



Sen. Thomas Cullerton

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1 AMENDMENT TO SENATE BILL 1103

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1103 by replacing  
3 everything after the enacting clause with the following:

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

1 Health within the Department of Labor.

2 "Employee" means a person in the service of any of the  
3 following entities, regardless of whether the service is by  
4 virtue of election, by appointment or contract, or by hire, and  
5 regardless of whether the relationship is express or implied or  
6 established orally or in writing:

7 (1) The State. For purposes of this paragraph (1), the  
8 term includes a member of the General Assembly, a member of  
9 the Illinois Commerce Commission, a member of the Illinois  
10 Workers' Compensation Commission, and any person in the  
11 service of a public university or college in Illinois.

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

15 (3) An Illinois township.

16 (4) An Illinois city, village, incorporated town,  
17 school district, or other municipal corporation or body  
18 politic.

19 "Public employer" or "employer" means the State of Illinois  
20 or any political subdivision of the State.

21 Section 10. Administration of Act; Division of  
22 Occupational Safety and Health.

23 (a) The Department shall administer this Act. For the  
24 purpose of assisting in the administration of this Act, the  
25 Director may authorize his or her representatives in the

1 Department to perform any necessary inspections or  
2 investigations under this Act.

3 (b) The Department shall maintain a division within the  
4 Department to be known as the Division of Occupational Safety  
5 and Health.

6 Section 15. Application of Act. This Act applies to every  
7 public employer in this State and its employees. Nothing in  
8 this Act, however, applies to working conditions of employees  
9 with respect to which federal agencies, and State agencies  
10 acting under Section 274 of the Atomic Energy Act of 1954 (42  
11 U.S.C. 2021), exercise statutory authority to prescribe or  
12 enforce standards or regulations affecting occupational safety  
13 and health. Any State regulations more strict than applicable  
14 federal standards shall, before being promulgated, be the  
15 subject of hearings as required by this Act.

16 Section 20. Duties of employers and employees.

17 (a) Every public employer must provide reasonable  
18 protection to the lives, health, and safety of its employees  
19 and must furnish to each of its employees employment and a  
20 workplace which are free from recognized hazards that cause or  
21 are likely to cause death or serious physical harm to its  
22 employees.

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

1           (c) Every public employer must keep its employees informed  
2 of their protections and obligations under this Act, including  
3 the provisions of applicable standards or rules adopted under  
4 this Act.

5           (d) Every public employer must furnish its employees with  
6 information regarding hazards in the workplace, including  
7 information about suitable precautions, relevant symptoms, and  
8 emergency treatment.

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

12           Section 25. Occupational safety and health standards.

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

24                   (1) Expert technical knowledge.

25                   (2) Input from interested persons, including

1 employers, employees, recognized standards-producing  
2 organizations, and the public.

3 (b) All federal occupational safety and health standards  
4 which the United States Secretary of Labor promulgates or  
5 modifies in accordance with the federal Occupational Safety and  
6 Health Act of 1970 on or after the effective date of this Act,  
7 unless revoked by the Secretary of Labor, shall become rules of  
8 the Department within 6 months after their federal promulgation  
9 date, unless there has been in effect in this State at the time  
10 of the promulgation or modification of the federal standard an  
11 alternate State standard that is at least as effective in  
12 providing safe and healthful employment and places of  
13 employment as a federal standard. The alternate State standard  
14 shall not become effective, however, unless the Department,  
15 within 45 days after the federal promulgation date, files with  
16 the office of the Secretary of State in Springfield, Illinois,  
17 a certified copy of the rule as provided in the Illinois  
18 Administrative Procedure Act.

19 Section 30. Standards; required features.

20 (a) A standard promulgated under this Act shall prescribe  
21 the use of labels or other appropriate forms of warning as are  
22 necessary to ensure that employees are apprised of all hazards  
23 to which they are exposed, relevant symptoms and appropriate  
24 emergency treatment, and proper conditions and precautions of  
25 safe use or exposure.

1           (b) When appropriate, a standard shall also prescribe  
2 suitable protective equipment and control or technological  
3 procedures to be used in connection with such hazards and shall  
4 provide for monitoring or measuring employee exposure at  
5 locations and intervals and in a manner as necessary for the  
6 protection of employees.

7           (c) In addition, when appropriate, a standard shall  
8 prescribe the type and frequency of medical examinations or  
9 other tests which shall be made available, by the employer or  
10 at the employer's cost, to employees exposed to such hazards in  
11 order to most effectively determine whether the health of the  
12 employees is adversely affected by the exposure. The results of  
13 the examinations or tests shall be furnished by the employer  
14 only to the Department or, at the direction of the Department,  
15 to authorized medical personnel and, at the request of the  
16 employee, to the employee's physician.

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

25           (e) Development of standards under this Section shall be  
26 based on research, demonstrations, experiments, and other

1 information as appropriate. In addition to the attainment of  
2 the highest degree of health and safety protection for the  
3 employee, other considerations shall be the latest available  
4 scientific data in the field, the feasibility of the standards,  
5 and experience gained under this and other health and safety  
6 laws. Whenever practicable, a standard shall be expressed in  
7 terms of objective criteria and of the performance desired.

8 Section 35. Emergency temporary standards.

9 (a) The Director may promulgate emergency temporary  
10 standards or rules, or both, to take effect immediately by  
11 filing the proposed standard with the Secretary of State,  
12 provided that the Director first expressly determines the  
13 following:

14 (1) Employees are exposed to grave danger from exposure  
15 to substances or agents determined to be toxic or  
16 physically harmful or from new hazards.

17 (2) The emergency temporary standard is necessary to  
18 protect the employees from the danger described in  
19 paragraph (1).

20 (b) The Director shall adopt emergency temporary standards  
21 promulgated by the federal Occupational Safety and Health  
22 Administration within 30 days of the federal notice of proposed  
23 emergency rulemaking. An emergency temporary standard shall be  
24 effective until superseded by a permanent standard but in no  
25 event for more than 6 months from the date of publication of

1 the emergency temporary standard. The publication of emergency  
2 temporary standards shall be deemed to be a petition to the  
3 Director for the promulgation of a permanent standard and shall  
4 be deemed to be filed with the Director on the date of  
5 publication. The proceeding for promulgation of the permanent  
6 standard shall be pursued in accordance with this Act.

