

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 1. Short title. This Act may be cited as the  
5 Occupational Safety and Health Act.

6 Section 2. References to prior Acts. On and after the  
7 effective date of this Act, a reference to the Safety  
8 Inspection and Education Act or the Health and Safety Act in  
9 any other Act or in any rule contained in the Illinois  
10 Administrative Code shall be deemed to be a reference to this  
11 Act.

12 Section 5. Definitions. In this Act:

13 "Department" means the Department of Labor.

14 "Director" means the Director of Labor.

15 "Division" means the Division of Occupational Safety and  
16 Health within the Department of Labor.

17 "Employee" means a person in the service of any of the  
18 following entities, regardless of whether the service is by  
19 virtue of election, by appointment or contract, or by hire, and  
20 regardless of whether the relationship is express or implied or  
21 established orally or in writing:

22 (1) The State. For purposes of this paragraph (1), the

1 term includes a member of the General Assembly, a member of  
2 the Illinois Commerce Commission, a member of the Illinois  
3 Workers' Compensation Commission, and any person in the  
4 service of a public university or college in Illinois.

5 (2) An Illinois county. For purposes of this paragraph  
6 (2), the term includes a deputy sheriff and an assistant  
7 State's Attorney.

8 (3) An Illinois township.

9 (4) An Illinois city, village, incorporated town,  
10 school district, or other municipal corporation or body  
11 politic.

12 "Public employer" or "employer" means the State of Illinois  
13 or any political subdivision of the State.

14 Section 10. Administration of Act; Division of  
15 Occupational Safety and Health.

16 (a) The Department shall administer this Act. For the  
17 purpose of assisting in the administration of this Act, the  
18 Director may authorize his or her representatives in the  
19 Department to perform any necessary inspections or  
20 investigations under this Act.

21 (b) The Department shall maintain a division within the  
22 Department to be known as the Division of Occupational Safety  
23 and Health.

24 Section 15. Application of Act. This Act applies to every

1 public employer in this State and its employees. Nothing in  
2 this Act, however, applies to working conditions of employees  
3 with respect to which federal agencies, and State agencies  
4 acting under Section 274 of the Atomic Energy Act of 1954 (42  
5 U.S.C. 2021), exercise statutory authority to prescribe or  
6 enforce standards or regulations affecting occupational safety  
7 and health. Any State regulations more strict than applicable  
8 federal standards shall, before being promulgated, be the  
9 subject of hearings as required by this Act.

10 Section 20. Duties of employers and employees.

11 (a) Every public employer must provide reasonable  
12 protection to the lives, health, and safety of its employees  
13 and must furnish to each of its employees employment and a  
14 workplace which are free from recognized hazards that cause or  
15 are likely to cause death or serious physical harm to its  
16 employees.

17 (b) Every public employer must comply with the occupational  
18 safety and health standards promulgated under this Act.

19 (c) Every public employer must keep its employees informed  
20 of their protections and obligations under this Act, including  
21 the provisions of applicable standards or rules adopted under  
22 this Act.

23 (d) Every public employer must furnish its employees with  
24 information regarding hazards in the workplace, including  
25 information about suitable precautions, relevant symptoms, and

1 emergency treatment.

2 (e) Every employee must comply with the rules that are  
3 promulgated from time to time by the Director under this Act  
4 and that are applicable to the employee's actions and conduct.

5 Section 25. Occupational safety and health standards.

6 (a) All federal occupational safety and health standards  
7 which the United States Secretary of Labor has promulgated or  
8 modified in accordance with the federal Occupational Safety and  
9 Health Act of 1970 and which are in effect on the effective  
10 date of this Act shall be and are hereby made rules of the  
11 Department unless the Director promulgates an alternate  
12 standard that is at least as effective in providing safe and  
13 healthful employment and places of employment as a federal  
14 standard. Before developing and adopting an alternate standard  
15 or modifying or revoking an existing standard, the Director  
16 must consider factual information that includes:

17 (1) Expert technical knowledge.

18 (2) Input from interested persons, including  
19 employers, employees, recognized standards-producing  
20 organizations, and the public.

21 (b) All federal occupational safety and health standards  
22 which the United States Secretary of Labor promulgates or  
23 modifies in accordance with the federal Occupational Safety and  
24 Health Act of 1970 on or after the effective date of this Act,  
25 unless revoked by the Secretary of Labor, shall become rules of

1 the Department within 6 months after their federal promulgation  
2 date, unless there has been in effect in this State at the time  
3 of the promulgation or modification of the federal standard an  
4 alternate State standard that is at least as effective in  
5 providing safe and healthful employment and places of  
6 employment as a federal standard. The alternate State standard  
7 shall not become effective, however, unless the Department,  
8 within 45 days after the federal promulgation date, files with  
9 the office of the Secretary of State in Springfield, Illinois,  
10 a certified copy of the rule as provided in the Illinois  
11 Administrative Procedure Act.

12 Section 30. Standards; required features.

13 (a) A standard promulgated under this Act shall prescribe  
14 the use of labels or other appropriate forms of warning as are  
15 necessary to ensure that employees are apprised of all hazards  
16 to which they are exposed, relevant symptoms and appropriate  
17 emergency treatment, and proper conditions and precautions of  
18 safe use or exposure.

19 (b) When appropriate, a standard shall also prescribe  
20 suitable protective equipment and control or technological  
21 procedures to be used in connection with such hazards and shall  
22 provide for monitoring or measuring employee exposure at  
23 locations and intervals and in a manner as necessary for the  
24 protection of employees.

25 (c) In addition, when appropriate, a standard shall

1 prescribe the type and frequency of medical examinations or  
2 other tests which shall be made available, by the employer or  
3 at the employer's cost, to employees exposed to such hazards in  
4 order to most effectively determine whether the health of the  
5 employees is adversely affected by the exposure. The results of  
6 the examinations or tests shall be furnished by the employer  
7 only to the Department or, at the direction of the Department,  
8 to authorized medical personnel and, at the request of the  
9 employee, to the employee's physician.

10 (d) The Director, in promulgating standards dealing with  
11 toxic materials or harmful physical agents under this Section,  
12 shall set the standard which most adequately ensures, to the  
13 extent feasible, on the basis of the best available evidence,  
14 that no employee will suffer material impairment of health or  
15 functional capacity even if the employee has regular exposure  
16 to the hazard dealt with by the standard for the period of the  
17 employee's working life.

18 (e) Development of standards under this Section shall be  
19 based on research, demonstrations, experiments, and other  
20 information as appropriate. In addition to the attainment of  
21 the highest degree of health and safety protection for the  
22 employee, other considerations shall be the latest available  
23 scientific data in the field, the feasibility of the standards,  
24 and experience gained under this and other health and safety  
25 laws. Whenever practicable, a standard shall be expressed in  
26 terms of objective criteria and of the performance desired.

1 Section 35. Emergency temporary standards.

2 (a) The Director may promulgate emergency temporary  
3 standards or rules, or both, to take effect immediately by  
4 filing the proposed standard with the Secretary of State,  
5 provided that the Director first expressly determines the  
6 following:

7 (1) Employees are exposed to grave danger from exposure  
8 to substances or agents determined to be toxic or  
9 physically harmful or from new hazards.

10 (2) The emergency temporary standard is necessary to  
11 protect the employees from the danger described in  
12 paragraph (1).

13 (b) The Director shall adopt emergency temporary standards  
14 promulgated by the federal Occupational Safety and Health  
15 Administration within 30 days of the federal notice of proposed  
16 emergency rulemaking. An emergency temporary standard shall be  
17 effective until superseded by a permanent standard but in no  
18 event for more than 6 months from the date of publication of  
19 the emergency temporary standard. The publication of emergency  
20 temporary standards shall be deemed to be a petition to the  
21 Director for the promulgation of a permanent standard and shall  
22 be deemed to be filed with the Director on the date of  
23 publication. The proceeding for promulgation of the permanent  
24 standard shall be pursued in accordance with this Act.

1           Section 40. Variance from standards. The Director may grant  
2 a temporary or permanent variance from a State occupational  
3 safety and health standard upon application by a public  
4 employer to the Director. The Director may grant a variance  
5 from a standard or portion of a standard if the Director  
6 determines that the variance is necessary to permit an employer  
7 to participate in an experiment approved by the Director  
8 designed to demonstrate or validate new and improved techniques  
9 to safeguard the health or safety of workers. A variance from a  
10 State occupational safety and health standard may only have  
11 future effect.

12           Section 45. Temporary variance.

13           (a) A public employer may apply to the Director for a  
14 temporary variance from an occupational safety and health  
15 standard promulgated under this Act. The Director shall issue a  
16 temporary variance only if the employer first files with the  
17 Director an application which meets the requirements of this  
18 Section.

19           (b) An application for a temporary variance under this  
20 Section shall contain all of the following:

21                 (1) A specification of the standard or portion thereof  
22 from which the employer seeks a variance.

23                 (2) A representation by the employer, supported by  
24 representations from qualified persons having first-hand  
25 knowledge of the facts represented, that the employer is



1           unable to comply with the standard or portion thereof, and  
2           a detailed statement of the reasons therefor.

3           (3) A statement of the steps the employer has taken and  
4           will take to protect employees against a hazard covered by  
5           the standard, including specific dates on which or by which  
6           the employer has taken or will take those steps.

7           (4) A statement specifying the date by which the  
8           employer expects to be able to comply with the standard.

9           (5) A certification that the employer has informed its  
10          employees of the application by giving a copy of the  
11          application to the employees' authorized representative,  
12          by posting a statement at the place or places where notices  
13          to employees are normally posted that summarizes the  
14          application and specifies where a copy may be examined, and  
15          by other appropriate means as determined by the employer.  
16          The information provided to employees shall also inform  
17          them of their right to petition the Director for a hearing  
18          on the application.

