illinois.

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

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

24 An employee of an uninsured employer, or the employee's
25 dependents in case death ensued, may, instead of proceeding
26 against the employer in a civil action in court, file an

1 application for adjustment of claim with the Commission in
2 accordance with the provisions of this Act and the Commission
3 shall hear and determine the application for adjustment of
4 claim in the manner in which other claims are heard and
5 determined before the Commission.

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

8 An investigator with the Illinois Workers' Compensation
9 Commission Insurance Compliance Division may issue a citation
10 to any employer that is not in compliance with its obligation
11 to have workers' compensation insurance under this Act. The
12 amount of the fine shall be based on the period of time the
13 employer was in non-compliance, but shall be no less than \$500,
14 and shall not exceed \$2,500. An employer that has been issued a
15 citation shall pay the fine to the Commission and provide to
16 the Commission proof that it obtained the required workers'
17 compensation insurance within 10 days after the citation was
18 issued. This Section does not affect any other obligations this
19 Act imposes on employers.

20 Upon a finding by the Commission, after reasonable notice
21 and hearing, of the knowing and wilful failure or refusal of an
22 employer to comply with any of the provisions of paragraph (a)
23 of this Section, ~~or~~ the failure or refusal of an employer,
24 service or adjustment company, or an insurance carrier to
25 comply with any order of the Illinois Workers' Compensation
26 Commission pursuant to paragraph (c) of this Section

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

1 authority to prosecute all proceedings to enforce the civil and
2 administrative provisions of this Section before the
3 Commission. The Commission shall promulgate procedural rules
4 for enforcing this Section.

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

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

1 Penalties and fines collected pursuant to this paragraph
2 (d) shall be deposited upon receipt into a special fund which
3 shall be designated the Injured Workers' Benefit Fund, of which
4 the State Treasurer is ex-officio custodian, such special fund
5 to be held and disbursed in accordance with this paragraph (d)
6 for the purposes hereinafter stated in this paragraph (d), upon
7 the final order of the Commission. The Injured Workers' Benefit
8 Fund shall be deposited the same as are State funds and any
9 interest accruing thereon shall be added thereto every 6
10 months. The Injured Workers' Benefit Fund is subject to audit
11 the same as State funds and accounts and is protected by the
12 general bond given by the State Treasurer. The Injured Workers'
13 Benefit Fund is considered always appropriated for the purposes
14 of disbursements as provided in this paragraph, and shall be
15 paid out and disbursed as herein provided and shall not at any
16 time be appropriated or diverted to any other use or purpose.
17 Moneys in the Injured Workers' Benefit Fund shall be used only
18 for payment of workers' compensation benefits for injured
19 employees when the employer has failed to provide coverage as
20 determined under this paragraph (d) and has failed to pay the
21 benefits due to the injured employee. The Commission shall have
22 the right to obtain reimbursement from the employer for
23 compensation obligations paid by the Injured Workers' Benefit
24 Fund. Any such amounts obtained shall be deposited by the
25 Commission into the Injured Workers' Benefit Fund. If an
26 injured employee or his or her personal representative receives

1 payment from the Injured Workers' Benefit Fund, the State of
2 Illinois has the same rights under paragraph (b) of Section 5
3 that the employer who failed to pay the benefits due to the
4 injured employee would have had if the employer had paid those
5 benefits, and any moneys recovered by the State as a result of
6 the State's exercise of its rights under paragraph (b) of
7 Section 5 shall be deposited into the Injured Workers' Benefit
8 Fund. The custodian of the Injured Workers' Benefit Fund shall
9 be joined with the employer as a party respondent in the
10 application for adjustment of claim. After July 1, 2006, the
11 Commission shall make disbursements from the Fund once each
12 year to each eligible claimant. An eligible claimant is an
13 injured worker who has within the previous fiscal year obtained
14 a final award for benefits from the Commission against the
15 employer and the Injured Workers' Benefit Fund and has notified
16 the Commission within 90 days of receipt of such award. Within
17 a reasonable time after the end of each fiscal year, the
18 Commission shall make a disbursement to each eligible claimant.
19 At the time of disbursement, if there are insufficient moneys
20 in the Fund to pay all claims, each eligible claimant shall
21 receive a pro-rata share, as determined by the Commission, of
22 the available moneys in the Fund for that year. Payment from
23 the Injured Workers' Benefit Fund to an eligible claimant
24 pursuant to this provision shall discharge the obligations of
25 the Injured Workers' Benefit Fund regarding the award entered
26 by the Commission.

1 (e) This Act shall not affect or disturb the continuance of
2 any existing insurance, mutual aid, benefit, or relief
3 association or department, whether maintained in whole or in
4 part by the employer or whether maintained by the employees,
5 the payment of benefits of such association or department being
6 guaranteed by the employer or by some person, firm or
7 corporation for him or her: Provided, the employer contributes
8 to such association or department an amount not less than the
9 full compensation herein provided, exclusive of the cost of the
10 maintenance of such association or department and without any
11 expense to the employee. This Act shall not prevent the
12 organization and maintaining under the insurance laws of this
13 State of any benefit or insurance company for the purpose of
14 insuring against the compensation provided for in this Act, the
15 expense of which is maintained by the employer. This Act shall
16 not prevent the organization or maintaining under the insurance
17 laws of this State of any voluntary mutual aid, benefit or
18 relief association among employees for the payment of
19 additional accident or sick benefits.

20 (f) No existing insurance, mutual aid, benefit or relief
21 association or department shall, by reason of anything herein
22 contained, be authorized to discontinue its operation without
23 first discharging its obligations to any and all persons
24 carrying insurance in the same or entitled to relief or
25 benefits therein.

26 (g) Any contract, oral, written or implied, of employment

1 providing for relief benefit, or insurance or any other device
2 whereby the employee is required to pay any premium or premiums
3 for insurance against the compensation provided for in this Act
4 shall be null and void. Any employer withholding from the wages
5 of any employee any amount for the purpose of paying any such
6 premium shall be guilty of a Class B misdemeanor.

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

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

25 It shall be unlawful for any employer, individually or
26 through any insurance company or service or adjustment company,

1 to discharge or to threaten to discharge, or to refuse to
2 rehire or recall to active service in a suitable capacity an
3 employee because of the exercise of his or her rights or
4 remedies granted to him or her by this Act.

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

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

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

1 promptly notify the employer of his decision within 15 days of
2 receipt of the recommendation of the Board.

3 If an employer is denied a renewal of self-insurance
4 privileges pursuant to application it shall retain said
5 privilege for 120 days after receipt of a notice of
6 cancellation of the privilege from the Chairman of the
7 Commission.

8 All orders made by the Chairman under this Section shall be
9 subject to review by the courts, such review to be taken in the
10 same manner and within the same time as provided by subsection
11 (f) of Section 19 of this Act for review of awards and
12 decisions of the Commission, upon the party seeking the review
13 filing with the clerk of the court to which such review is
14 taken a bond in an amount to be fixed and approved by the court
15 to which the review is taken, conditioned upon the payment of
16 all compensation awarded against the person taking such review
17 pending a decision thereof and further conditioned upon such
18 other obligations as the court may impose. Upon the review the
19 Circuit Court shall have power to review all questions of fact
20 as well as of law.

21 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
22 94-839, eff. 6-6-06.)

23 (820 ILCS 305/4b new)

24 Sec. 4b. Collective bargaining pilot program.

25 (a) The Director of the Department of Labor shall adopt a

1 selection process to designate 2 international, national, or
2 statewide organizations made up of affiliates who are the
3 exclusive representatives of construction employer employees
4 recognized or certified pursuant to the National Labor
5 Relations Act to participate in the collective bargaining pilot
6 program provided for in this Section.

7 (a-5) For purposes of this Section, the term "construction
8 employer" means any person or legal entity or group of persons
9 or legal entities engaging in or planning to engage in any
10 constructing, altering, reconstructing, repairing,
11 rehabilitating, refinishing, refurbishing, remodeling,
12 remediating, renovating, custom fabricating, maintaining,
13 landscaping, improving, wrecking, painting, decorating,
14 demolishing, and adding to or subtracting from any building,
15 structure, airport facility, highway, roadway, street, alley,
16 bridge, sewer, drain, ditch, sewage disposal plant, water
17 works, parking facility, railroad, excavation or other
18 project, structure, development, real property or improvement,
19 or to do any part thereof, whether or not the performance of
20 the work herein described involves the addition to, or
21 fabrication into, any project, structure, development, real
22 property or improvement herein described, and shall also
23 include any moving of construction-related materials on the job
24 site or to or from the job site.

25 For purposes of this Section, "labor organization" means an
26 affiliate of an international, national, or statewide

1 organization that has been selected by the Department of Labor
2 to participate in the collective bargaining pilot program as
3 provided for in this Section.

4 (b) Upon appropriate filing, the Commission and the courts
5 of this State shall recognize as valid and binding any
6 provision in a collective bargaining agreement between any
7 construction employer or group of construction employers and a
8 labor organization, which contains certain obligations and
9 procedures relating to workers' compensation. This agreement
10 must be limited to, but need not include, all of the following:

11 (1) An alternative dispute resolution ("ADR") system
12 to supplement, modify or replace the procedural or dispute
13 resolution provisions of this Act. The system may include
14 mediation, arbitration, or other dispute resolution
15 proceedings, the results of which shall be final and
16 binding upon the parties;

17 (2) An agreed list of medical treatment providers that
18 may be the exclusive source of all medical and related
19 treatment provided under this Act;

20 (3) The use of a limited list of impartial physicians
21 to conduct independent medical examinations;

22 (4) The creation of a light duty, modified job, or
23 return to work program;

24 (5) The use of a limited list of individuals and
25 companies for the establishment of vocational
26 rehabilitation or retraining programs that may be the

1 exclusive source of rehabilitation and retraining services
2 provided under this Act; or

3 (6) The establishment of joint labor management safety
4 committees and safety procedures.

5 (c) Void agreements. Nothing in this Section shall be
6 construed to authorize any provision in a collective bargaining
7 agreement that diminishes or increases a construction
8 employer's entitlements under this Act or an employee's
9 entitlement to benefits as otherwise set forth in this Act. For
10 the purposes of this Section, the procedural rights and dispute
11 resolution agreements under subparagraphs (1) through (6) of
12 subsection (b) of this Section are not agreements which
13 diminish or increase a construction employer's entitlements
14 under this Act or an employee's entitlement to benefits under
15 this Act. Any agreement that diminishes or increases a
16 construction employer's entitlements under this Act or an
17 employee's entitlement to benefits as set forth in this Act is
18 null and void. Nothing in this Section shall be construed as
19 creating a mandatory subject of bargaining.

20 (d) Form of agreement. The agreement reached herein shall
21 demonstrate that:

22 (1) The construction employer or group of construction
23 employers and the recognized or certified exclusive
24 bargaining representative have entered into a binding
25 collective bargaining agreement adopting the ADR plan for a
26 period of no less than 2 years;

1 (2) Contractual agreements have been reached with the
2 construction employer's workers' compensation carrier,
3 group self-insurance fund, and any excess carriers
4 relating to the ADR plan;

5 (3) Procedures have been established by which claims
6 for benefits by employees will be lodged, administered, and
7 decided while affording procedural due process;

8 (4) The plan has designated forms upon which claims for
9 benefits shall be made;

10 (5) The system and means by which the construction
11 employer's obligation to furnish medical services and
12 vocational rehabilitation and retraining benefits shall be
13 fulfilled and provider selected;

14 (6) The method by which mediators or arbitrators are to
15 be selected.

16 (e) Filing. A copy of the agreement and a statement
17 identifying the parties to the agreement shall be filed with
18 the Commission. Within 21 days of receipt of an agreement, the
19 Chairman shall review the agreement for compliance with this
20 Section and notify the parties of its acceptance or notify the
21 parties of any additional information required or any
22 recommended modification that would bring the agreement into
23 compliance. If no additional information or modification is
24 required, the agreement shall be valid and binding from the
25 time the parties receive acceptance of the agreement from the
26 Chairman. Upon receipt of any requested information or

1 modification, the Chairman shall notify the parties within 21
2 days whether the agreement is in compliance with this Section.
3 All rejections made by the Chairman under this subsection shall
4 be subject to review by the courts of this State, said review
5 to be taken in the same manner and within the same time as
6 provided by Section 19 of this Act for review of awards and
7 decisions of the Commission. Upon the review, the Circuit Court
8 shall have power to review all questions of fact as well as of
9 law.

10 (f) Notice to insurance carrier. If the construction
11 employer is insured under this Act, it shall provide notice to
12 and obtain consent from its insurance carrier, in the manner
13 provided in the insurance contract, of its intent to enter into
14 an agreement as provided in this Section with its employees.

15 (g) Employees' claims for workers' compensation benefits.

16 (1) Claims for benefits shall be filed with the ADR
17 plan administrator within those periods of limitation
18 prescribed by this Act. Within 10 days of the filing of a
19 claim, the ADR plan administrator shall serve a copy of the
20 claim application upon the Commission, which shall
21 maintain records of all ADR claims and resolutions.