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

18 Section 45. Temporary variance.

19 (a) A public employer may apply to the Director for a  
20 temporary variance from an occupational safety and health  
21 standard promulgated under this Act. The Director shall issue a  
22 temporary variance only if the employer first files with the  
23 Director an application which meets the requirements of this  
24 Section.



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

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

5 (2) A representation by the employer, supported by  
6 representations from qualified persons having first-hand  
7 knowledge of the facts represented, that the employer is  
8 unable to comply with the standard or portion thereof, and  
9 a detailed statement of the reasons therefor.

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

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

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

26 (c) An application for a temporary variance under this

1 Section shall establish all of the following:

2 (1) The employer is unable to comply with a standard by  
3 its effective date because professional or technical  
4 personnel or materials and equipment needed to comply with  
5 the standard are unavailable or because necessary  
6 construction or alteration of facilities cannot be  
7 completed by the effective date of the standard.

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

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

13 (d) The Director may issue a temporary variance only after  
14 the Department provides notice to the employer's employees and  
15 an opportunity for a hearing. However, in a case involving only  
16 documentary evidence in support of the application for a  
17 temporary variance and in which no objection is made or hearing  
18 requested by the employees or their representative, the  
19 Director may issue a temporary variance in accordance with this  
20 Act without a hearing.

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

24 (f) A temporary variance issued under this Section shall  
25 prescribe the practices, means, methods, operations, and  
26 processes which the employer must adopt and use while the

1 temporary variance is in effect and shall state in detail the  
2 employer's program for achieving compliance with the standard.

3 Section 50. Permanent variance.

4 (a) A public employer affected by an occupational safety  
5 and health standard promulgated under this Act may apply to the  
6 Director for a permanent variance from that standard. The form  
7 and manner of the application shall be as provided in rules.

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

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

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

6 Section 55. Rules generally.

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

17 (b) Any standards or rules promulgated by the Director  
18 under the Safety Inspection and Education Act or the Health and  
19 Safety Act that are in full force on the effective date of this  
20 Act shall become the rules of the Department under this Act.  
21 This Act does not affect the legality of any such rules in the  
22 Illinois Administrative Code.

23 (c) Any proposed standards or rules filed with the  
24 Secretary of State by the Director under the Safety Inspection  
25 and Education Act or the Health and Safety Act that are pending

1 in the rulemaking process on the effective date of this Act  
2 shall be deemed to have been filed by the Director under this  
3 Act.

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

8 Section 60. Employers' records.

9 (a) The Director shall adopt rules requiring public  
10 employers to maintain accurate records of, and to make reports  
11 on, work-related deaths, injuries, and illnesses, other than  
12 minor injuries requiring only first aid treatment which do not  
13 involve medical treatment, loss of consciousness, restriction  
14 of work or motion, or transfer to another job. The rules shall  
15 specifically include all of the reporting provisions of Section  
16 6 of the Workers' Compensation Act and Section 6 of the  
17 Workers' Occupational Diseases Act. The records shall be  
18 available to any State agency requiring such information.

19 (b) The Director shall adopt rules requiring public  
20 employers to maintain accurate records of employee exposures to  
21 potentially toxic materials or harmful physical agents which  
22 are required to be monitored or measured under this Act. The  
23 rules shall provide employees or their authorized  
24 representative with an opportunity to observe the monitoring or  
25 measuring, and to have access to the records of the monitoring

1 or measuring. The rules shall provide appropriate means by  
2 which each employee or former employee may have access to such  
3 records as will indicate his or her exposure to toxic materials  
4 or harmful physical agents.

5 (c) A public employer shall promptly notify any employee  
6 who has been or is being exposed to toxic materials or harmful  
7 physical agents in concentrations or at levels which exceed  
8 those prescribed by an occupational safety and health standard  
9 and shall inform the employee who is being thus exposed of the  
10 action being taken by the employer to correct such exposure.

11 Section 65. Periodic inspection of workplaces.

12 (a) The Director shall enforce the occupational safety and  
13 health standards and rules promulgated under this Act and any  
14 occupational health and safety regulations relating to  
15 inspection of places of employment, and shall visit and  
16 inspect, as often as practicable, the places of employment  
17 covered by this Act.

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

22 (1) An inspector may enter without delay and at  
23 reasonable times any establishment, construction site, or  
24 other area, workplace, or environment where work is  
25 performed by an employee of a public employer, in order to

1 enforce the occupational safety and health standards  
2 adopted under this Act.

3 (2) If a public employer refuses entry to an inspector  
4 upon being presented with proper credentials or allows  
5 entry but then refuses to permit or hinders the inspection  
6 in any way, the inspector shall leave the premises and  
7 immediately report the refusal to authorized management  
8 within the Division. Authorized management shall notify  
9 the Director to initiate the compulsory legal process to  
10 obtain entry or obtain a warrant for entry, or both.

11 (3) An inspector may inspect and investigate during  
12 regular working hours and at other reasonable times, and  
13 within reasonable limits and in a reasonable manner, any  
14 workplace described in paragraph (1) and all pertinent  
15 conditions, structures, machines, apparatus, devices,  
16 equipment, and materials therein, and to question  
17 privately the employer or any agent or employee of the  
18 employer.

19 (4) The owner, operator, manager, or lessee of any  
20 workplace covered by this Act, and his or her agent or  
21 employee, and any employer affected by this Act shall, when  
22 requested by the Division of Occupational Safety and Health  
23 or any duly authorized agent of that Division: (i) furnish  
24 any information in his or her possession or under his or  
25 her control which the Department is authorized to require,  
26 (ii) answer truthfully all questions required to be put to

1           him or her, and (iii) cooperate in the making of a proper  
2           inspection.