19          (c) An application for a temporary variance under this  
20          Section shall establish all of the following:

21                 (1) The employer is unable to comply with a standard by  
22                 its effective date because professional or technical  
23                 personnel or materials and equipment needed to comply with  
24                 the standard are unavailable or because necessary  
25                 construction or alteration of facilities cannot be  
26                 completed by the effective date of the standard.

1           (2) The employer is taking all available steps to  
2           safeguard its employees against the hazards covered by the  
3           standard.

4           (3) The employer has an effective program for complying  
5           with the standard as quickly as practicable.

6           (d) The Director may issue a temporary variance only after  
7           the Department provides notice to the employer's employees and  
8           an opportunity for a hearing. However, in a case involving only  
9           documentary evidence in support of the application for a  
10          temporary variance and in which no objection is made or hearing  
11          requested by the employees or their representative, the  
12          Director may issue a temporary variance in accordance with this  
13          Act without a hearing.

14          (e) If a hearing is requested on an application for a  
15          temporary variance, the application shall be heard and  
16          determined by the Director.

17          (f) A temporary variance issued under this Section shall  
18          prescribe the practices, means, methods, operations, and  
19          processes which the employer must adopt and use while the  
20          temporary variance is in effect and shall state in detail the  
21          employer's program for achieving compliance with the standard.

22          Section 50. Permanent variance.

23          (a) A public employer affected by an occupational safety  
24          and health standard promulgated under this Act may apply to the  
25          Director for a permanent variance from that standard. The form

1 and manner of the application shall be as provided in rules.

2 (b) Employees affected by a standard from which their  
3 employer has applied for a variance under this Section shall be  
4 given notice of the employer's application and an opportunity  
5 to participate in a hearing on the application.

6 (c) The Director shall issue a permanent variance if he or  
7 she determines on the record, after opportunity for an  
8 inspection where appropriate as determined by the Department  
9 and a hearing, that the employer has demonstrated by a  
10 preponderance of the evidence that the conditions, practices,  
11 means, methods, operations, or processes used or proposed to be  
12 used by the employer will provide employment and places of  
13 employment to its employees which are as safe and healthful as  
14 those which would prevail if the employer complied with the  
15 standard. The variance shall prescribe the conditions the  
16 employer must maintain, and the practices, means, methods,  
17 operations, and processes which the employer must adopt and  
18 utilize, to the extent they differ from the standard in  
19 question.

20 (d) A variance issued under this Section may be modified or  
21 revoked upon application by the employer, by the employees, or  
22 by the Director on his or her own motion, in the manner  
23 prescribed for the issuance of a variance under this Section at  
24 any time after 6 months from the issuance of the variance.

25 Section 55. Rules generally.

1           (a) The Director, from time to time, shall promulgate rules  
2 that clearly describe the persons to whom those rules apply and  
3 that clearly describe the conduct that is required of those  
4 persons. Each such rule shall, by its terms, be uniform and  
5 general in its application wherever the subject matter of the  
6 rule exists in any workplace having employees in the service of  
7 a public employer. The rules may include rules that, when  
8 applicable to products which are distributed or used in  
9 interstate commerce, are required by compelling local  
10 conditions and do not unduly burden interstate commerce.

11           (b) Any standards or rules promulgated by the Director  
12 under the Safety Inspection and Education Act or the Health and  
13 Safety Act that are in full force on the effective date of this  
14 Act shall become the rules of the Department under this Act.  
15 This Act does not affect the legality of any such rules in the  
16 Illinois Administrative Code.

17           (c) Any proposed standards or rules filed with the  
18 Secretary of State by the Director under the Safety Inspection  
19 and Education Act or the Health and Safety Act that are pending  
20 in the rulemaking process on the effective date of this Act  
21 shall be deemed to have been filed by the Director under this  
22 Act.

23           (d) As soon as practicable after the effective date of this  
24 Act, the Director shall revise and clarify the standards or  
25 rules described in subsections (b) and (c) as necessary to  
26 reflect the provisions of this Act.

1 Section 60. Employers' records.

2 (a) The Director shall adopt rules requiring public  
3 employers to maintain accurate records of, and to make reports  
4 on, work-related deaths, injuries, and illnesses, other than  
5 minor injuries requiring only first aid treatment which do not  
6 involve medical treatment, loss of consciousness, restriction  
7 of work or motion, or transfer to another job. The rules shall  
8 specifically include all of the reporting provisions of Section  
9 6 of the Workers' Compensation Act and Section 6 of the  
10 Workers' Occupational Diseases Act. The records shall be  
11 available to any State agency requiring such information.

12 (b) The Director shall adopt rules requiring public  
13 employers to maintain accurate records of employee exposures to  
14 potentially toxic materials or harmful physical agents which  
15 are required to be monitored or measured under this Act. The  
16 rules shall provide employees or their authorized  
17 representative with an opportunity to observe the monitoring or  
18 measuring, and to have access to the records of the monitoring  
19 or measuring. The rules shall provide appropriate means by  
20 which each employee or former employee may have access to such  
21 records as will indicate his or her exposure to toxic materials  
22 or harmful physical agents.

23 (c) A public employer shall promptly notify any employee  
24 who has been or is being exposed to toxic materials or harmful  
25 physical agents in concentrations or at levels which exceed

1 those prescribed by an occupational safety and health standard  
2 and shall inform the employee who is being thus exposed of the  
3 action being taken by the employer to correct such exposure.

4 Section 65. Periodic inspection of workplaces.

5 (a) The Director shall enforce the occupational safety and  
6 health standards and rules promulgated under this Act and any  
7 occupational health and safety regulations relating to  
8 inspection of places of employment, and shall visit and  
9 inspect, as often as practicable, the places of employment  
10 covered by this Act.

11 (b) The Director or his or her authorized representative,  
12 upon presenting appropriate credentials to a public employer's  
13 agent in charge, has the right to enter and inspect all places  
14 of employment covered by this Act as follows:

15 (1) An inspector may enter without delay and at  
16 reasonable times any establishment, construction site, or  
17 other area, workplace, or environment where work is  
18 performed by an employee of a public employer in order to  
19 enforce the occupational safety and health standards  
20 adopted under this Act.

21 (2) If a public employer refuses entry to an inspector  
22 upon being presented with proper credentials or allows  
23 entry but then refuses to permit or hinders the inspection  
24 in any way, the inspector shall leave the premises and  
25 immediately report the refusal to authorized management

1 within the Division. Authorized management shall notify  
2 the Director to initiate the compulsory legal process to  
3 obtain entry or obtain a warrant for entry, or both.

4 (3) An inspector may inspect and investigate during  
5 regular working hours and at other reasonable times, and  
6 within reasonable limits and in a reasonable manner, any  
7 workplace described in paragraph (1) and all pertinent  
8 conditions, structures, machines, apparatus, devices,  
9 equipment, and materials therein, and to question  
10 privately the employer or any agent or employee of the  
11 employer.

12 (4) The owner, operator, manager, or lessee of any  
13 workplace covered by this Act, and his or her agent or  
14 employee, and any employer affected by this Act shall, when  
15 requested by the Division of Occupational Safety and Health  
16 or any duly authorized agent of that Division: (i) furnish  
17 any information in his or her possession or under his or  
18 her control which the Department is authorized to require,  
19 (ii) answer truthfully all questions required to be put to  
20 him or her, and (iii) cooperate in the making of a proper  
21 inspection.

22 Section 70. Inspection of workplace upon complaint.

23 (a) An employee or representative of employees who believes  
24 that a violation of an occupational safety and health standard  
25 exists in a workplace covered by this Act or that an imminent

1 danger exists in such a place may request an inspection by  
2 submitting a written complaint to the Director or his or her  
3 authorized representative setting forth with reasonable  
4 particularity the grounds for the complaint. The complaint  
5 shall be signed by the employee or representative.

6 (b) If the Director or the Director's authorized  
7 representative determines there are no reasonable grounds to  
8 believe that a violation or imminent danger exists, he or she  
9 shall notify the employee or representative of employees of  
10 that determination in writing.

11 (c) If, upon receipt of the complaint, the Director or his  
12 or her authorized representative determines there are  
13 reasonable grounds to believe that a violation or imminent  
14 danger exists, he or she shall make a special inspection of the  
15 workplace in accordance with this Act, as soon as practicable,  
16 to determine whether a violation or imminent danger exists.

17 (d) A copy of the complaint shall be provided to the public  
18 employer or its agent by the Director or his or her authorized  
19 representative at the time of the inspection, except that, upon  
20 the request of the person making the complaint, that person's  
21 name and the names of individual employees referred to in the  
22 complaint shall not appear in the copy or on any record  
23 published, released, or made available by the Director or his  
24 or her authorized representative.

25 (e) Nonformal safety and health complaints shall be handled  
26 by an authorized representative of the Director. Based on the



1 severity and legitimacy of the complaint as determined by the  
2 Division, the Director's authorized representative shall  
3 either schedule an inspection of the workplace or issue a  
4 letter to the employer stating the allegations set forth in the  
5 complaint.

6 Section 75. Opportunity to accompany inspection. Subject  
7 to rules adopted by the Director, a representative of the  
8 employer and a representative authorized by the employer's  
9 employees shall be given an opportunity to accompany the  
10 Director or his or her authorized representative during the  
11 physical inspection of any workplace under this Act for the  
12 purpose of aiding the inspection. If there is no authorized  
13 employee representative, the Director or his or her authorized  
14 representative shall consult with a reasonable number of  
15 employees concerning matters of occupational safety and health  
16 in the workplace.

