



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4223

by Rep. Jim Durkin

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/4	from Ch. 48, par. 138.4
820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/8.1b	
820 ILCS 305/8.2	
820 ILCS 305/8.2a	
820 ILCS 305/14	from Ch. 48, par. 138.14
820 ILCS 305/19	from Ch. 48, par. 138.19

Amends the Workers' Compensation Act. Provides that to obtain compensation, an employee has the burden of showing by a preponderance of the evidence that the accidental injury arising out of the course of employment is the major contributing cause of the medical condition or injury for which compensation is sought. Excludes from "arising out of the course of employment" injuries resulting from a hazard or risk to which the general public is also exposed or a medical condition or disability resulting from a personal or neutral risk. Provides that "major contributing cause" of a medical condition or injury is the cause that is greater than 50% of all combined causes of the medical condition or injury. Applies that standard to repetitive injuries. Reduces employer liability for injuries incurred while traveling. Provides for a reduction in an award by amounts an injured worker has previously received for prior injuries that resulted in permanency awards. Reduces certain payments under fee schedules to 49% of the scheduled amount after January 1, 2016. Provides that the Illinois Workers' Compensation Commission, rather than the Director of Insurance, shall adopt rules regarding electronic claims. Makes other changes.

LRB099 12524 JLS 35982 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing Sections 1, 4, 8, 8.1b, 8.2, 8.2a, 14, and 19 as  
6 follows:

7 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

8 Sec. 1. This Act may be cited as the Workers' Compensation  
9 Act.

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

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

14 2. Every person, firm, public or private corporation,  
15 including hospitals, public service, eleemosynary, religious  
16 or charitable corporations or associations who has any person  
17 in service or under any contract for hire, express or implied,  
18 oral or written, and who is engaged in any of the enterprises  
19 or businesses enumerated in Section 3 of this Act, or who at or  
20 prior to the time of the accident to the employee for which  
21 compensation under this Act may be claimed, has in the manner  
22 provided in this Act elected to become subject to the  
23 provisions of this Act, and who has not, prior to such

1 accident, effected a withdrawal of such election in the manner  
2 provided in this Act.

3 3. Any one engaging in any business or enterprise referred  
4 to in subsections 1 and 2 of Section 3 of this Act who  
5 undertakes to do any work enumerated therein, is liable to pay  
6 compensation to his own immediate employees in accordance with  
7 the provisions of this Act, and in addition thereto if he  
8 directly or indirectly engages any contractor whether  
9 principal or sub-contractor to do any such work, he is liable  
10 to pay compensation to the employees of any such contractor or  
11 sub-contractor unless such contractor or sub-contractor has  
12 insured, in any company or association authorized under the  
13 laws of this State to insure the liability to pay compensation  
14 under this Act, or guaranteed his liability to pay such  
15 compensation. With respect to any time limitation on the filing  
16 of claims provided by this Act, the timely filing of a claim  
17 against a contractor or subcontractor, as the case may be,  
18 shall be deemed to be a timely filing with respect to all  
19 persons upon whom liability is imposed by this paragraph.

20 In the event any such person pays compensation under this  
21 subsection he may recover the amount thereof from the  
22 contractor or sub-contractor, if any, and in the event the  
23 contractor pays compensation under this subsection he may  
24 recover the amount thereof from the sub-contractor, if any.

25 This subsection does not apply in any case where the  
26 accident occurs elsewhere than on, in or about the immediate

1 premises on which the principal has contracted that the work be  
2 done.

3 4. Where an employer operating under and subject to the  
4 provisions of this Act loans an employee to another such  
5 employer and such loaned employee sustains a compensable  
6 accidental injury in the employment of such borrowing employer  
7 and where such borrowing employer does not provide or pay the  
8 benefits or payments due such injured employee, such loaning  
9 employer is liable to provide or pay all benefits or payments  
10 due such employee under this Act and as to such employee the  
11 liability of such loaning and borrowing employers is joint and  
12 several, provided that such loaning employer is in the absence  
13 of agreement to the contrary entitled to receive from such  
14 borrowing employer full reimbursement for all sums paid or  
15 incurred pursuant to this paragraph together with reasonable  
16 attorneys' fees and expenses in any hearings before the  
17 Illinois Workers' Compensation Commission or in any action to  
18 secure such reimbursement. Where any benefit is provided or  
19 paid by such loaning employer the employee has the duty of  
20 rendering reasonable cooperation in any hearings, trials or  
21 proceedings in the case, including such proceedings for  
22 reimbursement.