3           Section 70. Inspection of workplace upon complaint.

4           (a) An employee or representative of employees who believes  
5           that a violation of an occupational safety and health standard  
6           exists in a workplace covered by this Act or that an imminent  
7           danger exists in such a place may request an inspection by  
8           submitting a written complaint to the Director or his or her  
9           authorized representative setting forth with reasonable  
10          particularity the grounds for the complaint. The complaint  
11          shall be signed by the employee or representative.

12          (b) If the Director or the Director's authorized  
13          representative determines there are no reasonable grounds to  
14          believe that a violation or imminent danger exists, he or she  
15          shall notify the employee or representative of employees of  
16          that determination in writing.

17          (c) If, upon receipt of the complaint, the Director or his  
18          or her authorized representative determines there are  
19          reasonable grounds to believe that a violation or imminent  
20          danger exists, he or she shall make a special inspection of the  
21          workplace in accordance with this Act as soon as practicable,  
22          to determine whether a violation or imminent danger exists.

23          (d) A copy of the complaint shall be provided to the public  
24          employer or its agent by the Director or his or her authorized  
25          representative at the time of the inspection, except that, upon



1 the request of the person making the complaint, that person's  
2 name and the names of individual employees referred to in the  
3 complaint shall not appear in the copy or on any record  
4 published, released, or made available by the Director or his  
5 or her authorized representative.

6 (e) Nonformal safety and health complaints shall be handled  
7 by an authorized representative of the Director. Based on the  
8 severity and legitimacy of the complaint as determined by the  
9 Division, the Director's authorized representative shall  
10 either schedule an inspection of the workplace or issue a  
11 letter to the employer stating the allegations set forth in the  
12 complaint.

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

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

1           (a) Upon inspection or investigation of a workplace, if the  
2 Director or his or her authorized representative believes that  
3 a public employer has violated a requirement of this Act or a  
4 standard, rule, or regulation promulgated under this Act, he or  
5 she shall with reasonable promptness issue a citation to the  
6 employer. A citation shall: (i) be in writing, (ii) describe  
7 with particularity the nature of the violation and include a  
8 reference to the provision of the Act, standard, rule, or  
9 regulation alleged to have been violated, and (iii) fix a  
10 reasonable time for the abatement of the violation.

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

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

20           (d) A citation may not be issued under this Section after  
21 the expiration of 6 months following the occurrence of any  
22 violation.

23           Section 85. Civil penalties.

24           (a) After an inspection of a workplace under this Act, if  
25 the Director issues a citation, he or she shall within 5 days

1 after issuing the citation notify the employer by certified  
2 mail of any civil penalty proposed to be assessed for the  
3 violation set forth in the citation.

4 (b) If the Director has reason to believe that an employer  
5 has failed to correct a violation for which a citation has been  
6 issued within the period permitted for its correction, the  
7 Director shall notify the employer by certified mail of that  
8 failure and of the civil penalty proposed to be assessed for  
9 that failure.

10 (c) Civil penalties authorized under this Section are as  
11 follows:

12 (1) A public employer that repeatedly violates this  
13 Act, the Safety Inspection and Education Act, or the Health  
14 and Safety Act, or any combination of those Acts, or any  
15 standard, rule, regulation, or order under any of those  
16 Acts, may be assessed a civil penalty of not more than  
17 \$10,000 per violation.

18 (2) A public employer that intentionally violates this  
19 Act, the Safety Inspection and Education Act, or the Health  
20 and Safety Act, or any standard, rule, regulation, or order  
21 under any of those Acts, or who demonstrates plain  
22 indifference to any provision of any of those Acts or any  
23 such standard, rule, regulation, or order, may be assessed  
24 a civil penalty of not more than \$10,000.

25 (3) A public employer that has received a citation for  
26 a serious violation of this Act, the Safety Inspection and

1 Education Act, or the Health and Safety Act, or any  
2 standard, rule, regulation, or order under any of those  
3 Acts, may be assessed a civil penalty up to \$1,000 for each  
4 such violation.

5 (4) A public employer that has received a citation for  
6 a violation of this Act, the Safety Inspection and  
7 Education Act, or the Health and Safety Act, or any  
8 standard, rule, regulation, or order under any of those  
9 Acts, which is not a serious violation, may be assessed a  
10 civil penalty of up to \$1,000 for each such violation.

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

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

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

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

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

26 (d) For purposes of this Section, a "serious violation"

1 shall be deemed to exist in a workplace if there is a  
2 substantial probability that death or serious physical harm  
3 could result from (i) a condition which exists or (ii) one or  
4 more practices, means, methods, operations, or processes which  
5 have been adopted or are in use in the workplace, unless the  
6 employer did not know and could not, with the exercise of  
7 reasonable diligence, have known of the presence of the  
8 violation.

9 (e) The Director may assess civil penalties as provided in  
10 this Section, giving due consideration to the appropriateness  
11 of the penalty. A penalty may be reduced by the Director or the  
12 Director's authorized representative based on the public  
13 employer's good faith, size of business, and history of  
14 previous violations.

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

18 (g) All civil penalties collected under this Act shall be  
19 deposited into the General Revenue Fund of the State of  
20 Illinois.

21 Section 90. Informal review.

22 (a) A public employer may submit in writing data relating  
23 to the abatement of a hazard to be considered by an authorized  
24 representative of the Director. The authorized representative  
25 shall notify the interested parties if such data will be used

1 to modify an abatement order.

2 (b) Within 15 working days after receiving a citation,  
3 proposed assessment of a civil penalty, or notice of failure to  
4 correct a violation, a public employer or the employer's agent  
5 may request that an authorized representative of the Director  
6 review abatement dates, reclassify violations (such as willful  
7 to serious, serious to other than serious), or modify or  
8 withdraw a penalty, a citation, or a citation item, or any  
9 combination of those, if the employer presents evidence during  
10 the informal conference which convinces the authorized  
11 representative that the changes are justified.

12 Section 95. Request for hearing.

13 (a) Within 15 working days after receiving a citation,  
14 proposed assessment of a civil penalty, or notice of failure to  
15 correct a violation, a public employer or the employer's agent,  
16 manager, or superintendent may request in writing a hearing  
17 before the Director to contest the citation, assessment of a  
18 civil penalty, or notice of failure to correct a violation.

