



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB3797

Introduced 10/5/2011, by Rep. Dwight Kay

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, 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 12425 AEK 56907 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) The term "accident" as used in this Act means an
23 occurrence arising out of the employment resulting from a risk
24 incidental to the employment and in the course of the
25 employment at a time and place and under circumstances
26 reasonably required by the employment.

1 (e) The term "injury" as used in this Act means an injury
2 that arises out of and in the course of employment. An injury
3 by accident is compensable only if the accident was the primary
4 factor in causing both the resulting medical condition and
5 disability. The "primary factor" is defined to be the major
6 contributory factor, in relation to other factors, causing both
7 the resulting medical condition and disability. "Injury"
8 includes the aggravation of a pre-existing condition by an
9 accident arising out of and in the course of the employment,
10 but only for so long as the aggravation of the pre-existing
11 condition continues to be the primary factor causing the
12 disability.

13 (1) An injury is deemed to arise out of and in the
14 course of the employment only if:

15 (A) it is reasonably apparent, upon consideration
16 of all circumstances, that the accident is the primary
17 factor in causing the injury;

18 (B) it does not come from a hazard or risk
19 unrelated to the employment to which employees would
20 have been equally exposed outside of the employment.

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

23 (3) Any condition or impairment of health of an
24 employee employed as a suffered by a firefighter,
25 paramedic, or emergency medical technician (EMT), which
26 results directly or indirectly from any bloodborne

1 pathogen, lung or respiratory disease or condition, heart
2 or vascular disease or condition, hypertension, hernia,
3 hearing loss, tuberculosis, or cancer resulting in any
4 disability to the employee shall be rebuttably presumed not
5 to arise out of and in the course of the employment unless
6 the accident is the primary factor in causing the resulting
7 medical condition.

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

9 (820 ILCS 305/1.1 new)

10 Sec. 1.1. Standards of conduct.

11 (a) Commissioners and arbitrators shall dispose of all
12 Workers' Compensation matters promptly, officially and fairly,
13 without bias or prejudice. Commissioners and arbitrators shall
14 be faithful to the law and maintain professional competence in
15 it. They shall be unswayed by partisan interests, public
16 clamor, or fear of criticism. Commissioners and arbitrators
17 shall take appropriate action or initiate appropriate
18 disciplinary measures against a Commissioner, arbitrator,
19 lawyer, or others for unprofessional conduct of which the
20 Commissioner or arbitrator may become aware.

21 (b) Except as otherwise provided in this Act, the Canons of
22 the Code of Judicial Conduct as adopted by the Supreme Court of
23 Illinois govern the hearing and non-hearing conduct of members
24 of the Commission and arbitrators under this Act. The
25 Commission may set additional rules and standards, not less

1 stringent than those rules and standards established by the
2 Code of Judicial Conduct, for the conduct of arbitrators.

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

5 (1) Canon 3(B), relating to administrative
6 responsibilities of Judges.

7 (2) Canon 6(C), relating to annual filings of economic
8 interests. Instead of filing declarations of economic
9 interests with the Clerk of the Illinois Supreme Court
10 under Illinois Supreme Court Rule 68, members of the
11 Commission and arbitrators shall make filings
12 substantially similar to those required by Rule 68 with the
13 Chairman, and such filings shall be made available for
14 examination by the public.

15 (d) An arbitrator or a Commissioner may accept an
16 uncompensated appointment to a governmental committee,
17 commission or other position that is concerned with issues of
18 policy on matters which may come before the arbitrator or
19 Commissioner if such appointment neither affects his or her
20 independent professional judgment nor the conduct of his or her
21 duties.

22 (e) Decisions of an arbitrator or a Commissioner shall be
23 based exclusively on evidence in the record of the proceeding
24 and material that has been officially noticed. Any findings of
25 fact made by the arbitrator based on inquiries, investigations,
26 examinations, or inspections undertaken by the arbitrator

1 shall be entered into the record of the proceeding.

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

5 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

6 Sec. 4. (a) Any employer, including but not limited to
7 general contractors and their subcontractors, who shall come
8 within the provisions of Section 3 of this Act, and any other
9 employer who shall elect to provide and pay the compensation
10 provided for in this Act shall:

11 (1) File with the Commission annually an application
12 for approval as a self-insurer which shall include a
13 current financial statement, and annually, thereafter, an
14 application for renewal of self-insurance, which shall
15 include a current financial statement. Said application
16 and financial statement shall be signed and sworn to by the
17 president or vice president and secretary or assistant
18 secretary of the employer if it be a corporation, or by all
19 of the partners, if it be a copartnership, or by the owner
20 if it be neither a copartnership nor a corporation. All
21 initial applications and all applications for renewal of
22 self-insurance must be submitted at least 60 days prior to
23 the requested effective date of self-insurance. An
24 employer may elect to provide and pay compensation as
25 provided for in this Act as a member of a group workers'

1 compensation pool under Article V 3/4 of the Illinois
2 Insurance Code. If an employer becomes a member of a group
3 workers' compensation pool, the employer shall not be
4 relieved of any obligations imposed by this Act.

5 If the sworn application and financial statement of any
6 such employer does not satisfy the Commission of the
7 financial ability of the employer who has filed it, the
8 Commission shall require such employer to,

9 (2) Furnish security, indemnity or a bond guaranteeing
10 the payment by the employer of the compensation provided
11 for in this Act, provided that any such employer whose
12 application and financial statement shall not have
13 satisfied the commission of his or her financial ability
14 and who shall have secured his liability in part by excess
15 liability insurance shall be required to furnish to the
16 Commission security, indemnity or bond guaranteeing his or
17 her payment up to the effective limits of the excess
18 coverage, or

19 (3) Insure his entire liability to pay such
20 compensation in some insurance carrier authorized,
21 licensed, or permitted to do such insurance business in
22 this State. Every policy of an insurance carrier, insuring
23 the payment of compensation under this Act shall cover all
24 the employees and the entire compensation liability of the
25 insured: Provided, however, that any employer may insure
26 his or her compensation liability with 2 or more insurance

1 carriers or may insure a part and qualify under subsection
2 1, 2, or 4 for the remainder of his or her liability to pay
3 such compensation, subject to the following two
4 provisions:

5 Firstly, the entire compensation liability of the
6 employer to employees working at or from one location
7 shall be insured in one such insurance carrier or shall
8 be self-insured, and

9 Secondly, the employer shall submit evidence
10 satisfactorily to the Commission that his or her entire
11 liability for the compensation provided for in this Act
12 will be secured. Any provisions in any policy, or in
13 any endorsement attached thereto, attempting to limit
14 or modify in any way, the liability of the insurance
15 carriers issuing the same except as otherwise provided
16 herein shall be wholly void.

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

20 (4) Make some other provision, satisfactory to the
21 Commission, for the securing of the payment of compensation
22 provided for in this Act, and

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

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

6 (A) the employer is engaged primarily in the building
7 and construction industry; and

8 (B) subdivision (a)(3) of this Section applies to the
9 employer or the employer is a member of a group
10 self-insurance plan as defined in subsection (1) of Section
11 4a.

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

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

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

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

1 Any penalty under this subsection (a-1) must be imposed not
2 later than one year after the expiration of the applicable
3 limitation period specified in subsection (d) of Section 6 of
4 this Act. Penalties imposed under this subsection (a-1) shall
5 be deposited into the Illinois Workers' Compensation
6 Commission Operations Fund, a special fund that is created in
7 the State treasury. Subject to appropriation, moneys in the
8 Fund shall be used solely for the operations of the Illinois
9 Workers' Compensation Commission and by the Department of
10 Insurance ~~Financial and Professional Regulation~~ for the
11 purposes authorized in subsection (c) of Section 25.5 of this
12 Act.

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

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

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

23 (3) Any certificate of insurance coverage document
24 issued to a client company specifying its rights and
25 obligations under the master policy that establishes both
26 the identity and status of the client, as well as the dates

1 of inception and termination of coverage, if applicable.

2 (b) The sworn application and financial statement, or
3 security, indemnity or bond, or amount of insurance, or other
4 provisions, filed, furnished, carried, or made by the employer,
5 as the case may be, shall be subject to the approval of the
6 Commission.

7 Deposits under escrow agreements shall be cash, negotiable
8 United States government bonds or negotiable general
9 obligation bonds of the State of Illinois. Such cash or bonds
10 shall be deposited in escrow with any State or National Bank or
11 Trust Company having trust authority in the State of Illinois.

12 Upon the approval of the sworn application and financial
13 statement, security, indemnity or bond or amount of insurance,
14 filed, furnished or carried, as the case may be, the Commission
15 shall send to the employer written notice of its approval
16 thereof. The certificate of compliance by the employer with the
17 provisions of subparagraphs (2) and (3) of paragraph (a) of
18 this Section shall be delivered by the insurance carrier to the
19 Illinois Workers' Compensation Commission within five days
20 after the effective date of the policy so certified. The
21 insurance so certified shall cover all compensation liability
22 occurring during the time that the insurance is in effect and
23 no further certificate need be filed in case such insurance is
24 renewed, extended or otherwise continued by such carrier. The
25 insurance so certified shall not be cancelled or in the event
26 that such insurance is not renewed, extended or otherwise

1 continued, such insurance shall not be terminated until at
2 least 10 days after receipt by the Illinois Workers'
3 Compensation Commission of notice of the cancellation or
4 termination of said insurance; provided, however, that if the
5 employer has secured insurance from another insurance carrier,
6 or has otherwise secured the payment of compensation in
7 accordance with this Section, and such insurance or other
8 security becomes effective prior to the expiration of the 10
9 days, cancellation or termination may, at the option of the
10 insurance carrier indicated in such notice, be effective as of
11 the effective date of such other insurance or security.

12 (c) Whenever the Commission shall find that any
13 corporation, company, association, aggregation of individuals,
14 reciprocal or interinsurers exchange, or other insurer
15 effecting workers' compensation insurance in this State shall
16 be insolvent, financially unsound, or unable to fully meet all
17 payments and liabilities assumed or to be assumed for
18 compensation insurance in this State, or shall practice a
19 policy of delay or unfairness toward employees in the
20 adjustment, settlement, or payment of benefits due such
21 employees, the Commission may after reasonable notice and
22 hearing order and direct that such corporation, company,
23 association, aggregation of individuals, reciprocal or
24 interinsurers exchange, or insurer, shall from and after a date
25 fixed in such order discontinue the writing of any such
26 workers' compensation insurance in this State. Subject to such

1 modification of the order as the Commission may later make on
2 review of the order, as herein provided, it shall thereupon be
3 unlawful for any such corporation, company, association,
4 aggregation of individuals, reciprocal or interinsurers
5 exchange, or insurer to effect any workers' compensation
6 insurance in this State. A copy of the order shall be served
7 upon the Director of Insurance by registered mail. Whenever the
8 Commission finds that any service or adjustment company used or
9 employed by a self-insured employer or by an insurance carrier
10 to process, adjust, investigate, compromise or otherwise
11 handle claims under this Act, has practiced or is practicing a
12 policy of delay or unfairness toward employees in the
13 adjustment, settlement or payment of benefits due such
14 employees, the Commission may after reasonable notice and
15 hearing order and direct that such service or adjustment
16 company shall from and after a date fixed in such order be
17 prohibited from processing, adjusting, investigating,
18 compromising or otherwise handling claims under this Act.

19 Whenever the Commission finds that any self-insured
20 employer has practiced or is practicing delay or unfairness
21 toward employees in the adjustment, settlement or payment of
22 benefits due such employees, the Commission may, after
23 reasonable notice and hearing, order and direct that after a
24 date fixed in the order such self-insured employer shall be
25 disqualified to operate as a self-insurer and shall be required
26 to insure his entire liability to pay compensation in some

1 insurance carrier authorized, licensed and permitted to do such
2 insurance business in this State, as provided in subparagraph 3
3 of paragraph (a) of this Section.

4 All orders made by the Commission under this Section shall
5 be subject to review by the courts, said review to be taken in
6 the same manner and within the same time as provided by Section
7 19 of this Act for review of awards and decisions of the
8 Commission, upon the party seeking the review filing with the
9 clerk of the court to which said review is taken a bond in an
10 amount to be fixed and approved by the court to which the
11 review is taken, conditioned upon the payment of all
12 compensation awarded against the person taking said review
13 pending a decision thereof and further conditioned upon such
14 other obligations as the court may impose. Upon the review the
15 Circuit Court shall have power to review all questions of fact
16 as well as of law. The penalty hereinafter provided for in this
17 paragraph shall not attach and shall not begin to run until the
18 final determination of the order of the Commission.

19 (d) Whenever a panel of 3 Commissioners comprised of one
20 member of the employing class, one member of the employee
21 class, and one member not identified with either the employing
22 or employee class, with due process and after a hearing,
23 determines an employer has knowingly failed to provide coverage
24 as required by paragraph (a) of this Section, the failure shall
25 be deemed an immediate serious danger to public health, safety,
26 and welfare sufficient to justify service by the Commission of

1 a work-stop order on such employer, requiring the cessation of
2 all business operations of such employer at the place of
3 employment or job site. Any law enforcement agency in the State
4 shall, at the request of the Commission, render any assistance
5 necessary to carry out the provisions of this Section,
6 including, but not limited to, preventing any employee of such
7 employer from remaining at a place of employment or job site
8 after a work-stop order has taken effect. Any work-stop order
9 shall be lifted upon proof of insurance as required by this
10 Act. Any orders under this Section are appealable under Section
11 19(f) to the Circuit Court.