23 Where an employee files an Application for Adjustment of  
24 Claim with the Illinois Workers' Compensation Commission  
25 alleging that his claim is covered by the provisions of the  
26 preceding paragraph, and joining both the alleged loaning and

1 borrowing employers, they and each of them, upon written demand  
2 by the employee and within 7 days after receipt of such demand,  
3 shall have the duty of filing with the Illinois Workers'  
4 Compensation Commission a written admission or denial of the  
5 allegation that the claim is covered by the provisions of the  
6 preceding paragraph and in default of such filing or if any  
7 such denial be ultimately determined not to have been bona fide  
8 then the provisions of Paragraph K of Section 19 of this Act  
9 shall apply.

10 An employer whose business or enterprise or a substantial  
11 part thereof consists of hiring, procuring or furnishing  
12 employees to or for other employers operating under and subject  
13 to the provisions of this Act for the performance of the work  
14 of such other employers and who pays such employees their  
15 salary or wages notwithstanding that they are doing the work of  
16 such other employers shall be deemed a loaning employer within  
17 the meaning and provisions of this Section.

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

19 1. Every person in the service of the State, including  
20 members of the General Assembly, members of the Commerce  
21 Commission, members of the Illinois Workers' Compensation  
22 Commission, and all persons in the service of the University of  
23 Illinois, county, including deputy sheriffs and assistant  
24 state's attorneys, city, town, township, incorporated village  
25 or school district, body politic, or municipal corporation  
26 therein, whether by election, under appointment or contract of

1 hire, express or implied, oral or written, including all  
2 members of the Illinois National Guard while on active duty in  
3 the service of the State, and all probation personnel of the  
4 Juvenile Court appointed pursuant to Article VI of the Juvenile  
5 Court Act of 1987, and including any official of the State, any  
6 county, city, town, township, incorporated village, school  
7 district, body politic or municipal corporation therein except  
8 any duly appointed member of a police department in any city  
9 whose population exceeds 500,000 according to the last Federal  
10 or State census, and except any member of a fire insurance  
11 patrol maintained by a board of underwriters in this State. A  
12 duly appointed member of a fire department in any city, the  
13 population of which exceeds 500,000 according to the last  
14 federal or State census, is an employee under this Act only  
15 with respect to claims brought under paragraph (c) of Section  
16 8.

17 One employed by a contractor who has contracted with the  
18 State, or a county, city, town, township, incorporated village,  
19 school district, body politic or municipal corporation  
20 therein, through its representatives, is not considered as an  
21 employee of the State, county, city, town, township,  
22 incorporated village, school district, body politic or  
23 municipal corporation which made the contract.

24 2. Every person in the service of another under any  
25 contract of hire, express or implied, oral or written,  
26 including persons whose employment is outside of the State of

1 Illinois where the contract of hire is made within the State of  
2 Illinois, persons whose employment results in fatal or  
3 non-fatal injuries within the State of Illinois where the  
4 contract of hire is made outside of the State of Illinois, and  
5 persons whose employment is principally localized within the  
6 State of Illinois, regardless of the place of the accident or  
7 the place where the contract of hire was made, and including  
8 aliens, and minors who, for the purpose of this Act are  
9 considered the same and have the same power to contract,  
10 receive payments and give quittances therefor, as adult  
11 employees.

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

14 An employee or his dependents under this Act who shall have  
15 a cause of action by reason of any injury, disablement or death  
16 arising out of and in the course of his employment may elect to  
17 pursue his remedy in the State where injured or disabled, or in  
18 the State where the contract of hire is made, or in the State  
19 where the employment is principally localized.

20 However, any employer may elect to provide and pay  
21 compensation to any employee other than those engaged in the  
22 usual course of the trade, business, profession or occupation  
23 of the employer by complying with Sections 2 and 4 of this Act.  
24 Employees are not included within the provisions of this Act  
25 when excluded by the laws of the United States relating to  
26 liability of employers to their employees for personal injuries

1 where such laws are held to be exclusive.

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

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

9 (d) (1) To obtain compensation under this Act, an employee  
10 bears the burden of showing, by a preponderance of the credible  
11 evidence, that (i) he or she has sustained accidental injuries  
12 arising out of and in the course of the employment and (ii) the  
13 accidental injuries arising out of and in the course of the  
14 employment are the major contributing cause of the medical  
15 condition or injury for which compensation is being sought.