17 Section 80. Violation of Act or standard; citation.

18 (a) Upon inspection or investigation of a workplace, if the  
19 Director or his or her authorized representative believes that  
20 a public employer has violated a requirement of this Act or a  
21 standard, rule, or regulation promulgated under this Act, he or  
22 she shall with reasonable promptness issue a citation to the  
23 employer. A citation shall: (i) be in writing, (ii) describe  
24 with particularity the nature of the violation and include a

1 reference to the provision of the Act, standard, rule, or  
2 regulation alleged to have been violated, and (iii) fix a  
3 reasonable time for the abatement of the violation.

4 (b) Each citation issued under this Section, or a copy or  
5 copies thereof, shall be prominently posted at or near the  
6 place at which the violation occurred as prescribed in rules  
7 adopted by the Director.

8 (c) A citation shall be served on the employer or the  
9 employer's agent by delivering a copy to the person upon whom  
10 the service is to be had, or by leaving a copy at his or her  
11 usual place of business or abode, or by sending a copy by  
12 certified mail to his or her place of business.

13 (d) A citation may not be issued under this Section after  
14 the expiration of 6 months following the occurrence of any  
15 violation.

16 Section 85. Civil penalties.

17 (a) After an inspection of a workplace under this Act, if  
18 the Director issues a citation, he or she shall, within 5 days  
19 after issuing the citation, notify the employer by certified  
20 mail of any civil penalty proposed to be assessed for the  
21 violation set forth in the citation.

22 (b) If the Director has reason to believe that an employer  
23 has failed to correct a violation for which a citation has been  
24 issued within the period permitted for its correction, the  
25 Director shall notify the employer by certified mail of that

1 failure and of the civil penalty proposed to be assessed for  
2 that failure.

3 (c) Civil penalties authorized under this Section are as  
4 follows:

5 (1) A public employer that repeatedly violates this  
6 Act, the Safety Inspection and Education Act, or the Health  
7 and Safety Act, or any combination of those Acts, or any  
8 standard, rule, regulation, or order under any of those  
9 Acts, may be assessed a civil penalty of not more than  
10 \$10,000 per violation.

11 (2) A public employer that intentionally violates this  
12 Act, the Safety Inspection and Education Act, or the Health  
13 and Safety Act, or any standard, rule, regulation, or order  
14 under any of those Acts, or who demonstrates plain  
15 indifference to any provision of any of those Acts or any  
16 such standard, rule, regulation, or order, may be assessed  
17 a civil penalty of not more than \$10,000.

18 (3) A public employer that has received a citation for  
19 a serious violation of this Act, the Safety Inspection and  
20 Education Act, or the Health and Safety Act, or any  
21 standard, rule, regulation, or order under any of those  
22 Acts, may be assessed a civil penalty up to \$1,000 for each  
23 such violation.

24 (4) A public employer that has received a citation for  
25 a violation of this Act, the Safety Inspection and  
26 Education Act, or the Health and Safety Act, or any

1 standard, rule, regulation, or order under any of those  
2 Acts, which is not a serious violation, may be assessed a  
3 civil penalty of up to \$1,000 for each such violation.

4 (5) A public employer that violates a posting  
5 requirement is subject to the following citations and  
6 proposed penalty structure:

7 (A) Job Safety and Health Poster: an other than  
8 serious citation and a proposed penalty of \$1,000.

9 (B) Annual Summary of Work-Related Injuries and  
10 Illnesses (OSHA Form 300A): an other than serious  
11 citation and a proposed penalty of \$1,000, even if  
12 there are no recordable injuries or illnesses.

13 (C) Citation: an other than serious citation and a  
14 proposed penalty of \$1,000.

15 (6) A public employer that fails to correct a violation  
16 for which a citation has been issued within the period  
17 permitted may be assessed a civil penalty of up to \$1,000  
18 for each day the violation continues.

19 (d) For purposes of this Section, a "serious violation"  
20 shall be deemed to exist in a workplace if there is a  
21 substantial probability that death or serious physical harm  
22 could result from (i) a condition which exists or (ii) one or  
23 more practices, means, methods, operations, or processes which  
24 have been adopted or are in use in the workplace, unless the  
25 employer did not know and could not, with the exercise of  
26 reasonable diligence, have known of the presence of the

1 violation.

2 (e) The Director may assess civil penalties as provided in  
3 this Section, giving due consideration to the appropriateness  
4 of the penalty. A penalty may be reduced by the Director or the  
5 Director's authorized representative based on the public  
6 employer's good faith, size of business, and history of  
7 previous violations.

8 (f) The Attorney General may bring an action in the circuit  
9 court to enforce the collection of any civil penalty assessed  
10 under this Act.

11 (g) All civil penalties collected under this Act shall be  
12 deposited into the General Revenue Fund of the State of  
13 Illinois.

14 Section 90. Informal review.

15 (a) A public employer may submit in writing data relating  
16 to the abatement of a hazard to be considered by an authorized  
17 representative of the Director. The authorized representative  
18 shall notify the interested parties if such data will be used  
19 to modify an abatement order.

20 (b) Within 15 working days after receiving a citation,  
21 proposed assessment of a civil penalty, or notice of failure to  
22 correct a violation, a public employer or the employer's agent  
23 may request that an authorized representative of the Director  
24 review abatement dates, reclassify violations (such as willful  
25 to serious, serious to other than serious), or modify or

1 withdraw a penalty, a citation, or a citation item, or any  
2 combination of those, if the employer presents evidence during  
3 the informal conference which convinces the authorized  
4 representative that the changes are justified.

5 Section 95. Request for hearing.

6 (a) Within 15 working days after receiving a citation,  
7 proposed assessment of a civil penalty, or notice of failure to  
8 correct a violation, a public employer or the employer's agent,  
9 manager, or superintendent may request in writing a hearing  
10 before the Director to contest the citation, assessment of a  
11 civil penalty, or notice of failure to correct a violation.

12 (b) If, within 15 working days after receiving a citation  
13 and notice of penalty or notice of failure to correct a  
14 violation issued by the Director, the employer fails to notify  
15 the Director that it intends to contest the citation,  
16 assessment of a civil penalty, or notice of failure to correct  
17 a violation, and if no notice requesting a hearing is filed by  
18 an employee or employee representative under subsection (c)  
19 within that time, the citation, assessment of a civil penalty,  
20 or notice of failure to correct a violation shall be deemed a  
21 final order and not subject to review by any court or agency.

22 (c) Within 15 working days after the issuance of a citation  
23 under Section 80, an employee or representative of an employee  
24 may file a request in writing for a hearing before the Director  
25 to contest the citation on the ground that the period of time

1 fixed in the citation for the abatement of the violation  
2 identified in the citation is unreasonable.

3 Section 100. Hearing.

4 (a) If a public employer or the employer's representative  
5 notifies the Director that the employer intends to contest a  
6 citation and notice of penalty or if, within 15 working days  
7 after the issuance of the citation, an employee or  
8 representative of employees files a notice with the Director  
9 alleging that the period of time fixed in the citation for the  
10 abatement of the violation is unreasonable, the Director shall  
11 afford an opportunity for a hearing before an Administrative  
12 Law Judge designated by the Director.

13 (b) At the hearing, the employer or employee shall state  
14 his or her objections to the citation and provide evidence why  
15 the citation should not stand as issued. The Director or his or  
16 her representative shall be given the opportunity to state his  
17 or her reasons for issuing the citation. Affected employees  
18 shall be provided an opportunity to participate as parties to  
19 hearings under the rules of procedure prescribed by the  
20 Director (56 Ill. Admin. Code, Part 120).

21 (c) The Director, or the Administrative Law Judge on behalf  
22 of the Director, has the power to do the following:

23 (1) Issue subpoenas for and compel the attendance of  
24 witnesses.

25 (2) Hear testimony and receive evidence.

1           (3) Order testimony of a witness residing within or  
2           without this State to be taken by deposition in the manner  
3           prescribed by law for depositions in civil cases in the  
4           circuit court in any proceeding pending before him or her  
5           at any stage of such proceeding.

6           (d) Subpoenas and commissions to take testimony shall be  
7           under seal of the Director. Service of subpoenas may be made by  
8           a sheriff or any other person.

9           (e) The circuit court for the county where any hearing is  
10          pending may compel the attendance of witnesses, the production  
11          of pertinent books, papers, records, or documents, and the  
12          giving of testimony before the Director or an Administrative  
13          Law Judge by an attachment proceeding, as for contempt, in the  
14          same manner as the production of evidence may be compelled  
15          before the court.

16          (f) The Administrative Law Judge on behalf of the Director,  
17          after considering the evidence presented at the formal hearing,  
18          in accordance with the Director's rules, shall enter a final  
19          decision and order within a reasonable time affirming,  
20          modifying, or vacating the citation or proposed assessment of a  
21          civil penalty, or directing other appropriate relief.

22          Section 105. Judicial review.

23          (a) Any party adversely affected by a final order or  
24          determination of the Administrative Law Judge on behalf of the  
25          Director may obtain judicial review of that order or



1 determination by filing a complaint for review within 35 days  
2 after the entry of the order or other final action complained  
3 of, pursuant to the Administrative Review Law. If no appeal is  
4 taken within 35 days after the order or determination is  
5 issued, the order shall become final.

6 (b) A request for judicial review filed under this Section  
7 shall be heard expeditiously.

8 Section 110. Discrimination against employee prohibited.

9 (a) A person may not discharge or in any way discriminate  
10 against an employee because the employee has: (i) filed a  
11 complaint or instituted or caused to be instituted any  
12 proceeding under this Act, (ii) testified or is about to  
13 testify in any such proceeding, or (iii) exercised, on his or  
14 her own behalf or on behalf of another person, any right  
15 afforded by this Act.