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

25 Any individual employer, corporate officer or director of a
26 corporate employer, partner of an employer partnership, or

1 member of an employer limited liability company who negligently
2 fails to provide coverage as required by paragraph (a) of this
3 Section is guilty of a Class A misdemeanor. This provision
4 shall not apply to any corporate officer or director of any
5 publicly-owned corporation. Each day's violation constitutes a
6 separate offense. The State's Attorney of the county in which
7 the violation occurred, or the Attorney General, shall bring
8 such actions in the name of the People of the State of
9 Illinois.

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

15 Employers who are subject to and who knowingly fail to
16 comply with this Section shall not be entitled to the benefits
17 of this Act during the period of noncompliance, but shall be
18 liable in an action under any other applicable law of this
19 State. In the action, such employer shall not avail himself or
20 herself of the defenses of assumption of risk or negligence or
21 that the injury was due to a co-employee. In the action, proof
22 of the injury shall constitute prima facie evidence of
23 negligence on the part of such employer and the burden shall be
24 on such employer to show freedom of negligence resulting in the
25 injury. The employer shall not join any other defendant in any
26 such civil action. Nothing in this amendatory Act of the 94th

1 General Assembly shall affect the employee's rights under
2 subdivision (a)3 of Section 1 of this Act. Any employer or
3 carrier who makes payments under subdivision (a)3 of Section 1
4 of this Act shall have a right of reimbursement from the
5 proceeds of any recovery under this Section.

6 An employee of an uninsured employer, or the employee's
7 dependents in case death ensued, may, instead of proceeding
8 against the employer in a civil action in court, file an
9 application for adjustment of claim with the Commission in
10 accordance with the provisions of this Act and the Commission
11 shall hear and determine the application for adjustment of
12 claim in the manner in which other claims are heard and
13 determined before the Commission.

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

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

1 Act imposes on employers.

2 Upon a finding by the Commission, after reasonable notice
3 and hearing, of the knowing and wilful failure or refusal of an
4 employer to comply with any of the provisions of paragraph (a)
5 of this Section, ~~or~~ the failure or refusal of an employer,
6 service or adjustment company, or an insurance carrier to
7 comply with any order of the Illinois Workers' Compensation
8 Commission pursuant to paragraph (c) of this Section
9 disqualifying him or her to operate as a self insurer and
10 requiring him or her to insure his or her liability, or the
11 knowing and willful failure of an employer to comply with a
12 citation issued by an investigator with the Illinois Workers'
13 Compensation Commission Insurance Compliance Division, the
14 Commission may assess a civil penalty of up to \$500 per day for
15 each day of such failure or refusal after the effective date of
16 this amendatory Act of 1989. The minimum penalty under this
17 Section shall be the sum of \$10,000. Each day of such failure
18 or refusal shall constitute a separate offense. The Commission
19 may assess the civil penalty personally and individually
20 against the corporate officers and directors of a corporate
21 employer, the partners of an employer partnership, and the
22 members of an employer limited liability company, after a
23 finding of a knowing and willful refusal or failure of each
24 such named corporate officer, director, partner, or member to
25 comply with this Section. The liability for the assessed
26 penalty shall be against the named employer first, and if the

1 named employer fails or refuses to pay the penalty to the
2 Commission within 30 days after the final order of the
3 Commission, then the named corporate officers, directors,
4 partners, or members who have been found to have knowingly and
5 willfully refused or failed to comply with this Section shall
6 be liable for the unpaid penalty or any unpaid portion of the
7 penalty. Upon investigation by the insurance non-compliance
8 unit of the Commission, the Attorney General shall have the
9 authority to prosecute all proceedings to enforce the civil and
10 administrative provisions of this Section before the
11 Commission. The Commission shall promulgate procedural rules
12 for enforcing this Section.

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

26 Any individual employer, corporate officer or director of a

1 corporate employer, partner of an employer partnership, or
2 member of an employer limited liability company who, with the
3 intent to avoid payment of compensation under this Act to an
4 injured employee or the employee's dependents, knowingly
5 transfers, sells, encumbers, assigns, or in any manner disposes
6 of, conceals, secretes, or destroys any property belonging to
7 the employer, officer, director, partner, or member is guilty
8 of a Class 4 felony.

9 Penalties and fines collected pursuant to this paragraph
10 (d) shall be deposited upon receipt into a special fund which
11 shall be designated the Injured Workers' Benefit Fund, of which
12 the State Treasurer is ex-officio custodian, such special fund
13 to be held and disbursed in accordance with this paragraph (d)
14 for the purposes hereinafter stated in this paragraph (d), upon
15 the final order of the Commission. The Injured Workers' Benefit
16 Fund shall be deposited the same as are State funds and any
17 interest accruing thereon shall be added thereto every 6
18 months. The Injured Workers' Benefit Fund is subject to audit
19 the same as State funds and accounts and is protected by the
20 general bond given by the State Treasurer. The Injured Workers'
21 Benefit Fund is considered always appropriated for the purposes
22 of disbursements as provided in this paragraph, and shall be
23 paid out and disbursed as herein provided and shall not at any
24 time be appropriated or diverted to any other use or purpose.
25 Moneys in the Injured Workers' Benefit Fund shall be used only
26 for payment of workers' compensation benefits for injured

1 employees when the employer has failed to provide coverage as
2 determined under this paragraph (d) and has failed to pay the
3 benefits due to the injured employee. The Commission shall have
4 the right to obtain reimbursement from the employer for
5 compensation obligations paid by the Injured Workers' Benefit
6 Fund. Any such amounts obtained shall be deposited by the
7 Commission into the Injured Workers' Benefit Fund. If an
8 injured employee or his or her personal representative receives
9 payment from the Injured Workers' Benefit Fund, the State of
10 Illinois has the same rights under paragraph (b) of Section 5
11 that the employer who failed to pay the benefits due to the
12 injured employee would have had if the employer had paid those
13 benefits, and any moneys recovered by the State as a result of
14 the State's exercise of its rights under paragraph (b) of
15 Section 5 shall be deposited into the Injured Workers' Benefit
16 Fund. The custodian of the Injured Workers' Benefit Fund shall
17 be joined with the employer as a party respondent in the
18 application for adjustment of claim. After July 1, 2006, the
19 Commission shall make disbursements from the Fund once each
20 year to each eligible claimant. An eligible claimant is an
21 injured worker who has within the previous fiscal year obtained
22 a final award for benefits from the Commission against the
23 employer and the Injured Workers' Benefit Fund and has notified
24 the Commission within 90 days of receipt of such award. Within
25 a reasonable time after the end of each fiscal year, the
26 Commission shall make a disbursement to each eligible claimant.

1 At the time of disbursement, if there are insufficient moneys
2 in the Fund to pay all claims, each eligible claimant shall
3 receive a pro-rata share, as determined by the Commission, of
4 the available moneys in the Fund for that year. Payment from
5 the Injured Workers' Benefit Fund to an eligible claimant
6 pursuant to this provision shall discharge the obligations of
7 the Injured Workers' Benefit Fund regarding the award entered
8 by the Commission.

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

1 additional accident or sick benefits.

2 (f) No existing insurance, mutual aid, benefit or relief
3 association or department shall, by reason of anything herein
4 contained, be authorized to discontinue its operation without
5 first discharging its obligations to any and all persons
6 carrying insurance in the same or entitled to relief or
7 benefits therein.

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

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

25 (h) It shall be unlawful for any employer, insurance
26 company or service or adjustment company to interfere with,

1 restrain or coerce an employee in any manner whatsoever in the
2 exercise of the rights or remedies granted to him or her by
3 this Act or to discriminate, attempt to discriminate, or
4 threaten to discriminate against an employee in any way because
5 of his or her exercise of the rights or remedies granted to him
6 or her by this Act.

7 It shall be unlawful for any employer, individually or
8 through any insurance company or service or adjustment company,
9 to discharge or to threaten to discharge, or to refuse to
10 rehire or recall to active service in a suitable capacity an
11 employee because of the exercise of his or her rights or
12 remedies granted to him or her by this Act.

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

18 (j) Within 45 days of receipt of an initial application or
19 application to renew self-insurance privileges the
20 Self-Insurers Advisory Board shall review and submit for
21 approval by the Chairman of the Commission recommendations of
22 disposition of all initial applications to self-insure and all
23 applications to renew self-insurance privileges filed by
24 private self-insurers pursuant to the provisions of this
25 Section and Section 4a-9 of this Act. Each private self-insurer
26 shall submit with its initial and renewal applications the

1 application fee required by Section 4a-4 of this Act.

2 The Chairman of the Commission shall promptly act upon all
3 initial applications and applications for renewal in full
4 accordance with the recommendations of the Board or, should the
5 Chairman disagree with any recommendation of disposition of the
6 Self-Insurer's Advisory Board, he shall within 30 days of
7 receipt of such recommendation provide to the Board in writing
8 the reasons supporting his decision. The Chairman shall also
9 promptly notify the employer of his decision within 15 days of
10 receipt of the recommendation of the Board.

11 If an employer is denied a renewal of self-insurance
12 privileges pursuant to application it shall retain said
13 privilege for 120 days after receipt of a notice of
14 cancellation of the privilege from the Chairman of the
15 Commission.

16 All orders made by the Chairman under this Section shall be
17 subject to review by the courts, such review to be taken in the
18 same manner and within the same time as provided by subsection
19 (f) of Section 19 of this Act for review of awards and
20 decisions of the Commission, upon the party seeking the review
21 filing with the clerk of the court to which such review is
22 taken a bond in an amount to be fixed and approved by the court
23 to which the review is taken, conditioned upon the payment of
24 all compensation awarded against the person taking such review
25 pending a decision thereof and further conditioned upon such
26 other obligations as the court may impose. Upon the review the

1 Circuit Court shall have power to review all questions of fact
2 as well as of law.

3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
4 94-839, eff. 6-6-06.)

5 (820 ILCS 305/4b new)

6 Sec. 4b. Collective bargaining pilot program.

7 (a) The Director of the Department of Labor shall adopt a
8 selection process to designate 2 international, national, or
9 statewide organizations made up of affiliates who are the
10 exclusive representatives of construction employer employees
11 recognized or certified pursuant to the National Labor
12 Relations Act to participate in the collective bargaining pilot
13 program provided for in this Section.

14 (a-5) For purposes of this Section, the term "construction
15 employer" means any person or legal entity or group of persons
16 or legal entities engaging in or planning to engage in any
17 constructing, altering, reconstructing, repairing,
18 rehabilitating, refinishing, refurbishing, remodeling,
19 remediating, renovating, custom fabricating, maintaining,
20 landscaping, improving, wrecking, painting, decorating,
21 demolishing, and adding to or subtracting from any building,
22 structure, airport facility, highway, roadway, street, alley,
23 bridge, sewer, drain, ditch, sewage disposal plant, water
24 works, parking facility, railroad, excavation or other
25 project, structure, development, real property or improvement,

1 or to do any part thereof, whether or not the performance of
2 the work herein described involves the addition to, or
3 fabrication into, any project, structure, development, real
4 property or improvement herein described, and shall also
5 include any moving of construction-related materials on the job
6 site or to or from the job site.

7 For purposes of this Section, "labor organization" means an
8 affiliate of an international, national, or statewide
9 organization that has been selected by the Department of Labor
10 to participate in the collective bargaining pilot program as
11 provided for in this Section.

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

19 (1) An alternative dispute resolution ("ADR") system
20 to supplement, modify or replace the procedural or dispute
21 resolution provisions of this Act. The system may include
22 mediation, arbitration, or other dispute resolution
23 proceedings, the results of which shall be final and
24 binding upon the parties;

25 (2) An agreed list of medical treatment providers that
26 may be the exclusive source of all medical and related

1 treatment provided under this Act;

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

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

6 (5) The use of a limited list of individuals and
7 companies for the establishment of vocational
8 rehabilitation or retraining programs that may be the
9 exclusive source of rehabilitation and retraining services
10 provided under this Act; or

11 (6) The establishment of joint labor management safety
12 committees and safety procedures.

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

1 creating a mandatory subject of bargaining.

2 (d) Form of agreement. The agreement reached herein shall
3 demonstrate that:

4 (1) The construction employer or group of construction
5 employers and the recognized or certified exclusive
6 bargaining representative have entered into a binding
7 collective bargaining agreement adopting the ADR plan for a
8 period of no less than 2 years;

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

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

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

18 (5) The system and means by which the construction
19 employer's obligation to furnish medical services and
20 vocational rehabilitation and retraining benefits shall be
21 fulfilled and provider selected;

22 (6) The method by which mediators or arbitrators are to
23 be selected.

24 (e) Filing. A copy of the agreement and a statement
25 identifying the parties to the agreement shall be filed with
26 the Commission. Within 21 days of receipt of an agreement, the

1 Chairman shall review the agreement for compliance with this
2 Section and notify the parties of its acceptance or notify the
3 parties of any additional information required or any
4 recommended modification that would bring the agreement into
5 compliance. If no additional information or modification is
6 required, the agreement shall be valid and binding from the
7 time the parties receive acceptance of the agreement from the
8 Chairman. Upon receipt of any requested information or
9 modification, the Chairman shall notify the parties within 21
10 days whether the agreement is in compliance with this Section.
11 All rejections made by the Chairman under this subsection shall
12 be subject to review by the courts of this State, said review
13 to be taken in the same manner and within the same time as
14 provided by Section 19 of this Act for review of awards and
15 decisions of the Commission. Upon the review, the Circuit Court
16 shall have power to review all questions of fact as well as of
17 law.

