



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

HB6183

by Rep. Dan Brady

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that if an injury occurring after December 31, 2012 involves carpal tunnel or cubital tunnel syndrome and the injured employee would be able to return to work without restrictions, the permanent partial disability shall be determined by the impairment level as determined by a physician licensed to practice medicine in all its branches.

LRB097 21505 JLS 69603 b

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Section 8 as follows:

6 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

1 shall also pay for treatment, instruction and training  
2 necessary for the physical, mental and vocational  
3 rehabilitation of the employee, including all maintenance  
4 costs and expenses incidental thereto. If as a result of the  
5 injury the employee is unable to be self-sufficient the  
6 employer shall further pay for such maintenance or  
7 institutional care as shall be required.

8 The employee may at any time elect to secure his own  
9 physician, surgeon and hospital services at the employer's  
10 expense, or,

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

1 doctor selected by the employee is rendering improper or  
2 inadequate care, the Commission may order the employee to  
3 select another doctor certified or qualified in the medical  
4 field for which treatment is required. If the employee refuses  
5 to make such change the Commission may relieve the employer of  
6 his obligation to pay the doctor's charges from the date of  
7 refusal to the date of compliance.

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

20 The maintenance benefit shall not be less than the  
21 temporary total disability rate determined for the employee. In  
22 addition, maintenance shall include costs and expenses  
23 incidental to the vocational rehabilitation program.

24 When the employee is working light duty on a part-time  
25 basis or full-time basis and earns less than he or she would be  
26 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial  
2 disability benefits. Temporary partial disability benefits  
3 shall be equal to two-thirds of the difference between the  
4 average amount that the employee would be able to earn in the  
5 full performance of his or her duties in the occupation in  
6 which he or she was engaged at the time of accident and the  
7 gross amount which he or she is earning in the modified job  
8 provided to the employee by the employer or in any other job  
9 that the employee is working.

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

17 Notwithstanding the foregoing, the employer's liability to  
18 pay for such medical services selected by the employee shall be  
19 limited to:

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

21 (2) all medical, surgical and hospital services  
22 provided by the physician, surgeon or hospital initially  
23 chosen by the employee or by any other physician,  
24 consultant, expert, institution or other provider of  
25 services recommended by said initial service provider or  
26 any subsequent provider of medical services in the chain of

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

17 (4) The following shall apply for injuries occurring on  
18 or after June 28, 2011 (the effective date of Public Act  
19 97-18) ~~this amendatory Act of the 97th General Assembly~~ and  
20 only when an employer has an approved preferred provider  
21 program pursuant to Section 8.1a on the date the employee  
22 sustained his or her accidental injuries:

23 (A) The employer shall, in writing, on a form  
24 promulgated by the Commission, inform the employee of  
25 the preferred provider program;

26 (B) Subsequent to the report of an injury by an

1 employee, the employee may choose in writing at any  
2 time to decline the preferred provider program, in  
3 which case that would constitute one of the two choices  
4 of medical providers to which the employee is entitled  
5 under subsection (a) (2) or (a) (3); and

6 (C) Prior to the report of an injury by an  
7 employee, when an employee chooses non-emergency  
8 treatment from a provider not within the preferred  
9 provider program, that would constitute the employee's  
10 one choice of medical providers to which the employee  
11 is entitled under subsection (a) (2) or (a) (3).

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

24 Where the accidental injury results in the amputation of an  
25 arm, hand, leg or foot, or the enucleation of an eye, or the  
26 loss of any of the natural teeth, the employer shall furnish an

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

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

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

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



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

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

1           100% of the total minimum wage calculation,  
2           nor exceed the employee's average weekly wage computed in  
3           accordance with the provisions of Section 10, whichever is  
4           less.

5           2.1. The compensation rate in all cases of serious and  
6           permanent disfigurement under paragraph (c) and of  
7           permanent partial disability under subparagraph (2) of  
8           paragraph (d) or under paragraph (e) of this Section shall  
9           be equal to 60% of the employee's average weekly wage  
10          computed in accordance with the provisions of Section 10,  
11          provided that it shall be not less than 66 2/3% of the sum  
12          of the Federal minimum wage under the Fair Labor Standards  
13          Act, or the Illinois minimum wage under the Minimum Wage  
14          Law, whichever is more, multiplied by 40 hours. This  
15          percentage rate shall be increased by 10% for each spouse  
16          and child, not to exceed 100% of the total minimum wage  
17          calculation,  
18          nor exceed the employee's average weekly wage computed in  
19          accordance with the provisions of Section 10, whichever is  
20          less.