16 (b) An employee who believes that he or she has been  
17 discharged or otherwise discriminated against by an employer in  
18 violation of this Section may, within 30 calendar days after  
19 the violation occurs, file a complaint with the Director  
20 alleging the discrimination.

21 (c) Upon receipt of the complaint, the Director shall cause  
22 an investigation to be made as the Director deems appropriate.  
23 After the investigation, if the Director determines that the  
24 employer has violated this Section, the Director shall bring an  
25 action in the circuit court for appropriate relief, including

1 rehiring or reinstatement of the employee to his or her former  
2 position with back pay, after taking into account any interim  
3 earnings of the employee.

4 Section 115. Abatement of imminent danger.

5 (a) Whenever the Director determines that an imminent  
6 danger exists in the working conditions of any public employee  
7 in this State, and that the danger may reasonably be expected  
8 to cause death or serious physical harm immediately or before  
9 the imminence of the danger can be eliminated through the  
10 enforcement procedures otherwise provided by this Act, the  
11 Director may file a complaint in the circuit court for  
12 appropriate relief, including an order that may require steps  
13 to be taken as necessary to abate, avoid, correct, or remove  
14 the imminent danger and prohibit the employment or presence of  
15 any individual in locations or under conditions where the  
16 imminent danger exists, except those individuals whose  
17 presence is necessary to abate, avoid, correct, or remove the  
18 imminent danger or to maintain the capacity of a continuous  
19 process operation to assume normal operations without a  
20 complete cessation of operations, or, if a cessation of  
21 operations is necessary, to permit the cessation to be  
22 accomplished in a safe and orderly manner.

23 (b) If an inspector concludes that an imminent danger  
24 exists in any workplace, the inspector shall promptly inform  
25 the affected employees or their authorized representative and

1 the employer of the danger and that the inspector will  
2 recommend to the Director that relief be sought as provided in  
3 subsection (a).

4 (c) If the Director arbitrarily or capriciously fails to  
5 seek relief under subsection (a) after receiving an inspector's  
6 recommendation under subsection (b), an employee who is injured  
7 by reason of such failure, or the representative of the  
8 employee, may bring an action against the Director in the  
9 circuit court for the county in which the imminent danger is  
10 alleged to exist or in which the employer has his or her  
11 principal office for relief by mandamus to compel the Director  
12 to seek relief under subsection (a) and for such further relief  
13 as may be appropriate.

14 Section 120. Criminal penalties.

15 (a) Willful violation. A public employer that willfully  
16 violates any provision of this Act or any standard, rule,  
17 regulation, or order under this Act commits a Class 4 felony if  
18 that violation causes the death of any employee.

19 (b) Advance notice of inspection. A person who gives  
20 advance notice to a public employer of any inspection to be  
21 conducted under this Act, without authority from the Director  
22 or the Director's authorized representative, commits a Class B  
23 misdemeanor.

24 (c) False statement. A person who knowingly makes a false  
25 statement, representation, or certification in any

1 application, record, report, plan, or other document required  
2 under this Act, or any standard, rule, regulation, or order  
3 adopted or issued under this Act, commits a Class 4 felony.

4 Section 125. Confidentiality of trade secrets.

5 (a) All information reported to or otherwise obtained by  
6 the Director or the Director's authorized representative in  
7 connection with any inspection or proceeding under this Act or  
8 any standard, rule, regulation, or order adopted or issued  
9 under this Act which contains or might reveal a trade secret  
10 shall be considered confidential, except that such information  
11 may be disclosed confidentially to other officers or employees  
12 concerned with carrying out this Act or when relevant to any  
13 proceeding under this Act. In any such proceeding, the Director  
14 or the court shall issue such orders as may be appropriate,  
15 including an order for the impoundment of files or portions of  
16 files, to protect the confidentiality of trade secrets.

17 (b) A person who discloses a trade secret in violation of  
18 this Section commits a Class B misdemeanor.

19 Section 130. Prosecution by Attorney General or State's  
20 Attorney. The Attorney General or a State's Attorney, upon  
21 request of the Department, shall prosecute any violation of  
22 this Act or a standard, rule, regulation, or order adopted or  
23 issued under this Act.

1 Section 135. Safety education and other programs.

2 (a) The Department shall encourage public employers as well  
3 as organizations and groups of employees to institute and  
4 maintain safety education programs for employees and promote  
5 the observation of safety practices.

6 (b) The Department shall provide and conduct educational  
7 programs specifically designed to meet the regulatory  
8 requirements set forth in the occupational safety and health  
9 standards and to meet the needs of public employers.

10 (c) The Department shall conduct regular public  
11 information programs to inform public employers of changes or  
12 updates to the standards and rules adopted under this Act as  
13 necessary.

14 (d) The Department shall provide support services for any  
15 public employer that needs assistance with the public  
16 employer's self-inspection programs.

17 Section 140. Director's reports.

18 (a) In the annual report to the Governor required by the  
19 Civil Administrative Code of Illinois, the Director shall  
20 report the result of inspections and investigations made of  
21 establishments under this Act, together with such other  
22 information and recommendations as he or she deems proper.

23 (b) The Director shall make an annual report of his or her  
24 work under this Act to the Governor on or before the first day  
25 of February of each year. The Director shall make a biennial

1 report to the General Assembly on or before the first day of  
2 February of each odd-numbered year.

3 Section 145. Transition provisions. This Act does not  
4 affect any act done, ratified, or canceled, or any right  
5 occurring or established, or any action or proceeding had or  
6 commenced in an administrative, civil, or criminal cause, under  
7 the Safety Inspection and Education Act or the Health and  
8 Safety Act, or any standard or rule adopted under either of  
9 those Acts, before the effective date of this Act. An employee  
10 or public employer may enforce any such right under this Act.  
11 The Department, or the Attorney General or a State's Attorney,  
12 may prosecute or continue any such action or proceeding under  
13 this Act.

14 Section 900. The Civil Administrative Code of Illinois is  
15 amended by changing Sections 5-145 and 5-365 as follows:

16 (20 ILCS 5/5-145) (was 20 ILCS 5/5.03)

17 Sec. 5-145. In the Department of Labor. Assistant Director  
18 of Labor; Chief Safety ~~Factory~~ Inspector; and Superintendent of  
19 Occupational Safety and Health ~~Inspection and Education~~.

20 (Source: P.A. 91-239, eff. 1-1-00.)

21 (20 ILCS 5/5-365) (was 20 ILCS 5/9.03)

22 Sec. 5-365. In the Department of Labor. The Director of

1 Labor shall receive an annual salary as set by the Compensation  
2 Review Board.

3 The Assistant Director of Labor shall receive an annual  
4 salary as set by the Compensation Review Board.

5 The Chief Safety ~~Factory~~ Inspector shall receive \$24,700  
6 from the third Monday in January, 1979 to the third Monday in  
7 January, 1980, and \$25,000 thereafter, or as set by the  
8 Compensation Review Board, whichever is greater.

9 The Superintendent of Occupational Safety and Health  
10 ~~Inspection and Education~~ shall receive \$27,500, or as set by  
11 the Compensation Review Board, whichever is greater.

12 The Superintendent of Women's and Children's Employment  
13 shall receive \$22,000 from the third Monday in January, 1979 to  
14 the third Monday in January, 1980, and \$22,500 thereafter, or  
15 as set by the Compensation Review Board, whichever is greater.

16 (Source: P.A. 96-800, eff. 10-30-09.)

17 (820 ILCS 220/Act rep.)

18 Section 910. The Safety Inspection and Education Act is  
19 repealed.

20 (820 ILCS 225/Act rep.)

21 Section 915. The Health and Safety Act is repealed.

22 Section 920. The Workers' Compensation Act is amended by  
23 changing Sections 6 and 19 as follows:

1 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

2 Sec. 6. (a) Every employer within the provisions of this  
3 Act, shall, under the rules and regulations prescribed by the  
4 Commission, post printed notices in their respective places of  
5 employment in such number and at such places as may be  
6 determined by the Commission, containing such information  
7 relative to this Act as in the judgment of the Commission may  
8 be necessary to aid employees to safeguard their rights under  
9 this Act in event of injury.

10 In addition thereto, the employer shall post in a  
11 conspicuous place on the place of the employment a printed or  
12 typewritten notice stating whether he is insured or whether he  
13 has qualified and is operating as a self-insured employer. In  
14 the event the employer is insured, the notice shall state the  
15 name and address of his insurance carrier, the number of the  
16 insurance policy, its effective date and the date of  
17 termination. In the event of the termination of the policy for  
18 any reason prior to the termination date stated, the posted  
19 notice shall promptly be corrected accordingly. In the event  
20 the employer is operating as a self-insured employer the notice  
21 shall state the name and address of the company, if any,  
22 servicing the compensation payments of the employer, and the  
23 name and address of the person in charge of making compensation  
24 payments.