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

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

24 (1) Claims for benefits shall be filed with the ADR
25 plan administrator within those periods of limitation
26 prescribed by this Act. Within 10 days of the filing of a

1 claim, the ADR plan administrator shall serve a copy of the
2 claim application upon the Commission, which shall
3 maintain records of all ADR claims and resolutions.

4 (2) Settlements of claims presented to the ADR plan
5 administrator shall be evidenced by a settlement
6 agreement. All such settlements shall be filed with the ADR
7 plan administrator, who within 10 days shall forward a copy
8 to the Commission for recording.

9 (3) Upon assignment of claims, unless settled,
10 mediators and arbitrators shall render final orders
11 containing essential findings of fact, rulings of law and
12 referring to other matters as pertinent to the questions at
13 issue. The ADR plan administrator shall maintain a record
14 of the proceedings.

15 (h) Reporting requirements. Annually, each ADR plan
16 administrator shall submit a report to the Commission
17 containing the following information:

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

19 (2) The number of occurrences of work-related injuries
20 or diseases;

21 (3) The breakdown within the ADR program of injuries
22 and diseases treated;

23 (4) The total amount of disability benefits paid within
24 the ADR program;

25 (5) The total medical treatment cost paid within the
26 ADR program;

- 1 (6) The number of claims filed within the ADR program;
2 and
3 (7) The disposition of all claims.

4 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

1 injury the employee is unable to be self-sufficient the
2 employer shall further pay for such maintenance or
3 institutional care as shall be required.

4 The employee may at any time elect to secure his own
5 physician, surgeon and hospital services at the employer's
6 expense, or,

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

1 to make such change the Commission may relieve the employer of
2 his obligation to pay the doctor's charges from the date of
3 refusal to the date of compliance.

4 Any vocational rehabilitation counselors who provide
5 service under this Act shall have appropriate certifications
6 which designate the counselor as qualified to render opinions
7 relating to vocational rehabilitation. Vocational
8 rehabilitation may include, but is not limited to, counseling
9 for job searches, supervising a job search program, and
10 vocational retraining including education at an accredited
11 learning institution. The employee or employer may petition to
12 the Commission to decide disputes relating to vocational
13 rehabilitation and the Commission shall resolve any such
14 dispute, including payment of the vocational rehabilitation
15 program by the employer.

16 The maintenance benefit shall not be less than the
17 temporary total disability rate determined for the employee. In
18 addition, maintenance shall include costs and expenses
19 incidental to the vocational rehabilitation program.

20 When the employee is working light duty on a part-time
21 basis or full-time basis and earns less than he or she would be
22 earning if employed in the full capacity of the job or jobs,
23 then the employee shall be entitled to temporary partial
24 disability benefits. Temporary partial disability benefits
25 shall be equal to two-thirds of the difference between the
26 average amount that the employee would be able to earn in the

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

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

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

- 16 (1) all first aid and emergency treatment; plus
17 (2) all medical, surgical and hospital services
18 provided by the physician, surgeon or hospital initially
19 chosen by the employee or by any other physician,
20 consultant, expert, institution or other provider of
21 services recommended by said initial service provider or
22 any subsequent provider of medical services in the chain of
23 referrals from said initial service provider; plus
24 (3) all medical, surgical and hospital services
25 provided by any second physician, surgeon or hospital
26 subsequently chosen by the employee or by any other

1 physician, consultant, expert, institution or other
2 provider of services recommended by said second service
3 provider or any subsequent provider of medical services in
4 the chain of referrals from said second service provider.
5 Thereafter the employer shall select and pay for all
6 necessary medical, surgical and hospital treatment and the
7 employee may not select a provider of medical services at
8 the employer's expense unless the employer agrees to such
9 selection. At any time the employee may obtain any medical
10 treatment he desires at his own expense. This paragraph
11 shall not affect the duty to pay for rehabilitation
12 referred to above.

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

25 Where the accidental injury results in the amputation of an
26 arm, hand, leg or foot, or the enucleation of an eye, or the

1 loss of any of the natural teeth, the employer shall furnish an
2 artificial of any such members lost or damaged in accidental
3 injury arising out of and in the course of employment, and
4 shall also furnish the necessary braces in all proper and
5 necessary cases. In cases of the loss of a member or members by
6 amputation, the employer shall, whenever necessary, maintain
7 in good repair, refit or replace the artificial limbs during
8 the lifetime of the employee. Where the accidental injury
9 accompanied by physical injury results in damage to a denture,
10 eye glasses or contact eye lenses, or where the accidental
11 injury results in damage to an artificial member, the employer
12 shall replace or repair such denture, glasses, lenses, or
13 artificial member.

14 The furnishing by the employer of any such services or
15 appliances is not an admission of liability on the part of the
16 employer to pay compensation.

17 The furnishing of any such services or appliances or the
18 servicing thereof by the employer is not the payment of
19 compensation.

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

1 on the day after the accident.

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

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

1 increased by 10% for each spouse and child, not to exceed
2 100% of the total minimum wage calculation,
3 nor exceed the employee's average weekly wage computed in
4 accordance with the provisions of Section 10, whichever is
5 less.

6 2.1. The compensation rate in all cases of serious and
7 permanent disfigurement under paragraph (c) and of
8 permanent partial disability under subparagraph (2) of
9 paragraph (d) or under paragraph (e) of this Section shall
10 be equal to 60% of the employee's average weekly wage
11 computed in accordance with the provisions of Section 10,
12 provided that it shall be not less than 66 2/3% of the sum
13 of the Federal minimum wage under the Fair Labor Standards
14 Act, or the Illinois minimum wage under the Minimum Wage
15 Law, whichever is more, multiplied by 40 hours. This
16 percentage rate shall be increased by 10% for each spouse
17 and child, not to exceed 100% of the total minimum wage
18 calculation,
19 nor exceed the employee's average weekly wage computed in
20 accordance with the provisions of Section 10, whichever is
21 less.

22 3. As used in this Section the term "child" means a
23 child of the employee including any child legally adopted
24 before the accident or whom at the time of the accident the
25 employee was under legal obligation to support or to whom
26 the employee stood in loco parentis, and who at the time of

1 the accident was under 18 years of age and not emancipated.
2 The term "children" means the plural of "child".

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

6 The maximum weekly compensation rate from July 1, 1975,
7 except as hereinafter provided, shall be 100% of the
8 State's average weekly wage in covered industries under the
9 Unemployment Insurance Act, that being the wage that most
10 closely approximates the State's average weekly wage.

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

24 The maximum weekly compensation rate, for the period
25 January 1, 1981 through December 31, 1983, except as
26 hereinafter provided, shall be 100% of the State's average

1 weekly wage in covered industries under the Unemployment
2 Insurance Act in effect on January 1, 1981. Effective
3 January 1, 1984 and on January 1, of each year thereafter
4 the maximum weekly compensation rate, except as
5 hereinafter provided, shall be determined as follows: if
6 during the preceding 12 month period there shall have been
7 an increase in the State's average weekly wage in covered
8 industries under the Unemployment Insurance Act, the
9 weekly compensation rate shall be proportionately
10 increased by the same percentage as the percentage of
11 increase in the State's average weekly wage in covered
12 industries under the Unemployment Insurance Act during
13 such period.

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

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

1 4.1. Any provision herein to the contrary
2 notwithstanding, the weekly compensation rate for
3 compensation payments under subparagraph 18 of paragraph
4 (e) of this Section and under paragraph (f) of this Section
5 and under paragraph (a) of Section 7 and for amputation of
6 a member or enucleation of an eye under paragraph (e) of
7 this Section, shall in no event be less than 50% of the
8 State's average weekly wage in covered industries under the
9 Unemployment Insurance Act.

10 4.2. Any provision to the contrary notwithstanding,
11 the total compensation payable under Section 7 shall not
12 exceed the greater of \$500,000 or 25 years.

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

19 6. The Department of Employment Security of the State
20 shall on or before the first day of December, 1977, and on
21 or before the first day of June, 1978, and on the first day
22 of each December and June of each year thereafter, publish
23 the State's average weekly wage in covered industries under
24 the Unemployment Insurance Act and the Illinois Workers'
25 Compensation Commission shall on the 15th day of January,
26 1978 and on the 15th day of July, 1978 and on the 15th day

1 of each January and July of each year thereafter, post and
2 publish the State's average weekly wage in covered
3 industries under the Unemployment Insurance Act as last
4 determined and published by the Department of Employment
5 Security. The amount when so posted and published shall be
6 conclusive and shall be applicable as the basis of
7 computation of compensation rates until the next posting
8 and publication as aforesaid.

9 7. The payment of compensation by an employer or his
10 insurance carrier to an injured employee shall not
11 constitute an admission of the employer's liability to pay
12 compensation.

13 (c) For any serious and permanent disfigurement to the
14 hand, head, face, neck, arm, leg below the knee or the chest
15 above the axillary line, the employee is entitled to
16 compensation for such disfigurement, the amount determined by
17 agreement at any time or by arbitration under this Act, at a
18 hearing not less than 6 months after the date of the accidental
19 injury, which amount shall not exceed 150 weeks (if the
20 accidental injury occurs on or after the effective date of this
21 amendatory Act of the 94th General Assembly but before February
22 1, 2006) or 162 weeks (if the accidental injury occurs on or
23 after February 1, 2006) at the applicable rate provided in
24 subparagraph 2.1 of paragraph (b) of this Section.

25 No compensation is payable under this paragraph where
26 compensation is payable under paragraphs (d), (e) or (f) of

1 this Section.

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

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

25 2. If, as a result of the accident, the employee sustains
26 serious and permanent injuries not covered by paragraphs (c)

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

1 shall be not less than 2 weeks for each such fractured bone,
2 and for a fracture of each transverse process not less than 3
3 weeks. In the event such injuries shall result in the loss of a
4 kidney, spleen or lung, the amount of compensation allowed
5 under this Section shall be not less than 10 weeks for each
6 such organ. Compensation awarded under this subparagraph 2
7 shall not take into consideration injuries covered under
8 paragraphs (c) and (e) of this Section and the compensation
9 provided in this paragraph shall not affect the employee's
10 right to compensation payable under paragraphs (b), (c) and (e)
11 of this Section for the disabilities therein covered.

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

22 1. Thumb-

23 70 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 76 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 2. First, or index finger-

3 40 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 43 weeks if the accidental injury occurs on or
7 after February 1, 2006.

8 3. Second, or middle finger-

9 35 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 38 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 4. Third, or ring finger-

15 25 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 27 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 5. Fourth, or little finger-

21 20 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 22 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 6. Great toe-

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

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

6 7. Each toe other than great toe-

7 12 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 13 weeks if the accidental injury occurs on or
11 after February 1, 2006.

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

21 9. Hand-

22 190 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

25 205 weeks if the accidental injury occurs on or
26 after February 1, 2006.

1 190 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 97th General Assembly and if the accidental injury
4 involves carpal tunnel syndrome due to repetitive or
5 cumulative trauma, in which case the permanent partial
6 disability shall not exceed 15% loss of use of the
7 hand, except for cause shown by clear and convincing
8 evidence and in which case the award shall not exceed
9 30% loss of use of the hand.

10 The loss of 2 or more digits, or one or more phalanges
11 of 2 or more digits, of a hand may be compensated on the
12 basis of partial loss of use of a hand, provided, further,
13 that the loss of 4 digits, or the loss of use of 4 digits,
14 in the same hand shall constitute the complete loss of a
15 hand.

16 10. Arm-

17 235 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.

20 253 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 Where an accidental injury results in the amputation of
23 an arm below the elbow, such injury shall be compensated as
24 a loss of an arm. Where an accidental injury results in the
25 amputation of an arm above the elbow, compensation for an
26 additional 15 weeks (if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the 94th
2 General Assembly but before February 1, 2006) or an
3 additional 17 weeks (if the accidental injury occurs on or
4 after February 1, 2006) shall be paid, except where the
5 accidental injury results in the amputation of an arm at
6 the shoulder joint, or so close to shoulder joint that an
7 artificial arm cannot be used, or results in the
8 disarticulation of an arm at the shoulder joint, in which
9 case compensation for an additional 65 weeks (if the
10 accidental injury occurs on or after the effective date of
11 this amendatory Act of the 94th General Assembly but before
12 February 1, 2006) or an additional 70 weeks (if the
13 accidental injury occurs on or after February 1, 2006)
14 shall be paid.

15 11. Foot-

16 155 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.

19 167 weeks if the accidental injury occurs on or
20 after February 1, 2006.

21 12. Leg-

22 200 weeks if the accidental injury occurs on or
23 after the effective date of this amendatory Act of the
24 94th General Assembly but before February 1, 2006.

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

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

19 13. Eye-

20 150 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

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

25 Where an accidental injury results in the enucleation
26 of an eye, compensation for an additional 10 weeks (if the

1 accidental injury occurs on or after the effective date of
2 this amendatory Act of the 94th General Assembly but before
3 February 1, 2006) or an additional 11 weeks (if the
4 accidental injury occurs on or after February 1, 2006)
5 shall be paid.

6 14. Loss of hearing of one ear-

7 50 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 54 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 Total and permanent loss of hearing of both ears-

13 200 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.

16 215 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 15. Testicle-

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

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

24 Both testicles-

25 150 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

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

2 162 weeks if the accidental injury occurs on or
3 after February 1, 2006.