19 (b) If, within 15 working days after receiving a citation  
20 and notice of penalty or notice of failure to correct a  
21 violation issued by the Director, the employer fails to notify  
22 the Director that it intends to contest the citation,  
23 assessment of a civil penalty, or notice of failure to correct  
24 a violation, and if no notice requesting a hearing is filed by  
25 an employee or employee representative under subsection (c)

1 within that time, the citation, assessment of a civil penalty,  
2 or notice of failure to correct a violation shall be deemed a  
3 final order and not subject to review by any court or agency.

4 (c) Within 15 working days after the issuance of a citation  
5 under Section 80, an employee or representative of an employee  
6 may file a request in writing for a hearing before the Director  
7 to contest the citation on the ground that the period of time  
8 fixed in the citation for the abatement of the violation  
9 identified in the citation is unreasonable.

10 Section 100. Hearing.

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

20 (b) At the hearing, the employer or employee shall state  
21 his or her objections to the citation and provide evidence why  
22 the citation should not stand as issued. The Director or his or  
23 her representative shall be given the opportunity to state his  
24 or her reasons for issuing the citation. Affected employees  
25 shall be provided an opportunity to participate as parties to

1 hearings under the rules of procedure prescribed by the  
2 Director (56 Ill. Admin. Code, Part 120).

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

5 (1) Issue subpoenas for and compel the attendance of  
6 witnesses.

7 (2) Hear testimony and receive evidence.

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

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

16 (e) The circuit court for the county where any hearing is  
17 pending may compel the attendance of witnesses, the production  
18 of pertinent books, papers, records, or documents, and the  
19 giving of testimony before the Director or an Administrative  
20 Law Judge by an attachment proceeding, as for contempt, in the  
21 same manner as the production of evidence may be compelled  
22 before the court.

23 (f) The Administrative Law Judge on behalf of the Director,  
24 after considering the evidence presented at the formal hearing,  
25 in accordance with the Director's rules, shall enter a final  
26 decision and order within a reasonable time affirming,



1 modifying, or vacating the citation or proposed assessment of a  
2 civil penalty, or directing other appropriate relief.

3 Section 105. Judicial review.

4 (a) Any party adversely affected by a final order or  
5 determination of the Administrative Law Judge on behalf of the  
6 Director may obtain judicial review of that order or  
7 determination by filing a complaint for review within 35 days  
8 after the entry of the order or other final action complained  
9 of, pursuant to the Administrative Review Law. If no appeal is  
10 taken within 35 days after the order or determination is  
11 issued, the order shall become final.

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

14 Section 110. Discrimination against employee prohibited.

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

22 (b) An employee who believes that he or she has been  
23 discharged or otherwise discriminated against by an employer in  
24 violation of this Section may, within 30 calendar days after

1 the violation occurs, file a complaint with the Director  
2 alleging the discrimination.

3 (c) Upon receipt of the complaint, the Director shall cause  
4 an investigation to be made as the Director deems appropriate.  
5 After the investigation, if the Director determines that the  
6 employer has violated this Section, the Director shall bring an  
7 action in the circuit court for appropriate relief, including  
8 rehiring or reinstatement of the employee to his or her former  
9 position with back pay, after taking into account any interim  
10 earnings of the employee.

11 Section 115. Abatement of imminent danger.

12 (a) Whenever the Director determines that an imminent  
13 danger exists in the working conditions of any public employee  
14 in this State, and that the danger may reasonably be expected  
15 to cause death or serious physical harm immediately or before  
16 the imminence of the danger can be eliminated through the  
17 enforcement procedures otherwise provided by this Act, the  
18 Director may file a complaint in the circuit court for  
19 appropriate relief, including an order that may require steps  
20 to be taken as necessary to abate, avoid, correct, or remove  
21 the imminent danger and prohibit the employment or presence of  
22 any individual in locations or under conditions where the  
23 imminent danger exists, except those individuals whose  
24 presence is necessary to abate, avoid, correct, or remove the  
25 imminent danger or to maintain the capacity of a continuous

1 process operation to assume normal operations without a  
2 complete cessation of operations, or, if a cessation of  
3 operations is necessary, to permit the cessation to be  
4 accomplished in a safe and orderly manner.

5 (b) If an inspector concludes that an imminent danger  
6 exists in any workplace, the inspector shall promptly inform  
7 the affected employees or their authorized representative and  
8 the employer of the danger and that the inspector will  
9 recommend to the Director that relief be sought as provided in  
10 subsection (a).

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

21 Section 120. Criminal penalties.

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

1           (b) Advance notice of inspection. A person who gives  
2 advance notice to a public employer of any inspection to be  
3 conducted under this Act, without authority from the Director  
4 or the Director's authorized representative, commits a Class B  
5 misdemeanor.

6           (c) False statement. A person who knowingly makes a false  
7 statement, representation, or certification in any  
8 application, record, report, plan, or other document required  
9 under this Act, or any standard, rule, regulation, or order  
10 adopted or issued under this Act, commits a Class 4 felony.

11           Section 125. Confidentiality of trade secrets.

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

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

1           Section 130. Prosecution by Attorney General or State's  
2 Attorney. The Attorney General or a State's Attorney, upon  
3 request of the Department, shall prosecute any violation of  
4 this Act or a standard, rule, regulation, or order adopted or  
5 issued under this Act.

6           Section 135. Safety education and other programs.

7           (a) The Department shall encourage public employers as well  
8 as organizations and groups of employees to institute and  
9 maintain safety education programs for employees and promote  
10 the observation of safety practices.

11           (b) The Department shall provide and conduct educational  
12 programs specifically designed to meet the regulatory  
13 requirements set forth in the occupational safety and health  
14 standards and to meet the needs of public employers.

15           (c) The Department shall conduct regular public  
16 information programs to inform public employers of changes or  
17 updates to the standards and rules adopted under this Act as  
18 necessary.

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

22           Section 140. Director's reports.

23           (a) In the annual report to the Governor required by the

1 Civil Administrative Code of Illinois, the Director shall  
2 report the result of inspections and investigations made of  
3 establishments under this Act, together with such other  
4 information and recommendations as he or she deems proper.