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

1 The term "children" means the plural of "child".

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

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

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

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

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

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

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

26 4.1. Any provision herein to the contrary

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

9           4.2. Any provision to the contrary notwithstanding,  
10          the total compensation payable under Section 7 shall not  
11          exceed the greater of \$500,000 or 25 years.

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

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

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

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

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

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

1           A duly appointed member of a fire department in a city, the  
2 population of which exceeds 500,000 according to the last  
3 federal or State census, is eligible for compensation under  
4 this paragraph only where such serious and permanent  
5 disfigurement results from burns.

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

24           2. If, as a result of the accident, the employee sustains  
25 serious and permanent injuries not covered by paragraphs (c)  
26 and (e) of this Section or having sustained injuries covered by

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



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

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

21 1. Thumb-

22 70 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 76 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

1           2. First, or index finger-

2                   40 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 94th General Assembly but before February 1, 2006.

5                   43 weeks if the accidental injury occurs on or  
6 after February 1, 2006.

7           3. Second, or middle finger-

8                   35 weeks if the accidental injury occurs on or  
9 after the effective date of this amendatory Act of the  
10 94th General Assembly but before February 1, 2006.

11                   38 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13           4. Third, or ring finger-

14                   25 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

17                   27 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19           5. Fourth, or little finger-

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

25           6. Great toe-

26                   35 weeks if the accidental injury occurs on or

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

3 38 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 7. Each toe other than great toe-

6 12 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

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

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

20 9. Hand-

21 190 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.

24 205 weeks if the accidental injury occurs on or  
25 after February 1, 2006.

26 190 weeks if the accidental injury occurs on or

1 after June 28, 2011 (the effective date of Public Act  
2 97-18) ~~this amendatory Act of the 97th General Assembly~~  
3 and if the accidental injury involves carpal tunnel  
4 syndrome due to repetitive or cumulative trauma, in  
5 which case the permanent partial disability shall not  
6 exceed 15% loss of use of the hand, except for cause  
7 shown by clear and convincing evidence and in which  
8 case the award shall not exceed 30% loss of use of the  
9 hand. If the accidental injury occurs on or after  
10 January 1, 2013, involves carpal tunnel or cubital  
11 tunnel syndrome due to repetitive or cumulative  
12 trauma, and the injured employee would be able to  
13 return to work without restrictions, the permanent  
14 partial disability shall be determined by the  
15 impairment level as determined by a physician licensed  
16 to practice medicine in all of its branches.

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

23 10. Arm-

24 235 weeks if the accidental injury occurs on or  
25 after the effective date of this amendatory Act of the  
26 94th General Assembly but before February 1, 2006.

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

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

22                  11. Foot-

23                         155 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                         167 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 12. Leg-

3 200 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.

6 215 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

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

26 13. Eye-

1           150 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           162 weeks if the accidental injury occurs on or  
5 after February 1, 2006.

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

13           14. Loss of hearing of one ear-

14           50 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

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

19           Total and permanent loss of hearing of both ears-

20           200 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           215 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25           15. Testicle-

26           50 weeks if the accidental injury occurs on or

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

3 54 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

5 Both testicles-

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

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

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

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

24 (b) The percent of hearing loss, for purposes of  
25 the determination of compensation claims for  
26 occupational deafness, shall be calculated as the



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

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

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

25 (e) No consideration shall be given to the question  
26 of whether or not the ability of an employee to

1 understand speech is improved by the use of a hearing  
2 aid.

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

8 Sound Level DBA

| 9  | Slow Response | Hours Per Day |
|----|---------------|---------------|
| 10 | 90            | 8             |
| 11 | 92            | 6             |
| 12 | 95            | 4             |
| 13 | 97            | 3             |
| 14 | 100           | 2             |
| 15 | 102           | 1-1/2         |
| 16 | 105           | 1             |
| 17 | 110           | 1/2           |
| 18 | 115           | 1/4           |

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

21 17. In computing the compensation to be paid to any  
22 employee who, before the accident for which he claims  
23 compensation, had before that time sustained an injury  
24 resulting in the loss by amputation or partial loss by  
25 amputation of any member, including hand, arm, thumb or  
26 fingers, leg, foot or any toes, such loss or partial loss

1 of any such member shall be deducted from any award made  
2 for the subsequent injury. For the permanent loss of use or  
3 the permanent partial loss of use of any such member or the  
4 partial loss of sight of an eye, for which compensation has  
5 been paid, then such loss shall be taken into consideration  
6 and deducted from any award for the subsequent injury.