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

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

17 (b) The percent of hearing loss, for purposes of
18 the determination of compensation claims for
19 occupational deafness, shall be calculated as the
20 average in decibels for the thresholds of hearing for
21 the frequencies of 1,000, 2,000 and 3,000 cycles per
22 second. Pure tone air conduction audiometric
23 instruments, approved by nationally recognized
24 authorities in this field, shall be used for measuring
25 hearing loss. If the losses of hearing average 30
26 decibels or less in the 3 frequencies, such losses of

1 hearing shall not then constitute any compensable
2 hearing disability. If the losses of hearing average 85
3 decibels or more in the 3 frequencies, then the same
4 shall constitute and be total or 100% compensable
5 hearing loss.

6 (c) In measuring hearing impairment, the lowest
7 measured losses in each of the 3 frequencies shall be
8 added together and divided by 3 to determine the
9 average decibel loss. For every decibel of loss
10 exceeding 30 decibels an allowance of 1.82% shall be
11 made up to the maximum of 100% which is reached at 85
12 decibels.

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

18 (e) No consideration shall be given to the question
19 of whether or not the ability of an employee to
20 understand speech is improved by the use of a hearing
21 aid.

22 (f) No claim for loss of hearing due to industrial
23 noise shall be brought against an employer or allowed
24 unless the employee has been exposed for a period of
25 time sufficient to cause permanent impairment to noise
26 levels in excess of the following:

1	Sound Level DBA	
2	Slow Response	Hours Per Day
3	90	8
4	92	6
5	95	4
6	97	3
7	100	2
8	102	1-1/2
9	105	1
10	110	1/2
11	115	1/4

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

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

26 18. The specific case of loss of both hands, both arms,

1 or both feet, or both legs, or both eyes, or of any two
2 thereof, or the permanent and complete loss of the use
3 thereof, constitutes total and permanent disability, to be
4 compensated according to the compensation fixed by
5 paragraph (f) of this Section. These specific cases of
6 total and permanent disability do not exclude other cases.

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

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

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

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

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

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

7 An employee entitled to benefits under paragraph (f) of
8 this Section shall also be entitled to receive from the Rate
9 Adjustment Fund provided in paragraph (f) of Section 7 of the
10 supplementary benefits provided in paragraph (g) of this
11 Section 8.

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

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

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

15 The custodian of the Second Injury Fund provided for in
16 paragraph (f) of Section 7 shall be joined with the employer as
17 a party respondent in the application for adjustment of claim.
18 The application for adjustment of claim shall state briefly and
19 in general terms the approximate time and place and manner of
20 the loss of the first member.

21 In its award the Commission or the Arbitrator shall
22 specifically find the amount the injured employee shall be
23 weekly paid, the number of weeks compensation which shall be
24 paid by the employer, the date upon which payments begin out of
25 the Second Injury Fund provided for in paragraph (f) of Section
26 7 of this Act, the length of time the weekly payments continue,

1 the date upon which the pension payments commence and the
2 monthly amount of the payments. The Commission shall 30 days
3 after the date upon which payments out of the Second Injury
4 Fund have begun as provided in the award, and every month
5 thereafter, prepare and submit to the State Comptroller a
6 voucher for payment for all compensation accrued to that date
7 at the rate fixed by the Commission. The State Comptroller
8 shall draw a warrant to the injured employee along with a
9 receipt to be executed by the injured employee and returned to
10 the Commission. The endorsed warrant and receipt is a full and
11 complete acquittance to the Commission for the payment out of
12 the Second Injury Fund. No other appropriation or warrant is
13 necessary for payment out of the Second Injury Fund. The Second
14 Injury Fund is appropriated for the purpose of making payments
15 according to the terms of the awards.

16 As of July 1, 1980 to July 1, 1982, all claims against and
17 obligations of the Second Injury Fund shall become claims
18 against and obligations of the Rate Adjustment Fund to the
19 extent there is insufficient money in the Second Injury Fund to
20 pay such claims and obligations. In that case, all references
21 to "Second Injury Fund" in this Section shall also include the
22 Rate Adjustment Fund.

23 (g) Every award for permanent total disability entered by
24 the Commission on and after July 1, 1965 under which
25 compensation payments shall become due and payable after the
26 effective date of this amendatory Act, and every award for

1 death benefits or permanent total disability entered by the
2 Commission on and after the effective date of this amendatory
3 Act shall be subject to annual adjustments as to the amount of
4 the compensation rate therein provided. Such adjustments shall
5 first be made on July 15, 1977, and all awards made and entered
6 prior to July 1, 1975 and on July 15 of each year thereafter.
7 In all other cases such adjustment shall be made on July 15 of
8 the second year next following the date of the entry of the
9 award and shall further be made on July 15 annually thereafter.
10 If during the intervening period from the date of the entry of
11 the award, or the last periodic adjustment, there shall have
12 been an increase in the State's average weekly wage in covered
13 industries under the Unemployment Insurance Act, the weekly
14 compensation rate shall be proportionately increased by the
15 same percentage as the percentage of increase in the State's
16 average weekly wage in covered industries under the
17 Unemployment Insurance Act. The increase in the compensation
18 rate under this paragraph shall in no event bring the total
19 compensation rate to an amount greater than the prevailing
20 maximum rate at the time that the annual adjustment is made.
21 Such increase shall be paid in the same manner as herein
22 provided for payments under the Second Injury Fund to the
23 injured employee, or his dependents, as the case may be, out of
24 the Rate Adjustment Fund provided in paragraph (f) of Section 7
25 of this Act. Payments shall be made at the same intervals as
26 provided in the award or, at the option of the Commission, may

1 be made in quarterly payment on the 15th day of January, April,
2 July and October of each year. In the event of a decrease in
3 such average weekly wage there shall be no change in the then
4 existing compensation rate. The within paragraph shall not
5 apply to cases where there is disputed liability and in which a
6 compromise lump sum settlement between the employer and the
7 injured employee, or his dependents, as the case may be, has
8 been duly approved by the Illinois Workers' Compensation
9 Commission.

10 Provided, that in cases of awards entered by the Commission
11 for injuries occurring before July 1, 1975, the increases in
12 the compensation rate adjusted under the foregoing provision of
13 this paragraph (g) shall be limited to increases in the State's
14 average weekly wage in covered industries under the
15 Unemployment Insurance Act occurring after July 1, 1975.

16 For every accident occurring on or after July 20, 2005 but
17 before the effective date of this amendatory Act of the 94th
18 General Assembly (Senate Bill 1283 of the 94th General
19 Assembly), the annual adjustments to the compensation rate in
20 awards for death benefits or permanent total disability, as
21 provided in this Act, shall be paid by the employer. The
22 adjustment shall be made by the employer on July 15 of the
23 second year next following the date of the entry of the award
24 and shall further be made on July 15 annually thereafter. If
25 during the intervening period from the date of the entry of the
26 award, or the last periodic adjustment, there shall have been

1 an increase in the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act, the employer
3 shall increase the weekly compensation rate proportionately by
4 the same percentage as the percentage of increase in the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act. The increase in the compensation
7 rate under this paragraph shall in no event bring the total
8 compensation rate to an amount greater than the prevailing
9 maximum rate at the time that the annual adjustment is made. In
10 the event of a decrease in such average weekly wage there shall
11 be no change in the then existing compensation rate. Such
12 increase shall be paid by the employer in the same manner and
13 at the same intervals as the payment of compensation in the
14 award. This paragraph shall not apply to cases where there is
15 disputed liability and in which a compromise lump sum
16 settlement between the employer and the injured employee, or
17 his or her dependents, as the case may be, has been duly
18 approved by the Illinois Workers' Compensation Commission.

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

26 (h) In case death occurs from any cause before the total

1 compensation to which the employee would have been entitled has
2 been paid, then in case the employee leaves any widow, widower,
3 child, parent (or any grandchild, grandparent or other lineal
4 heir or any collateral heir dependent at the time of the
5 accident upon the earnings of the employee to the extent of 50%
6 or more of total dependency) such compensation shall be paid to
7 the beneficiaries of the deceased employee and distributed as
8 provided in paragraph (g) of Section 7.

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

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

22 However, where an employer has on file an employment
23 certificate issued pursuant to the Child Labor Law or work
24 permit issued pursuant to the Federal Fair Labor Standards Act,
25 as amended, or a birth certificate properly and duly issued,
26 such certificate, permit or birth certificate is conclusive

1 evidence as to the age of the injured minor employee for the
2 purposes of this Section.

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

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

26 Any excess benefits paid to or on behalf of a State

1 employee by the State Employees' Retirement System under
2 Article 14 of the Illinois Pension Code on a death claim or
3 disputed disability claim shall be credited against any
4 payments made or to be made by the State of Illinois to or on
5 behalf of such employee under this Act, except for payments for
6 medical expenses which have already been incurred at the time
7 of the award. The State of Illinois shall directly reimburse
8 the State Employees' Retirement System to the extent of such
9 credit.

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

20 3. The extension of time for the filing of an Application
21 for Adjustment of Claim as provided in paragraph 1 above shall
22 not apply to those cases where the time for such filing had
23 expired prior to the date on which payments or benefits
24 enumerated herein have been initiated or resumed. Provided
25 however that this paragraph 3 shall apply only to cases wherein
26 the payments or benefits hereinabove enumerated shall be

1 received after July 1, 1969.

2 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
3 94-695, eff. 11-16-05.)

4 (820 ILCS 305/8.1a new)

5 Sec. 8.1a. Preferred provider programs. Starting on the
6 effective date of this amendatory Act of the 97th General
7 Assembly, to satisfy its liabilities under this Act for the
8 provision of medical treatment to injured employees, an
9 employer may utilize a preferred provider program approved by
10 the Illinois Department of Insurance as in compliance with
11 Sections 370k, 370l, 370m, and 370p of Article XX-1/2 of the
12 Illinois Insurance Code. For the purposes of compliance with
13 these Sections, the employee shall be considered the
14 "beneficiary" and the employer shall be considered the
15 "insured". Employers and insurers contracting directly with
16 providers or utilizing multiple preferred provider programs to
17 implement a preferred provider program providing workers'
18 compensation benefits shall be subject to the above
19 requirements of Article XX-1/2 applicable to administrators
20 with regard to such program, with the exception of Section 370l
21 of the Illinois Insurance Code.

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

25 (1) The provider network shall include an adequate

1 number of occupational and non-occupational providers.

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

6 (3) Medical treatment for injuries shall be readily
7 available at reasonable times to all employees. To the
8 extent feasible, all medical treatment for injuries shall
9 be readily accessible to all employees.

10 (4) Physician compensation shall not be structured in
11 order to achieve the goal of inappropriately reducing,
12 delaying, or denying medical treatment or restricting
13 access to medical treatment.

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

25 (b) The administrator of any preferred provider program
26 under this Act that uses economic evaluation shall file with

1 the Director of Insurance a description of any policies and
2 procedures related to economic evaluation utilized by the
3 program. The filing shall describe how these policies and
4 procedures are used in utilization review, peer review,
5 incentive and penalty programs, and in provider retention and
6 termination decisions. The Director of Insurance may deny
7 approval of any preferred provider program that uses any policy
8 or procedure of economic evaluation to inappropriately reduce,
9 delay or deny medical treatment, or to restrict access to
10 medical treatment. Evaluation of providers based upon
11 objective medical quality and patient outcome measurements,
12 appropriate use of best clinical practices and evidence based
13 medicine, and use of health information technology shall be
14 permitted. If approved, the employer shall provide a copy of
15 the filing to all participating providers.

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

24 (2) For the purposes of this subsection (b), "economic
25 evaluation" shall mean any evaluation of a particular
26 physician, provider, medical group, or individual practice

1 association based in whole or in part on the economic costs
2 or utilization of services associated with medical care
3 provided or authorized by the physician, provider, medical
4 group, or individual practice association. Economic
5 evaluation shall not include negotiated rates with a
6 provider.

7 (c) Notwithstanding the provisions of subsection (a) of
8 Section 8 and for injuries incurred after the effective date of
9 this amendatory Act of the 97th General Assembly, an employee
10 of an employer utilizing a preferred provider program shall
11 only be allowed to select a participating provider from the
12 network. An employer shall be responsible for all medical care
13 provided by participating providers under this Section
14 determined by the Commission to be compensable. An employer
15 shall not be liable for medical services provided by a
16 non-authorized provider when proper notice is provided to the
17 injured worker.

18 (1) When the injured employee notifies the employer of
19 the injury or files a claim for workers' compensation with
20 the employer, the employer shall inform the employee of his
21 or her right to be treated by a physician of his or her
22 choice from the medical provider network established
23 pursuant to this Section, and the method by which the list
24 of participating providers may be accessed by the employee.

25 (2) Consistent with Article XX-1/2 of the Illinois
26 Insurance Code, treatment by a specialist who is not a

1 member of the medical provider network shall be permitted
2 on a case-by-case basis if the medical provider network
3 does not contain a physician who can provide the approved
4 treatment, and if the employee has complied with any
5 pre-authorization requirements. Consent for the employee
6 to visit an out-of-network provider may not be unreasonably
7 withheld. When a non-network provider is authorized, the
8 non-network provider shall not hold an employee liable for
9 costs except as provided in subsection (e) of Section 8.2.

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

14 (d) The Director of the Department of Insurance may
15 promulgate such reasonable rules as are necessary and proper to
16 carry out the provisions of this Section relating to approval
17 and regulation of preferred provider programs.