16 The "major contributing cause" of a medical condition or  
17 injury is the cause that is greater than 50% of all combined  
18 causes of the medical condition or injury.

19 Accidental injuries shall not be considered to be "arising  
20 out of and in the course of employment" if, without limitation:  
21 (A) the accident resulted from a hazard or risk that was not  
22 incidental to the employment or the accident resulted from a  
23 hazard or risk to which the general public is also exposed, (B)  
24 the accident did not occur at a time and place and under  
25 circumstances reasonably required by the employment, or (C) the  
26 medical condition or injury for which compensation is being



1 sought resulted from a personal or neutral risk.

2 (2) For the purposes of clause (ii) of paragraph (1) only,  
3 if an employee has suffered cumulative or repetitive accidental  
4 injuries while employed in the same occupation or industry by  
5 multiple employers over time, the accidental injuries arising  
6 out of and in the course of the employment shall be considered  
7 to be the major contributing cause of the medical condition or  
8 injury for which compensation is being sought if those  
9 cumulative or repetitive accidental injuries suffered during  
10 employment in that occupation or industry are greater than 50%  
11 of all combined causes of the medical condition or injury. In  
12 that circumstance, the employer liable for compensation under  
13 this Act shall be the most recent current or former employer  
14 who has employed the employee for at least 3 months.

15 (3) An injury, its occupational cause, and any resulting  
16 manifestations or disability must be established to a  
17 reasonable degree of medical certainty, based on objective  
18 relevant medical findings.

19 (e) An employee who is required to travel in connection  
20 with his or her employment and who suffers an injury while in  
21 travel status shall be eligible for benefits only if the injury  
22 arises out of and in the course of employment and the travel is  
23 necessary for the performance of job duties. Travel is  
24 necessary for the performance of job duties if (i) the employer  
25 furnishes the transportation or the employee receives  
26 reimbursement from the employer for costs of travel, gas, or

1 lodging as part of the employee's benefits or employment  
2 agreement and (ii) travel is required by the employer as part  
3 of the employee's job duties.

4 An injury suffered by a traveling employee is deemed to  
5 arise out of his or her employment if caused by a risk  
6 incidental to or connected with the employment. Risk is not to  
7 be determined by a reasonable and foreseeable standard.

8 Arising in and out of the course of employment does not  
9 include travel to and from work or when an employee is on a  
10 paid or unpaid break and is not performing any specific tasks  
11 for the employer during the break. Common risks associated with  
12 travel even where the traveling employee is exposed to a  
13 greater degree than the general public do not arise out of the  
14 employment.

15 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,  
16 eff. 7-13-12.)

17 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

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

23 (1) File with the Commission annually an application  
24 for approval as a self-insurer which shall include a  
25 current financial statement, and annually, thereafter, an

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

17 If the sworn application and financial statement of any  
18 such employer does not satisfy the Commission of the  
19 financial ability of the employer who has filed it, the  
20 Commission shall require such employer to,

21 (2) Furnish security, indemnity or a bond guaranteeing  
22 the payment by the employer of the compensation provided  
23 for in this Act, provided that any such employer whose  
24 application and financial statement shall not have  
25 satisfied the commission of his or her financial ability  
26 and who shall have secured his liability in part by excess

1       workers' compensation liability insurance shall be  
2       required to furnish to the Commission security, indemnity  
3       or bond guaranteeing his or her payment up to the effective  
4       limits of the excess coverage, or

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

18           Firstly, the entire compensation liability of the  
19      employer to employees working at or from one location  
20      shall be insured in one such workers' compensation  
21      insurance carrier or shall be self-insured, and

22           Secondly, the employer shall submit evidence  
23      satisfactorily to the Commission that his or her entire  
24      liability for the compensation provided for in this Act  
25      will be secured. Any provisions in any policy, or in  
26      any endorsement attached thereto, attempting to limit

1 or modify in any way, the liability of the workers'  
2 compensation insurance carriers issuing the same  
3 except as otherwise provided herein shall be wholly  
4 void.

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

8 (4) Make some other provision, satisfactory to the  
9 Commission, for the securing of the payment of compensation  
10 provided for in this Act, and

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

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

21 (A) the employer is engaged primarily in the building  
22 and construction industry; and

23 (B) subdivision (a) (3) of this Section applies to the  
24 employer or the employer is a member of a group  
25 self-insurance plan as defined in subsection (1) of Section  
26 4a.