5 (b) The Director shall make an annual report of his or her  
6 work under this Act to the Governor on or before the first day  
7 of February of each year. The Director shall make a biennial  
8 report to the General Assembly on or before the first day of  
9 February of each odd numbered year.

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

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

23 (20 ILCS 5/5-145) (was 20 ILCS 5/5.03)

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

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

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

6           Sec. 5-365. In the Department of Labor. The Director of  
7 Labor shall receive an annual salary as set by the Compensation  
8 Review Board.

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

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

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

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

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

23           Section 905. The Good Samaritan Act is amended by changing  
24 Section 75 as follows:

1 (745 ILCS 49/75)

2 Sec. 75. Employers and employees under the Health and  
3 Safety Act or the Occupational Safety and Health Act; exemption  
4 from civil liability for emergency care. Any employer, who in  
5 good faith provides emergency medical or first aid care without  
6 fee to any employee or any other person employed on the same  
7 project shall not, as a result of his or her acts or omissions,  
8 except willful and wanton misconduct on the part of the  
9 employer, in providing the care, be liable to such employee or  
10 such other person to whom such care is provided for civil  
11 damages.

12 Any employee who in good faith provides emergency medical  
13 or first aid care without fee to any other employee or any  
14 other person employed on the same project shall not, as a  
15 result of his or her acts or omissions, except for willful and  
16 wanton misconduct on the part of the employee in providing the  
17 care, be liable to the employee or other person to whom the  
18 care is provided for civil damages.

19 Excluded from the operation of this Section are any  
20 employees who are licensed physicians, nurses, dentists, or  
21 other licensed health services personnel.

22 The provisions of this Section do not affect or in any way  
23 diminish or change an employer's liability under the Workers'  
24 Compensation Act, or the Workers' Occupational Diseases Act.

25 This Section applies only to employers and employees under



1 the Health and Safety Act or the Occupational Safety and Health  
2 Act.

3 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

4 (820 ILCS 220/Act rep.)

5 Section 910. The Safety Inspection and Education Act is  
6 repealed.

7 (820 ILCS 225/Act rep.)

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

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

11 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

12 Sec. 6. (a) Every employer within the provisions of this  
13 Act, shall, under the rules and regulations prescribed by the  
14 Commission, post printed notices in their respective places of  
15 employment in such number and at such places as may be  
16 determined by the Commission, containing such information  
17 relative to this Act as in the judgment of the Commission may  
18 be necessary to aid employees to safeguard their rights under  
19 this Act in event of injury.

20 In addition thereto, the employer shall post in a  
21 conspicuous place on the place of the employment a printed or  
22 typewritten notice stating whether he is insured or whether he

1 has qualified and is operating as a self-insured employer. In  
2 the event the employer is insured, the notice shall state the  
3 name and address of his insurance carrier, the number of the  
4 insurance policy, its effective date and the date of  
5 termination. In the event of the termination of the policy for  
6 any reason prior to the termination date stated, the posted  
7 notice shall promptly be corrected accordingly. In the event  
8 the employer is operating as a self-insured employer the notice  
9 shall state the name and address of the company, if any,  
10 servicing the compensation payments of the employer, and the  
11 name and address of the person in charge of making compensation  
12 payments.

13 (b) Every employer subject to this Act shall maintain  
14 accurate records of work-related deaths, injuries and illness  
15 other than minor injuries requiring only first aid treatment  
16 and which do not involve medical treatment, loss of  
17 consciousness, restriction of work or motion, or transfer to  
18 another job and file with the Commission, in writing, a report  
19 of all accidental deaths, injuries and illnesses arising out of  
20 and in the course of the employment resulting in the loss of  
21 more than 3 scheduled work days. In the case of death such  
22 report shall be made no later than 2 working days following the  
23 accidental death. In all other cases such report shall be made  
24 between the 15th and 25th of each month unless required to be  
25 made sooner by rule of the Commission. In case the injury  
26 results in permanent disability, a further report shall be made

1 as soon as it is determined that such permanent disability has  
2 resulted or will result from the injury. All reports shall  
3 state the date of the injury, including the time of day or  
4 night, the nature of the employer's business, the name,  
5 address, age, sex, conjugal condition of the injured person,  
6 the specific occupation of the injured person, the direct cause  
7 of the injury and the nature of the accident, the character of  
8 the injury, the length of disability, and in case of death the  
9 length of disability before death, the wages of the injured  
10 person, whether compensation has been paid to the injured  
11 person, or to his or her legal representative or his heirs or  
12 next of kin, the amount of compensation paid, the amount paid  
13 for physicians', surgeons' and hospital bills, and by whom  
14 paid, and the amount paid for funeral or burial expenses if  
15 known. The reports shall be made on forms and in the manner as  
16 prescribed by the Commission and shall contain such further  
17 information as the Commission shall deem necessary and require.  
18 The making of these reports releases the employer from making  
19 such reports to any other officer of the State and shall  
20 satisfy the reporting provisions as contained in the Safety  
21 Inspection and Education Act, the "Health and Safety Act," and  
22 the Occupational Safety and Health Act ~~"An Act in relation to~~  
23 ~~safety inspections and education in industrial and commercial~~  
24 ~~establishments and to repeal an Act therein named",~~ approved  
25 ~~July 18, 1955, as now or hereafter amended.~~ The reports filed  
26 with the Commission pursuant to this Section shall be made

1 available by the Commission to the Director of Labor or his  
2 representatives and to all other departments of the State of  
3 Illinois which shall require such information for the proper  
4 discharge of their official duties. Failure to file with the  
5 Commission any of the reports required in this Section is a  
6 petty offense.

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

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

24 (1) In case of the 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 by this Act provided do not begin to run against such  
2 person under legal disability until a guardian has been  
3 appointed.

4 (2) In cases of injuries sustained by exposure to  
5 radiological materials or equipment, notice shall be given to  
6 the employer within 90 days subsequent to the time that the  
7 employee knows or suspects that he has received an excessive  
8 dose of radiation.