22 (2) Settlements of claims presented to the ADR plan
23 administrator shall be evidenced by a settlement
24 agreement. All such settlements shall be filed with the ADR
25 plan administrator, who within 10 days shall forward a copy
26 to the Commission for recording.

1 (3) Upon assignment of claims, unless settled,
2 mediators and arbitrators shall render final orders
3 containing essential findings of fact, rulings of law and
4 referring to other matters as pertinent to the questions at
5 issue. The ADR plan administrator shall maintain a record
6 of the proceedings.

7 (h) Reporting requirements. Annually, each ADR plan
8 administrator shall submit a report to the Commission
9 containing the following information:

10 (1) The number of employees within the ADR program;

11 (2) The number of occurrences of work-related injuries
12 or diseases;

13 (3) The breakdown within the ADR program of injuries
14 and diseases treated;

15 (4) The total amount of disability benefits paid within
16 the ADR program;

17 (5) The total medical treatment cost paid within the
18 ADR program;

19 (6) The number of claims filed within the ADR program;
20 and

21 (7) The disposition of all claims.

22 (820 ILCS 305/8) (from Ch. 48, par. 138.8)
23 Sec. 8. The amount of compensation which shall be paid to
24 the employee for an accidental injury not resulting in death
25 is:

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

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

25 Upon agreement between the employer and the employees, or
26 the employees' exclusive representative, and subject to the

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

22 Any vocational rehabilitation counselors who provide
23 service under this Act shall have appropriate certifications
24 which designate the counselor as qualified to render opinions
25 relating to vocational rehabilitation. Vocational
26 rehabilitation may include, but is not limited to, counseling

1 for job searches, supervising a job search program, and
2 vocational retraining including education at an accredited
3 learning institution. The employee or employer may petition to
4 the Commission to decide disputes relating to vocational
5 rehabilitation and the Commission shall resolve any such
6 dispute, including payment of the vocational rehabilitation
7 program by the employer.

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

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

24 Every hospital, physician, surgeon or other person
25 rendering treatment or services in accordance with the
26 provisions of this Section shall upon written request furnish

1 full and complete reports thereof to, and permit their records
2 to be copied by, the employer, the employee or his dependents,
3 as the case may be, or any other party to any proceeding for
4 compensation before the Commission, or their attorneys.

5 Notwithstanding the foregoing, the employer's liability to
6 pay for such medical services selected by an ~~the~~ employee of an
7 employer without an approved preferred provider program
8 pursuant to Section 8.1a on the date the employee sustained his
9 or her accidental injuries shall be 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 (c) For any serious and permanent disfigurement to the
8 hand, head, face, neck, arm, leg below the knee or the chest
9 above the axillary line, the employee is entitled to
10 compensation for such disfigurement, the amount determined by
11 agreement at any time or by arbitration under this Act, at a
12 hearing not less than 6 months after the date of the accidental
13 injury, which amount shall not exceed 150 weeks (if the
14 accidental injury occurs on or after the effective date of this
15 amendatory Act of the 94th General Assembly but before February
16 1, 2006) or 162 weeks (if the accidental injury occurs on or
17 after February 1, 2006) at the applicable rate provided in
18 subparagraph 2.1 of paragraph (b) of this Section.

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

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

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

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

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

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

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

16 1. Thumb-

17 70 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 76 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 2. First, or index finger-

23 40 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 43 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 3. Second, or middle finger-

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

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

8 4. Third, or ring finger-

9 25 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 27 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 5. Fourth, or little finger-

15 20 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 22 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 6. Great toe-

21 35 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 38 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 7. Each toe other than great toe-

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

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

15 9. Hand-

16 190 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.

19 205 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 190 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 97th General Assembly and if the accidental injury
24 involves carpal tunnel syndrome due to repetitive or
25 cumulative trauma, in which case the permanent partial
26 disability shall not exceed 15% loss of use of the

1 hand, except for cause shown by clear and convincing
2 evidence and in which case the award shall not exceed
3 30% loss of use of the hand.

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

10 10. Arm-

11 235 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 253 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 Where an accidental injury results in the amputation of
17 an arm below the elbow, such injury shall be compensated as
18 a loss of an arm. Where an accidental injury results in the
19 amputation of an arm above the elbow, compensation for an
20 additional 15 weeks (if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the 94th
22 General Assembly but before February 1, 2006) or an
23 additional 17 weeks (if the accidental injury occurs on or
24 after February 1, 2006) shall be paid, except where the
25 accidental injury results in the amputation of an arm at
26 the shoulder joint, or so close to shoulder joint that an

1 artificial arm cannot be used, or results in the
2 disarticulation of an arm at the shoulder joint, in which
3 case compensation for an additional 65 weeks (if the
4 accidental injury occurs on or after the effective date of
5 this amendatory Act of the 94th General Assembly but before
6 February 1, 2006) or an additional 70 weeks (if the
7 accidental injury occurs on or after February 1, 2006)
8 shall be paid.

9 11. Foot-

10 155 weeks if the accidental injury occurs on or
11 after the effective date of this amendatory Act of the
12 94th General Assembly but before February 1, 2006.

13 167 weeks if the accidental injury occurs on or
14 after February 1, 2006.

15 12. Leg-

16 200 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.

19 215 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 Where an accidental injury results in the amputation of
22 a leg below the knee, such injury shall be compensated as
23 loss of a leg. Where an accidental injury results in the
24 amputation of a leg above the knee, compensation for an
25 additional 25 weeks (if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the 94th

1 General Assembly but before February 1, 2006) or an
2 additional 27 weeks (if the accidental injury occurs on or
3 after February 1, 2006) shall be paid, except where the
4 accidental injury results in the amputation of a leg at the
5 hip joint, or so close to the hip joint that an artificial
6 leg cannot be used, or results in the disarticulation of a
7 leg at the hip joint, in which case compensation for an
8 additional 75 weeks (if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the 94th
10 General Assembly but before February 1, 2006) or an
11 additional 81 weeks (if the accidental injury occurs on or
12 after February 1, 2006) shall be paid.

13 13. Eye-

14 150 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.

17 162 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the enucleation
20 of an eye, compensation for an additional 10 weeks (if the
21 accidental injury occurs on or after the effective date of
22 this amendatory Act of the 94th General Assembly but before
23 February 1, 2006) or an additional 11 weeks (if the
24 accidental injury occurs on or after February 1, 2006)
25 shall be paid.

26 14. Loss of hearing of one ear-

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

6 Total and permanent loss of hearing of both ears-

7 200 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.

10 215 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 15. Testicle-

13 50 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 54 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 Both testicles-

19 150 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.

22 162 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 16. For the permanent partial loss of use of a member
25 or sight of an eye, or hearing of an ear, compensation
26 during that proportion of the number of weeks in the

1 foregoing schedule provided for the loss of such member or
2 sight of an eye, or hearing of an ear, which the partial
3 loss of use thereof bears to the total loss of use of such
4 member, or sight of eye, or hearing of an ear.

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

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

26 (c) In measuring hearing impairment, the lowest

1 measured losses in each of the 3 frequencies shall be
 2 added together and divided by 3 to determine the
 3 average decibel loss. For every decibel of loss
 4 exceeding 30 decibels an allowance of 1.82% shall be
 5 made up to the maximum of 100% which is reached at 85
 6 decibels.

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

12 (e) No consideration shall be given to the question
 13 of whether or not the ability of an employee to
 14 understand speech is improved by the use of a hearing
 15 aid.

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

21 Sound Level DBA

22	Slow Response	Hours Per Day
23	90	8
24	92	6
25	95	4
26	97	3

1	100	2
2	102	1-1/2
3	105	1
4	110	1/2
5	115	1/4

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

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

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

1 Any employee who has previously suffered the loss or
2 permanent and complete loss of the use of any of such
3 members, and in a subsequent independent accident loses
4 another or suffers the permanent and complete loss of the
5 use of any one of such members the employer for whom the
6 injured employee is working at the time of the last
7 independent accident is liable to pay compensation only for
8 the loss or permanent and complete loss of the use of the
9 member occasioned by the last independent accident.

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

18 Beginning July 1, 1980, and every 6 months thereafter, the
19 Commission shall examine the Second Injury Fund and when, after
20 deducting all advances or loans made to such Fund, the amount
21 therein is \$500,000 then the amount required to be paid by
22 employers pursuant to paragraph (f) of Section 7 shall be
23 reduced by one-half. When the Second Injury Fund reaches the
24 sum of \$600,000 then the payments shall cease entirely.
25 However, when the Second Injury Fund has been reduced to
26 \$400,000, payment of one-half of the amounts required by

1 paragraph (f) of Section 7 shall be resumed, in the manner
2 herein provided, and when the Second Injury Fund has been
3 reduced to \$300,000, payment of the full amounts required by
4 paragraph (f) of Section 7 shall be resumed, in the manner
5 herein provided. The Commission shall make the changes in
6 payment effective by general order, and the changes in payment
7 become immediately effective for all cases coming before the
8 Commission thereafter either by settlement agreement or final
9 order, irrespective of the date of the accidental injury.

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

21 (f) In case of complete disability, which renders the
22 employee wholly and permanently incapable of work, or in the
23 specific case of total and permanent disability as provided in
24 subparagraph 18 of paragraph (e) of this Section, compensation
25 shall be payable at the rate provided in subparagraph 2 of
26 paragraph (b) of this Section for life.

1 An employee entitled to benefits under paragraph (f) of
2 this Section shall also be entitled to receive from the Rate
3 Adjustment Fund provided in paragraph (f) of Section 7 of the
4 supplementary benefits provided in paragraph (g) of this
5 Section 8.

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

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

21 If an employee who had previously incurred loss or the
22 permanent and complete loss of use of one member, through the
23 loss or the permanent and complete loss of the use of one hand,
24 one arm, one foot, one leg, or one eye, incurs permanent and
25 complete disability through the loss or the permanent and
26 complete loss of the use of another member, he shall receive,

1 in addition to the compensation payable by the employer and
2 after such payments have ceased, an amount from the Second
3 Injury Fund provided for in paragraph (f) of Section 7, which,
4 together with the compensation payable from the employer in
5 whose employ he was when the last accidental injury was
6 incurred, will equal the amount payable for permanent and
7 complete disability as provided in this paragraph of this
8 Section.

9 The custodian of the Second Injury Fund provided for in
10 paragraph (f) of Section 7 shall be joined with the employer as
11 a party respondent in the application for adjustment of claim.
12 The application for adjustment of claim shall state briefly and
13 in general terms the approximate time and place and manner of
14 the loss of the first member.

15 In its award the Commission or the Arbitrator shall
16 specifically find the amount the injured employee shall be
17 weekly paid, the number of weeks compensation which shall be
18 paid by the employer, the date upon which payments begin out of
19 the Second Injury Fund provided for in paragraph (f) of Section
20 7 of this Act, the length of time the weekly payments continue,
21 the date upon which the pension payments commence and the
22 monthly amount of the payments. The Commission shall 30 days
23 after the date upon which payments out of the Second Injury
24 Fund have begun as provided in the award, and every month
25 thereafter, prepare and submit to the State Comptroller a
26 voucher for payment for all compensation accrued to that date

1 at the rate fixed by the Commission. The State Comptroller
2 shall draw a warrant to the injured employee along with a
3 receipt to be executed by the injured employee and returned to
4 the Commission. The endorsed warrant and receipt is a full and
5 complete acquittance to the Commission for the payment out of
6 the Second Injury Fund. No other appropriation or warrant is
7 necessary for payment out of the Second Injury Fund. The Second
8 Injury Fund is appropriated for the purpose of making payments
9 according to the terms of the awards.

10 As of July 1, 1980 to July 1, 1982, all claims against and
11 obligations of the Second Injury Fund shall become claims
12 against and obligations of the Rate Adjustment Fund to the
13 extent there is insufficient money in the Second Injury Fund to
14 pay such claims and obligations. In that case, all references
15 to "Second Injury Fund" in this Section shall also include the
16 Rate Adjustment Fund.

17 (g) Every award for permanent total disability entered by
18 the Commission on and after July 1, 1965 under which
19 compensation payments shall become due and payable after the
20 effective date of this amendatory Act, and every award for
21 death benefits or permanent total disability entered by the
22 Commission on and after the effective date of this amendatory
23 Act shall be subject to annual adjustments as to the amount of
24 the compensation rate therein provided. Such adjustments shall
25 first be made on July 15, 1977, and all awards made and entered
26 prior to July 1, 1975 and on July 15 of each year thereafter.