25 (b) Every employer subject to this Act shall maintain



1 accurate records of work-related deaths, injuries and illness  
2 other than minor injuries requiring only first aid treatment  
3 and which do not involve medical treatment, loss of  
4 consciousness, restriction of work or motion, or transfer to  
5 another job and file with the Commission, in writing, a report  
6 of all accidental deaths, injuries and illnesses arising out of  
7 and in the course of the employment resulting in the loss of  
8 more than 3 scheduled work days. In the case of death such  
9 report shall be made no later than 2 working days following the  
10 accidental death. In all other cases such report shall be made  
11 between the 15th and 25th of each month unless required to be  
12 made sooner by rule of the Commission. In case the injury  
13 results in permanent disability, a further report shall be made  
14 as soon as it is determined that such permanent disability has  
15 resulted or will result from the injury. All reports shall  
16 state the date of the injury, including the time of day or  
17 night, the nature of the employer's business, the name,  
18 address, age, sex, conjugal condition of the injured person,  
19 the specific occupation of the injured person, the direct cause  
20 of the injury and the nature of the accident, the character of  
21 the injury, the length of disability, and in case of death the  
22 length of disability before death, the wages of the injured  
23 person, whether compensation has been paid to the injured  
24 person, or to his or her legal representative or his heirs or  
25 next of kin, the amount of compensation paid, the amount paid  
26 for physicians', surgeons' and hospital bills, and by whom

1 paid, and the amount paid for funeral or burial expenses if  
2 known. The reports shall be made on forms and in the manner as  
3 prescribed by the Commission and shall contain such further  
4 information as the Commission shall deem necessary and require.  
5 The making of these reports releases the employer from making  
6 such reports to any other officer of the State and shall  
7 satisfy the reporting provisions as contained in the Safety  
8 Inspection and Education Act, the "Health and Safety Act," and  
9 the Occupational Safety and Health Act ~~"An Act in relation to~~  
10 ~~safety inspections and education in industrial and commercial~~  
11 ~~establishments and to repeal an Act therein named", approved~~  
12 ~~July 18, 1955, as now or hereafter amended.~~ The reports filed  
13 with the Commission pursuant to this Section shall be made  
14 available by the Commission to the Director of Labor or his  
15 representatives and to all other departments of the State of  
16 Illinois which shall require such information for the proper  
17 discharge of their official duties. Failure to file with the  
18 Commission any of the reports required in this Section is a  
19 petty offense.

20 Except as provided in this paragraph, all reports filed  
21 hereunder shall be confidential and any person having access to  
22 such records filed with the Illinois Workers' Compensation  
23 Commission as herein required, who shall release any  
24 information therein contained including the names or otherwise  
25 identify any persons sustaining injuries or disabilities, or  
26 give access to such information to any unauthorized person,

1 shall be subject to discipline or discharge, and in addition  
2 shall be guilty of a Class B misdemeanor. The Commission shall  
3 compile and distribute to interested persons aggregate  
4 statistics, taken from the reports filed hereunder. The  
5 aggregate statistics shall not give the names or otherwise  
6 identify persons sustaining injuries or disabilities or the  
7 employer of any injured or disabled person.

8 (c) Notice of the accident shall be given to the employer  
9 as soon as practicable, but not later than 45 days after the  
10 accident. Provided:

11 (1) In case of the legal disability of the employee or any  
12 dependent of a deceased employee who may be entitled to  
13 compensation under the provisions of this Act, the limitations  
14 of time by this Act provided do not begin to run against such  
15 person under legal disability until a guardian has been  
16 appointed.

17 (2) In cases of injuries sustained by exposure to  
18 radiological materials or equipment, notice shall be given to  
19 the employer within 90 days subsequent to the time that the  
20 employee knows or suspects that he has received an excessive  
21 dose of radiation.

22 No defect or inaccuracy of such notice shall be a bar to  
23 the maintenance of proceedings on arbitration or otherwise by  
24 the employee unless the employer proves that he is unduly  
25 prejudiced in such proceedings by such defect or inaccuracy.

26 Notice of the accident shall give the approximate date and

1 place of the accident, if known, and may be given orally or in  
2 writing.

3 (d) Every employer shall notify each injured employee who  
4 has been granted compensation under the provisions of Section 8  
5 of this Act of his rights to rehabilitation services and advise  
6 him of the locations of available public rehabilitation centers  
7 and any other such services of which the employer has  
8 knowledge.

9 In any case, other than one where the injury was caused by  
10 exposure to radiological materials or equipment or asbestos  
11 unless the application for compensation is filed with the  
12 Commission within 3 years after the date of the accident, where  
13 no compensation has been paid, or within 2 years after the date  
14 of the last payment of compensation, where any has been paid,  
15 whichever shall be later, the right to file such application  
16 shall be barred.

17 In any case of injury caused by exposure to radiological  
18 materials or equipment or asbestos, unless application for  
19 compensation is filed with the Commission within 25 years after  
20 the last day that the employee was employed in an environment  
21 of hazardous radiological activity or asbestos, the right to  
22 file such application shall be barred.

23 If in any case except one where the injury was caused by  
24 exposure to radiological materials or equipment or asbestos,  
25 the accidental injury results in death application for  
26 compensation for death may be filed with the Commission within

1 3 years after the date of death where no compensation has been  
2 paid or within 2 years after the date of the last payment of  
3 compensation where any has been paid, whichever shall be later,  
4 but not thereafter.

5 If an accidental injury caused by exposure to radiological  
6 material or equipment or asbestos results in death within 25  
7 years after the last day that the employee was so exposed  
8 application for compensation for death may be filed with the  
9 Commission within 3 years after the date of death, where no  
10 compensation has been paid, or within 2 years after the date of  
11 the last payment of compensation where any has been paid,  
12 whichever shall be later, but not thereafter.

13 (e) Any contract or agreement made by any employer or his  
14 agent or attorney with any employee or any other beneficiary of  
15 any claim under the provisions of this Act within 7 days after  
16 the injury shall be presumed to be fraudulent.

17 (f) Any condition or impairment of health of an employee  
18 employed as a firefighter, emergency medical technician (EMT),  
19 or paramedic which results directly or indirectly from any  
20 bloodborne pathogen, lung or respiratory disease or condition,  
21 heart or vascular disease or condition, hypertension,  
22 tuberculosis, or cancer resulting in any disability  
23 (temporary, permanent, total, or partial) to the employee shall  
24 be rebuttably presumed to arise out of and in the course of the  
25 employee's firefighting, EMT, or paramedic employment and,  
26 further, shall be rebuttably presumed to be causally connected

1 to the hazards or exposures of the employment. This presumption  
2 shall also apply to any hernia or hearing loss suffered by an  
3 employee employed as a firefighter, EMT, or paramedic. However,  
4 this presumption shall not apply to any employee who has been  
5 employed as a firefighter, EMT, or paramedic for less than 5  
6 years at the time he or she files an Application for Adjustment  
7 of Claim concerning this condition or impairment with the  
8 Illinois Workers' Compensation Commission. The rebuttable  
9 presumption established under this subsection, however, does  
10 not apply to an emergency medical technician (EMT) or paramedic  
11 employed by a private employer if the employee spends the  
12 preponderance of his or her work time for that employer engaged  
13 in medical transfers between medical care facilities or  
14 non-emergency medical transfers to or from medical care  
15 facilities. The changes made to this subsection by this  
16 amendatory Act of the 98th General Assembly shall be narrowly  
17 construed. The Finding and Decision of the Illinois Workers'  
18 Compensation Commission under only the rebuttable presumption  
19 provision of this subsection shall not be admissible or be  
20 deemed res judicata in any disability claim under the Illinois  
21 Pension Code arising out of the same medical condition;  
22 however, this sentence makes no change to the law set forth in  
23 *Krohe v. City of Bloomington*, 204 Ill.2d 392.

24 (Source: P.A. 98-291, eff. 1-1-14.)

25 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

6           1. Whenever any claimant misconceives his remedy and  
7 files an application for adjustment of claim under this Act  
8 and it is subsequently discovered, at any time before final  
9 disposition of such cause, that the claim for disability or  
10 death which was the basis for such application should  
11 properly have been made under the Workers' Occupational  
12 Diseases Act, then the provisions of Section 19, paragraph  
13 (a-1) of the Workers' Occupational Diseases Act having  
14 reference to such application shall apply.

15           2. Whenever any claimant misconceives his remedy and  
16 files an application for adjustment of claim under the  
17 Workers' Occupational Diseases Act and it is subsequently  
18 discovered, at any time before final disposition of such  
19 cause that the claim for injury or death which was the  
20 basis for such application should properly have been made  
21 under this Act, then the application so filed under the  
22 Workers' Occupational Diseases Act may be amended in form,  
23 substance or both to assert claim for such disability or  
24 death under this Act and it shall be deemed to have been so  
25 filed as amended on the date of the original filing  
26 thereof, and such compensation may be awarded as is

1 warranted by the whole evidence pursuant to this Act. When  
2 such amendment is submitted, further or additional  
3 evidence may be heard by the Arbitrator or Commission when  
4 deemed necessary. Nothing in this Section contained shall  
5 be construed to be or permit a waiver of any provisions of  
6 this Act with reference to notice but notice if given shall  
7 be deemed to be a notice under the provisions of this Act  
8 if given within the time required herein.

9 (b) The Arbitrator shall make such inquiries and  
10 investigations as he or they shall deem necessary and may  
11 examine and inspect all books, papers, records, places, or  
12 premises relating to the questions in dispute and hear such  
13 proper evidence as the parties may submit.