9 No defect or inaccuracy of such notice shall be a bar to  
10 the maintenance of proceedings on arbitration or otherwise by  
11 the employee unless the employer proves that he is unduly  
12 prejudiced in such proceedings by such defect or inaccuracy.

13 Notice of the accident shall give the approximate date and  
14 place of the accident, if known, and may be given orally or in  
15 writing.

16 (d) Every employer shall notify each injured employee who  
17 has been granted compensation under the provisions of Section 8  
18 of this Act of his rights to rehabilitation services and advise  
19 him of the locations of available public rehabilitation centers  
20 and any other such services of which the employer has  
21 knowledge.

22 In any case, other than one where the injury was caused by  
23 exposure to radiological materials or equipment or asbestos  
24 unless the application for compensation is filed with the  
25 Commission within 3 years after the date of the accident, where  
26 no compensation has been paid, or within 2 years after the date

1 of the last payment of compensation, where any has been paid,  
2 whichever shall be later, the right to file such application  
3 shall be barred.

4 In any case of injury caused by exposure to radiological  
5 materials or equipment or asbestos, unless application for  
6 compensation is filed with the Commission within 25 years after  
7 the last day that the employee was employed in an environment  
8 of hazardous radiological activity or asbestos, the right to  
9 file such application shall be barred.

10 If in any case except one where the injury was caused by  
11 exposure to radiological materials or equipment or asbestos,  
12 the accidental injury results in death application for  
13 compensation for death may be filed with the Commission within  
14 3 years after the date of death where no compensation has been  
15 paid or within 2 years after the date of the last payment of  
16 compensation where any has been paid, whichever shall be later,  
17 but not thereafter.

18 If an accidental injury caused by exposure to radiological  
19 material or equipment or asbestos results in death within 25  
20 years after the last day that the employee was so exposed  
21 application for compensation for death may be filed with the  
22 Commission within 3 years after the date of death, where no  
23 compensation has been paid, or within 2 years after the date of  
24 the last payment of compensation where any has been paid,  
25 whichever shall be later, but not thereafter.

26 (e) Any contract or agreement made by any employer or his

1 agent or attorney with any employee or any other beneficiary of  
2 any claim under the provisions of this Act within 7 days after  
3 the injury shall be presumed to be fraudulent.

4 (f) Any condition or impairment of health of an employee  
5 employed as a firefighter, emergency medical technician (EMT),  
6 or paramedic which results directly or indirectly from any  
7 bloodborne pathogen, lung or respiratory disease or condition,  
8 heart or vascular disease or condition, hypertension,  
9 tuberculosis, or cancer resulting in any disability  
10 (temporary, permanent, total, or partial) to the employee shall  
11 be rebuttably presumed to arise out of and in the course of the  
12 employee's firefighting, EMT, or paramedic employment and,  
13 further, shall be rebuttably presumed to be causally connected  
14 to the hazards or exposures of the employment. This presumption  
15 shall also apply to any hernia or hearing loss suffered by an  
16 employee employed as a firefighter, EMT, or paramedic. However,  
17 this presumption shall not apply to any employee who has been  
18 employed as a firefighter, EMT, or paramedic for less than 5  
19 years at the time he or she files an Application for Adjustment  
20 of Claim concerning this condition or impairment with the  
21 Illinois Workers' Compensation Commission. The rebuttable  
22 presumption established under this subsection, however, does  
23 not apply to an emergency medical technician (EMT) or paramedic  
24 employed by a private employer if the employee spends the  
25 preponderance of his or her work time for that employer engaged  
26 in medical transfers between medical care facilities or

1 non-emergency medical transfers to or from medical care  
2 facilities. The changes made to this subsection by this  
3 amendatory Act of the 98th General Assembly shall be narrowly  
4 construed. The Finding and Decision of the Illinois Workers'  
5 Compensation Commission under only the rebuttable presumption  
6 provision of this subsection shall not be admissible or be  
7 deemed res judicata in any disability claim under the Illinois  
8 Pension Code arising out of the same medical condition;  
9 however, this sentence makes no change to the law set forth in  
10 Krohe v. City of Bloomington, 204 Ill.2d 392.

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

12 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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



1 reference to such application shall apply.

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

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

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

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

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

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

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

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

23 Expedited hearings shall have priority over all other  
24 petitions and shall be heard by the Arbitrator and Commission  
25 with all convenient speed. Any party requesting an expedited  
26 hearing shall give notice of a request for an expedited hearing

1 under this paragraph. A copy of the Application for Adjustment  
2 of Claim shall be attached to the notice. The Commission shall  
3 adopt rules and procedures under which the final decision of  
4 the Commission under this paragraph is filed not later than 180  
5 days from the date that the Petition for Review is filed with  
6 the Commission.

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

23 (b-1) If the employee is not receiving medical, surgical or  
24 hospital services as provided in paragraph (a) of Section 8 or  
25 compensation as provided in paragraph (b) of Section 8, the  
26 employee, in accordance with Commission Rules, may file a

1 petition for an emergency hearing by an Arbitrator on the issue  
2 of whether or not he is entitled to receive payment of such  
3 compensation or services as provided therein. Such petition  
4 shall have priority over all other petitions and shall be heard  
5 by the Arbitrator and Commission with all convenient speed.

6 Such petition shall contain the following information and  
7 shall be served on the employer at least 15 days before it is  
8 filed:

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

10 (ii) the approximate location of the accident;

11 (iii) a description of the accident;

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

13 (v) the identity of the person, if known, to whom the  
14 accident was reported and the date on which it was  
15 reported;

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

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

26 (viii) the name and address, if known, of each witness

1 to the accident and of each other person upon whom the  
2 employee will rely to support his allegations;

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

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

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

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

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

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

23           The employer shall, within 15 days after receipt of the  
24 notice that such petition is filed, file with the Commission  
25 and serve on the employee or his representative a written  
26 response to each claim set forth in the petition, including the



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

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

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

1 permanent disability. No award may be entered for permanent  
2 disability pursuant to this paragraph. Either party may  
3 introduce into evidence the testimony taken by deposition of  
4 any medical practitioner.