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

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

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

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

16          Any penalty under this subsection (a-1) must be imposed not  
17 later than one year after the expiration of the applicable  
18 limitation period specified in subsection (d) of Section 6 of  
19 this Act. Penalties imposed under this subsection (a-1) shall  
20 be deposited into the Illinois Workers' Compensation  
21 Commission Operations Fund, a special fund that is created in  
22 the State treasury. Subject to appropriation, moneys in the  
23 Fund shall be used solely for the operations of the Illinois  
24 Workers' Compensation Commission and by the Department of  
25 Insurance for the purposes authorized in subsection (c) of  
26 Section 25.5 of this Act.

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

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

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

11 (3) Any certificate of workers' compensation insurance  
12 coverage document issued to a client company specifying its  
13 rights and obligations under the master policy that  
14 establishes both the identity and status of the client, as  
15 well as the dates of inception and termination of coverage,  
16 if applicable.

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

22 Deposits under escrow agreements shall be cash, negotiable  
23 United States government bonds or negotiable general  
24 obligation bonds of the State of Illinois. Such cash or bonds  
25 shall be deposited in escrow with any State or National Bank or  
26 Trust Company having trust authority in the State of Illinois.

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



1 of such other insurance or security.

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

1 handle claims under this Act, has practiced or is practicing a  
2 policy of delay or unfairness toward employees in the  
3 adjustment, settlement or payment of benefits due such  
4 employees, the Commission may after reasonable notice and  
5 hearing order and direct that such service or adjustment  
6 company shall from and after a date fixed in such order be  
7 prohibited from processing, adjusting, investigating,  
8 compromising or otherwise handling claims under this Act.

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

20 All orders made by the Commission under this Section shall  
21 be subject to review by the courts, said review to be taken in  
22 the same manner and within the same time as provided by Section  
23 19 of this Act for review of awards and decisions of the  
24 Commission, upon the party seeking the review filing with the  
25 clerk of the court to which said review is taken a bond in an  
26 amount to be fixed and approved by the court to which the

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

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

1       appealable under Section 19(f) to the Circuit Court.

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

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

26          The criminal penalties in this subsection (d) shall not

1 apply where there exists a good faith dispute as to the  
2 existence of an employment relationship. Evidence of good faith  
3 shall include, but not be limited to, compliance with the  
4 definition of employee as used by the Internal Revenue Service.

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

22 An employee of an uninsured employer, or the employee's  
23 dependents in case death ensued, may, instead of proceeding  
24 against the employer in a civil action in court, file an  
25 application for adjustment of claim with the Commission in  
26 accordance with the provisions of this Act and the Commission

1 shall hear and determine the application for adjustment of  
2 claim in the manner in which other claims are heard and  
3 determined before the Commission.

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

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

18 Upon a finding by the Commission, after reasonable notice  
19 and hearing, of the knowing and wilful failure or refusal of an  
20 employer to comply with any of the provisions of paragraph (a)  
21 of this Section, the failure or refusal of an employer, service  
22 or adjustment company, or an insurance carrier to comply with  
23 any order of the Illinois Workers' Compensation Commission  
24 pursuant to paragraph (c) of this Section disqualifying him or  
25 her to operate as a self insurer and requiring him or her to  
26 insure his or her liability, or the knowing and willful failure

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

1 procedural rules for enforcing this Section.

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

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

24 Penalties and fines collected pursuant to this paragraph  
25 (d) shall be deposited upon receipt into a special fund which  
26 shall be designated the Injured Workers' Benefit Fund, of which



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

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

24 (e) This Act shall not affect or disturb the continuance of  
25 any existing workers' compensation insurance, mutual aid,  
26 benefit, or relief association or department, whether

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

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

24 (g) Any contract, oral, written or implied, of employment  
25 providing for relief benefit, or workers' compensation  
26 insurance or any other device whereby the employee is required

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

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

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

24 It shall be unlawful for any employer, individually or  
25 through any insurance company or service or adjustment company,  
26 to discharge or to threaten to discharge, or to refuse to

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

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

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

19 The Chairman of the Commission shall promptly act upon all  
20 initial applications and applications for renewal in full  
21 accordance with the recommendations of the Board or, should the  
22 Chairman disagree with any recommendation of disposition of the  
23 Self-Insurer's Advisory Board, he shall within 30 days of  
24 receipt of such recommendation provide to the Board in writing  
25 the reasons supporting his decision. The Chairman shall also  
26 promptly notify the employer of his decision within 15 days of

1 receipt of the recommendation of the Board.