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

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

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

10 For every accident occurring on or after July 20, 2005 but
11 before the effective date of this amendatory Act of the 94th
12 General Assembly (Senate Bill 1283 of the 94th General
13 Assembly), the annual adjustments to the compensation rate in
14 awards for death benefits or permanent total disability, as
15 provided in this Act, shall be paid by the employer. The
16 adjustment shall be made by the employer on July 15 of the
17 second year next following the date of the entry of the award
18 and shall further be made on July 15 annually thereafter. If
19 during the intervening period from the date of the entry of the
20 award, or the last periodic adjustment, there shall have been
21 an increase in the State's average weekly wage in covered
22 industries under the Unemployment Insurance Act, the employer
23 shall increase the weekly compensation rate proportionately by
24 the same percentage as the percentage of increase in the
25 State's 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. In
4 the event of a decrease in such average weekly wage there shall
5 be no change in the then existing compensation rate. Such
6 increase shall be paid by the employer in the same manner and
7 at the same intervals as the payment of compensation in the
8 award. This paragraph shall not apply to cases where there is
9 disputed liability and in which a compromise lump sum
10 settlement between the employer and the injured employee, or
11 his or her dependents, as the case may be, has been duly
12 approved by the Illinois Workers' Compensation Commission.

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

20 (h) In case death occurs from any cause before the total
21 compensation to which the employee would have been entitled has
22 been paid, then in case the employee leaves any widow, widower,
23 child, parent (or any grandchild, grandparent or other lineal
24 heir or any collateral heir dependent at the time of the
25 accident upon the earnings of the employee to the extent of 50%
26 or more of total dependency) such compensation shall be paid to

1 the beneficiaries of the deceased employee and distributed as
2 provided in paragraph (g) of Section 7.

3 (h-1) In case an injured employee is under legal disability
4 at the time when any right or privilege accrues to him or her
5 under this Act, a guardian may be appointed pursuant to law,
6 and may, on behalf of such person under legal disability, claim
7 and exercise any such right or privilege with the same effect
8 as if the employee himself or herself had claimed or exercised
9 the right or privilege. No limitations of time provided by this
10 Act run so long as the employee who is under legal disability
11 is without a conservator or guardian.

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

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

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

26 (j) 1. In the event the injured employee receives benefits,

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

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

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

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

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

22 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
23 94-695, eff. 11-16-05.)

24 (820 ILCS 305/8.1a new)

25 Sec. 8.1a. Preferred provider programs. Starting on the

1 effective date of this amendatory Act of the 97th General
2 Assembly, to satisfy its liabilities under this Act for the
3 provision of medical treatment to injured employees, an
4 employer may utilize a preferred provider program approved by
5 the Illinois Department of Insurance as in compliance with
6 Sections 370k, 370l, 370m, and 370p of Article XX-1/2 of the
7 Illinois Insurance Code. For the purposes of compliance with
8 these Sections, the employee shall be considered the
9 "beneficiary" and the employer shall be considered the
10 "insured". Employers and insurers contracting directly with
11 providers or utilizing multiple preferred provider programs to
12 implement a preferred provider program providing workers'
13 compensation benefits shall be subject to the above
14 requirements of Article XX-1/2 applicable to administrators
15 with regard to such program, with the exception of Section 370l
16 of the Illinois Insurance Code.

17 (a) In addition to the above requirements of Article XX-1/2
18 of the Illinois Insurance Code, all preferred provider programs
19 under this Section shall meet the following requirements:

20 (1) The provider network shall include an adequate
21 number of occupational and non-occupational providers.

22 (2) The provider network shall include an adequate
23 number and type of physicians or other providers to treat
24 common injuries experienced by injured workers in the
25 geographic area where the employees reside.

26 (3) Medical treatment for injuries shall be readily

1 available at reasonable times to all employees. To the
2 extent feasible, all medical treatment for injuries shall
3 be readily accessible to all employees.

4 (4) Physician compensation shall not be structured in
5 order to achieve the goal of inappropriately reducing,
6 delaying, or denying medical treatment or restricting
7 access to medical treatment.

8 (5) Before entering into any agreement under this
9 Section, a program shall establish terms and conditions
10 that must be met by noninstitutional providers wishing to
11 enter into an agreement with the program. These terms and
12 conditions may not discriminate unreasonably against or
13 among noninstitutional providers. Neither difference in
14 prices among noninstitutional providers produced by a
15 process of individual negotiation nor price differences
16 among other noninstitutional providers in different
17 geographical areas or different specialties constitutes
18 unreasonable discrimination.

19 (b) The administrator of any preferred provider program
20 under this Act that uses economic evaluation shall file with
21 the Director of Insurance a description of any policies and
22 procedures related to economic evaluation utilized by the
23 program. The filing shall describe how these policies and
24 procedures are used in utilization review, peer review,
25 incentive and penalty programs, and in provider retention and
26 termination decisions. The Director of Insurance may deny

1 approval of any preferred provider program that uses any policy
2 or procedure of economic evaluation to inappropriately reduce,
3 delay or deny medical treatment, or to restrict access to
4 medical treatment. Evaluation of providers based upon
5 objective medical quality and patient outcome measurements,
6 appropriate use of best clinical practices and evidence based
7 medicine, and use of health information technology shall be
8 permitted. If approved, the employer shall provide a copy of
9 the filing to all participating providers.

10 (1) The Director of the Department of Insurance shall
11 make each administrator's filing available to the public
12 upon request. The Director of the Department of Insurance
13 may not publicly disclose any information submitted
14 pursuant to this Section that is determined by the Director
15 of the Department of Insurance to be confidential,
16 proprietary, or trade secret information pursuant to State
17 or federal law.

18 (2) For the purposes of this subsection (b), "economic
19 evaluation" shall mean any evaluation of a particular
20 physician, provider, medical group, or individual practice
21 association based in whole or in part on the economic costs
22 or utilization of services associated with medical care
23 provided or authorized by the physician, provider, medical
24 group, or individual practice association. Economic
25 evaluation shall not include negotiated rates with a
26 provider.

1 (c) Except for the provisions of subsection (a)(4) of
2 Section 8 and for injuries occurring on or after the effective
3 date of this amendatory Act of the 97th General Assembly, an
4 employee of an employer utilizing a preferred provider program
5 shall only be allowed to select a participating network
6 provider from the network. An employer shall be responsible
7 for: (i) all first aid and emergency treatment; (ii) all
8 medical, surgical, and hospital services provided by the
9 participating network provider initially selected by the
10 employee or by any other participating network provider
11 recommended by the initial participating network provider or
12 any subsequent participating network provider in the chain of
13 referrals from the initial participating network provider; and
14 (iii) all medical, surgical, and hospital services provided by
15 the participating network provider subsequently chosen by the
16 employee or by any other participating network provider
17 recommended by the subsequent participating network provider
18 or any subsequent participating network provider in the chain
19 of referrals from the second participating network provider. An
20 employer shall not be liable for services determined by the
21 Commission not to be compensable. An employer shall not be
22 liable for medical services provided by a non-authorized
23 provider when proper notice is provided to the injured worker.

24 (1) When the injured employee notifies the employer of
25 the injury or files a claim for workers' compensation with
26 the employer, the employer shall notify the employee of his

1 or her right to be treated by a physician of his or her
2 choice from the preferred provider network established
3 pursuant to this Section, and the method by which the list
4 of participating network providers may be accessed by the
5 employee, except as provided in subsection (a)(4) of
6 Section 8.

7 (2) Consistent with Article XX-1/2 of the Illinois
8 Insurance Code, treatment by a specialist who is not a
9 member of the preferred provider network shall be permitted
10 on a case-by-case basis if the medical provider network
11 does not contain a physician who can provide the approved
12 treatment, and if the employee has complied with any
13 pre-authorization requirements of the preferred provider
14 network. Consent for the employee to visit an
15 out-of-network provider may not be unreasonably withheld.
16 When a non-network provider is authorized pursuant to this
17 subparagraph (2), the non-network provider shall not hold
18 an employee liable for costs except as provided in
19 subsection (e) of Section 8.2.

20 (3) The Director shall not approve, and may withdraw
21 prior approval of, a preferred provider program that fails
22 to provide an injured employee with sufficient access to
23 necessary treating physicians, surgeons, and specialists.

24 (d) The Director of the Department of Insurance may
25 promulgate such rules as are necessary to carry out the
26 provisions of this Section relating to approval and regulation

1 of preferred provider programs.

2 (820 ILCS 305/8.1b new)

3 Sec. 8.1b. Determination of permanent partial disability.

4 For accidental injuries that occur on or after September 1,
5 2011, permanent partial disability shall be established using
6 the following criteria:

7 (1) A physician licensed to practice medicine in all of
8 its branches shall report the level of impairment in
9 writing. The report shall include an evaluation of
10 medically defined and professionally appropriate
11 measurements of impairment that include, but are not
12 limited to: loss of range of motion, loss of strength, and
13 measured atrophy of tissue mass consistent with the injury.
14 The most current edition of the American Medical
15 Association's "Guides to the Evaluation of Permanent
16 Impairment" shall be used in determining the level of
17 impairment.

18 (2) In determining the level of disability, the
19 Commission shall base its determination on the reported
20 level of impairment and shall consider the following
21 additional relevant factors: (i) the occupation of the
22 injured employee, (ii) the age of the employee at the time
23 of the injury; and (iii) the employee's future earning
24 capacity. In determining the level of disability, the
25 relevance and weight of any factors used in addition to the

1 level of impairment as reported by the physician must be
2 explained in a written order.

3 (820 ILCS 305/8.2)

4 Sec. 8.2. Fee schedule.

5 (a) Except as provided for in subsection (c), for
6 procedures, treatments, or services covered under this Act and
7 rendered or to be rendered on and after February 1, 2006, the
8 maximum allowable payment shall be 90% of the 80th percentile
9 of charges and fees as determined by the Commission utilizing
10 information provided by employers' and insurers' national
11 databases, with a minimum of 12,000,000 Illinois line item
12 charges and fees comprised of health care provider and hospital
13 charges and fees as of August 1, 2004 but not earlier than
14 August 1, 2002. These charges and fees are provider billed
15 amounts and shall not include discounted charges. The 80th
16 percentile is the point on an ordered data set from low to high
17 such that 80% of the cases are below or equal to that point and
18 at most 20% are above or equal to that point. The Commission
19 shall adjust these historical charges and fees as of August 1,
20 2004 by the Consumer Price Index-U for the period August 1,
21 2004 through September 30, 2005. The Commission shall establish
22 fee schedules for procedures, treatments, or services for
23 hospital inpatient, hospital outpatient, emergency room and
24 trauma, ambulatory surgical treatment centers, and
25 professional services. These charges and fees shall be

1 designated by geozip or any smaller geographic unit. The data
2 shall in no way identify or tend to identify any patient,
3 employer, or health care provider. As used in this Section,
4 "geozip" means a three-digit zip code based on data
5 similarities, geographical similarities, and frequencies. A
6 geozip does not cross state boundaries. As used in this
7 Section, "three-digit zip code" means a geographic area in
8 which all zip codes have the same first 3 digits. If a geozip
9 does not have the necessary number of charges and fees to
10 calculate a valid percentile for a specific procedure,
11 treatment, or service, the Commission may combine data from the
12 geozip with up to 4 other geozips that are demographically and
13 economically similar and exhibit similarities in data and
14 frequencies until the Commission reaches 9 charges or fees for
15 that specific procedure, treatment, or service. In cases where
16 the compiled data contains less than 9 charges or fees for a
17 procedure, treatment, or service, reimbursement shall occur at
18 76% of charges and fees as determined by the Commission in a
19 manner consistent with the provisions of this paragraph.
20 Providers of out-of-state procedures, treatments, services,
21 products, or supplies shall be reimbursed at the lesser of that
22 state's fee schedule amount or the fee schedule amount for the
23 region in which the employee resides. If no fee schedule exists
24 in that state, the provider shall be reimbursed at the lesser
25 of the actual charge or the fee schedule amount for the region
26 in which the employee resides. ~~The Commission has the authority~~

1 ~~to set the maximum allowable payment to providers of~~
2 ~~out-of-state procedures, treatments, or services covered under~~
3 ~~this Act in a manner consistent with this Section.~~ Not later
4 than September 30 in 2006 and each year thereafter, the
5 Commission shall automatically increase or decrease the
6 maximum allowable payment for a procedure, treatment, or
7 service established and in effect on January 1 of that year by
8 the percentage change in the Consumer Price Index-U for the 12
9 month period ending August 31 of that year. The increase or
10 decrease shall become effective on January 1 of the following
11 year. As used in this Section, "Consumer Price Index-U" means
12 the index published by the Bureau of Labor Statistics of the
13 U.S. Department of Labor, that measures the average change in
14 prices of all goods and services purchased by all urban
15 consumers, U.S. city average, all items, 1982-84=100.

16 (a-1) Notwithstanding the provisions of subsection (a) and
17 unless otherwise indicated, the following provisions shall
18 apply to the medical fee schedule starting on September 1,
19 2011:

20 (1) The Commission shall establish and maintain fee
21 schedules for procedures, treatments, products, services,
22 or supplies for hospital inpatient, hospital outpatient,
23 emergency room, ambulatory surgical treatment centers,
24 accredited ambulatory surgical treatment facilities,
25 prescriptions filled and dispensed outside of a licensed
26 pharmacy, dental services, and professional services. This

1 fee schedule shall be based on the fee schedule amounts
2 already established by the Commission pursuant to
3 subsection (a) of this Section. However, starting on
4 January 1, 2012, these fee schedule amounts shall be
5 grouped into regions consistent with nationally recognized
6 reimbursement zip codes in Illinois and shall represent the
7 average amount for a procedure, treatment, or service for
8 all the geozips reorganized into the new region.