18 (820 ILCS 305/8.1b new)

19 Sec. 8.1b. Determination of permanent partial disability.
20 For accidental injuries that occur on or after September 1,
21 2011, permanent partial disability shall be established using
22 the following criteria:

23 A physician licensed to practice medicine in all of its
24 branches preparing a permanent partial disability impairment
25 report shall report the level of impairment in writing. The

1 report shall include an evaluation of medically defined and
2 professionally appropriate measurements of impairment that
3 include, but are not limited to: loss of range of motion; loss
4 of strength; measured atrophy of tissue mass consistent with
5 the injury; and any other measurements that establish the
6 nature and extent of the impairment. The most current edition
7 of the American Medical Association's "Guides to the Evaluation
8 of Permanent Impairment" shall be used by the physician in
9 determining the level of impairment. The level of impairment
10 shall be the sole determinant of disability.

11 (820 ILCS 305/8.2)

12 Sec. 8.2. Fee schedule.

13 (a) Except as provided for in subsection (c), for
14 procedures, treatments, or services covered under this Act and
15 rendered or to be rendered on and after February 1, 2006 and
16 until January 1, 2012, the maximum allowable payment shall be
17 90% of the 80th percentile of charges and fees as determined by
18 the Commission utilizing information provided by employers'
19 and insurers' national databases, with a minimum of 12,000,000
20 Illinois line item charges and fees comprised of health care
21 provider and hospital charges and fees as of August 1, 2004 but
22 not earlier than August 1, 2002. These charges and fees are
23 provider billed amounts and shall not include discounted
24 charges. The 80th percentile is the point on an ordered data
25 set from low to high such that 80% of the cases are below or

1 equal to that point and at most 20% are above or equal to that
2 point. The Commission shall adjust these historical charges and
3 fees as of August 1, 2004 by the Consumer Price Index-U for the
4 period August 1, 2004 through September 30, 2005. The
5 Commission shall establish fee schedules for procedures,
6 treatments, or services for hospital inpatient, hospital
7 outpatient, emergency room and trauma, ambulatory surgical
8 treatment centers, and professional services. These charges
9 and fees shall be designated by geozip or any smaller
10 geographic unit. The data shall in no way identify or tend to
11 identify any patient, employer, or health care provider. As
12 used in this Section, "geozip" means a three-digit zip code
13 based on data similarities, geographical similarities, and
14 frequencies. A geozip does not cross state boundaries. As used
15 in this Section, "three-digit zip code" means a geographic area
16 in which all zip codes have the same first 3 digits. If a
17 geozip does not have the necessary number of charges and fees
18 to calculate a valid percentile for a specific procedure,
19 treatment, or service, the Commission may combine data from the
20 geozip with up to 4 other geozips that are demographically and
21 economically similar and exhibit similarities in data and
22 frequencies until the Commission reaches 9 charges or fees for
23 that specific procedure, treatment, or service. In cases where
24 the compiled data contains fewer ~~less~~ than 9 charges or fees
25 for a procedure, treatment, or service, reimbursement shall
26 occur at 76% of charges and fees as determined by the

1 Commission in a manner consistent with the provisions of this
2 paragraph. Providers of out-of-state procedures, treatments,
3 services, products, or supplies shall be reimbursed at the
4 lesser of that State's fee schedule amount or the fee schedule
5 amount that would apply to the region where the employer is
6 located. If no fee schedule exists in that State, the provider
7 shall be reimbursed at the lesser of the actual charge or the
8 fee schedule amount that would apply to the region where the
9 employer is located. If out-of-state treatment is being
10 undertaken and the employer is also located outside the State
11 of Illinois, the provider shall be reimbursed at the lesser of
12 the actual charge or the fee schedule amount that would apply
13 to the location of the accident. ~~The Commission has the~~
14 ~~authority to set the maximum allowable payment to providers of~~
15 ~~out-of-state procedures, treatments, or services covered under~~
16 ~~this Act in a manner consistent with this Section.~~ Not later
17 than September 30 in 2006 and each year thereafter, the
18 Commission shall automatically increase or decrease the
19 maximum allowable payment for a procedure, treatment, or
20 service established and in effect on January 1 of that year by
21 the percentage change in the Consumer Price Index-U for the 12
22 month period ending August 31 of that year. The increase or
23 decrease shall become effective on January 1 of the following
24 year. As used in this Section, "Consumer Price Index-U" means
25 the index published by the Bureau of Labor Statistics of the
26 U.S. Department of Labor, that measures the average change in

1 prices of all goods and services purchased by all urban
2 consumers, U.S. city average, all items, 1982-84=100.

3 (a-1) Except as provided for in subparagraph (c), for
4 procedures, treatments, or services covered under this Act and
5 rendered or to be rendered on and after January 1, 2012, the
6 Commission shall adopt a medical fee schedule in accordance
7 with the fee-related structure and rules of the relevant
8 Medicare payment systems. Maximum reasonable fees shall be 160%
9 of the estimated aggregate fees prescribed in the relevant
10 Medicare payment system for the same class of services.

11 To ensure a reasonable standard of access to services and
12 care for injured employees, the Commission may adopt different
13 conversion factors, diagnostic related group weights, and
14 other factors affecting payment amounts from those used in the
15 Medicare payment system, provided estimated aggregate fees do
16 not exceed 160% of the estimated aggregate fees paid for the
17 same class of services in the relevant Medicare payment system.

18 If the Commission determines that a medical treatment,
19 facility use, product, or service is not covered by a Medicare
20 payment system, the Commission shall establish maximum fees for
21 that item, provided that the maximum fee paid shall not exceed
22 160% of the fees paid by Medicare for services that require
23 comparable resources.

24 The medical fee schedule shall be adjusted to conform to
25 any relevant changes in the Medicare payment systems no later
26 than 60 days after the effective date of those changes.

1 Providers of out-of-state procedures, treatments,
2 services, products, or supplies shall be reimbursed at the
3 lesser of that State's fee schedule amount or the fee schedule
4 amount that would apply to the region where the employer is
5 located. If no fee schedule exists in that state, the provider
6 shall be reimbursed at the lesser of the actual charge or the
7 fee schedule amount that would apply to the region where the
8 employer is located.

9 Nothing in this Section shall prohibit an employer or
10 insurer from contracting with a medical provider for
11 reimbursement rates different from those prescribed in the
12 medical fee schedule.

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

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

26 (c-1) For services provided on or after the effective date

1 of this amendatory Act of the 97th General Assembly until
2 January 1, 2012, implants shall be reimbursed at 25% above the
3 net manufacturer's invoice price less rebates, plus actual
4 reasonable and customary shipping charges whether or not the
5 implant charge is submitted by a provider in conjunction with a
6 bill for all other services associated with the implant,
7 submitted by a provider on a separate claim form, submitted by
8 a distributor, or submitted by the manufacturer of the implant.

9 "Implants" include the following codes or any substantially
10 similar updated code as determined by the Commission: 0274
11 (prosthetics/orthotics); 0275 (pacemaker); 0276 (lens
12 implant); 0278 (implants); 0540 and 0545 (ambulance); 0624
13 (investigational devices); and 0636 (drugs requiring detailed
14 coding). Non-implantable devices or supplies within these
15 codes shall be reimbursed at 65% of actual charge, which is the
16 provider's normal rates under its standard chargemaster. A
17 standard chargemaster is the provider's list of charges for
18 procedures, treatments, products, supplies, or services used
19 to bill payers in a consistent manner.

20 (d) When a patient notifies a provider that the treatment,
21 procedure, or service being sought is for a work-related
22 illness or injury and furnishes the provider the name and
23 address of the responsible employer, the provider shall bill
24 the employer directly. The employer shall make payment and
25 providers shall submit bills and records in accordance with the
26 provisions of this Section. All payments to providers for

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

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

1 employee the difference between the provider's charge and the
2 amount paid by the employer or the insurer on a compensable
3 injury.

4 (e-5) If an employer notifies a provider that the employer
5 does not consider the illness or injury to be compensable under
6 this Act, the provider may seek payment of the provider's
7 actual charges from the employee for any procedure, treatment,
8 or service rendered. Once an employee informs the provider that
9 there is an application filed with the Commission to resolve a
10 dispute over payment of such charges, the provider shall cease
11 any and all efforts to collect payment for the services that
12 are the subject of the dispute. Any statute of limitations or
13 statute of repose applicable to the provider's efforts to
14 collect payment from the employee shall be tolled from the date
15 that the employee files the application with the Commission
16 until the date that the provider is permitted to resume
17 collection efforts under the provisions of this Section.

18 (e-10) If an employer notifies a provider that the employer
19 will pay only a portion of a bill for any procedure, treatment,
20 or service rendered in connection with a compensable illness or
21 disease, the provider may seek payment from the employee for
22 the remainder of the amount of the bill up to the lesser of the
23 actual charge, negotiated rate, if applicable, or the payment
24 level set by the Commission in the fee schedule established in
25 this Section. Once an employee informs the provider that there
26 is an application filed with the Commission to resolve a

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

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

1 rendered to the employee and the employee shall be responsible
2 for payment of any outstanding bills for a procedure,
3 treatment, or service rendered by a provider.

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

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

26 (g) On or before January 1, 2015 ~~2010~~ the Commission shall

1 provide to the Governor and General Assembly a report regarding
2 the implementation of the medical fee schedule indicating the
3 impact on medical costs for employers and access to care for
4 employees ~~and the index used for annual adjustment to that~~
5 ~~schedule as described in this Section.~~

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

7 (820 ILCS 305/8.2a new)

8 Sec. 8.2a. Electronic claims.

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

11 (1) Ensure that all health care providers and
12 facilities submit medical bills for payment on
13 standardized forms.

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

16 (3) Ensure confidentiality of medical information
17 submitted on electronic claims for payment of medical
18 services.

19 (b) To the extent feasible, standards adopted pursuant to
20 subdivision (a) shall be consistent with existing standards
21 under the federal Health Insurance Portability and
22 Accountability Act of 1996 and standards adopted under the
23 Illinois Health Information Exchange and Technology Act.

24 (c) The rules requiring employers and insurers to accept
25 electronic claims for payment of medical services shall be

1 proposed on or before January 1, 2012, and shall require all
2 employers and insurers to accept electronic claims for payment
3 of medical services on or before June 30, 2012.

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

8 (820 ILCS 305/8.7)

9 Sec. 8.7. Utilization review programs.

10 (a) As used in this Section:

11 "Utilization review" means the evaluation of proposed or
12 provided health care services to determine the appropriateness
13 of both the level of health care services medically necessary
14 and the quality of health care services provided to a patient,
15 including evaluation of their efficiency, efficacy, and
16 appropriateness of treatment, hospitalization, or office
17 visits based on medically accepted standards. The evaluation
18 must be accomplished by means of a system that identifies the
19 utilization of health care services based on standards of care
20 of ~~or~~ nationally recognized peer review guidelines as well as
21 nationally recognized treatment guidelines and evidence-based
22 medicine ~~evidence~~ based upon standards as provided in this Act.
23 Utilization techniques may include prospective review, second
24 opinions, concurrent review, discharge planning, peer review,
25 independent medical examinations, and retrospective review

1 (for purposes of this sentence, retrospective review shall be
2 applicable to services rendered on or after July 20, 2005).
3 Nothing in this Section applies to prospective review of
4 necessary first aid or emergency treatment.

5 (b) No person may conduct a utilization review program for
6 workers' compensation services in this State unless once every
7 2 years the person registers the utilization review program
8 with the Department of Insurance ~~Financial and Professional~~
9 ~~Regulation~~ and certifies compliance with the Workers'
10 Compensation Utilization Management standards or Health
11 Utilization Management Standards of URAC sufficient to achieve
12 URAC accreditation or submits evidence of accreditation by URAC
13 for its Workers' Compensation Utilization Management Standards
14 or Health Utilization Management Standards. Nothing in this Act
15 shall be construed to require an employer or insurer or its
16 subcontractors to become URAC accredited.

17 (c) In addition, the Director ~~Secretary~~ of Insurance
18 ~~Financial and Professional Regulation~~ may certify alternative
19 utilization review standards of national accreditation
20 organizations or entities in order for plans to comply with
21 this Section. Any alternative utilization review standards
22 shall meet or exceed those standards required under subsection
23 (b).

24 (d) This registration shall include submission of all of
25 the following information regarding utilization review program
26 activities:

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

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

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

7 (4) Hours of operation of each utilization review
8 program.

9 (5) Description of the grievance process for each
10 utilization review program.

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

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

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

20 (1) kept confidential in accordance with applicable
21 State and federal laws; and

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

1 individual patients or health care providers.

2 Only a health care professional may make determinations
3 regarding the medical necessity of health care services during
4 the course of utilization review.

5 When making retrospective reviews, utilization review
6 programs shall base reviews solely on the medical information
7 available to the attending physician or ordering provider at
8 the time the health care services were provided.

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

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

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

4 (i) Upon receipt of written notice that the employer or the
5 employer's agent or insurer wishes to invoke the utilization
6 review process, the provider of medical, surgical, or hospital
7 services shall submit to the utilization review, following
8 accredited procedural guidelines.

9 (1) The provider shall make reasonable efforts to
10 provide timely and complete reports of clinical
11 information needed to support a request for treatment. If
12 the provider fails to make such reasonable efforts, the
13 charges for the treatment or service may not be compensable
14 nor collectible by the provider or claimant from the
15 employer, the employer's agent, or the employee. The
16 reporting obligations of providers shall not be
17 unreasonable or unduly burdensome.