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

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



1           The decision of the Arbitrator shall be filed with the  
2 Commission which Commission shall immediately send to each  
3 party or his attorney a copy of such decision, together with a  
4 notification of the time when it was filed. As of the effective  
5 date of this amendatory Act of the 94th General Assembly, all  
6 decisions of the Arbitrator shall set forth in writing findings  
7 of fact and conclusions of law, separately stated, if requested  
8 by either party. Unless a petition for review is filed by  
9 either party within 30 days after the receipt by such party of  
10 the copy of the decision and notification of time when filed,  
11 and unless such party petitioning for a review shall within 35  
12 days after the receipt by him of the copy of the decision, file  
13 with the Commission either an agreed statement of the facts  
14 appearing upon the hearing before the Arbitrator, or if such  
15 party shall so elect a correct transcript of evidence of the  
16 proceedings at such hearings, then the decision shall become  
17 the decision of the Commission and in the absence of fraud  
18 shall be conclusive. The Petition for Review shall contain a  
19 statement of the petitioning party's specific exceptions to the  
20 decision of the arbitrator. The jurisdiction of the Commission  
21 to review the decision of the arbitrator shall not be limited  
22 to the exceptions stated in the Petition for Review. The  
23 Commission, or any member thereof, may grant further time not  
24 exceeding 30 days, in which to file such agreed statement or  
25 transcript of evidence. Such agreed statement of facts or  
26 correct transcript of evidence, as the case may be, shall be

1 authenticated by the signatures of the parties or their  
2 attorneys, and in the event they do not agree as to the  
3 correctness of the transcript of evidence it shall be  
4 authenticated by the signature of the Arbitrator designated by  
5 the Commission.

6 Whether the employee is working or not, if the employee is  
7 not receiving or has not received medical, surgical, or  
8 hospital services or other services or compensation as provided  
9 in paragraph (a) of Section 8, or compensation as provided in  
10 paragraph (b) of Section 8, the employee may at any time  
11 petition for an expedited hearing by an Arbitrator on the issue  
12 of whether or not he or she is entitled to receive payment of  
13 the services or compensation. Provided the employer continues  
14 to pay compensation pursuant to paragraph (b) of Section 8, the  
15 employer may at any time petition for an expedited hearing on  
16 the issue of whether or not the employee is entitled to receive  
17 medical, surgical, or hospital services or other services or  
18 compensation as provided in paragraph (a) of Section 8, or  
19 compensation as provided in paragraph (b) of Section 8. When an  
20 employer has petitioned for an expedited hearing, the employer  
21 shall continue to pay compensation as provided in paragraph (b)  
22 of Section 8 unless the arbitrator renders a decision that the  
23 employee is not entitled to the benefits that are the subject  
24 of the expedited hearing or unless the employee's treating  
25 physician has released the employee to return to work at his or  
26 her regular job with the employer or the employee actually

1 returns to work at any other job. If the arbitrator renders a  
2 decision that the employee is not entitled to the benefits that  
3 are the subject of the expedited hearing, a petition for review  
4 filed by the employee shall receive the same priority as if the  
5 employee had filed a petition for an expedited hearing by an  
6 Arbitrator. Neither party shall be entitled to an expedited  
7 hearing when the employee has returned to work and the sole  
8 issue in dispute amounts to less than 12 weeks of unpaid  
9 compensation pursuant to paragraph (b) of Section 8.

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

20 Where 2 or more insurance carriers, private self-insureds,  
21 or a group workers' compensation pool under Article V 3/4 of  
22 the Illinois Insurance Code dispute coverage for the same  
23 injury, any such insurance carrier, private self-insured, or  
24 group workers' compensation pool may request an expedited  
25 hearing pursuant to this paragraph to determine the issue of  
26 coverage, provided coverage is the only issue in dispute and

1 all other issues are stipulated and agreed to and further  
2 provided that all compensation benefits including medical  
3 benefits pursuant to Section 8(a) continue to be paid to or on  
4 behalf of petitioner. Any insurance carrier, private  
5 self-insured, or group workers' compensation pool that is  
6 determined to be liable for coverage for the injury in issue  
7 shall reimburse any insurance carrier, private self-insured,  
8 or group workers' compensation pool that has paid benefits to  
9 or on behalf of petitioner for the injury.

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

19 Such petition shall contain the following information and  
20 shall be served on the employer at least 15 days before it is  
21 filed:

- 22 (i) the date and approximate time of accident;  
23 (ii) the approximate location of the accident;  
24 (iii) a description of the accident;  
25 (iv) the nature of the injury incurred by the employee;  
26 (v) the identity of the person, if known, to whom the

1 accident was reported and the date on which it was  
2 reported;

3 (vi) the name and title of the person, if known,  
4 representing the employer with whom the employee conferred  
5 in any effort to obtain compensation pursuant to paragraph  
6 (b) of Section 8 of this Act or medical, surgical or  
7 hospital services pursuant to paragraph (a) of Section 8 of  
8 this Act and the date of such conference;

9 (vii) a statement that the employer has refused to pay  
10 compensation pursuant to paragraph (b) of Section 8 of this  
11 Act or for medical, surgical or hospital services pursuant  
12 to paragraph (a) of Section 8 of this Act;

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

16 (ix) the dates of treatment related to the accident by  
17 medical practitioners, and the names and addresses of such  
18 practitioners, including the dates of treatment related to  
19 the accident at any hospitals and the names and addresses  
20 of such hospitals, and a signed authorization permitting  
21 the employer to examine all medical records of all  
22 practitioners and hospitals named pursuant to this  
23 paragraph;

24 (x) a copy of a signed report by a medical  
25 practitioner, relating to the employee's current inability  
26 to return to work because of the injuries incurred as a

1 result of the accident or such other documents or  
2 affidavits which show that the employee is entitled to  
3 receive compensation pursuant to paragraph (b) of Section 8  
4 of this Act or medical, surgical or hospital services  
5 pursuant to paragraph (a) of Section 8 of this Act. Such  
6 reports, documents or affidavits shall state, if possible,  
7 the history of the accident given by the employee, and  
8 describe the injury and medical diagnosis, the medical  
9 services for such injury which the employee has received  
10 and is receiving, the physical activities which the  
11 employee cannot currently perform as a result of any  
12 impairment or disability due to such injury, and the  
13 prognosis for recovery;

14 (xi) complete copies of any reports, records,  
15 documents and affidavits in the possession of the employee  
16 on which the employee will rely to support his allegations,  
17 provided that the employer shall pay the reasonable cost of  
18 reproduction thereof;

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

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

25 Fifteen days after receipt by the employer of the petition  
26 with the required information the employee may file said

1 petition and required information and shall serve notice of the  
2 filing upon the employer. The employer may file a motion  
3 addressed to the sufficiency of the petition. If an objection  
4 has been filed to the sufficiency of the petition, the  
5 arbitrator shall rule on the objection within 2 working days.  
6 If such an objection is filed, the time for filing the final  
7 decision of the Commission as provided in this paragraph shall  
8 be tolled until the arbitrator has determined that the petition  
9 is sufficient.

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

1 Any employer who does not timely file and serve a written  
2 response without good cause may not introduce any evidence to  
3 dispute any claim of the employee but may cross examine the  
4 employee or any witness brought by the employee and otherwise  
5 be heard.

6 No document or other evidence not previously identified by  
7 either party with the petition or written response, or by any  
8 other means before the hearing, may be introduced into evidence  
9 without good cause. If, at the hearing, material information is  
10 discovered which was not previously disclosed, the Arbitrator  
11 may extend the time for closing proof on the motion of a party  
12 for a reasonable period of time which may be more than 30 days.  
13 No evidence may be introduced pursuant to this paragraph as to  
14 permanent disability. No award may be entered for permanent  
15 disability pursuant to this paragraph. Either party may  
16 introduce into evidence the testimony taken by deposition of  
17 any medical practitioner.

18 The Commission shall adopt rules, regulations and  
19 procedures whereby the final decision of the Commission is  
20 filed not later than 90 days from the date the petition for  
21 review is filed but in no event later than 180 days from the  
22 date the petition for an emergency hearing is filed with the  
23 Illinois Workers' Compensation Commission.

24 All service required pursuant to this paragraph (b-1) must  
25 be by personal service or by certified mail and with evidence  
26 of receipt. In addition for the purposes of this paragraph, all



1 service on the employer must be at the premises where the  
2 accident occurred if the premises are owned or operated by the  
3 employer. Otherwise service must be at the employee's principal  
4 place of employment by the employer. If service on the employer  
5 is not possible at either of the above, then service shall be  
6 at the employer's principal place of business. After initial  
7 service in each case, service shall be made on the employer's  
8 attorney or designated representative.

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

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

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

26 (4) Either party or the Commission may call the examining

1 physician or physicians to testify. Any physician so called  
2 shall be subject to cross-examination.

3 (5) The examination shall be made, and the physician or  
4 physicians, if called, shall testify, without cost to the  
5 parties. The Commission shall determine the compensation and  
6 the pay of the physician or physicians. The compensation for  
7 this service shall not exceed the usual and customary amount  
8 for such service.

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

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

1           (e) This paragraph shall apply to all hearings before the  
2 Commission. Such hearings may be held in its office or  
3 elsewhere as the Commission may deem advisable. The taking of  
4 testimony on such hearings may be had before any member of the  
5 Commission. If a petition for review and agreed statement of  
6 facts or transcript of evidence is filed, as provided herein,  
7 the Commission shall promptly review the decision of the  
8 Arbitrator and all questions of law or fact which appear from  
9 the statement of facts or transcript of evidence.

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

23           In the event either party requests oral argument, such  
24 argument shall be had before a panel of 3 members of the  
25 Commission (or before all available members pursuant to the  
26 determination of 7 members of the Commission that such argument

1 be held before all available members of the Commission)  
2 pursuant to the rules and regulations of the Commission. A  
3 panel of 3 members, which shall be comprised of not more than  
4 one representative citizen of the employing class and not more  
5 than one representative citizen of the employee class, shall  
6 hear the argument; provided that if all the issues in dispute  
7 are solely the nature and extent of the permanent partial  
8 disability, if any, a majority of the panel may deny the  
9 request for such argument and such argument shall not be held;  
10 and provided further that 7 members of the Commission may  
11 determine that the argument be held before all available  
12 members of the Commission. A decision of the Commission shall  
13 be approved by a majority of Commissioners present at such  
14 hearing if any; provided, if no such hearing is held, a  
15 decision of the Commission shall be approved by a majority of a  
16 panel of 3 members of the Commission as described in this  
17 Section. The Commission shall give 10 days' notice to the  
18 parties or their attorneys of the time and place of such taking  
19 of testimony and of such argument.