9 (2) If a geozip, as defined in subsection (a) of this
10 Section, overlaps into one or more of the regions set forth
11 in this Section, then the Commission shall average or
12 repeat the charges and fees in a geozip in order to
13 designate charges and fees for each region.

14 (3) In cases where the compiled data contains less than
15 9 charges or fees for a procedure, treatment, product,
16 supply, or service or where the fee schedule amount cannot
17 be determined by the non-discounted charge data,
18 non-Medicare relative values and conversion factors
19 derived from established fee schedule amounts, coding
20 crosswalks, or other data as determined by the Commission,
21 reimbursement shall occur at 76% of charges and fees until
22 September 1, 2011 and 60.8% of charges and fees thereafter
23 as determined by the Commission in a manner consistent with
24 the provisions of this paragraph.

25 (4) To establish additional fee schedule amounts, the
26 Commission shall utilize provider non-discounted charge

1 data, non-Medicare relative values and conversion factors
2 derived from established fee schedule amounts, and coding
3 crosswalks. The Commission may establish additional fee
4 schedule amounts based on either the charge or cost of the
5 procedure, treatment, product, supply, or service.

6 (5) Implants shall be reimbursed at 25% above the net
7 manufacturer's invoice price less rebates, plus actual
8 reasonable and customary shipping charges whether or not
9 the implant charge is submitted by a provider in
10 conjunction with a bill for all other services associated
11 with the implant, submitted by a provider on a separate
12 claim form, submitted by a distributor, or submitted by the
13 manufacturer of the implant. "Implants" include the
14 following codes or any substantially similar updated code
15 as determined by the Commission: 0274
16 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
17 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
18 (investigational devices); and 0636 (drugs requiring
19 detailed coding). Non-implantable devices or supplies
20 within these codes shall be reimbursed at 65% of actual
21 charge, which is the provider's normal rates under its
22 standard chargemaster. A standard chargemaster is the
23 provider's list of charges for procedures, treatments,
24 products, supplies, or services used to bill payers in a
25 consistent manner.

26 (6) The Commission shall automatically update all

1 codes and associated rules with the version of the codes
2 and rules valid on January 1 of that year.

3 (a-2) For procedures, treatments, services, or supplies
4 covered under this Act and rendered or to be rendered on or
5 after September 1, 2011, the maximum allowable payment shall be
6 80% of the fee schedule amounts, which shall be adjusted yearly
7 by the Consumer Price Index-U, as described in subsection (a)
8 of this Section.

9 (a-3) Prescriptions filled and dispensed outside of a
10 licensed pharmacy shall be subject to a fee schedule that shall
11 not exceed the Average Wholesale Price (AWP) plus a dispensing
12 fee of \$4.18. AWP or its equivalent as registered by the
13 National Drug Code shall be set forth for that drug on that
14 date as published in Medispan.

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

23 (c) The Commission shall establish by rule a process to
24 review those medical cases or outliers that involve
25 extra-ordinary treatment to determine whether to make an
26 additional adjustment to the maximum payment within a fee

1 schedule for a procedure, treatment, or service.

2 (d) When a patient notifies a provider that the treatment,
3 procedure, or service being sought is for a work-related
4 illness or injury and furnishes the provider the name and
5 address of the responsible employer, the provider shall bill
6 the employer directly. The employer shall make payment and
7 providers shall submit bills and records in accordance with the
8 provisions of this Section.

9 (1) All payments to providers for treatment provided
10 pursuant to this Act shall be made within 30 ~~60~~ days of
11 receipt of the bills as long as the claim contains
12 substantially all the required data elements necessary to
13 adjudicate the bills.

14 (2) If the claim does not contain substantially all the
15 required data elements necessary to adjudicate the bill, or
16 the claim is denied for any other reason, in whole or in
17 part, the employer or insurer shall provide written
18 notification, explaining the basis for the denial and
19 describing any additional necessary data elements, to the
20 provider within 30 days of receipt of the bill.

21 (3) In the case of nonpayment to a provider within 30
22 ~~60~~ days of receipt of the bill which contained
23 substantially all of the required data elements necessary
24 to adjudicate the bill or nonpayment to a provider of a
25 portion of such a bill up to the lesser of the actual
26 charge or the payment level set by the Commission in the

1 fee schedule established in this Section, the bill, or
2 portion of the bill, shall incur interest at a rate of 1%
3 per month payable to the provider. Any required interest
4 payments shall be made within 30 days after payment.

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

23 (e-5) If an employer notifies a provider that the employer
24 does not consider the illness or injury to be compensable under
25 this Act, the provider may seek payment of the provider's
26 actual charges from the employee for any procedure, treatment,

1 or service rendered. Once an employee informs the provider that
2 there is an application filed with the Commission to resolve a
3 dispute over payment of such charges, the provider shall cease
4 any and all efforts to collect payment for the services that
5 are the subject of the dispute. Any statute of limitations or
6 statute of repose applicable to the provider's efforts to
7 collect payment from the employee shall be tolled from the date
8 that the employee files the application with the Commission
9 until the date that the provider is permitted to resume
10 collection efforts under the provisions of this Section.

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

1 collection efforts under the provisions of this Section.

2 (e-15) When there is a dispute over the compensability of
3 or amount of payment for a procedure, treatment, or service,
4 and a case is pending or proceeding before an Arbitrator or the
5 Commission, the provider may mail the employee reminders that
6 the employee will be responsible for payment of any procedure,
7 treatment or service rendered by the provider. The reminders
8 must state that they are not bills, to the extent practicable
9 include itemized information, and state that the employee need
10 not pay until such time as the provider is permitted to resume
11 collection efforts under this Section. The reminders shall not
12 be provided to any credit rating agency. The reminders may
13 request that the employee furnish the provider with information
14 about the proceeding under this Act, such as the file number,
15 names of parties, and status of the case. If an employee fails
16 to respond to such request for information or fails to furnish
17 the information requested within 90 days of the date of the
18 reminder, the provider is entitled to resume any and all
19 efforts to collect payment from the employee for the services
20 rendered to the employee and the employee shall be responsible
21 for payment of any outstanding bills for a procedure,
22 treatment, or service rendered by a provider.

23 (e-20) Upon a final award or judgment by an Arbitrator or
24 the Commission, or a settlement agreed to by the employer and
25 the employee, a provider may resume any and all efforts to
26 collect payment from the employee for the services rendered to

1 the employee and the employee shall be responsible for payment
2 of any outstanding bills for a procedure, treatment, or service
3 rendered by a provider as well as the interest awarded under
4 subsection (d) of this Section. In the case of a procedure,
5 treatment, or service deemed compensable, the provider shall
6 not require a payment rate, excluding the interest provisions
7 under subsection (d), greater than the lesser of the actual
8 charge or the payment level set by the Commission in the fee
9 schedule established in this Section. Payment for services
10 deemed not covered or not compensable under this Act is the
11 responsibility of the employee unless a provider and employee
12 have agreed otherwise in writing. Services not covered or not
13 compensable under this Act are not subject to the fee schedule
14 in this Section.

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

19 (g) On or before January 1, 2010 the Commission shall
20 provide to the Governor and General Assembly a report regarding
21 the implementation of the medical fee schedule and the index
22 used for annual adjustment to that schedule as described in
23 this Section.

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

1 Sec. 8.2a. Electronic claims.

2 (a) The Director of Insurance shall adopt rules to do all
3 of the following:

4 (1) Ensure that all health care providers and
5 facilities submit medical bills for payment on
6 standardized forms.

7 (2) Require acceptance by employers and insurers of
8 electronic claims for payment of medical services.

9 (3) Ensure confidentiality of medical information
10 submitted on electronic claims for payment of medical
11 services.

12 (b) To the extent feasible, standards adopted pursuant to
13 subdivision (a) shall be consistent with existing standards
14 under the federal Health Insurance Portability and
15 Accountability Act of 1996 and standards adopted under the
16 Illinois Health Information Exchange and Technology Act.

17 (c) The rules requiring employers and insurers to accept
18 electronic claims for payment of medical services shall be
19 proposed on or before January 1, 2012, and shall require all
20 employers and insurers to accept electronic claims for payment
21 of medical services on or before June 30, 2012.

22 (d) The Director of Insurance shall by rule establish
23 criteria for granting exceptions to employers, insurance
24 carriers, and health care providers who are unable to submit or
25 accept medical bills electronically.

1 (820 ILCS 305/8.7)

2 Sec. 8.7. Utilization review programs.

3 (a) As used in this Section:

4 "Utilization review" means the evaluation of proposed or
5 provided health care services to determine the appropriateness
6 of both the level of health care services medically necessary
7 and the quality of health care services provided to a patient,
8 including evaluation of their efficiency, efficacy, and
9 appropriateness of treatment, hospitalization, or office
10 visits based on medically accepted standards. The evaluation
11 must be accomplished by means of a system that identifies the
12 utilization of health care services based on standards of care
13 of or nationally recognized peer review guidelines as well as
14 nationally recognized treatment guidelines and evidence-based
15 medicine ~~evidence~~ based upon standards as provided in this Act.
16 Utilization techniques may include prospective review, second
17 opinions, concurrent review, discharge planning, peer review,
18 independent medical examinations, and retrospective review
19 (for purposes of this sentence, retrospective review shall be
20 applicable to services rendered on or after July 20, 2005).
21 Nothing in this Section applies to prospective review of
22 necessary first aid or emergency treatment.

23 (b) No person may conduct a utilization review program for
24 workers' compensation services in this State unless once every
25 2 years the person registers the utilization review program
26 with the Department of Insurance ~~Financial and Professional~~

1 ~~Regulation~~ and certifies compliance with the Workers'
2 Compensation Utilization Management standards or Health
3 Utilization Management Standards of URAC sufficient to achieve
4 URAC accreditation or submits evidence of accreditation by URAC
5 for its Workers' Compensation Utilization Management Standards
6 or Health Utilization Management Standards. Nothing in this Act
7 shall be construed to require an employer or insurer or its
8 subcontractors to become URAC accredited.

9 (c) In addition, the Director ~~Secretary~~ of Insurance
10 ~~Financial and Professional Regulation~~ may certify alternative
11 utilization review standards of national accreditation
12 organizations or entities in order for plans to comply with
13 this Section. Any alternative utilization review standards
14 shall meet or exceed those standards required under subsection
15 (b).

16 (d) This registration shall include submission of all of
17 the following information regarding utilization review program
18 activities:

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

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

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

25 (4) Hours of operation of each utilization review
26 program.

1 (5) Description of the grievance process for each
2 utilization review program.

3 (6) Number of covered lives for which utilization
4 review was conducted for the previous calendar year for
5 each utilization review program.

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

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

12 (1) kept confidential in accordance with applicable
13 State and federal laws; and

14 (2) shared only with the employee, the employee's
15 designee, and the employee's health care provider, and
16 those who are authorized by law to receive the information.
17 Summary data shall not be considered confidential if it
18 does not provide information to allow identification of
19 individual patients or health care providers.

20 Only a health care professional may make determinations
21 regarding the medical necessity of health care services during
22 the course of utilization review.

23 When making retrospective reviews, utilization review
24 programs shall base reviews solely on the medical information
25 available to the attending physician or ordering provider at
26 the time the health care services were provided.

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

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

19 (h) The Department of Insurance ~~Secretary of Financial and~~
20 ~~Professional Regulation~~ may by rule establish a registration
21 fee for each person conducting a utilization review program.

22 (i) Upon receipt of written notice that the employer or the
23 employer's agent or insurer wishes to invoke the utilization
24 review process, the provider of medical, surgical, or hospital
25 services shall submit to the utilization review, following
26 accredited procedural guidelines.

1 (1) The provider shall make reasonable efforts to
2 provide timely and complete reports of clinical
3 information needed to support a request for treatment. If
4 the provider fails to make such reasonable efforts, the
5 charges for the treatment or service may not be compensable
6 nor collectible by the provider or claimant from the
7 employer, the employer's agent, or the employee. The
8 reporting obligations of providers shall not be
9 unreasonable or unduly burdensome.

10 (2) Written notice of utilization review decisions,
11 including the clinical rationale for certification or
12 non-certification and references to applicable standards
13 of care or evidence-based medical guidelines, shall be
14 furnished to the provider and employee.

15 (3) An employer may only deny payment of or refuse to
16 authorize payment of medical services rendered or proposed
17 to be rendered on the grounds that the extent and scope of
18 medical treatment is excessive and unnecessary in
19 compliance with an accredited utilization review program
20 under this Section.

21 (4) When a payment for medical services has been denied
22 or not authorized by an employer or when authorization for
23 medical services is denied pursuant to utilization review,
24 the employee has the burden of proof to show by a
25 preponderance of the evidence that a variance from the
26 standards of care used by the person or entity performing

1 the utilization review pursuant to subsection (a) is
2 reasonably required to cure or relieve the effects of his
3 or her injury.