18 (2) Written notice of utilization review decisions,
19 including the clinical rationale for certification or
20 non-certification and references to applicable standards
21 of care or evidence-based medical guidelines, shall be
22 furnished to the provider and employee.

23 (3) An employer may only deny payment of or refuse to
24 authorize payment of medical services rendered or proposed
25 to be rendered on the grounds that the extent and scope of
26 medical treatment is excessive and unnecessary in

1 compliance with an accredited utilization review program
2 under this Section.

3 (4) When a payment for medical services has been denied
4 or not authorized by an employer or when authorization for
5 medical services is denied pursuant to utilization review,
6 the employee has the burden of proof to show by a
7 preponderance of the evidence that a variance from the
8 standards of care used by the person or entity performing
9 the utilization review pursuant to subsection (a) is
10 reasonably required to cure or relieve the effects of his
11 or her injury.

12 (5) The medical professional responsible for review in
13 the final stage of utilization review or appeal must be
14 available in this State for interview or deposition; or
15 must be available for deposition by telephone, video
16 conference, or other remote electronic means. A medical
17 professional who works or resides in this State or outside
18 of this State may comply with this requirement by making
19 himself or herself available for an interview or deposition
20 in person or by making himself or herself available by
21 telephone, video conference, or other remote electronic
22 means. The remote interview or deposition shall be
23 conducted in a fair, open, and cost-effective manner. The
24 expense of interview and the deposition method shall be
25 paid by the employer. The deponent shall be in the presence
26 of the officer administering the oath and recording the

1 deposition, unless otherwise agreed by the parties. Any
2 exhibits or other demonstrative evidence to be presented to
3 the deponent by any party at the deposition shall be
4 provided to the officer administering the oath and all
5 other parties within a reasonable period of time prior to
6 the deposition. Nothing shall prohibit any party from being
7 with the deponent during the deposition, at that party's
8 expense; provided, however, that a party attending a
9 deposition shall give written notice of that party's
10 intention to appear at the deposition to all other parties
11 within a reasonable time prior to the deposition.

12 An admissible A utilization review shall ~~will~~ be considered
13 by the Commission, along with all other evidence and in the
14 same manner as all other evidence, and must be addressed along
15 with all other evidence in the determination of the
16 reasonableness and necessity of the medical bills or treatment.
17 Nothing in this Section shall be construed to diminish the
18 rights of employees to reasonable and necessary medical
19 treatment or employee choice of health care provider under
20 Section 8(a) or the rights of employers to medical examinations
21 under Section 12.

22 (j) When an employer denies payment of or refuses to
23 authorize payment of first aid, medical, surgical, or hospital
24 services under Section 8(a) of this Act, if that denial or
25 refusal to authorize complies with a utilization review program
26 registered under this Section and complies with all other

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

12 The changes to this Section made by this amendatory Act of
13 the 97th General Assembly apply only to health care services
14 provided or proposed to be provided on or after September 1,
15 2011.

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

17 (820 ILCS 305/11) (from Ch. 48, par. 138.11)

18 Sec. 11. The compensation herein provided, together with
19 the provisions of this Act, shall be the measure of the
20 responsibility of any employer engaged in any of the
21 enterprises or businesses enumerated in Section 3 of this Act,
22 or of any employer who is not engaged in any such enterprises
23 or businesses, but who has elected to provide and pay
24 compensation for accidental injuries sustained by any employee
25 arising out of and in the course of the employment according to

1 the provisions of this Act, and whose election to continue
2 under this Act, has not been nullified by any action of his
3 employees as provided for in this Act.

4 Accidental injuries incurred while participating in
5 voluntary recreational programs including but not limited to
6 athletic events, parties and picnics do not arise out of and in
7 the course of the employment even though the employer pays some
8 or all of the cost thereof. This exclusion shall not apply in
9 the event that the injured employee was ordered or assigned by
10 his employer to participate in the program.

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

15 Any injury to or disease or death of an employee arising
16 from the administration of a vaccine, including without
17 limitation smallpox vaccine, to prepare for, or as a response
18 to, a threatened or potential bioterrorist incident to the
19 employee as part of a voluntary inoculation program in
20 connection with the person's employment or in connection with
21 any governmental program or recommendation for the inoculation
22 of workers in the employee's occupation, geographical area, or
23 other category that includes the employee is deemed to arise
24 out of and in the course of the employment for all purposes
25 under this Act. This paragraph added by this amendatory Act of
26 the 93rd General Assembly is declarative of existing law and is

1 not a new enactment.

2 No compensation shall be payable if (i) the employee's
3 intoxication is the proximate cause of the employee's
4 accidental injury or (ii) at the time the employee incurred the
5 accidental injury, the employee was so intoxicated that the
6 intoxication constituted a departure from the employment.
7 Admissible evidence of the concentration of (1) alcohol, (2)
8 cannabis as defined in the Cannabis Control Act, (3) a
9 controlled substance listed in the Illinois Controlled
10 Substances Act, or (4) an intoxicating compound listed in the
11 Use of Intoxicating Compounds Act in the employee's blood,
12 breath, or urine at the time the employee incurred the
13 accidental injury shall be considered in any hearing under this
14 Act to determine whether the employee was intoxicated at the
15 time the employee incurred the accidental injuries. If at the
16 time of the accidental injuries, there was 0.08% or more by
17 weight of alcohol in the employee's blood, breath, or urine or
18 if there is any evidence of impairment due to the unlawful or
19 unauthorized use of (1) cannabis as defined in the Cannabis
20 Control Act, (2) a controlled substance listed in the Illinois
21 Controlled Substances Act, or (3) an intoxicating compound
22 listed in the Use of Intoxicating Compounds Act or if the
23 employee refuses to submit to testing of blood, breath, or
24 urine, then there shall be a rebuttable presumption that the
25 employee was intoxicated and that the intoxication was the
26 proximate cause of the employee's injury. The employee may

1 overcome the rebuttable presumption by the preponderance of the
2 admissible evidence that the intoxication was not the proximate
3 cause of the accidental injuries. Percentage by weight of
4 alcohol in the blood shall be based on grams of alcohol per 100
5 milliliters of blood. Percentage by weight of alcohol in the
6 breath shall be based upon grams of alcohol per 210 liters of
7 breath. Any testing that has not been performed by an
8 accredited or certified testing laboratory shall not be
9 admissible in any hearing under this Act to determine whether
10 the employee was intoxicated at the time the employee incurred
11 the accidental injury.

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

15 (1) compliance with the National Labor Relations Act
16 regarding collective bargaining agreements or regulations
17 promulgated by the United States Department of
18 Transportation;

19 (2) that samples are collected and tested in
20 conformance with national and State legal and regulatory
21 standards for the privacy of the individual being tested,
22 and in a manner reasonably calculated to prevent
23 substitutions or interference with the collection or
24 testing of reliable sample;

25 (3) that split testing procedures are utilized;

26 (4) that sample collection is documented, and the

1 documentation procedures include:

2 (A) the labeling of samples in a manner so as to
3 reasonably preclude the probability of erroneous
4 identification of test result; and

5 (B) an opportunity for the employee to provide
6 notification of any information which he or she
7 considers relevant to the test, including
8 identification of currently or recently used
9 prescription or nonprescription drugs and other
10 relevant medical information;

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

15 (6) that chemical analyses of blood, urine, breath, or
16 other bodily substance are performed according to
17 nationally scientifically accepted analytical methods and
18 procedures.

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

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

23 (820 ILCS 305/13) (from Ch. 48, par. 138.13)

24 Sec. 13. There is created an Illinois Workers' Compensation
25 Commission consisting of 10 members to be appointed by the

1 Governor, by and with the consent of the Senate, 3 of whom
2 shall be representative citizens of the employing class
3 operating under this Act and 3 of whom shall be representative
4 citizens of the class of employees covered under this Act, and
5 4 of whom shall be representative citizens not identified with
6 either the employing or employee classes. Not more than 6
7 members of the Commission shall be of the same political party.

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

20 Notwithstanding the general supervisory authority of the
21 Chairman, each Commissioner, except those assigned to the
22 temporary panel, shall have the authority to hire and supervise
23 2 staff attorneys each. Such staff attorneys shall report
24 directly to the individual Commissioner.

25 A formal training program for newly-appointed
26 Commissioners shall be implemented. The training program shall

1 include the following:

2 (a) substantive and procedural aspects of the office of
3 Commissioner;

4 (b) current issues in workers' compensation law and
5 practice;

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

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

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

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

18 (g) writing skills; -

19 (h) professional and ethical standards pursuant to
20 Section 1.1 of this Act;

21 (i) detection of workers' compensation fraud and
22 reporting obligations of Commission employees and
23 appointees;

24 (j) standards of evidence-based medical treatment and
25 best practices for measuring and improving quality and
26 health care outcomes in the workers' compensation system,

1 including but not limited to the use of the American
2 Medical Association's "Guides to the Evaluation of
3 Permanent Impairment" and the practice of utilization
4 review; and

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

7 A formal and ongoing professional development program
8 including, but not limited to, the above-noted areas shall be
9 implemented to keep Commissioners informed of recent
10 developments and issues and to assist them in maintaining and
11 enhancing their professional competence. Each Commissioner
12 shall complete 20 hours of training in the above-noted areas
13 during every 2 years such Commissioner shall remain in office.

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

22 Each Commissioner shall devote full time to his duties and
23 any Commissioner who is an attorney-at-law shall not engage in
24 the practice of law, nor shall any Commissioner hold any other
25 office or position of profit under the United States or this
26 State or any municipal corporation or political subdivision of

1 this State, nor engage in any other business, employment, or
2 vocation.

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

8 The Illinois Workers' Compensation Commission shall
9 administer this Act.

10 In the promulgation of procedural rules, the determination
11 of cases heard en banc, and other matters determined by the
12 full Commission, the Chairman's vote shall break a tie in the
13 event of a tie vote.

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

16 (a) After the effective date of this amendatory Act of
17 1989, 3 members, at least one of each political party, and
18 one of whom shall be a representative citizen of the
19 employing class operating under this Act, one of whom shall
20 be a representative citizen of the class of employees
21 covered under this Act, and one of whom shall be a
22 representative citizen not identified with either the
23 employing or employee classes, shall be appointed to hold
24 office until the third Monday in January of 1993, and until
25 their successors are appointed and qualified, and 4
26 members, one of whom shall be a representative citizen of

1 the employing class operating under this Act, one of whom
2 shall be a representative citizen of the class of employees
3 covered in this Act, and two of whom shall be
4 representative citizens not identified with either the
5 employing or employee classes, one of whom shall be
6 designated by the Governor as Chairman (at least one of
7 each of the two major political parties) shall be appointed
8 to hold office until the third Monday of January in 1991,
9 and until their successors are appointed and qualified.

10 (a-5) Notwithstanding any other provision of this
11 Section, the term of each member of the Commission who was
12 appointed by the Governor and is in office on June 30, 2003
13 shall terminate at the close of business on that date or
14 when all of the successor members to be appointed pursuant
15 to this amendatory Act of the 93rd General Assembly have
16 been appointed by the Governor, whichever occurs later. As
17 soon as possible, the Governor shall appoint persons to
18 fill the vacancies created by this amendatory Act. Of the
19 initial commissioners appointed pursuant to this
20 amendatory Act of the 93rd General Assembly, 3 shall be
21 appointed for terms ending on the third Monday in January,
22 2005, and 4 shall be appointed for terms ending on the
23 third Monday in January, 2007.

24 (a-10) After the effective date of this amendatory Act
25 of the 94th General Assembly, the Commission shall be
26 increased to 10 members. As soon as possible after the

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

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

23 The Chairman shall receive an annual salary of \$42,500, or
24 a salary set by the Compensation Review Board, whichever is
25 greater, and each other member shall receive an annual salary
26 of \$38,000, or a salary set by the Compensation Review Board,

1 whichever is greater.

2 In case of a vacancy in the office of a Commissioner during
3 the recess of the Senate, the Governor shall make a temporary
4 appointment until the next meeting of the Senate, when he shall
5 nominate some person to fill such office. Any person so
6 nominated who is confirmed by the Senate shall hold office
7 during the remainder of the term and until his successor is
8 appointed and qualified.

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

18 Notwithstanding any other provision of this Act, in the
19 event the Chairman shall make a finding that a member is or
20 will be unavailable to fulfill the responsibilities of his or
21 her office, the Chairman shall advise the Governor and the
22 member in writing and shall designate a certified arbitrator to
23 serve as acting Commissioner. The certified arbitrator shall
24 act as a Commissioner until the member resumes the duties of
25 his or her office or until a new member is appointed by the
26 Governor, by and with the consent of the Senate, if a vacancy

1 occurs in the office of the Commissioner, but in no event shall
2 a certified arbitrator serve in the capacity of Commissioner
3 for more than 6 months from the date of appointment by the
4 Chairman. A finding by the Chairman that a member is or will be
5 unavailable to fulfill the responsibilities of his or her
6 office shall be based upon notice to the Chairman by a member
7 that he or she will be unavailable or facts and circumstances
8 made known to the Chairman which lead him to reasonably find
9 that a member is unavailable to fulfill the responsibilities of
10 his or her office. The designation of a certified arbitrator to
11 act as a Commissioner shall be considered representative of
12 citizens not identified with either the employing or employee
13 classes and the arbitrator shall serve regardless of his or her
14 political affiliation. A certified arbitrator who serves as an
15 acting Commissioner shall have all the rights and powers of a
16 Commissioner, including salary.