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

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

22 (c) (1) At a reasonable time in advance of and in connection  
23 with the hearing under Section 19(e) or 19(h), the Commission  
24 may on its own motion order an impartial physical or mental  
25 examination of a petitioner whose mental or physical condition  
26 is in issue, when in the Commission's discretion it appears

1 that such an examination will materially aid in the just  
2 determination of the case. The examination shall be made by a  
3 member or members of a panel of physicians chosen for their  
4 special qualifications by the Illinois State Medical Society.  
5 The Commission shall establish procedures by which a physician  
6 shall be selected from such list.

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

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

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

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

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

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

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

23           In all cases in which the hearing before the arbitrator is  
24 held after December 18, 1989, no additional evidence shall be  
25 introduced by the parties before the Commission on review of  
26 the decision of the Arbitrator. In reviewing decisions of an

1 arbitrator the Commission shall award such temporary  
2 compensation, permanent compensation and other payments as are  
3 due under this Act. The Commission shall file in its office its  
4 decision thereon, and shall immediately send to each party or  
5 his attorney a copy of such decision and a notification of the  
6 time when it was filed. Decisions shall be filed within 60 days  
7 after the Statement of Exceptions and Supporting Brief and  
8 Response thereto are required to be filed or oral argument  
9 whichever is later.

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

1 hearing if any; provided, if no such hearing is held, a  
2 decision of the Commission shall be approved by a majority of a  
3 panel of 3 members of the Commission as described in this  
4 Section. The Commission shall give 10 days' notice to the  
5 parties or their attorneys of the time and place of such taking  
6 of testimony and of such argument.

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

1 the authentication of such transcript of evidence shall be by  
2 the signature of any member of the Commission.

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

16 At the request of either party or on its own motion, the  
17 Commission shall set forth in writing the reasons for the  
18 decision, including findings of fact and conclusions of law  
19 separately stated. The Commission shall by rule adopt a format  
20 for written decisions for the Commission and arbitrators. The  
21 written decisions shall be concise and shall succinctly state  
22 the facts and reasons for the decision. The Commission may  
23 adopt in whole or in part, the decision of the arbitrator as  
24 the decision of the Commission. When the Commission does so  
25 adopt the decision of the arbitrator, it shall do so by order.  
26 Whenever the Commission adopts part of the arbitrator's

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

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

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



1 from the date of the receipt of the corrected award or  
2 decision.

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

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

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

14 The Commission shall not be required to certify the  
15 record of their proceedings to the Circuit Court, unless  
16 the party commencing the proceedings for review in the  
17 Circuit Court as above provided, shall file with the  
18 Commission notice of intent to file for review in Circuit  
19 Court. It shall be the duty of the Commission upon such  
20 filing of notice of intent to file for review in the  
21 Circuit Court to prepare a true and correct copy of such  
22 testimony and a true and correct copy of all other matters  
23 contained in such record and certified to by the Secretary  
24 or Assistant Secretary thereof. The changes made to this  
25 subdivision (f)(1) by this amendatory Act of the 98th  
26 General Assembly apply to any Commission decision entered

1 after the effective date of this amendatory Act of the 98th  
2 General Assembly.

3 No request for a summons may be filed and no summons  
4 shall issue unless the party seeking to review the decision  
5 of the Commission shall exhibit to the clerk of the Circuit  
6 Court proof of filing with the Commission of the notice of  
7 the intent to file for review in the Circuit Court or an  
8 affidavit of the attorney setting forth that notice of  
9 intent to file for review in the Circuit Court has been  
10 given in writing to the Secretary or Assistant Secretary of  
11 the Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

1 (820 ILCS 310/3) (from Ch. 48, par. 172.38)

2 Sec. 3. Where an employee in this State sustains injury to  
3 health or death by reason of a disease contracted or sustained  
4 in the course of the employment and proximately caused by the  
5 negligence of the employer, unless such employer shall be  
6 subject to this Act under the provisions of paragraph (a) of  
7 Section 2 of this Act or shall have elected to provide and pay  
8 compensation as provided in Section 2 of this Act, a right of  
9 action shall accrue to the employee whose health has been so  
10 injured for any damages sustained thereby; and in case of  
11 death, a right of action shall accrue to the widow or widower  
12 of such deceased person, his or her lineal heirs or adopted  
13 children, or to any person or persons who were, before such  
14 loss of life, dependent for support upon such deceased person,  
15 for a like recovery of damages for the injury sustained by  
16 reason of such death not to exceed the sum of \$10,000.  
17 Violation by any employer of any effective rule or rules made  
18 ~~by the Illinois Workers' Compensation Commission~~ pursuant to  
19 the "Health and Safety Act or the Occupational Safety and  
20 Health Act", ~~approved March 16, 1936, as amended,~~ or violation  
21 by the employer of any statute of this State, intended for the  
22 protection of the health of employees shall be and constitute  
23 negligence of the employer within the meaning of this Section.  
24 Every such action for damage for injury to the health shall be  
25 commenced within 3 years after the last day of the last  
26 exposure to the hazards of the disease and every such action

1 for damages in case of death shall be commenced within one year  
2 after the death of such employee and within 5 years after the  
3 last day of the last exposure to the hazards of the disease  
4 except where the disease is caused by atomic radiation, in  
5 which case, every action for damages for injury to health shall  
6 be commenced within 15 years after the last day of last  
7 exposure to the hazard of such disease and every action for  
8 damages in case of death shall be commenced within one year  
9 after the death of such employee and within 15 years after last  
10 exposure to the hazards of the disease. In any action to  
11 recover damages under this Section, it shall not be a defense  
12 that the employee either expressly or impliedly assumed the  
13 risk of the employment, or that the contraction or sustaining  
14 of the disease or death was caused in whole or in part by the  
15 negligence of a fellow servant or fellow servants, or that the  
16 contraction or sustaining of the disease or death resulting was  
17 caused in whole or in part by the contributory negligence of  
18 the employee, where such contributory negligence was not  
19 wilful.