4 (5) The medical professional responsible for review in
5 the final stage of utilization review or appeal must be
6 available in this State for interview or deposition; or
7 must be available for deposition by telephone, video
8 conference, or other remote electronic means. A medical
9 professional who works or resides in this State or outside
10 of this State may comply with this requirement by making
11 himself or herself available for an interview or deposition
12 in person or by making himself or herself available by
13 telephone, video conference, or other remote electronic
14 means. The remote interview or deposition shall be
15 conducted in a fair, open, and cost-effective manner. The
16 expense of interview and the deposition method shall be
17 paid by the employer. The deponent shall be in the presence
18 of the officer administering the oath and recording the
19 deposition, unless otherwise agreed by the parties. Any
20 exhibits or other demonstrative evidence to be presented to
21 the deponent by any party at the deposition shall be
22 provided to the officer administering the oath and all
23 other parties within a reasonable period of time prior to
24 the deposition. Nothing shall prohibit any party from being
25 with the deponent during the deposition, at that party's
26 expense; provided, however, that a party attending a

1 deposition shall give written notice of that party's
2 intention to appear at the deposition to all other parties
3 within a reasonable time prior to the deposition.

4 An admissible A utilization review shall ~~will~~ be considered
5 by the Commission, along with all other evidence and in the
6 same manner as all other evidence, and must be addressed along
7 with all other evidence in the determination of the
8 reasonableness and necessity of the medical bills or treatment.
9 Nothing in this Section shall be construed to diminish the
10 rights of employees to reasonable and necessary medical
11 treatment or employee choice of health care provider under
12 Section 8(a) or the rights of employers to medical examinations
13 under Section 12.

14 (j) When an employer denies payment of or refuses to
15 authorize payment of first aid, medical, surgical, or hospital
16 services under Section 8(a) of this Act, if that denial or
17 refusal to authorize complies with a utilization review program
18 registered under this Section and complies with all other
19 requirements of this Section, then there shall be a rebuttable
20 presumption that the employer shall not be responsible for
21 payment of additional compensation pursuant to Section 19(k) of
22 this Act and if that denial or refusal to authorize does not
23 comply with a utilization review program registered under this
24 Section and does not comply with all other requirements of this
25 Section, then that will be considered by the Commission, along
26 with all other evidence and in the same manner as all other

1 evidence, in the determination of whether the employer may be
2 responsible for the payment of additional compensation
3 pursuant to Section 19(k) of this Act.

4 The changes to this Section made by this amendatory Act of
5 the 97th General Assembly apply only to health care services
6 provided or proposed to be provided on or after September 1,
7 2011.

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

9 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

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

21 Accidental injuries incurred while participating in
22 voluntary recreational programs including but not limited to
23 athletic events, parties and picnics do not arise out of and in
24 the course of the employment even though the employer pays some
25 or all of the cost thereof. This exclusion shall not apply in

1 the event that the injured employee was ordered or assigned by
2 his employer to participate in the program.

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

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

20 No compensation shall be payable if (i) the employee's
21 intoxication is the proximate cause of the employee's
22 accidental injury or (ii) at the time the employee incurred the
23 accidental injury, the employee was so intoxicated that the
24 intoxication constituted a departure from the employment.
25 Admissible evidence of the concentration of (1) alcohol, (2)
26 cannabis as defined in the Cannabis Control Act, (3) a

1 controlled substance listed in the Illinois Controlled
2 Substances Act, or (4) an intoxicating compound listed in the
3 Use of Intoxicating Compounds Act in the employee's blood,
4 breath, or urine at the time the employee incurred the
5 accidental injury shall be considered in any hearing under this
6 Act to determine whether the employee was intoxicated at the
7 time the employee incurred the accidental injuries. If at the
8 time of the accidental injuries, there was 0.08% or more by
9 weight of alcohol in the employee's blood, breath, or urine or
10 if there is any evidence of impairment due to the unlawful or
11 unauthorized use of (1) cannabis as defined in the Cannabis
12 Control Act, (2) a controlled substance listed in the Illinois
13 Controlled Substances Act, or (3) an intoxicating compound
14 listed in the Use of Intoxicating Compounds Act or if the
15 employee refuses to submit to testing of blood, breath, or
16 urine, then there shall be a rebuttable presumption that the
17 employee was intoxicated and that the intoxication was the
18 proximate cause of the employee's injury. The employee may
19 overcome the rebuttable presumption by the preponderance of the
20 admissible evidence that the intoxication was not the sole
21 proximate cause or proximate cause of the accidental injuries.
22 Percentage by weight of alcohol in the blood shall be based on
23 grams of alcohol per 100 milliliters of blood. Percentage by
24 weight of alcohol in the breath shall be based upon grams of
25 alcohol per 210 liters of breath. Any testing that has not been
26 performed by an accredited or certified testing laboratory

1 shall not be admissible in any hearing under this Act to
2 determine whether the employee was intoxicated at the time the
3 employee incurred the accidental injury.

4 All sample collection and testing for alcohol and drugs
5 under this Section shall be performed in accordance with rules
6 to be adopted by the Commission. These rules shall ensure:

7 (1) compliance with the National Labor Relations Act
8 regarding collective bargaining agreements or regulations
9 promulgated by the United States Department of
10 Transportation;

11 (2) that samples are collected and tested in
12 conformance with national and State legal and regulatory
13 standards for the privacy of the individual being tested,
14 and in a manner reasonably calculated to prevent
15 substitutions or interference with the collection or
16 testing of reliable sample;

17 (3) that split testing procedures are utilized;

18 (4) that sample collection is documented, and the
19 documentation procedures include:

20 (A) the labeling of samples in a manner so as to
21 reasonably preclude the probability of erroneous
22 identification of test result; and

23 (B) an opportunity for the employee to provide
24 notification of any information which he or she
25 considers relevant to the test, including
26 identification of currently or recently used

1 prescription or nonprescription drugs and other
2 relevant medical information;

3 (5) that sample collection, storage, and
4 transportation to the place of testing is performed in a
5 manner so as to reasonably preclude the probability of
6 sample contamination or adulteration; and

7 (6) that chemical analyses of blood, urine, breath, or
8 other bodily substance are performed according to
9 nationally scientifically accepted analytical methods and
10 procedures.

11 The changes to this Section made by this amendatory Act of
12 the 97th General Assembly apply only to accidental injuries
13 that occur on or after September 1, 2011.

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

15 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

16 Sec. 13. There is created an Illinois Workers' Compensation
17 Commission consisting of 10 members to be appointed by the
18 Governor, by and with the consent of the Senate, 3 of whom
19 shall be representative citizens of the employing class
20 operating under this Act and 3 of whom shall be representative
21 citizens of the class of employees covered under this Act, and
22 4 of whom shall be representative citizens not identified with
23 either the employing or employee classes. Not more than 6
24 members of the Commission shall be of the same political party.

25 One of the members not identified with either the employing

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

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

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

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

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

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

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

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

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

10 (g) writing skills; -

11 (h) professional and ethical standards pursuant to
12 Section 1.1 of this Act;

13 (i) detection of workers' compensation fraud and
14 reporting obligations of Commission employees and
15 appointees;

16 (j) standards of evidence-based medical treatment and
17 best practices for measuring and improving quality and
18 health care outcomes in the workers' compensation system,
19 including but not limited to the use of the American
20 Medical Association's "Guides to the Evaluation of
21 Permanent Impairment" and the practice of utilization
22 review; and

23 (k) substantive and procedural aspects of coal
24 workers' pneumoconiosis (black lung) cases.

25 A formal and ongoing professional development program
26 including, but not limited to, the above-noted areas shall be

1 implemented to keep Commissioners informed of recent
2 developments and issues and to assist them in maintaining and
3 enhancing their professional competence. Each Commissioner
4 shall complete 20 hours of training in the above-noted areas
5 during every 2 years such Commissioner shall remain in office.

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

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

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

26 The Illinois Workers' Compensation Commission shall

1 administer this Act.

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

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

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

1 and until their successors are appointed and qualified.

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

16 (a-10) After the effective date of this amendatory Act
17 of the 94th General Assembly, the Commission shall be
18 increased to 10 members. As soon as possible after the
19 effective date of this amendatory Act of the 94th General
20 Assembly, the Governor shall appoint, by and with the
21 consent of the Senate, the 3 members added to the
22 Commission under this amendatory Act of the 94th General
23 Assembly, one of whom shall be a representative citizen of
24 the employing class operating under this Act, one of whom
25 shall be a representative of the class of employees covered
26 under this Act, and one of whom shall be a representative

1 citizen not identified with either the employing or
2 employee classes. Of the members appointed under this
3 amendatory Act of the 94th General Assembly, one shall be
4 appointed for a term ending on the third Monday in January,
5 2007, and 2 shall be appointed for terms ending on the
6 third Monday in January, 2009, and until their successors
7 are appointed and qualified.

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

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

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

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

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

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

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

1 The Commission may have an Executive Director; if so, the
2 Executive Director shall be appointed by the Governor with the
3 advice and consent of the Senate. The salary and duties of the
4 Executive Director shall be fixed by the Commission.

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

22 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;
23 94-277, eff. 7-20-05.)

24 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

25 Sec. 13.1. (a) There is created a Workers' Compensation

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

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

1 (c) The Advisory Board shall aid the Commission in
2 formulating policies, discussing problems, setting priorities
3 of expenditures, reviewing advisory rates filed by an advisory
4 organization as defined in Section 463 of the Illinois
5 Insurance Code, and establishing short and long range
6 administrative goals. Prior to making the (1) initial set of
7 arbitrator appointments pursuant to this amendatory Act of the
8 97th General Assembly and (2) appointment of Commissioners,
9 ~~appointments to the Commission,~~ the Governor shall request that
10 the Advisory Board make recommendations as to candidates to
11 consider for appointment and the Advisory Board may then make
12 such recommendations.

13 (d) The terms of all Advisory Board members serving on the
14 effective date of this amendatory Act of the 97th General
15 Assembly are terminated. The Governor shall appoint new members
16 to the Advisory Board within 30 days after the effective date
17 of the amendatory Act of the 97th General Assembly, subject to
18 the advice and consent of the Senate.

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

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

21 Sec. 14. The Commission shall appoint a secretary, an
22 assistant secretary, and arbitrators and shall employ such
23 assistants and clerical help as may be necessary. Arbitrators
24 shall be appointed pursuant to this Section, notwithstanding
25 any provision of the Personnel Code.

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

7 A formal training program for newly-hired arbitrators
8 shall be implemented. The training program shall include the
9 following:

10 (a) substantive and procedural aspects of the
11 arbitrator position;

12 (b) current issues in workers' compensation law and
13 practice;

14 (c) medical lectures by specialists in areas such as
15 orthopedics, ophthalmology, psychiatry, rehabilitation
16 counseling;

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

19 (e) observation of experienced arbitrators conducting
20 hearings of cases, combined with the opportunity to discuss
21 evidence presented and rulings made;

22 (f) the use of hypothetical cases requiring the trainee
23 to issue judgments as a means to evaluating knowledge and
24 writing ability;

25 (g) writing skills; -

26 (h) professional and ethical standards pursuant to

1 Section 1.1 of this Act;

2 (i) detection of workers' compensation fraud and
3 reporting obligations of Commission employees and
4 appointees;

5 (j) standards of evidence-based medical treatment and
6 best practices for measuring and improving quality and
7 health care outcomes in the workers' compensation system,
8 including but not limited to the use of the American
9 Medical Association's "Guides to the Evaluation of
10 Permanent Impairment" and the practice of utilization
11 review; and

12 (k) substantive and procedural aspects of coal
13 workers' pneumoconiosis (black lung) cases.

14 A formal and ongoing professional development program
15 including, but not limited to, the above-noted areas shall be
16 implemented to keep arbitrators informed of recent
17 developments and issues and to assist them in maintaining and
18 enhancing their professional competence. Each arbitrator shall
19 complete 20 hours of training in the above-noted areas during
20 every 2 years such arbitrator shall remain in office.

21 Each arbitrator shall devote full time to his or her duties
22 and shall serve when assigned as an acting Commissioner when a
23 Commissioner is unavailable in accordance with the provisions
24 of Section 13 of this Act. Any arbitrator who is an
25 attorney-at-law shall not engage in the practice of law, nor
26 shall any arbitrator hold any other office or position of

1 profit under the United States or this State or any municipal
2 corporation or political subdivision of this State.
3 Notwithstanding any other provision of this Act to the
4 contrary, an arbitrator who serves as an acting Commissioner in
5 accordance with the provisions of Section 13 of this Act shall
6 continue to serve in the capacity of Commissioner until a
7 decision is reached in every case heard by that arbitrator
8 while serving as an acting Commissioner.

9 Notwithstanding any other provision of this Section, the
10 term of all arbitrators serving on the effective date of this
11 amendatory Act of the 97th General Assembly, including any
12 arbitrators on administrative leave, shall terminate at the
13 close of business on July 1, 2011, but the incumbents shall
14 continue to exercise all of their duties until they are
15 reappointed or their successors are appointed.

16 On and after the effective date of this amendatory Act of
17 the 97th General Assembly, arbitrators shall be appointed to
18 3-year terms by the full Commission, except that initial
19 appointments made on and after the effective date of this
20 amendatory Act of the 97th General Assembly shall be made as
21 follows:

22 (1) All appointments shall be made by the Governor with
23 the advice and consent of the Senate.