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

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

23 19. In a case of specific loss and the subsequent death  
24 of such injured employee from other causes than such injury  
25 leaving a widow, widower, or dependents surviving before  
26 payment or payment in full for such injury, then the amount

1           due for such injury is payable to the widow or widower and,  
2           if there be no widow or widower, then to such dependents,  
3           in the proportion which such dependency bears to total  
4           dependency.

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

23          On August 1, 1996 and on February 1 and August 1 of each  
24          subsequent year, the Commission shall examine the special fund  
25          designated as the "Rate Adjustment Fund" and when, after  
26          deducting all advances or loans made to said fund, the amount

1       therein is \$4,000,000, 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 Rate Adjustment Fund reaches the  
4       sum of \$5,000,000 the payment therein shall cease entirely.  
5       However, when said Rate Adjustment Fund has been reduced to  
6       \$3,000,000 the amounts required by paragraph (f) of Section 7  
7       shall be resumed in the manner herein provided.

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

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

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

1 this paragraph, such employees have the right at any time  
2 within 30 months after the date of such termination or  
3 reduction to file petition with the Commission for the purpose  
4 of determining whether any disability exists as a result of the  
5 original accidental injury and the extent thereof.

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

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

22 The custodian of the Second Injury Fund provided for in  
23 paragraph (f) of Section 7 shall be joined with the employer as  
24 a party respondent in the application for adjustment of claim.  
25 The application for adjustment of claim shall state briefly and  
26 in general terms the approximate time and place and manner of

1 the loss of the first member.

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

23 As of July 1, 1980 to July 1, 1982, all claims against and  
24 obligations of the Second Injury Fund shall become claims  
25 against and obligations of the Rate Adjustment Fund to the  
26 extent there is insufficient money in the Second Injury Fund to

1 pay such claims and obligations. In that case, all references  
2 to "Second Injury Fund" in this Section shall also include the  
3 Rate Adjustment Fund.

4 (g) Every award for permanent total disability entered by  
5 the Commission on and after July 1, 1965 under which  
6 compensation payments shall become due and payable after the  
7 effective date of this amendatory Act, and every award for  
8 death benefits or permanent total disability entered by the  
9 Commission on and after the effective date of this amendatory  
10 Act shall be subject to annual adjustments as to the amount of  
11 the compensation rate therein provided. Such adjustments shall  
12 first be made on July 15, 1977, and all awards made and entered  
13 prior to July 1, 1975 and on July 15 of each year thereafter.  
14 In all other cases such adjustment shall be made on July 15 of  
15 the second year next following the date of the entry of the  
16 award and shall further be made on July 15 annually thereafter.  
17 If during the intervening period from the date of the entry of  
18 the award, or the last periodic adjustment, there shall have  
19 been an increase in the State's average weekly wage in covered  
20 industries under the Unemployment Insurance Act, the weekly  
21 compensation rate shall be proportionately increased by the  
22 same percentage as the percentage of increase in the State's  
23 average weekly wage in covered industries under the  
24 Unemployment Insurance Act. The increase in the compensation  
25 rate under this paragraph shall in no event bring the total  
26 compensation rate to an amount greater than the prevailing



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

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

23       For every accident occurring on or after July 20, 2005 but  
24 before the effective date of this amendatory Act of the 94th  
25 General Assembly (Senate Bill 1283 of the 94th General  
26 Assembly), the annual adjustments to the compensation rate in

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

26 The annual adjustments for every award of death benefits or

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

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

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

25 (i) In case the injured employee is under 16 years of age  
26 at the time of the accident and is illegally employed, the

1 amount of compensation payable under paragraphs (b), (c), (d),  
2 (e) and (f) of this Section is increased 50%.

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

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

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

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

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

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

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

9           (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; revised  
10 9-15-11.)