20 In any case the Commission in its decision may find  
21 specially upon any question or questions of law or fact which  
22 shall be submitted in writing by either party whether ultimate  
23 or otherwise; provided that on issues other than nature and  
24 extent of the disability, if any, the Commission in its  
25 decision shall find specially upon any question or questions of  
26 law or fact, whether ultimate or otherwise, which are submitted

1 in writing by either party; provided further that not more than  
2 5 such questions may be submitted by either party. Any party  
3 may, within 20 days after receipt of notice of the Commission's  
4 decision, or within such further time, not exceeding 30 days,  
5 as the Commission may grant, file with the Commission either an  
6 agreed statement of the facts appearing upon the hearing, or,  
7 if such party shall so elect, a correct transcript of evidence  
8 of the additional proceedings presented before the Commission,  
9 in which report the party may embody a correct statement of  
10 such other proceedings in the case as such party may desire to  
11 have reviewed, such statement of facts or transcript of  
12 evidence to be authenticated by the signature of the parties or  
13 their attorneys, and in the event that they do not agree, then  
14 the authentication of such transcript of evidence shall be by  
15 the signature of any member of the Commission.

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

1 the proceedings of the Commission, and shall be subject to  
2 review as hereinafter provided.

3 At the request of either party or on its own motion, the  
4 Commission shall set forth in writing the reasons for the  
5 decision, including findings of fact and conclusions of law  
6 separately stated. The Commission shall by rule adopt a format  
7 for written decisions for the Commission and arbitrators. The  
8 written decisions shall be concise and shall succinctly state  
9 the facts and reasons for the decision. The Commission may  
10 adopt in whole or in part, the decision of the arbitrator as  
11 the decision of the Commission. When the Commission does so  
12 adopt the decision of the arbitrator, it shall do so by order.  
13 Whenever the Commission adopts part of the arbitrator's  
14 decision, but not all, it shall include in the order the  
15 reasons for not adopting all of the arbitrator's decision. When  
16 a majority of a panel, after deliberation, has arrived at its  
17 decision, the decision shall be filed as provided in this  
18 Section without unnecessary delay, and without regard to the  
19 fact that a member of the panel has expressed an intention to  
20 dissent. Any member of the panel may file a dissent. Any  
21 dissent shall be filed no later than 10 days after the decision  
22 of the majority has been filed.

23 Decisions rendered by the Commission and dissents, if any,  
24 shall be published together by the Commission. The conclusions  
25 of law set out in such decisions shall be regarded as  
26 precedents by arbitrators for the purpose of achieving a more

1 uniform administration of this Act.

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

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

26 A proceeding for review shall be commenced within 20

1 days of the receipt of notice of the decision of the  
2 Commission. The summons shall be issued by the clerk of  
3 such court upon written request returnable on a designated  
4 return day, not less than 10 or more than 60 days from the  
5 date of issuance thereof, and the written request shall  
6 contain the last known address of other parties in interest  
7 and their attorneys of record who are to be served by  
8 summons. Service upon any member of the Commission or the  
9 Secretary or the Assistant Secretary thereof shall be  
10 service upon the Commission, and service upon other parties  
11 in interest and their attorneys of record shall be by  
12 summons, and such service shall be made upon the Commission  
13 and other parties in interest by mailing notices of the  
14 commencement of the proceedings and the return day of the  
15 summons to the office of the Commission and to the last  
16 known place of residence of other parties in interest or  
17 their attorney or attorneys of record. The clerk of the  
18 court issuing the summons shall on the day of issue mail  
19 notice of the commencement of the proceedings which shall  
20 be done by mailing a copy of the summons to the office of  
21 the Commission, and a copy of the summons to the other  
22 parties in interest or their attorney or attorneys of  
23 record and the clerk of the court shall make certificate  
24 that he has so sent said notices in pursuance of this  
25 Section, which shall be evidence of service on the  
26 Commission and other parties in interest.



1           The Commission shall not be required to certify the  
2           record of their proceedings to the Circuit Court, unless  
3           the party commencing the proceedings for review in the  
4           Circuit Court as above provided, shall file with the  
5           Commission notice of intent to file for review in Circuit  
6           Court. It shall be the duty of the Commission upon such  
7           filing of notice of intent to file for review in the  
8           Circuit Court to prepare a true and correct copy of such  
9           testimony and a true and correct copy of all other matters  
10          contained in such record and certified to by the Secretary  
11          or Assistant Secretary thereof. The changes made to this  
12          subdivision (f)(1) by this amendatory Act of the 98th  
13          General Assembly apply to any Commission decision entered  
14          after the effective date of this amendatory Act of the 98th  
15          General Assembly.

16          No request for a summons may be filed and no summons  
17          shall issue unless the party seeking to review the decision  
18          of the Commission shall exhibit to the clerk of the Circuit  
19          Court proof of filing with the Commission of the notice of  
20          the intent to file for review in the Circuit Court or an  
21          affidavit of the attorney setting forth that notice of  
22          intent to file for review in the Circuit Court has been  
23          given in writing to the Secretary or Assistant Secretary of  
24          the Commission.

25          (2) No such summons shall issue unless the one against  
26          whom the Commission shall have rendered an award for the

1 payment of money shall upon the filing of his written  
2 request for such summons file with the clerk of the court a  
3 bond conditioned that if he shall not successfully  
4 prosecute the review, he will pay the award and the costs  
5 of the proceedings in the courts. The amount of the bond  
6 shall be fixed by any member of the Commission and the  
7 surety or sureties of the bond shall be approved by the  
8 clerk of the court. The acceptance of the bond by the clerk  
9 of the court shall constitute evidence of his approval of  
10 the bond.

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

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

1           22(g) and 303. Appeals shall be taken from the Appellate  
2           Court to the Supreme Court in accordance with Supreme Court  
3           Rule 315.

4           It shall be the duty of the clerk of any court  
5           rendering a decision affecting or affirming an award of the  
6           Commission to promptly furnish the Commission with a copy  
7           of such decision, without charge.

8           The decision of a majority of the members of the panel  
9           of the Commission, shall be considered the decision of the  
10          Commission.

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

1     aside, have the same effect as though duly entered in an action  
2     duly tried and determined by the court, and shall with like  
3     effect, be entered and docketed. The Circuit Court shall have  
4     power at any time upon application to make any such judgment  
5     conform to any modification required by any subsequent decision  
6     of the Supreme Court upon appeal, or as the result of any  
7     subsequent proceedings for review, as provided in this Act.

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

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

21            However, as to accidents occurring subsequent to July 1,  
22    1955, which are covered by any agreement or award under this  
23    Act providing for compensation in installments made as a result  
24    of such accident, such agreement or award may at any time  
25    within 30 months, or 60 months in the case of an award under  
26    Section 8(d)1, after such agreement or award be reviewed by the

1 Commission at the request of either the employer or the  
2 employee on the ground that the disability of the employee has  
3 subsequently recurred, increased, diminished or ended.

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

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

21 (i) Each party, upon taking any proceedings or steps  
22 whatsoever before any Arbitrator, Commission or court, shall  
23 file with the Commission his address, or the name and address  
24 of any agent upon whom all notices to be given to such party  
25 shall be served, either personally or by registered mail,  
26 addressed to such party or agent at the last address so filed

1 with the Commission. In the event such party has not filed his  
2 address, or the name and address of an agent as above provided,  
3 service of any notice may be had by filing such notice with the  
4 Commission.

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

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

26 When determining whether this subsection (k) shall apply,

1 the Commission shall consider whether an Arbitrator has  
2 determined that the claim is not compensable or whether the  
3 employer has made payments under Section 8(j).

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

20 (m) If the commission finds that an accidental injury was  
21 directly and proximately caused by the employer's wilful  
22 violation of a health and safety standard under the Health and  
23 Safety Act or the Occupational Safety and Health Act in force  
24 at the time of the accident, the arbitrator or the Commission  
25 shall allow to the injured employee or his dependents, as the  
26 case may be, additional compensation equal to 25% of the amount

1 which otherwise would be payable under the provisions of this  
2 Act exclusive of this paragraph. The additional compensation  
3 herein provided shall be allowed by an appropriate increase in  
4 the applicable weekly compensation rate.

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

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

23 (o) By the 15th day of each month each insurer providing  
24 coverage for losses under this Act shall notify each insured  
25 employer of any compensable claim incurred during the preceding  
26 month and the amounts paid or reserved on the claim including a



1 summary of the claim and a brief statement of the reasons for  
2 compensability. A cumulative report of all claims incurred  
3 during a calendar year or continued from the previous year  
4 shall be furnished to the insured employer by the insurer  
5 within 30 days after the end of that calendar year.

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

22 (p) After filing an application for adjustment of claim but  
23 prior to the hearing on arbitration the parties may voluntarily  
24 agree to submit such application for adjustment of claim for  
25 decision by an arbitrator under this subsection (p) where such  
26 application for adjustment of claim raises only a dispute over

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

1 subsection (p). By agreement, the parties shall select one  
2 arbitrator from among the 5 persons selected by the chairman  
3 except that if the parties do not agree on an arbitrator from  
4 among the 5 persons, the parties may, by agreement, select an  
5 arbitrator of the American Arbitration Association, whose fee  
6 shall be paid by the State in accordance with rules promulgated  
7 by the Commission. Arbitration under this subsection (p) shall  
8 be voluntary.