24 (2) 12 arbitrators shall be appointed to terms expiring
25 July 1, 2012; 12 arbitrators shall be appointed to terms
26 expiring July 1, 2013; and all additional arbitrators shall

1 be appointed to terms expiring July 1, 2014.

2 Upon the expiration of a term, the Chairman shall evaluate
3 the performance of the arbitrator and may recommend that he or
4 she be reappointed to a second or subsequent term by the full
5 Commission.

6 Each arbitrator appointed on or after the effective date of
7 this amendatory Act of the 97th General Assembly and who has
8 not previously served as an arbitrator for the Commission shall
9 be required to be authorized to practice law in this State by
10 the Supreme Court, and to maintain this authorization
11 throughout his or her term of employment.

12 ~~Each arbitrator appointed after the effective date of this~~
13 ~~amendatory Act of 1989 shall be appointed for a term of 6~~
14 ~~years. Each arbitrator shall be appointed for a subsequent term~~
15 ~~unless the Chairman makes a recommendation to the Commission,~~
16 ~~no later than 60 days prior to the expiration of the term, not~~
17 ~~to reappoint the arbitrator. Notice of such a recommendation~~
18 ~~shall also be given to the arbitrator no later than 60 days~~
19 ~~prior to the expiration of the term. Upon such recommendation~~
20 ~~by the Chairman, the arbitrator shall be appointed for a~~
21 ~~subsequent term unless 8 of 10 members of the Commission,~~
22 ~~including the Chairman, vote not to reappoint the arbitrator.~~

23 All arbitrators shall be subject to the provisions of the
24 Personnel Code, and the performance of all arbitrators shall be
25 reviewed by the Chairman on an annual basis. The changes made
26 to this Section by this amendatory Act of the 97th General

1 Assembly shall prevail over any conflict with the Personnel
2 Code. The Chairman shall allow input from the Commissioners in
3 all such reviews.

4 The Commission shall assign no fewer than 3 arbitrators to
5 each hearing site. The Commission shall establish a procedure
6 to ensure that the arbitrators assigned to each hearing site
7 are assigned cases on a random basis. No arbitrator shall hear
8 cases in any county, other than Cook County, for more than 2
9 years in each 3-year term.

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

14 The members of the Commission, Arbitrators and other
15 employees whose duties require them to travel, shall have
16 reimbursed to them their actual traveling expenses and
17 disbursements made or incurred by them in the discharge of
18 their official duties while away from their place of residence
19 in the performance of their duties.

20 The Commission shall provide itself with a seal for the
21 authentication of its orders, awards and proceedings upon which
22 shall be inscribed the name of the Commission and the words
23 "Illinois--Seal".

24 The Secretary or Assistant Secretary, under the direction
25 of the Commission, shall have charge and custody of the seal of
26 the Commission and also have charge and custody of all records,

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

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

14 (820 ILCS 305/16b new)

15 Sec. 16b. Gift ban.

16 (a) An attorney appearing before the Commission shall not
17 provide compensation or any gift to any person in exchange for
18 the referral of a client involving a matter to be heard before
19 the Commission except for a division of a fee between lawyers
20 who are not in the same firm in accordance with Rule 1.5 of the
21 Code of Professional Responsibility. For purposes of this
22 Section, "gift" means any gratuity, discount, entertainment,
23 hospitality, loan, forbearance, or any other tangible or
24 intangible item having monetary value including, but not
25 limited to, cash, food and drink, and honoraria except for food

1 or refreshments not exceeding \$75 per person in value on a
2 single calendar day, provided that the food or refreshments are
3 (1) consumed on the premises from which they were purchased or
4 prepared or (2) catered. "Catered" means food or refreshments
5 that are purchased ready to eat and delivered by any means.

6 (b) Violation of this Section is a Class A misdemeanor.

7 (820 ILCS 305/18) (from Ch. 48, par. 138.18)

8 Sec. 18. All questions arising under this Act, if not
9 settled by agreement of the parties interested therein, shall,
10 except as otherwise provided, be determined by the Commission.
11 Claims from current and former employees of the Commission
12 shall be determined in accordance with Section 18.1 of this
13 Act.

14 (Source: Laws 1951, p. 1060.)

15 (820 ILCS 305/18.1 new)

16 Sec. 18.1. Claims by former and current employees of the
17 Commission. All claims by current and former employees and
18 appointees of the Commission shall be assigned to a certified
19 independent arbitrator not employed by the Commission
20 designated by the Chairman. The Chairman shall designate an
21 arbitrator from a list of approved certified arbitrators
22 provided by the Commission Review Board. If the Chairman is the
23 claimant, then the independent arbitrator from the approved
24 list shall be designated by the longest serving Commissioner.

1 The designated independent arbitrator shall have the authority
2 of arbitrators of the Commission regarding settlement and
3 adjudication of the claim of the current and former employees
4 and appointees of the Commission. The decision of the
5 independent arbitrator shall become the decision of the
6 Commission. An appeal of the independent arbitrator's decision
7 shall be subject to judicial review in accordance with
8 subsection (f) of Section 19.

9 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

24 2. Whenever any claimant misconceives his remedy and
25 files an application for adjustment of claim under the

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

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

24 The hearings before the Arbitrator shall be held in the
25 vicinity where the injury occurred after 10 days' notice of the
26 time and place of such hearing shall have been given to each of

1 the parties or their attorneys of record.

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

11 The decision of the Arbitrator shall be filed with the
12 Commission which Commission shall immediately send to each
13 party or his attorney a copy of such decision, together with a
14 notification of the time when it was filed. As of the effective
15 date of this amendatory Act of the 94th General Assembly, all
16 decisions of the Arbitrator shall set forth in writing findings
17 of fact and conclusions of law, separately stated, if requested
18 by either party. Unless a petition for review is filed by
19 either party within 30 days after the receipt by such party of
20 the copy of the decision and notification of time when filed,
21 and unless such party petitioning for a review shall within 35
22 days after the receipt by him of the copy of the decision, file
23 with the Commission either an agreed statement of the facts
24 appearing upon the hearing before the Arbitrator, or if such
25 party shall so elect a correct transcript of evidence of the
26 proceedings at such hearings, then the decision shall become

1 the decision of the Commission and in the absence of fraud
2 shall be conclusive. The Petition for Review shall contain a
3 statement of the petitioning party's specific exceptions to the
4 decision of the arbitrator. The jurisdiction of the Commission
5 to review the decision of the arbitrator shall not be limited
6 to the exceptions stated in the Petition for Review. The
7 Commission, or any member thereof, may grant further time not
8 exceeding 30 days, in which to file such agreed statement or
9 transcript of evidence. Such agreed statement of facts or
10 correct transcript of evidence, as the case may be, shall be
11 authenticated by the signatures of the parties or their
12 attorneys, and in the event they do not agree as to the
13 correctness of the transcript of evidence it shall be
14 authenticated by the signature of the Arbitrator designated by
15 the Commission.

16 Whether the employee is working or not, if the employee is
17 not receiving or has not received medical, surgical, or
18 hospital services or other services or compensation as provided
19 in paragraph (a) of Section 8, or compensation as provided in
20 paragraph (b) of Section 8, the employee may at any time
21 petition for an expedited hearing by an Arbitrator on the issue
22 of whether or not he or she is entitled to receive payment of
23 the services or compensation. Provided the employer continues
24 to pay compensation pursuant to paragraph (b) of Section 8, the
25 employer may at any time petition for an expedited hearing on
26 the issue of whether or not the employee is entitled to receive

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

20 Expedited hearings shall have priority over all other
21 petitions and shall be heard by the Arbitrator and Commission
22 with all convenient speed. Any party requesting an expedited
23 hearing shall give notice of a request for an expedited hearing
24 under this paragraph. A copy of the Application for Adjustment
25 of Claim shall be attached to the notice. The Commission shall
26 adopt rules and procedures under which the final decision of

1 the Commission under this paragraph is filed not later than 180
2 days from the date that the Petition for Review is filed with
3 the Commission.

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

20 (b-1) If the employee is not receiving medical, surgical or
21 hospital services as provided in paragraph (a) of Section 8 or
22 compensation as provided in paragraph (b) of Section 8, the
23 employee, in accordance with Commission Rules, may file a
24 petition for an emergency hearing by an Arbitrator on the issue
25 of whether or not he is entitled to receive payment of such
26 compensation or services as provided therein. Such petition

1 shall have priority over all other petitions and shall be heard
2 by the Arbitrator and Commission with all convenient speed.

3 Such petition shall contain the following information and
4 shall be served on the employer at least 15 days before it is
5 filed:

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

7 (ii) the approximate location of the accident;

8 (iii) a description of the accident;

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

10 (v) the identity of the person, if known, to whom the
11 accident was reported and the date on which it was
12 reported;

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

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

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

26 (ix) the dates of treatment related to the accident by

1 medical practitioners, and the names and addresses of such
2 practitioners, including the dates of treatment related to
3 the accident at any hospitals and the names and addresses
4 of such hospitals, and a signed authorization permitting
5 the employer to examine all medical records of all
6 practitioners and hospitals named pursuant to this
7 paragraph;

8 (x) a copy of a signed report by a medical
9 practitioner, relating to the employee's current inability
10 to return to work because of the injuries incurred as a
11 result of the accident or such other documents or
12 affidavits which show that the employee is entitled to
13 receive compensation pursuant to paragraph (b) of Section 8
14 of this Act or medical, surgical or hospital services
15 pursuant to paragraph (a) of Section 8 of this Act. Such
16 reports, documents or affidavits shall state, if possible,
17 the history of the accident given by the employee, and
18 describe the injury and medical diagnosis, the medical
19 services for such injury which the employee has received
20 and is receiving, the physical activities which the
21 employee cannot currently perform as a result of any
22 impairment or disability due to such injury, and the
23 prognosis for recovery;

24 (xi) complete copies of any reports, records,
25 documents and affidavits in the possession of the employee
26 on which the employee will rely to support his allegations,

1 provided that the employer shall pay the reasonable cost of
2 reproduction thereof;

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

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

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

20 The employer shall, within 15 days after receipt of the
21 notice that such petition is filed, file with the Commission
22 and serve on the employee or his representative a written
23 response to each claim set forth in the petition, including the
24 legal and factual basis for each disputed allegation and the
25 following information: (i) complete copies of any reports,
26 records, documents and affidavits in the possession of the

1 employer on which the employer intends to rely in support of
2 his response, (ii) a list of any reports, records, documents
3 and affidavits which the employer has demanded by subpoena and
4 on which the employer intends to rely in support of his
5 response, (iii) the name and address of each witness on whom
6 the employer will rely to support his response, and (iv) the
7 names and addresses of any medical practitioners selected by
8 the employer pursuant to Section 12 of this Act and the time
9 and place of any examination scheduled to be made pursuant to
10 such Section.

11 Any employer who does not timely file and serve a written
12 response without good cause may not introduce any evidence to
13 dispute any claim of the employee but may cross examine the
14 employee or any witness brought by the employee and otherwise
15 be heard.

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

1 any medical practitioner.

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

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

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

1 their special qualifications by the Illinois State Medical
2 Society. The Commission shall establish procedures by which a
3 physician shall be selected from such list.

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

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

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

13 (5) The examination shall be made, and the physician or
14 physicians, if called, shall testify, without cost to the
15 parties. The Commission shall determine the compensation and
16 the pay of the physician or physicians. The compensation for
17 this service shall not exceed the usual and customary amount
18 for such service.

19 (6) The fees and payment thereof of all attorneys and
20 physicians for services authorized by the Commission under this
21 Act shall, upon request of either the employer or the employee
22 or the beneficiary affected, be subject to the review and
23 decision of the Commission.

24 (d) If any employee shall persist in insanitary or
25 injurious practices which tend to either imperil or retard his
26 recovery or shall refuse to submit to such medical, surgical,

1 or hospital treatment as is reasonably essential to promote his
2 recovery, the Commission may, in its discretion, reduce or
3 suspend the compensation of any such injured employee. However,
4 when an employer and employee so agree in writing, the
5 foregoing provision shall not be construed to authorize the
6 reduction or suspension of compensation of an employee who is
7 relying in good faith, on treatment by prayer or spiritual
8 means alone, in accordance with the tenets and practice of a
9 recognized church or religious denomination, by a duly
10 accredited practitioner thereof.

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

20 In all cases in which the hearing before the arbitrator is
21 held after December 18, 1989, no additional evidence shall be
22 introduced by the parties before the Commission on review of
23 the decision of the Arbitrator. In reviewing decisions of an
24 arbitrator the Commission shall award such temporary
25 compensation, permanent compensation and other payments as are
26 due under this Act. The Commission shall file in its office its

1 decision thereon, and shall immediately send to each party or
2 his attorney a copy of such decision and a notification of the
3 time when it was filed. Decisions shall be filed within 60 days
4 after the Statement of Exceptions and Supporting Brief and
5 Response thereto are required to be filed or oral argument
6 whichever is later.