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

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

20 (Source: P.A. 97-18, eff. 6-28-11.)

21 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

25 (a) The employer shall provide and pay the negotiated rate,

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

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

24 Upon agreement between the employer and the employees, or  
25 the employees' exclusive representative, and subject to the  
26 approval of the Illinois Workers' Compensation Commission, the

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

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



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

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

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

23 Every hospital, physician, surgeon or other person  
24 rendering treatment or services in accordance with the  
25 provisions of this Section shall upon written request furnish  
26 full and complete reports thereof to, and permit their records

1 to be copied by, the employer, the employee or his dependents,  
2 as the case may be, or any other party to any proceeding for  
3 compensation before the Commission, or their attorneys.

4 Notwithstanding the foregoing, the employer's liability to  
5 pay for such medical services selected by the employee shall be  
6 limited to:

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

8 (2) all medical, surgical and hospital services  
9 provided by the physician, surgeon or hospital initially  
10 chosen by the employee or by any other physician,  
11 consultant, expert, institution or other provider of  
12 services recommended by said initial service provider or  
13 any subsequent provider of medical services in the chain of  
14 referrals from said initial service provider; plus

15 (3) all medical, surgical and hospital services  
16 provided by any second physician, surgeon or hospital  
17 subsequently chosen by the employee or by any other  
18 physician, consultant, expert, institution or other  
19 provider of services recommended by said second service  
20 provider or any subsequent provider of medical services in  
21 the chain of referrals from said second service provider.  
22 Thereafter the employer shall select and pay for all  
23 necessary medical, surgical and hospital treatment and the  
24 employee may not select a provider of medical services at  
25 the employer's expense unless the employer agrees to such  
26 selection. At any time the employee may obtain any medical

1 treatment he desires at his own expense. This paragraph  
2 shall not affect the duty to pay for rehabilitation  
3 referred to above.

4 (4) The following shall apply for injuries occurring on  
5 or after June 28, 2011 (the effective date of Public Act  
6 97-18) and only when an employer has an approved preferred  
7 provider program pursuant to Section 8.1a on the date the  
8 employee sustained his or her accidental injuries:

9 (A) The employer shall, in writing, on a form  
10 promulgated by the Commission, inform the employee of  
11 the preferred provider program;

12 (B) Subsequent to the report of an injury by an  
13 employee, the employee may choose in writing at any  
14 time to decline the preferred provider program, in  
15 which case that would constitute one of the two choices  
16 of medical providers to which the employee is entitled  
17 under subsection (a) (2) or (a) (3); and

18 (C) Prior to the report of an injury by an  
19 employee, when an employee chooses non-emergency  
20 treatment from a provider not within the preferred  
21 provider program, that would constitute the employee's  
22 one choice of medical providers to which the employee  
23 is entitled under subsection (a) (2) or (a) (3).

24 When an employer and employee so agree in writing, nothing  
25 in this Act prevents an employee whose injury or disability has  
26 been established under this Act, from relying in good faith, on

1 treatment by prayer or spiritual means alone, in accordance  
2 with the tenets and practice of a recognized church or  
3 religious denomination, by a duly accredited practitioner  
4 thereof, and having nursing services appropriate therewith,  
5 without suffering loss or diminution of the compensation  
6 benefits under this Act. However, the employee shall submit to  
7 all physical examinations required by this Act. The cost of  
8 such treatment and nursing care shall be paid by the employee  
9 unless the employer agrees to make such payment.

10 Where the accidental injury results in the amputation of an  
11 arm, hand, leg or foot, or the enucleation of an eye, or the  
12 loss of any of the natural teeth, the employer shall furnish an  
13 artificial of any such members lost or damaged in accidental  
14 injury arising out of and in the course of employment, and  
15 shall also furnish the necessary braces in all proper and  
16 necessary cases. In cases of the loss of a member or members by  
17 amputation, the employer shall, whenever necessary, maintain  
18 in good repair, refit or replace the artificial limbs during  
19 the lifetime of the employee. Where the accidental injury  
20 accompanied by physical injury results in damage to a denture,  
21 eye glasses or contact eye lenses, or where the accidental  
22 injury results in damage to an artificial member, the employer  
23 shall replace or repair such denture, glasses, lenses, or  
24 artificial member.