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

21 (820 ILCS 310/6) (from Ch. 48, par. 172.41)

22 Sec. 6. (a) Every employer operating under the compensation  
23 provisions of this Act, shall post printed notices in their  
24 respective places of employment in conspicuous places and in  
25 such number and at such places as may be determined by the

1 Commission, containing such information relative to this Act as  
2 in the judgment of the Commission may be necessary to aid  
3 employees to safeguard their rights under this Act.

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

19 (b) Every employer subject to this Act shall maintain  
20 accurate records of work-related deaths, injuries and  
21 illnesses other than minor injuries requiring only first aid  
22 treatment and which do not involve medical treatment, loss of  
23 consciousness, restriction of work or motion or transfer to  
24 another job and file with the Illinois Workers' Compensation  
25 Commission, in writing, a report of all occupational diseases  
26 arising out of and in the course of the employment and

1 resulting in death, or disablement or illness resulting in the  
2 loss of more than 3 scheduled work days. In the case of death  
3 such report shall be made no later than 2 working days  
4 following the occupational death. In all other cases such  
5 report shall be made between the 15th and 25th of each month  
6 unless required to be made sooner by rule of the Illinois  
7 Workers' Compensation Commission. In case the occupational  
8 disease results in permanent disability, a further report shall  
9 be made as soon as it is determined that such permanent  
10 disability has resulted or will result therefrom. All reports  
11 shall state the date of the disablement, the nature of the  
12 employer's business, the name, address, the age, sex, conjugal  
13 condition of the disabled person, the specific occupation of  
14 the person, the nature and character of the occupational  
15 disease, the length of disability, and, in case of death, the  
16 length of disability before death, the wages of the employee,  
17 whether compensation has been paid to the employee, or to his  
18 legal representative or his heirs or next of kin, the amount of  
19 compensation paid, the amount paid for physicians', surgeons'  
20 and hospital bills, and by whom paid, and the amount paid for  
21 funeral or burial expenses, if known. The reports shall be made  
22 on forms and in the manner as prescribed by the Illinois  
23 Workers' Compensation Commission and shall contain such  
24 further information as the Commission shall deem necessary and  
25 require. The making of such reports releases the employer from  
26 making such reports to any other officer of the State and shall



1 satisfy the reporting provisions as contained in the Safety  
2 Inspection and Education Act, the "Health And Safety Act," and  
3 the Occupational Safety and Health Act ~~"An Act in relation to~~  
4 ~~safety inspections and education in industrial and commercial~~  
5 ~~establishments and to repeal an Act therein named", approved~~  
6 ~~July 18, 1955, as amended.~~ The report filed with the Illinois  
7 Workers' Compensation Commission pursuant to the provisions of  
8 this Section shall be made available by the Illinois Workers'  
9 Compensation Commission to the Director of Labor or his  
10 representatives, to the Department of Public Health pursuant to  
11 the Illinois Health and Hazardous Substances Registry Act, and  
12 to all other departments of the State of Illinois which shall  
13 require such information for the proper discharge of their  
14 official duties. Failure to file with the Commission any of the  
15 reports required in this Section is a petty offense.

16 Except as provided in this paragraph, all reports filed  
17 hereunder shall be confidential and any person having access to  
18 such records filed with the Illinois Workers' Compensation  
19 Commission as herein required, who shall release the names or  
20 otherwise identify any persons sustaining injuries or  
21 disabilities, or gives access to such information to any  
22 unauthorized person, shall be subject to discipline or  
23 discharge, and in addition shall be guilty of a Class B  
24 misdemeanor. The Commission shall compile and distribute to  
25 interested persons aggregate statistics, taken from the  
26 reports filed hereunder. The aggregate statistics shall not

1 give the names or otherwise identify persons sustaining  
2 injuries or disabilities or the employer of any injured or  
3 disabled person.

4 (c) There shall be given notice to the employer of  
5 disablement arising from an occupational disease as soon as  
6 practicable after the date of the disablement. If the  
7 Commission shall find that the failure to give such notice  
8 substantially prejudices the rights of the employer the  
9 Commission in its discretion may order that the right of the  
10 employee to proceed under this Act shall be barred.

11 In case of 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 in this Section of this Act provided shall not begin to  
15 run against such person who is under legal disability until a  
16 conservator or guardian has been appointed. No defect or  
17 inaccuracy of such notice shall be a bar to the maintenance of  
18 proceedings on arbitration or otherwise by the employee unless  
19 the employer proves that he or she is unduly prejudiced in such  
20 proceedings by such defect or inaccuracy. Notice of the  
21 disabling disease may be given orally or in writing. In any  
22 case, other than injury or death caused by exposure to  
23 radiological materials or equipment or asbestos, unless  
24 application for compensation is filed with the Commission  
25 within 3 years after the date of the disablement, where no  
26 compensation has been paid, or within 2 years after the date of

1 the last payment of compensation, where any has been paid,  
2 whichever shall be later, the right to file such application  
3 shall be barred. If the occupational disease results in death,  
4 application for compensation for death may be filed with the  
5 Commission within 3 years after the date of death where no  
6 compensation has been paid, or within 3 years after the last  
7 payment of compensation, where any has been paid, whichever is  
8 later, but not thereafter.

9 Effective July 1, 1973 in cases of disability caused by  
10 coal miners pneumoconiosis unless application for compensation  
11 is filed with the Commission within 5 years after the employee  
12 was last exposed where no compensation has been paid, or within  
13 5 years after the last payment of compensation where any has  
14 been paid, the right to file such application shall be barred.

15 In cases of disability caused by exposure to radiological  
16 materials or equipment or asbestos, unless application for  
17 compensation is filed with the Commission within 25 years after  
18 the employee was so exposed, the right to file such application  
19 shall be barred.

20 In cases of death occurring within 25 years from the last  
21 exposure to radiological material or equipment or asbestos,  
22 application for compensation must be filed within 3 years of  
23 death where no compensation has been paid, or within 3 years,  
24 after the date of the last payment where any has been paid, but  
25 not thereafter.

26 (d) Any contract or agreement made by any employer or his

1 agent or attorney with any employee or any other beneficiary of  
2 any claim under the provisions of this Act within 7 days after  
3 the disablement shall be presumed to be fraudulent.  
4 (Source: P.A. 93-721, eff. 1-1-05.)".