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

1 Section. The Commission shall give 10 days' notice to the
2 parties or their attorneys of the time and place of such taking
3 of testimony and of such argument.

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

26 If a reporter does not for any reason furnish a transcript

1 of the proceedings before the Arbitrator in any case for use on
2 a hearing for review before the Commission, within the
3 limitations of time as fixed in this Section, the Commission
4 may, in its discretion, order a trial de novo before the
5 Commission in such case upon application of either party. The
6 applications for adjustment of claim and other documents in the
7 nature of pleadings filed by either party, together with the
8 decisions of the Arbitrator and of the Commission and the
9 statement of facts or transcript of evidence hereinbefore
10 provided for in paragraphs (b) and (c) shall be the record of
11 the proceedings of the Commission, and shall be subject to
12 review as hereinafter provided.

13 At the request of either party or on its own motion, the
14 Commission shall set forth in writing the reasons for the
15 decision, including findings of fact and conclusions of law
16 separately stated. The Commission shall by rule adopt a format
17 for written decisions for the Commission and arbitrators. The
18 written decisions shall be concise and shall succinctly state
19 the facts and reasons for the decision. The Commission may
20 adopt in whole or in part, the decision of the arbitrator as
21 the decision of the Commission. When the Commission does so
22 adopt the decision of the arbitrator, it shall do so by order.
23 Whenever the Commission adopts part of the arbitrator's
24 decision, but not all, it shall include in the order the
25 reasons for not adopting all of the arbitrator's decision. When
26 a majority of a panel, after deliberation, has arrived at its

1 decision, the decision shall be filed as provided in this
2 Section without unnecessary delay, and without regard to the
3 fact that a member of the panel has expressed an intention to
4 dissent. Any member of the panel may file a dissent. Any
5 dissent shall be filed no later than 10 days after the decision
6 of the majority has been filed.

7 Decisions rendered by the Commission and dissents, if any,
8 shall be published together by the Commission. The conclusions
9 of law set out in such decisions shall be regarded as
10 precedents by arbitrators for the purpose of achieving a more
11 uniform administration of this Act.

12 (f) The decision of the Commission acting within its
13 powers, according to the provisions of paragraph (e) of this
14 Section shall, in the absence of fraud, be conclusive unless
15 reviewed as in this paragraph hereinafter provided. However,
16 the Arbitrator or the Commission may on his or its own motion,
17 or on the motion of either party, correct any clerical error or
18 errors in computation within 15 days after the date of receipt
19 of any award by such Arbitrator or any decision on review of
20 the Commission and shall have the power to recall the original
21 award on arbitration or decision on review, and issue in lieu
22 thereof such corrected award or decision. Where such correction
23 is made the time for review herein specified shall begin to run
24 from the date of the receipt of the corrected award or
25 decision.

26 (1) Except in cases of claims against the State of

1 Illinois other than those claims under Section 18.1, in
2 which case the decision of the Commission shall not be
3 subject to judicial review, the Circuit Court of the county
4 where any of the parties defendant may be found, or if none
5 of the parties defendant can be found in this State then
6 the Circuit Court of the county where the accident
7 occurred, shall by summons to the Commission have power to
8 review all questions of law and fact presented by such
9 record.

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

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

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

26 In its decision on review the Commission shall

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

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

24 Every county, city, town, township, incorporated
25 village, school district, body politic or municipal
26 corporation against whom the Commission shall have

1 rendered an award for the payment of money shall not be
2 required to file a bond to secure the payment of the award
3 and the costs of the proceedings in the court to authorize
4 the court to issue such summons.

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

17 It shall be the duty of the clerk of any court
18 rendering a decision affecting or affirming an award of the
19 Commission to promptly furnish the Commission with a copy
20 of such decision, without charge.

21 The decision of a majority of the members of the panel
22 of the Commission, shall be considered the decision of the
23 Commission.

24 (g) Except in the case of a claim against the State of
25 Illinois, either party may present a certified copy of the
26 award of the Arbitrator, or a certified copy of the decision of

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

21 Judgment shall not be entered until 15 days' notice of the
22 time and place of the application for the entry of judgment
23 shall be served upon the employer by filing such notice with
24 the Commission, which Commission shall, in case it has on file
25 the address of the employer or the name and address of its
26 agent upon whom notices may be served, immediately send a copy

1 of the notice to the employer or such designated agent.

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

8 However, as to accidents occurring subsequent to July 1,
9 1955, which are covered by any agreement or award under this
10 Act providing for compensation in installments made as a result
11 of such accident, such agreement or award may at any time
12 within 30 months, or 60 months in the case of an award under
13 Section 8(d)1, after such agreement or award be reviewed by the
14 Commission at the request of either the employer or the
15 employee on the ground that the disability of the employee has
16 subsequently recurred, increased, diminished or ended.

17 On such review, compensation payments may be
18 re-established, increased, diminished or ended. The Commission
19 shall give 15 days' notice to the parties of the hearing for
20 review. Any employee, upon any petition for such review being
21 filed by the employer, shall be entitled to one day's notice
22 for each 100 miles necessary to be traveled by him in attending
23 the hearing of the Commission upon the petition, and 3 days in
24 addition thereto. Such employee shall, at the discretion of the
25 Commission, also be entitled to 5 cents per mile necessarily
26 traveled by him within the State of Illinois in attending such

1 hearing, not to exceed a distance of 300 miles, to be taxed by
2 the Commission as costs and deposited with the petition of the
3 employer.

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

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

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

1 final adjudication of any of the issues which are the same in
2 both proceedings.

3 (k) In case where there has been any unreasonable or
4 vexatious delay of payment or intentional underpayment of
5 compensation, or proceedings have been instituted or carried on
6 by the one liable to pay the compensation, which do not present
7 a real controversy, but are merely frivolous or for delay, then
8 the Commission may award compensation additional to that
9 otherwise payable under this Act equal to 50% of the amount
10 payable at the time of such award. Failure to pay compensation
11 in accordance with the provisions of Section 8, paragraph (b)
12 of this Act, shall be considered unreasonable delay.

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

17 (l) If the employee has made written demand for payment of
18 benefits under Section 8(a) or Section 8(b), the employer shall
19 have 14 days after receipt of the demand to set forth in
20 writing the reason for the delay. In the case of demand for
21 payment of medical benefits under Section 8(a), the time for
22 the employer to respond shall not commence until the expiration
23 of the allotted 30 ~~60~~ days specified under Section 8.2(d). In
24 case the employer or his or her insurance carrier shall without
25 good and just cause fail, neglect, refuse, or unreasonably
26 delay the payment of benefits under Section 8(a) or Section

1 8(b), the Arbitrator or the Commission shall allow to the
2 employee additional compensation in the sum of \$30 per day for
3 each day that the benefits under Section 8(a) or Section 8(b)
4 have been so withheld or refused, not to exceed \$10,000. A
5 delay in payment of 14 days or more shall create a rebuttable
6 presumption of unreasonable delay.

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

18 (n) After June 30, 1984, decisions of the Illinois Workers'
19 Compensation Commission reviewing an award of an arbitrator of
20 the Commission shall draw interest at a rate equal to the yield
21 on indebtedness issued by the United States Government with a
22 26-week maturity next previously auctioned on the day on which
23 the decision is filed. Said rate of interest shall be set forth
24 in the Arbitrator's Decision. Interest shall be drawn from the
25 date of the arbitrator's award on all accrued compensation due
26 the employee through the day prior to the date of payments.

1 However, when an employee appeals an award of an Arbitrator or
2 the Commission, and the appeal results in no change or a
3 decrease in the award, interest shall not further accrue from
4 the date of such appeal.

5 The employer or his insurance carrier may tender the
6 payments due under the award to stop the further accrual of
7 interest on such award notwithstanding the prosecution by
8 either party of review, certiorari, appeal to the Supreme Court
9 or other steps to reverse, vacate or modify the award.

10 (o) By the 15th day of each month each insurer providing
11 coverage for losses under this Act shall notify each insured
12 employer of any compensable claim incurred during the preceding
13 month and the amounts paid or reserved on the claim including a
14 summary of the claim and a brief statement of the reasons for
15 compensability. A cumulative report of all claims incurred
16 during a calendar year or continued from the previous year
17 shall be furnished to the insured employer by the insurer
18 within 30 days after the end of that calendar year.

19 The insured employer may challenge, in proceeding before
20 the Commission, payments made by the insurer without
21 arbitration and payments made after a case is determined to be
22 noncompensable. If the Commission finds that the case was not
23 compensable, the insurer shall purge its records as to that
24 employer of any loss or expense associated with the claim,
25 reimburse the employer for attorneys' fees arising from the
26 challenge and for any payment required of the employer to the

1 Rate Adjustment Fund or the Second Injury Fund, and may not
2 reflect the loss or expense for rate making purposes. The
3 employee shall not be required to refund the challenged
4 payment. The decision of the Commission may be reviewed in the
5 same manner as in arbitrated cases. No challenge may be
6 initiated under this paragraph more than 3 years after the
7 payment is made. An employer may waive the right of challenge
8 under this paragraph on a case by case basis.

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

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

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

23 (820 ILCS 305/25.5)

24 Sec. 25.5. Unlawful acts; penalties.

25 (a) It is unlawful for any person, company, corporation,

1 insurance carrier, healthcare provider, or other entity to:

2 (1) Intentionally present or cause to be presented any
3 false or fraudulent claim for the payment of any workers'
4 compensation benefit.

5 (2) Intentionally make or cause to be made any false or
6 fraudulent material statement or material representation
7 for the purpose of obtaining or denying any workers'
8 compensation benefit.

9 (3) Intentionally make or cause to be made any false or
10 fraudulent statements with regard to entitlement to
11 workers' compensation benefits with the intent to prevent
12 an injured worker from making a legitimate claim for any
13 workers' compensation benefits.

14 (4) Intentionally prepare or provide an invalid,
15 false, or counterfeit certificate of insurance as proof of
16 workers' compensation insurance.

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

21 (6) Intentionally make or cause to be made any false or
22 fraudulent material statement or material representation
23 on an initial or renewal self-insurance application or
24 accompanying financial statement for the purpose of
25 obtaining self-insurance status or reducing the amount of
26 security that may be required to be furnished pursuant to

1 Section 4 of this Act.

2 (7) Intentionally make or cause to be made any false or
3 fraudulent material statement to the Department Division
4 of Insurance's fraud and insurance non-compliance unit in
5 the course of an investigation of fraud or insurance
6 non-compliance.

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

11 (9) Intentionally present a bill or statement for the
12 payment for medical services that were not provided.

13 For the purposes of paragraphs (2), (3), (5), (6), ~~and~~ (7),
14 and (9), the term "statement" includes any writing, notice,
15 proof of injury, bill for services, hospital or doctor records
16 and reports, or X-ray and test results.

17 (b) Sentences for violations of subsection (a) are as
18 follows: ~~Any person violating subsection (a) is guilty of a~~
19 ~~Class 4 felony. Any person or entity convicted of any violation~~
20 ~~of this Section shall be ordered to pay complete restitution to~~
21 ~~any person or entity so defrauded in addition to any fine or~~
22 ~~sentence imposed as a result of the conviction.~~

23 (1) A violation in which the value of the property
24 obtained or attempted to be obtained is \$300 or less is a
25 Class A misdemeanor.

26 (2) A violation in which the value of the property

1 obtained or attempted to be obtained is more than \$300 but
2 not more than \$10,000 is a Class 3 felony.

3 (3) A violation in which the value of the property
4 obtained or attempted to be obtained is more than \$10,000
5 but not more than \$100,000 is a Class 2 felony.

6 (4) A violation in which the value of the property
7 obtained or attempted to be obtained is more than \$100,000
8 is a Class 1 felony.

9 (5) A person convicted under this Section shall be
10 ordered to pay monetary restitution to the insurance
11 company or self-insured entity or any other person for any
12 financial loss sustained as a result of a violation of this
13 Section, including any court costs and attorney fees. An
14 order of restitution also includes expenses incurred and
15 paid by the State of Illinois or an insurance company or
16 self-insured entity in connection with any medical
17 evaluation or treatment services.

18 For the purposes of this Section, where the exact value of
19 property obtained or attempted to be obtained is either not
20 alleged or is not specifically set by the terms of a policy of
21 insurance, the value of the property shall be the fair market
22 replacement value of the property claimed to be lost, the
23 reasonable costs of reimbursing a vendor or other claimant for
24 services to be rendered, or both. Notwithstanding the
25 foregoing, an insurance company, self-insured entity, or any
26 other person suffering financial loss sustained as a result of

1 violation of this Section may seek restitution, including court
2 costs and attorney's fees in a civil action in a court of
3 competent jurisdiction.

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

21 With respect to the subject of any investigation being
22 conducted, the fraud and insurance non-compliance unit shall
23 have the general power of subpoena of the Department ~~Division~~
24 of Insurance, including the authority to issue a subpoena to a
25 medical provider, pursuant to section 8-802 of the Code of
26 Civil Procedure.