25 The furnishing by the employer of any such services or  
26 appliances is not an admission of liability on the part of the

1 employer to pay compensation.

2 The furnishing of any such services or appliances or the  
3 servicing thereof by the employer is not the payment of  
4 compensation.

5 (b) If the period of temporary total incapacity for work  
6 lasts more than 3 working days, weekly compensation as  
7 hereinafter provided shall be paid beginning on the 4th day of  
8 such temporary total incapacity and continuing as long as the  
9 total temporary incapacity lasts. In cases where the temporary  
10 total incapacity for work continues for a period of 14 days or  
11 more from the day of the accident compensation shall commence  
12 on the day after the accident.

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

26 2. The compensation rate in all cases other than for

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

17 2.1. The compensation rate in all cases of serious and  
18 permanent disfigurement under paragraph (c) and of  
19 permanent partial disability under subparagraph (2) of  
20 paragraph (d) or under paragraph (e) of this Section shall  
21 be equal to 60% of the employee's average weekly wage  
22 computed in accordance with the provisions of Section 10,  
23 provided that it shall be not less than 66 2/3% of the sum  
24 of the Federal minimum wage under the Fair Labor Standards  
25 Act, or the Illinois minimum wage under the Minimum Wage  
26 Law, whichever is more, multiplied by 40 hours. This

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

7 3. As used in this Section the term "child" means a  
8 child of the employee including any child legally adopted  
9 before the accident or whom at the time of the accident the  
10 employee was under legal obligation to support or to whom  
11 the employee stood in loco parentis, and who at the time of  
12 the accident was under 18 years of age and not emancipated.  
13 The term "children" means the plural of "child".

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

17 The maximum weekly compensation rate from July 1, 1975,  
18 except as hereinafter provided, shall be 100% of the  
19 State's average weekly wage in covered industries under the  
20 Unemployment Insurance Act, that being the wage that most  
21 closely approximates the State's average weekly wage.

22 The maximum weekly compensation rate, for the period  
23 July 1, 1984, through June 30, 1987, except as hereinafter  
24 provided, shall be \$293.61. Effective July 1, 1987 and on  
25 July 1 of each year thereafter the maximum weekly  
26 compensation rate, except as hereinafter provided, shall

1           be determined as follows: if during the preceding 12 month  
2           period there shall have been an increase in the State's  
3           average weekly wage in covered industries under the  
4           Unemployment Insurance Act, the weekly compensation rate  
5           shall be proportionately increased by the same percentage  
6           as the percentage of increase in the State's average weekly  
7           wage in covered industries under the Unemployment  
8           Insurance Act during such period.

9           The maximum weekly compensation rate, for the period  
10          January 1, 1981 through December 31, 1983, except as  
11          hereinafter provided, shall be 100% of the State's average  
12          weekly wage in covered industries under the Unemployment  
13          Insurance Act in effect on January 1, 1981. Effective  
14          January 1, 1984 and on January 1, of each year thereafter  
15          the maximum weekly compensation rate, except as  
16          hereinafter provided, shall be determined as follows: if  
17          during the preceding 12 month period there shall have been  
18          an increase in the State's average weekly wage in covered  
19          industries under the Unemployment Insurance Act, the  
20          weekly compensation rate shall be proportionately  
21          increased by the same percentage as the percentage of  
22          increase in the State's average weekly wage in covered  
23          industries under the Unemployment Insurance Act during  
24          such period.

25          From July 1, 1977 and thereafter such maximum weekly  
26          compensation rate in death cases under Section 7, and



1 permanent total disability cases under paragraph (f) or  
2 subparagraph 18 of paragraph (3) of this Section and for  
3 temporary total disability under paragraph (b) of this  
4 Section and for amputation of a member or enucleation of an  
5 eye under paragraph (e) of this Section shall be increased  
6 to 133-1/3% of the State's average weekly wage in covered  
7 industries under the Unemployment Insurance Act.

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

12 4.1. Any provision herein to the contrary  
13 notwithstanding, the weekly compensation rate for  
14 compensation payments under subparagraph 18 of paragraph  
15 (e) of this Section and under paragraph (f) of this Section  
16 and under paragraph (a) of Section 7 and for amputation of  
17 a member or enucleation of an eye under paragraph (e) of  
18 this Section, shall in no event be less than 50% of the  
19 State's average weekly wage in covered industries under the  
20 Unemployment Insurance Act.