17 Notwithstanding any other provision of this Act, the
18 Governor shall appoint a special panel of Commissioners
19 comprised of 3 members who shall be chosen by the Governor, by
20 and with the consent of the Senate, from among the current
21 ranks of certified arbitrators. Three members shall hold office
22 until the Commission in consultation with the Governor
23 determines that the caseload on review has been reduced
24 sufficiently to allow cases to proceed in a timely manner or
25 for a term of 18 months from the effective date of their
26 appointment by the Governor, whichever shall be earlier. The 3

1 members shall be considered representative of citizens not
2 identified with either the employing or employee classes and
3 shall serve regardless of political affiliation. Each of the 3
4 members shall have only such rights and powers of a
5 Commissioner necessary to dispose of those cases assigned to
6 the special panel. Each of the 3 members appointed to the
7 special panel shall receive the same salary as other
8 Commissioners for the duration of the panel.

9 The Commission may have an Executive Director; if so, the
10 Executive Director shall be appointed by the Governor with the
11 advice and consent of the Senate. The salary and duties of the
12 Executive Director shall be fixed by the Commission.

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

1 Operations Fund Surcharge are deemed, in appropriate contexts,
2 to be references to the Illinois Workers' Compensation
3 Commission Operations Fund Surcharge for all purposes.
4 (Source: P.A. 93-509, eff. 8-11-03; 93-721, eff. 1-1-05;
5 94-277, eff. 7-20-05.)

6 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

7 Sec. 13.1. (a) There is created a Workers' Compensation
8 Advisory Board hereinafter referred to as the Advisory Board.
9 After the effective date of this amendatory Act of the 94th
10 General Assembly, the Advisory Board shall consist of 12
11 members appointed by the Governor with the advice and consent
12 of the Senate. Six members of the Advisory Board shall be
13 representative citizens chosen from the employee class, and 6
14 members shall be representative citizens chosen from the
15 employing class. The Chairman of the Commission shall serve as
16 the ex officio Chairman of the Advisory Board. After the
17 effective date of this amendatory Act of the 94th General
18 Assembly, each member of the Advisory Board shall serve a term
19 ending on the third Monday in January 2007 and shall continue
20 to serve until his or her successor is appointed and qualified.
21 Members of the Advisory Board shall thereafter be appointed for
22 4 year terms from the third Monday in January of the year of
23 their appointment, and until their successors are appointed and
24 qualified. Seven members of the Advisory Board shall constitute
25 a quorum to do business, but in no case shall there be less

1 than one representative from each class. A vacancy on the
2 Advisory Board shall be filled by the Governor for the
3 unexpired term.

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

9 (c) The Advisory Board shall aid the Commission in
10 formulating policies, discussing problems, setting priorities
11 of expenditures, reviewing advisory rates filed by an advisory
12 organization as defined in Section 463 of the Illinois
13 Insurance Code, and establishing short and long range
14 administrative goals. Prior to making the (1) initial set of
15 arbitrator appointments pursuant to this amendatory Act of the
16 97th General Assembly and (2) appointment of Commissioners,
17 ~~appointments to the Commission,~~ the Governor shall request that
18 the Advisory Board make recommendations as to candidates to
19 consider for appointment and the Advisory Board may then make
20 such recommendations.

21 (d) The terms of all Advisory Board members serving on the
22 effective date of this amendatory Act of the 97th General
23 Assembly are terminated. The Governor shall appoint new members
24 to the Advisory Board within 30 days after the effective date
25 of the amendatory Act of the 97th General Assembly, subject to
26 the advice and consent of the Senate.

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

2 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

3 Sec. 14. The Commission shall appoint a secretary, an
4 assistant secretary, and arbitrators and shall employ such
5 assistants and clerical help as may be necessary. Arbitrators
6 shall be appointed pursuant to this Section, notwithstanding
7 any provision of the Personnel Code.

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

14 A formal training program for newly-hired arbitrators
15 shall be implemented. The training program shall include the
16 following:

17 (a) substantive and procedural aspects of the
18 arbitrator position;

19 (b) current issues in workers' compensation law and
20 practice;

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

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

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

4 (f) the use of hypothetical cases requiring the trainee
5 to issue judgments as a means to evaluating knowledge and
6 writing ability;

7 (g) writing skills; -

8 (h) professional and ethical standards pursuant to
9 Section 1.1 of this Act;

10 (i) detection of workers' compensation fraud and
11 reporting obligations of Commission employees and
12 appointees;

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

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

22 A formal and ongoing professional development program
23 including, but not limited to, the above-noted areas shall be
24 implemented to keep arbitrators informed of recent
25 developments and issues and to assist them in maintaining and
26 enhancing their professional competence. Each arbitrator shall

1 complete 20 hours of training in the above-noted areas during
2 every 2 years such arbitrator shall remain in office.

3 Each arbitrator shall devote full time to his or her duties
4 and shall serve when assigned as an acting Commissioner when a
5 Commissioner is unavailable in accordance with the provisions
6 of Section 13 of this Act. Any arbitrator who is an
7 attorney-at-law shall not engage in the practice of law, nor
8 shall any arbitrator hold any other office or position of
9 profit under the United States or this State or any municipal
10 corporation or political subdivision of this State.
11 Notwithstanding any other provision of this Act to the
12 contrary, an arbitrator who serves as an acting Commissioner in
13 accordance with the provisions of Section 13 of this Act shall
14 continue to serve in the capacity of Commissioner until a
15 decision is reached in every case heard by that arbitrator
16 while serving as an acting Commissioner.

17 Notwithstanding any other provision of this Section, the
18 term of all arbitrators serving on the effective date of this
19 amendatory Act of the 97th General Assembly, including any
20 arbitrators on administrative leave, shall terminate at the
21 close of business on July 1, 2011, but the incumbents shall
22 continue to exercise all of their duties until they are
23 reappointed or their successors are appointed.

24 On and after the effective date of this amendatory Act of
25 the 97th General Assembly, arbitrators shall be appointed to
26 3-year terms by the full Commission, except that initial

1 appointments made on and after the effective date of this
2 amendatory Act of the 97th General Assembly shall be made as
3 follows:

4 (1) All appointments shall be made by the Governor with
5 the advice and consent of the Senate by a three-fifths
6 majority vote.

7 (2) 12 arbitrators shall be appointed to terms expiring
8 July 1, 2012; 12 arbitrators shall be appointed to terms
9 expiring July 1, 2013; and all additional arbitrators shall
10 be appointed to terms expiring July 1, 2014.

11 Upon the expiration of a term, the Chairman shall evaluate
12 the performance of the arbitrator and may recommend that he or
13 she be reappointed to a second or subsequent term by the full
14 Commission.

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

21 ~~Each arbitrator appointed after the effective date of this~~
22 ~~amendatory Act of 1989 shall be appointed for a term of 6~~
23 ~~years. Each arbitrator shall be appointed for a subsequent term~~
24 ~~unless the Chairman makes a recommendation to the Commission,~~
25 ~~no later than 60 days prior to the expiration of the term, not~~
26 ~~to reappoint the arbitrator. Notice of such a recommendation~~

1 ~~shall also be given to the arbitrator no later than 60 days~~
2 ~~prior to the expiration of the term. Upon such recommendation~~
3 ~~by the Chairman, the arbitrator shall be appointed for a~~
4 ~~subsequent term unless 8 of 10 members of the Commission,~~
5 ~~including the Chairman, vote not to reappoint the arbitrator.~~

6 All arbitrators shall be subject to the provisions of the
7 Personnel Code, and the performance of all arbitrators shall be
8 reviewed by the Chairman on an annual basis. The changes made
9 to this Section by this amendatory Act of the 97th General
10 Assembly shall prevail over any conflict with the Personnel
11 Code. The Chairman shall allow input from the Commissioners in
12 all such reviews.

13 The Commission shall assign no fewer than 3 arbitrators to
14 each hearing site. The Commission shall establish a procedure
15 to ensure that the arbitrators assigned to each hearing site
16 are assigned cases on a random basis. No arbitrator shall hear
17 cases in any county, other than Cook County, for more than 2
18 years in each 3-year term.

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

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

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

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

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

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

23 (820 ILCS 305/16b new)

24 Sec. 16b. Gift ban.

25 (a) An attorney appearing before the Commission shall not

1 provide compensation or any gift to any person in exchange for
2 the referral of a client involving a matter to be heard before
3 the Commission except for a division of a fee between lawyers
4 who are not in the same firm in accordance with Rule 1.5 of the
5 Code of Professional Responsibility. For purposes of this
6 Section, "gift" means any gratuity, discount, entertainment,
7 hospitality, loan, forbearance, or any other tangible or
8 intangible item having monetary value including, but not
9 limited to, cash, food and drink, and honoraria except for food
10 or refreshments not exceeding \$75 per person in value on a
11 single calendar day, provided that the food or refreshments are
12 (1) consumed on the premises from which they were purchased or
13 prepared or (2) catered. "Catered" means food or refreshments
14 that are purchased ready to eat and delivered by any means.

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

16 (820 ILCS 305/18) (from Ch. 48, par. 138.18)

17 Sec. 18. All questions arising under this Act, if not
18 settled by agreement of the parties interested therein, shall,
19 except as otherwise provided, be determined by the Commission.
20 Claims from current and former employees of the Commission
21 shall be determined in accordance with Section 18.1 of this
22 Act.

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

24 (820 ILCS 305/18.1 new)

1 Sec. 18.1. Claims by former and current employees of the
2 Commission. All claims by current and former employees and
3 appointees of the Commission shall be assigned to a certified
4 independent arbitrator not employed by the Commission
5 designated by the Chairman. The Chairman shall designate an
6 arbitrator from a list of approved certified arbitrators
7 provided by the Commission Review Board. If the Chairman is the
8 claimant, then the independent arbitrator from the approved
9 list shall be designated by the longest serving Commissioner.
10 The designated independent arbitrator shall have the authority
11 of arbitrators of the Commission regarding settlement and
12 adjudication of the claim of the current and former employees
13 and appointees of the Commission. The decision of the
14 independent arbitrator shall become the decision of the
15 Commission. An appeal of the independent arbitrator's decision
16 shall be subject to judicial review in accordance with
17 subsection (f) of Section 19.

18 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

24 1. Whenever any claimant misconceives his remedy and
25 files an application for adjustment of claim under this Act

1 and it is subsequently discovered, at any time before final
2 disposition of such cause, that the claim for disability or
3 death which was the basis for such application should
4 properly have been made under the Workers' Occupational
5 Diseases Act, then the provisions of Section 19, paragraph
6 (a-1) of the Workers' Occupational Diseases Act having
7 reference to such application shall apply.

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

1 if given within the time required herein.

2 (b) The Arbitrator shall make such inquiries and
3 investigations as he or they shall deem necessary and may
4 examine and inspect all books, papers, records, places, or
5 premises relating to the questions in dispute and hear such
6 proper evidence as the parties may submit.

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

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

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

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

25 Whether the employee is working or not, if the employee is
26 not receiving or has not received medical, surgical, or

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

1 issue in dispute amounts to less than 12 weeks of unpaid
2 compensation pursuant to paragraph (b) of Section 8.

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

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

1 or group workers' compensation pool that has paid benefits to
2 or on behalf of petitioner for the injury.

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

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

- 15 (i) the date and approximate time of accident;
16 (ii) the approximate location of the accident;
17 (iii) a description of the accident;
18 (iv) the nature of the injury incurred by the employee;
19 (v) the identity of the person, if known, to whom the
20 accident was reported and the date on which it was
21 reported;
- 22 (vi) the name and title of the person, if known,
23 representing the employer with whom the employee conferred
24 in any effort to obtain compensation pursuant to paragraph
25 (b) of Section 8 of this Act or medical, surgical or
26 hospital services pursuant to paragraph (a) of Section 8 of

1 this Act and the date of such conference;

2 (vii) a statement that the employer has refused to pay
3 compensation pursuant to paragraph (b) of Section 8 of this
4 Act or for medical, surgical or hospital services pursuant
5 to paragraph (a) of Section 8 of this Act;

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

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

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

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

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

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

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

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

1 be tolled until the arbitrator has determined that the petition
2 is sufficient.

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

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

25 No document or other evidence not previously identified by
26 either party with the petition or written response, or by any

1 other means before the hearing, may be introduced into evidence
2 without good cause. If, at the hearing, material information is
3 discovered which was not previously disclosed, the Arbitrator
4 may extend the time for closing proof on the motion of a party
5 for a reasonable period of time which may be more than 30 days.
6 No evidence may be introduced pursuant to this paragraph as to
7 permanent disability. No award may be entered for permanent
8 disability pursuant to this paragraph. Either party may
9 introduce into evidence the testimony taken by deposition of
10 any medical practitioner.

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

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

1 attorney or designated representative.

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

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

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

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

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

1 for such service.

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

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

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

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

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

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

1 disability, if any, a majority of the panel may deny the
2 request for such argument and such argument shall not be held;
3 and provided further that 7 members of the Commission may
4 determine that the argument be held before all available
5 members of the Commission. A decision of the Commission shall
6 be approved by a majority of Commissioners present at such
7 hearing if any; provided, if no such hearing is held, a
8 decision of the Commission shall be approved by a majority of a
9 panel of 3 members of the Commission as described in this
10 Section. The Commission shall give 10 days' notice to the
11 parties or their attorneys of the time and place of such taking
12 of testimony and of such argument.