1 (d) Any person may report allegations of insurance
2 non-compliance and fraud pursuant to this Section to the
3 Department ~~Division~~ of Insurance's fraud and insurance
4 non-compliance unit whose duty it shall be to investigate the
5 report. The unit shall notify the Commission of reports of
6 insurance non-compliance. Any person reporting an allegation
7 of insurance non-compliance or fraud against either an employee
8 or employer under this Section must identify himself. Except as
9 provided in this subsection and in subsection (e), all reports
10 shall remain confidential except to refer an investigation to
11 the Attorney General or State's Attorney for prosecution or if
12 the fraud and insurance non-compliance unit's investigation
13 reveals that the conduct reported may be in violation of other
14 laws or regulations of the State of Illinois, the unit may
15 report such conduct to the appropriate governmental agency
16 charged with administering such laws and regulations. Any
17 person who intentionally makes a false report under this
18 Section to the fraud and insurance non-compliance unit is
19 guilty of a Class A misdemeanor.

20 (e) In order for the fraud and insurance non-compliance
21 unit to investigate a report of fraud related to an employee's
22 claim ~~by an employee~~, (i) the employee must have filed with the
23 Commission an Application for Adjustment of Claim and the
24 employee must have either received or attempted to receive
25 benefits under this Act that are related to the reported fraud
26 or (ii) the employee must have made a written demand for the

1 payment of benefits that are related to the reported fraud.
2 ~~Upon receipt of a report of fraud, the employee or employer~~
3 ~~shall receive immediate notice of the reported conduct,~~
4 ~~including the verified name and address of the complainant if~~
5 ~~that complainant is connected to the case and the nature of the~~
6 ~~reported conduct. The fraud and insurance non-compliance unit~~
7 ~~shall resolve all reports of fraud against employees or~~
8 ~~employers within 120 days of receipt of the report.~~ There shall
9 be no immunity, under this Act or otherwise, for any person who
10 files a false report or who files a report without good and
11 just cause. Confidentiality of medical information shall be
12 strictly maintained. Investigations that are not referred for
13 prosecution shall be destroyed upon the expiration of the
14 statute of limitations for the acts under investigation
15 ~~immediately expunged~~ and shall not be disclosed except that the
16 ~~employee or employer who was the subject of the report and the~~
17 person making the report shall be notified that the
18 investigation is being closed, ~~at which time the name of any~~
19 ~~complainant not connected to the case shall be disclosed to the~~
20 ~~employee or the employer.~~ It is unlawful for any employer,
21 insurance carrier, ~~or~~ service adjustment company, third party
22 administrator, self-insured, or similar entity to file or
23 threaten to file a report of fraud against an employee because
24 of the exercise by the employee of the rights and remedies
25 granted to the employee by this Act.

26 (e-5) The fraud and insurance non-compliance unit shall

1 procure and implement a system utilizing advanced analytics
2 inclusive of predictive modeling, data mining, social network
3 analysis, and scoring algorithms for the detection and
4 prevention of fraud, waste, and abuse on or before January 1,
5 2012. The fraud and insurance non-compliance unit shall procure
6 this system using a request for proposals process governed by
7 the Illinois Procurement Code and rules adopted under that
8 Code. The fraud and insurance non-compliance unit shall provide
9 a report to the President of the Senate, Speaker of the House
10 of Representatives, Minority Leader of the House of
11 Representatives, Minority Leader of the Senate, Governor,
12 Chairman of the Commission, and Director of Insurance on or
13 before July 1, 2012 and annually thereafter detailing its
14 activities and providing recommendations regarding
15 opportunities for additional fraud waste and abuse detection
16 and prevention.

17 ~~For purposes of this subsection (c), "employer" means any~~
18 ~~employer, insurance carrier, third party administrator,~~
19 ~~self insured, or similar entity.~~

20 ~~For purposes of this subsection (c), "complainant" refers~~
21 ~~to the person contacting the fraud and insurance non-compliance~~
22 ~~unit to initiate the complaint.~~

23 (f) Any person convicted of fraud related to workers'
24 compensation pursuant to this Section shall be subject to the
25 penalties prescribed in the Criminal Code of 1961 and shall be
26 ineligible to receive or retain any compensation, disability,

1 or medical benefits as defined in this Act if the compensation,
2 disability, or medical benefits were owed or received as a
3 result of fraud for which the recipient of the compensation,
4 disability, or medical benefit was convicted. This subsection
5 applies to accidental injuries or diseases that occur on or
6 after the effective date of this amendatory Act of the 94th
7 General Assembly.

8 (g) Civil liability. Any person convicted of fraud who
9 knowingly obtains, attempts to obtain, or causes to be obtained
10 any benefits under this Act by the making of a false claim or
11 who knowingly misrepresents any material fact shall be civilly
12 liable to the payor of benefits or the insurer or the payor's
13 or insurer's subrogee or assignee in an amount equal to 3 times
14 the value of the benefits or insurance coverage wrongfully
15 obtained or twice the value of the benefits or insurance
16 coverage attempted to be obtained, plus reasonable attorney's
17 fees and expenses incurred by the payor or the payor's subrogee
18 or assignee who successfully brings a claim under this
19 subsection. This subsection applies to accidental injuries or
20 diseases that occur on or after the effective date of this
21 amendatory Act of the 94th General Assembly.

22 (h) ~~The All proceedings under this Section shall be~~
23 ~~reported by the~~ fraud and insurance non-compliance unit shall
24 submit a written report on an annual basis to the Chairman of
25 the Commission, the Workers' Compensation Advisory Board, the
26 General Assembly, the Governor, and the Attorney General by

1 January 1 and July 1 of each year. This report shall include,
2 at the minimum, the following information:

3 (1) The number of allegations of insurance
4 non-compliance and fraud reported to the fraud and
5 insurance non-compliance unit.

6 (2) The source of the reported allegations
7 (individual, employer, or other).

8 (3) The number of allegations investigated by the fraud
9 and insurance non-compliance unit.

10 (4) The number of criminal referrals made in accordance
11 with this Section and the entity to which the referral was
12 made.

13 (5) All proceedings under this Section.

14 (Source: P.A. 94-277, eff. 7-20-05.)

15 (820 ILCS 305/29.1 new)

16 Sec. 29.1. Recalculation of premiums. On the effective date
17 of this amendatory Act of the 97th General Assembly, the
18 Director of Insurance shall immediately direct in writing any
19 workers' compensation rate setting advisory organization to
20 recalculate workers' compensation advisory premium rates and
21 assigned risk pool premium rates so that those premiums
22 incorporate the provisions of this amendatory Act of the 97th
23 General Assembly, and to publish such rates on or before
24 September 1, 2011.

1 (820 ILCS 305/29.2 new)

2 Sec. 29.2. Insurance oversight.

3 (a) The Department of Insurance shall annually submit to
4 the Governor, the Chairman of the Commission, the President of
5 the Senate, the Speaker of the House of Representatives, the
6 Minority Leader of the Senate, and the Minority Leader of the
7 House of Representatives a written report that details the
8 state of the workers' compensation insurance market in
9 Illinois. The report shall be completed by April 1 of each
10 year, beginning in 2012, or later if necessary data or analyses
11 are only available to the Department at a later date. The
12 report shall be posted on the Department of Insurance's
13 Internet website. Information to be included in the report
14 shall be for the preceding calendar year. The report shall
15 include, at a minimum, the following:

16 (1) Gross premiums collected by workers' compensation
17 carriers in Illinois and the national rank of Illinois
18 based on premium volume.

19 (2) The number of insurance companies actively engaged
20 in Illinois in the workers' compensation insurance market,
21 including both holding companies and subsidiaries or
22 affiliates, and the national rank of Illinois based on
23 number of competing insurers.

24 (3) The total number of insured participants in the
25 Illinois workers' compensation assigned risk insurance
26 pool, and the size of the assigned risk pool as a

1 proportion of the total Illinois workers' compensation
2 insurance market.

3 (4) The advisory organization premium rate for
4 workers' compensation insurance in Illinois for the
5 previous year.

6 (5) The advisory organization prescribed assigned risk
7 pool premium rate.

8 (6) The total amount of indemnity payments made by
9 workers' compensation insurers in Illinois.

10 (7) The total amount of medical payments made by
11 workers' compensation insurers in Illinois, and the
12 national rank of Illinois based on average cost of medical
13 claims per injured worker.

14 (8) The gross profitability of workers' compensation
15 insurers in Illinois, and the national rank of Illinois
16 based on profitability of workers' compensation insurers.

17 (9) The loss ratio of workers' compensation insurers in
18 Illinois and the national rank of Illinois based on the
19 loss ratio of workers' compensation insurers. For purposes
20 of this loss ratio calculation, the denominator shall
21 include all premiums and other fees collected by workers'
22 compensation insurers and the numerator shall include the
23 total amount paid by the insurer for care or compensation
24 to injured workers.

25 (10) The growth of total paid indemnity benefits by
26 temporary total disability, scheduled and non-scheduled

1 permanent partial disability, and total disability.

2 (11) The number of injured workers receiving wage loss
3 differential awards and the average wage loss differential
4 award payout.

5 (12) Illinois' rank, relative to other states, for:

6 (i) the maximum and minimum temporary total
7 disability benefit level;

8 (ii) the maximum and minimum scheduled and
9 non-scheduled permanent partial disability benefit
10 level;

11 (iii) the maximum and minimum total disability
12 benefit level; and

13 (iv) the maximum and minimum death benefit level.

14 (13) The aggregate growth of medical benefit payout by
15 non-hospital providers and hospitals.

16 (14) The aggregate growth of medical utilization for
17 the top 10 most common injuries to specific body parts by
18 non-hospital providers and hospitals.

19 (15) The percentage of injured workers filing claims at
20 the Commission that are represented by an attorney.

21 (16) The total amount paid by injured workers for
22 attorney representation.

23 (b) The Director of Insurance shall promulgate rules
24 requiring each insurer licensed to write workers' compensation
25 coverage in the State to record and report the following
26 information on an aggregate basis to the Department of

1 Insurance before March 1 of each year, relating to claims in
2 the State opened within the prior calendar year:

3 (1) The number of claims opened.

4 (2) The number of reported medical only claims.

5 (3) The number of contested claims.

6 (4) The number of claims for which the employee has
7 attorney representation.

8 (5) The number of claims with lost time and the number
9 of claims for which temporary total disability was paid.

10 (6) The number of claim adjusters employed to adjust
11 workers' compensation claims.

12 (7) The number of claims for which temporary total
13 disability was not paid within 14 days from the first full
14 day off, regardless of reason.

15 (8) The number of medical bills paid 60 days or later
16 from date of service and the average days paid on those
17 paid after 60 days for the previous calendar year.

18 (9) The number of claims in which in-house defense
19 counsel participated, and the total amount spent on
20 in-house legal services.

21 (10) The number of claims in which outside defense
22 counsel participated, and the total amount paid to outside
23 defense counsel.

24 (11) The total amount billed to employers for bill
25 review.

26 (12) The total amount billed to employers for fee

1 schedule savings.

2 (13) The total amount charged to employers for any and
3 all managed care fees.

4 (14) The number of claims involving in-house medical
5 nurse case management, and the total amount spent on
6 in-house medical nurse case management.

7 (15) The number of claims involving outside medical
8 nurse case management, and the total amount paid for
9 outside medical nurse case management.

10 (16) The total amount paid for Independent Medical
11 exams.

12 (17) The total amount spent on in-house Utilization
13 Review for the previous calendar year.

14 (18) The total amount paid for outside Utilization
15 Review for the previous calendar year.

16 The Department shall make the submitted information
17 publicly available on the Department's Internet website or such
18 other media as appropriate in a form useful for consumers.

19 Section 97. Severability. The provisions of this Act are
20 severable under Section 1.31 of the Statute on Statutes.

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

1		INDEX
2		Statutes amended in order of appearance
3	20 ILCS 405/405-105	was 20 ILCS 405/64.1
4	20 ILCS 405/405-411	
5	735 ILCS 5/8-802	from Ch. 110, par. 8-802
6	820 ILCS 305/1	from Ch. 48, par. 138.1
7	820 ILCS 305/1.1 new	
8	820 ILCS 305/4	from Ch. 48, par. 138.4
9	820 ILCS 305/4b new	
10	820 ILCS 305/8	from Ch. 48, par. 138.8
11	820 ILCS 305/8.1a new	
12	820 ILCS 305/8.1b new	
13	820 ILCS 305/8.2	
14	820 ILCS 305/8.2a new	
15	820 ILCS 305/8.7	
16	820 ILCS 305/11	from Ch. 48, par. 138.11
17	820 ILCS 305/13	from Ch. 48, par. 138.13
18	820 ILCS 305/13.1	from Ch. 48, par. 138.13-1
19	820 ILCS 305/14	from Ch. 48, par. 138.14
20	820 ILCS 305/16b new	
21	820 ILCS 305/18	from Ch. 48, par. 138.18
22	820 ILCS 305/18.1 new	
23	820 ILCS 305/19	from Ch. 48, par. 138.19
24	820 ILCS 305/25.5	
25	820 ILCS 305/29.1 new	

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1 820 ILCS 305/29.2 new