9 (Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13.)

10 Section 925. The Workers' Occupational Diseases Act is  
11 amended by changing Sections 3 and 6 as follows:

12 (820 ILCS 310/3) (from Ch. 48, par. 172.38)

13 Sec. 3. Where an employee in this State sustains injury to  
14 health or death by reason of a disease contracted or sustained  
15 in the course of the employment and proximately caused by the  
16 negligence of the employer, unless such employer shall be  
17 subject to this Act under the provisions of paragraph (a) of  
18 Section 2 of this Act or shall have elected to provide and pay  
19 compensation as provided in Section 2 of this Act, a right of  
20 action shall accrue to the employee whose health has been so  
21 injured for any damages sustained thereby; and in case of  
22 death, a right of action shall accrue to the widow or widower  
23 of such deceased person, his or her lineal heirs or adopted  
24 children, or to any person or persons who were, before such

1 loss of life, dependent for support upon such deceased person,  
2 for a like recovery of damages for the injury sustained by  
3 reason of such death not to exceed the sum of \$10,000.  
4 Violation by any employer of any effective rule or rules made  
5 ~~by the Illinois Workers' Compensation Commission~~ pursuant to  
6 the "Health and Safety Act or the Occupational Safety and  
7 Health Act", ~~approved March 16, 1936, as amended~~, or violation  
8 by the employer of any statute of this State, intended for the  
9 protection of the health of employees shall be and constitute  
10 negligence of the employer within the meaning of this Section.  
11 Every such action for damage for injury to the health shall be  
12 commenced within 3 years after the last day of the last  
13 exposure to the hazards of the disease and every such action  
14 for damages in case of death shall be commenced within one year  
15 after the death of such employee and within 5 years after the  
16 last day of the last exposure to the hazards of the disease  
17 except where the disease is caused by atomic radiation, in  
18 which case, every action for damages for injury to health shall  
19 be commenced within 15 years after the last day of last  
20 exposure to the hazard of such disease and every action for  
21 damages in case of death shall be commenced within one year  
22 after the death of such employee and within 15 years after last  
23 exposure to the hazards of the disease. In any action to  
24 recover damages under this Section, it shall not be a defense  
25 that the employee either expressly or impliedly assumed the  
26 risk of the employment, or that the contraction or sustaining

1 of the disease or death was caused in whole or in part by the  
2 negligence of a fellow servant or fellow servants, or that the  
3 contraction or sustaining of the disease or death resulting was  
4 caused in whole or in part by the contributory negligence of  
5 the employee, where such contributory negligence was not  
6 wilful.

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

8 (820 ILCS 310/6) (from Ch. 48, par. 172.41)

9 Sec. 6. (a) Every employer operating under the compensation  
10 provisions of this Act, shall post printed notices in their  
11 respective places of employment in conspicuous places and in  
12 such number and at such places as may be determined by the  
13 Commission, containing such information relative to this Act as  
14 in the judgment of the Commission may be necessary to aid  
15 employees to safeguard their rights under this Act.

16 In addition thereto, the employer shall post in a  
17 conspicuous place on the premises of the employment a printed  
18 or typewritten notice stating whether he is insured or whether  
19 he has qualified and is operating as a self-insured employer.  
20 In the event the employer is insured, the notice shall state  
21 the name and address of his or her insurance carrier, the  
22 number of the insurance policy, its effective date and the date  
23 of termination. In the event of the termination of the policy  
24 for any reason prior to the termination date stated, the posted  
25 notice shall promptly be corrected accordingly. In the event

1 the employer is operating as a self-insured employer the notice  
2 shall state the name and address of the company, if any,  
3 servicing the compensation payments of the employer, and the  
4 name and address of the person in charge of making compensation  
5 payments.

6 (b) Every employer subject to this Act shall maintain  
7 accurate records of work-related deaths, injuries and  
8 illnesses other than minor injuries requiring only first aid  
9 treatment and which do not involve medical treatment, loss of  
10 consciousness, restriction of work or motion or transfer to  
11 another job and file with the Illinois Workers' Compensation  
12 Commission, in writing, a report of all occupational diseases  
13 arising out of and in the course of the employment and  
14 resulting in death, or disablement or illness resulting in the  
15 loss of more than 3 scheduled work days. In the case of death  
16 such report shall be made no later than 2 working days  
17 following the occupational death. In all other cases such  
18 report shall be made between the 15th and 25th of each month  
19 unless required to be made sooner by rule of the Illinois  
20 Workers' Compensation Commission. In case the occupational  
21 disease results in permanent disability, a further report shall  
22 be made as soon as it is determined that such permanent  
23 disability has resulted or will result therefrom. All reports  
24 shall state the date of the disablement, the nature of the  
25 employer's business, the name, address, the age, sex, conjugal  
26 condition of the disabled person, the specific occupation of

1 the person, the nature and character of the occupational  
2 disease, the length of disability, and, in case of death, the  
3 length of disability before death, the wages of the employee,  
4 whether compensation has been paid to the employee, or to his  
5 legal representative or his heirs or next of kin, the amount of  
6 compensation paid, the amount paid for physicians', surgeons'  
7 and hospital bills, and by whom paid, and the amount paid for  
8 funeral or burial expenses, if known. The reports shall be made  
9 on forms and in the manner as prescribed by the Illinois  
10 Workers' Compensation Commission and shall contain such  
11 further information as the Commission shall deem necessary and  
12 require. The making of such reports releases the employer from  
13 making such reports to any other officer of the State and shall  
14 satisfy the reporting provisions as contained in the Safety  
15 Inspection and Education Act, the "Health And Safety Act," and  
16 the Occupational Safety and Health Act ~~"An Act in relation to~~  
17 ~~safety inspections and education in industrial and commercial~~  
18 ~~establishments and to repeal an Act therein named", approved~~  
19 ~~July 18, 1955, as amended.~~ The report filed with the Illinois  
20 Workers' Compensation Commission pursuant to the provisions of  
21 this Section shall be made available by the Illinois Workers'  
22 Compensation Commission to the Director of Labor or his  
23 representatives, to the Department of Public Health pursuant to  
24 the Illinois Health and Hazardous Substances Registry Act, and  
25 to all other departments of the State of Illinois which shall  
26 require such information for the proper discharge of their

1 official duties. Failure to file with the Commission any of the  
2 reports required in this Section is a petty offense.

3 Except as provided in this paragraph, all reports filed  
4 hereunder shall be confidential and any person having access to  
5 such records filed with the Illinois Workers' Compensation  
6 Commission as herein required, who shall release the names or  
7 otherwise identify any persons sustaining injuries or  
8 disabilities, or gives access to such information to any  
9 unauthorized person, shall be subject to discipline or  
10 discharge, and in addition shall be guilty of a Class B  
11 misdemeanor. The Commission shall compile and distribute to  
12 interested persons aggregate statistics, taken from the  
13 reports filed hereunder. The aggregate statistics shall not  
14 give the names or otherwise identify persons sustaining  
15 injuries or disabilities or the employer of any injured or  
16 disabled person.

17 (c) There shall be given notice to the employer of  
18 disablement arising from an occupational disease as soon as  
19 practicable after the date of the disablement. If the  
20 Commission shall find that the failure to give such notice  
21 substantially prejudices the rights of the employer the  
22 Commission in its discretion may order that the right of the  
23 employee to proceed under this Act shall be barred.

24 In case of legal disability of the employee or any  
25 dependent of a deceased employee who may be entitled to  
26 compensation, under the provisions of this Act, the limitations



1 of time in this Section of this Act provided shall not begin to  
2 run against such person who is under legal disability until a  
3 conservator or guardian has been appointed. No defect or  
4 inaccuracy of such notice shall be a bar to the maintenance of  
5 proceedings on arbitration or otherwise by the employee unless  
6 the employer proves that he or she is unduly prejudiced in such  
7 proceedings by such defect or inaccuracy. Notice of the  
8 disabling disease may be given orally or in writing. In any  
9 case, other than injury or death caused by exposure to  
10 radiological materials or equipment or asbestos, unless  
11 application for compensation is filed with the Commission  
12 within 3 years after the date of the disablement, where no  
13 compensation has been paid, or within 2 years after the date of  
14 the last payment of compensation, where any has been paid,  
15 whichever shall be later, the right to file such application  
16 shall be barred. If the occupational disease results in death,  
17 application for compensation for death may be filed with the  
18 Commission within 3 years after the date of death where no  
19 compensation has been paid, or within 3 years after the last  
20 payment of compensation, where any has been paid, whichever is  
21 later, but not thereafter.

22 Effective July 1, 1973 in cases of disability caused by  
23 coal miners pneumoconiosis unless application for compensation  
24 is filed with the Commission within 5 years after the employee  
25 was last exposed where no compensation has been paid, or within  
26 5 years after the last payment of compensation where any has

1     been paid, the right to file such application shall be barred.

2             In cases of disability caused by exposure to radiological  
3 materials or equipment or asbestos, unless application for  
4 compensation is filed with the Commission within 25 years after  
5 the employee was so exposed, the right to file such application  
6 shall be barred.

7             In cases of death occurring within 25 years from the last  
8 exposure to radiological material or equipment or asbestos,  
9 application for compensation must be filed within 3 years of  
10 death where no compensation has been paid, or within 3 years,  
11 after the date of the last payment where any has been paid, but  
12 not thereafter.

13             (d) Any contract or agreement made by any employer or his  
14 agent or attorney with any employee or any other beneficiary of  
15 any claim under the provisions of this Act within 7 days after  
16 the disablement shall be presumed to be fraudulent.

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