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

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

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

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

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

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

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

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

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

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

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

20 The Commission shall not be required to certify the
21 record of their proceedings to the Circuit Court, unless
22 the party commencing the proceedings for review in the
23 Circuit Court as above provided, shall pay to the
24 Commission the sum of 80¢ per page of testimony taken
25 before the Commission, and 35¢ per page of all other
26 matters contained in such record, except as otherwise

1 provided by Section 20 of this Act. Payment for photostatic
2 copies of exhibit shall be extra. It shall be the duty of
3 the Commission upon such payment, or failure to pay as
4 permitted under Section 20 of this Act, to prepare a true
5 and correct typewritten copy of such testimony and a true
6 and correct copy of all other matters contained in such
7 record and certified to by the Secretary or Assistant
8 Secretary thereof.

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

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

1 of the proceedings in the courts. The amount of the bond
2 shall be fixed by any member of the Commission and the
3 surety or sureties of the bond shall be approved by the
4 clerk of the court. The acceptance of the bond by the clerk
5 of the court shall constitute evidence of his approval of
6 the bond.

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

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

26 It shall be the duty of the clerk of any court

1 rendering a decision affecting or affirming an award of the
2 Commission to promptly furnish the Commission with a copy
3 of such decision, without charge.

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

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

1 conform to any modification required by any subsequent decision
2 of the Supreme Court upon appeal, or as the result of any
3 subsequent proceedings for review, as provided in this Act.

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

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

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

26 On such review, compensation payments may be

1 re-established, increased, diminished or ended. The Commission
2 shall give 15 days' notice to the parties of the hearing for
3 review. Any employee, upon any petition for such review being
4 filed by the employer, shall be entitled to one day's notice
5 for each 100 miles necessary to be traveled by him in attending
6 the hearing of the Commission upon the petition, and 3 days in
7 addition thereto. Such employee shall, at the discretion of the
8 Commission, also be entitled to 5 cents per mile necessarily
9 traveled by him within the State of Illinois in attending such
10 hearing, not to exceed a distance of 300 miles, to be taxed by
11 the Commission as costs and deposited with the petition of the
12 employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (820 ILCS 305/25.5)

7 Sec. 25.5. Unlawful acts; penalties.

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

10 (1) Intentionally present or cause to be presented any
11 false or fraudulent claim for the payment of any workers'
12 compensation benefit.

13 (2) Intentionally make or cause to be made any false or
14 fraudulent material statement or material representation
15 for the purpose of obtaining or denying any workers'
16 compensation benefit.

17 (3) Intentionally make or cause to be made any false or
18 fraudulent statements with regard to entitlement to
19 workers' compensation benefits with the intent to prevent
20 an injured worker from making a legitimate claim for any
21 workers' compensation benefits.

22 (4) Intentionally prepare or provide an invalid,
23 false, or counterfeit certificate of insurance as proof of
24 workers' compensation insurance.

25 (5) Intentionally make or cause to be made any false or

1 fraudulent material statement or material representation
2 for the purpose of obtaining workers' compensation
3 insurance at less than the proper rate for that insurance.

4 (6) Intentionally make or cause to be made any false or
5 fraudulent material statement or material representation
6 on an initial or renewal self-insurance application or
7 accompanying financial statement for the purpose of
8 obtaining self-insurance status or reducing the amount of
9 security that may be required to be furnished pursuant to
10 Section 4 of this Act.

11 (7) Intentionally make or cause to be made any false or
12 fraudulent material statement to the Department ~~Division~~
13 of Insurance's fraud and insurance non-compliance unit in
14 the course of an investigation of fraud or insurance
15 non-compliance.

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

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

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

26 (b) Sentences for violations of subsection (a) are as

1 ~~follows: Any person violating subsection (a) is guilty of a~~
2 ~~Class 4 felony. Any person or entity convicted of any violation~~
3 ~~of this Section shall be ordered to pay complete restitution to~~
4 ~~any person or entity so defrauded in addition to any fine or~~
5 ~~sentence imposed as a result of the conviction.~~

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

9 (2) A violation in which the value of the property
10 obtained or attempted to be obtained is more than \$300 but
11 not more than \$10,000 is a Class 3 felony.

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

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

18 (5) A person convicted under this Section shall be
19 ordered to pay monetary restitution to the insurance
20 company or self-insured entity or any other person for any
21 financial loss sustained as a result of a violation of this
22 Section, including any court costs and attorney fees. An
23 order of restitution also includes expenses incurred and
24 paid by the State of Illinois or an insurance company or
25 self-insured entity in connection with any medical
26 evaluation or treatment services.

1 For the purposes of this Section, where the exact value of
2 property obtained or attempted to be obtained is either not
3 alleged or is not specifically set by the terms of a policy of
4 insurance, the value of the property shall be the fair market
5 replacement value of the property claimed to be lost, the
6 reasonable costs of reimbursing a vendor or other claimant for
7 services to be rendered, or both. Notwithstanding the
8 foregoing, an insurance company, self-insured entity, or any
9 other person suffering financial loss sustained as a result of
10 violation of this Section may seek restitution, including court
11 costs and attorney's fees in a civil action in a court of
12 competent jurisdiction.

13 (c) The Department ~~Division~~ of Insurance ~~of the Department~~
14 ~~of Financial and Professional Regulation~~ shall establish a
15 fraud and insurance non-compliance unit responsible for
16 investigating incidences of fraud and insurance non-compliance
17 pursuant to this Section. The size of the staff of the unit
18 shall be subject to appropriation by the General Assembly. It
19 shall be the duty of the fraud and insurance non-compliance
20 unit to determine the identity of insurance carriers,
21 employers, employees, or other persons or entities who have
22 violated the fraud and insurance non-compliance provisions of
23 this Section. The fraud and insurance non-compliance unit shall
24 report violations of the fraud and insurance non-compliance
25 provisions of this Section to the Special Prosecutions Bureau
26 of the Criminal Division of the Office of the Attorney General

1 or to the State's Attorney of the county in which the offense
2 allegedly occurred, either of whom has the authority to
3 prosecute violations under this Section.

4 With respect to the subject of any investigation being
5 conducted, the fraud and insurance non-compliance unit shall
6 have the general power of subpoena of the Department ~~Division~~
7 of Insurance, including the authority to issue a subpoena to a
8 medical provider, pursuant to Section 8-802 of the Code of
9 Civil Procedure.

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

1 Section to the fraud and insurance non-compliance unit is
2 guilty of a Class A misdemeanor.

3 (e) In order for the fraud and insurance non-compliance
4 unit to investigate a report of fraud related to an employee's
5 claim by an employee, (i) the employee must have filed with the
6 Commission an Application for Adjustment of Claim and the
7 employee must have either received or attempted to receive
8 benefits under this Act that are related to the reported fraud
9 or (ii) the employee must have made a written demand for the
10 payment of benefits that are related to the reported fraud.
11 ~~Upon receipt of a report of fraud, the employee or employer~~
12 ~~shall receive immediate notice of the reported conduct,~~
13 ~~including the verified name and address of the complainant if~~
14 ~~that complainant is connected to the case and the nature of the~~
15 ~~reported conduct. The fraud and insurance non-compliance unit~~
16 ~~shall resolve all reports of fraud against employees or~~
17 ~~employers within 120 days of receipt of the report. There shall~~
18 be no immunity, under this Act or otherwise, for any person who
19 files a false report or who files a report without good and
20 just cause. Confidentiality of medical information shall be
21 strictly maintained. Investigations that are not referred for
22 prosecution shall be destroyed upon the expiration of the
23 statute of limitations for the acts under investigation
24 ~~immediately expunged~~ and shall not be disclosed except that the
25 ~~employee or employer who was the subject of the report and the~~
26 person making the report shall be notified that the

1 investigation is being closed, ~~at which time the name of any~~
2 ~~complainant not connected to the case shall be disclosed to the~~
3 ~~employee or the employer.~~ It is unlawful for any employer,
4 insurance carrier, ~~or~~ service adjustment company, third party
5 administrator, self-insured, or similar entity to file or
6 threaten to file a report of fraud against an employee because
7 of the exercise by the employee of the rights and remedies
8 granted to the employee by this Act.

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

26 ~~For purposes of this subsection (e), "employer" means any~~

1 ~~employer, insurance carrier, third party administrator,~~
2 ~~self-insured, or similar entity.~~

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

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

17 (g) Civil liability. Any person convicted of fraud who
18 knowingly obtains, attempts to obtain, or causes to be obtained
19 any benefits under this Act by the making of a false claim or
20 who knowingly misrepresents any material fact shall be civilly
21 liable to the payor of benefits or the insurer or the payor's
22 or insurer's subrogee or assignee in an amount equal to 3 times
23 the value of the benefits or insurance coverage wrongfully
24 obtained or twice the value of the benefits or insurance
25 coverage attempted to be obtained, plus reasonable attorney's
26 fees and expenses incurred by the payor or the payor's subrogee

1 or assignee who successfully brings a claim under this
2 subsection. This subsection applies to accidental injuries or
3 diseases that occur on or after the effective date of this
4 amendatory Act of the 94th General Assembly.

5 (h) ~~The All proceedings under this Section shall be~~
6 ~~reported by the~~ fraud and insurance non-compliance unit shall
7 submit a written report on an annual basis to the Chairman of
8 the Commission, the Workers' Compensation Advisory Board, the
9 General Assembly, the Governor, and the Attorney General by
10 January 1 and July 1 of each year. This report shall include,
11 at the minimum, the following information:

12 (1) The number of allegations of insurance
13 non-compliance and fraud reported to the fraud and
14 insurance non-compliance unit.

15 (2) The source of the reported allegations
16 (individual, employer, or other).

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

19 (4) The number of criminal referrals made in accordance
20 with this Section and the entity to which the referral was
21 made.

22 (5) All proceedings under this Section.

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

24 (820 ILCS 305/29.1 new)

25 Sec. 29.1. Recalculation of premiums. On the effective date

1 of this amendatory Act of the 97th General Assembly, the
2 Director of Insurance shall immediately direct in writing any
3 workers' compensation rate setting advisory organization to
4 recalculate workers' compensation advisory premium rates and
5 assigned risk pool premium rates so that those premiums
6 incorporate the provisions of this amendatory Act of the 97th
7 General Assembly, and to publish such rates on or before
8 September 1, 2011.

9 (820 ILCS 305/29.2 new)

10 Sec. 29.2. Insurance oversight.

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

24 (1) Gross premiums collected by workers' compensation
25 carriers in Illinois and the national rank of Illinois

1 based on premium volume.

2 (2) The number of insurance companies actively engaged
3 in Illinois in the workers' compensation insurance market,
4 including both holding companies and subsidiaries or
5 affiliates, and the national rank of Illinois based on
6 number of competing insurers.

7 (3) The total number of insured participants in the
8 Illinois workers' compensation assigned risk insurance
9 pool, and the size of the assigned risk pool as a
10 proportion of the total Illinois workers' compensation
11 insurance market.

12 (4) The advisory organization premium rate for
13 workers' compensation insurance in Illinois for the
14 previous year.

15 (5) The advisory organization prescribed assigned risk
16 pool premium rate.

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

19 (7) The total amount of medical payments made by
20 workers' compensation insurers in Illinois, and the
21 national rank of Illinois based on average cost of medical
22 claims per injured worker.

23 (8) The gross profitability of workers' compensation
24 insurers in Illinois, and the national rank of Illinois
25 based on profitability of workers' compensation insurers.

26 (9) The loss ratio of workers' compensation insurers in

1 Illinois and the national rank of Illinois based on the
2 loss ratio of workers' compensation insurers. For purposes
3 of this loss ratio calculation, the denominator shall
4 include all premiums and other fees collected by workers'
5 compensation insurers and the numerator shall include the
6 total amount paid by the insurer for care or compensation
7 to injured workers.

8 (10) The growth of total paid indemnity benefits by
9 temporary total disability, scheduled and non-scheduled
10 permanent partial disability, and total disability.

11 (11) The number of injured workers receiving wage loss
12 differential awards and the average wage loss differential
13 award payout.

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

15 (i) the maximum and minimum temporary total
16 disability benefit level;

17 (ii) the maximum and minimum scheduled and
18 non-scheduled permanent partial disability benefit
19 level;

20 (iii) the maximum and minimum total disability
21 benefit level; and

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

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

25 (14) The aggregate growth of medical utilization for
26 the top 10 most common injuries to specific body parts by

1 non-hospital providers and hospitals.

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

4 (16) The total amount paid by injured workers for
5 attorney representation.

6 (b) The Director of Insurance shall promulgate rules
7 requiring each insurer licensed to write workers' compensation
8 coverage in the State to record and report the following
9 information on an aggregate basis to the Department of
10 Insurance before March 1 of each year, relating to claims in
11 the State opened within the prior calendar year:

12 (1) The number of claims opened.

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

14 (3) The number of contested claims.

15 (4) The number of claims for which the employee has
16 attorney representation.

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

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

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

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

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

4 (10) The number of claims in which outside defense
5 counsel participated, and the total amount paid to outside
6 defense counsel.

7 (11) The total amount billed to employers for bill
8 review.

9 (12) The total amount billed to employers for fee
10 schedule savings.

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

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

16 (15) The number of claims involving outside medical
17 nurse case management, and the total amount paid for
18 outside medical nurse case management.

19 (16) The total amount paid for Independent Medical
20 exams.

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

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

25 The Department shall make the submitted information
26 publicly available on the Department's Internet website or such

1 other media as appropriate in a form useful for consumers.

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

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