21 4.2. Any provision to the contrary notwithstanding,  
22 the total compensation payable under Section 7 shall not  
23 exceed the greater of \$500,000 or 25 years.

24 5. For the purpose of this Section this State's average  
25 weekly wage in covered industries under the Unemployment  
26 Insurance Act on July 1, 1975 is hereby fixed at \$228.16

1 per week and the computation of compensation rates shall be  
2 based on the aforesaid average weekly wage until modified  
3 as hereinafter provided.

4 6. The Department of Employment Security of the State  
5 shall on or before the first day of December, 1977, and on  
6 or before the first day of June, 1978, and on the first day  
7 of each December and June of each year thereafter, publish  
8 the State's average weekly wage in covered industries under  
9 the Unemployment Insurance Act and the Illinois Workers'  
10 Compensation Commission shall on the 15th day of January,  
11 1978 and on the 15th day of July, 1978 and on the 15th day  
12 of each January and July of each year thereafter, post and  
13 publish the State's average weekly wage in covered  
14 industries under the Unemployment Insurance Act as last  
15 determined and published by the Department of Employment  
16 Security. The amount when so posted and published shall be  
17 conclusive and shall be applicable as the basis of  
18 computation of compensation rates until the next posting  
19 and publication as aforesaid.

20 7. The payment of compensation by an employer or his  
21 insurance carrier to an injured employee shall not  
22 constitute an admission of the employer's liability to pay  
23 compensation.

24 (c) For any serious and permanent disfigurement to the  
25 hand, head, face, neck, arm, leg below the knee or the chest  
26 above the axillary line, the employee is entitled to

1 compensation for such disfigurement, the amount determined by  
2 agreement at any time or by arbitration under this Act, at a  
3 hearing not less than 6 months after the date of the accidental  
4 injury, which amount shall not exceed 150 weeks (if the  
5 accidental injury occurs on or after the effective date of this  
6 amendatory Act of the 94th General Assembly but before February  
7 1, 2006) or 162 weeks (if the accidental injury occurs on or  
8 after February 1, 2006) at the applicable rate provided in  
9 subparagraph 2.1 of paragraph (b) of this Section.

10 No compensation is payable under this paragraph where  
11 compensation is payable under paragraphs (d), (e) or (f) of  
12 this Section.

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

18 (d) 1. If, after the accidental injury has been sustained,  
19 the employee as a result thereof becomes partially  
20 incapacitated from pursuing his usual and customary line of  
21 employment, he shall, except in cases compensated under the  
22 specific schedule set forth in paragraph (e) of this Section,  
23 receive compensation for the duration of his disability,  
24 subject to the limitations as to maximum amounts fixed in  
25 paragraph (b) of this Section, equal to 66-2/3% of the  
26 difference between the average amount which he would be able to

1 earn in the full performance of his duties in the occupation in  
2 which he was engaged at the time of the accident and the  
3 average amount which he is earning or is able to earn in some  
4 suitable employment or business after the accident. For  
5 accidental injuries that occur on or after September 1, 2011,  
6 an award for wage differential under this subsection shall be  
7 effective only until the employee reaches the age of 67 or 5  
8 years from the date the award becomes final, whichever is  
9 later.

10 2. If, as a result of the accident, the employee sustains  
11 serious and permanent injuries not covered by paragraphs (c)  
12 and (e) of this Section or having sustained injuries covered by  
13 the aforesaid paragraphs (c) and (e), he shall have sustained  
14 in addition thereto other injuries which injuries do not  
15 incapacitate him from pursuing the duties of his employment but  
16 which would disable him from pursuing other suitable  
17 occupations, or which have otherwise resulted in physical  
18 impairment; or if such injuries partially incapacitate him from  
19 pursuing the duties of his usual and customary line of  
20 employment but do not result in an impairment of earning  
21 capacity, or having resulted in an impairment of earning  
22 capacity, the employee elects to waive his right to recover  
23 under the foregoing subparagraph 1 of paragraph (d) of this  
24 Section then in any of the foregoing events, he shall receive  
25 in addition to compensation for temporary total disability  
26 under paragraph (b) of this Section, compensation at the rate

1 provided in subparagraph 2.1 of paragraph (b) of this Section  
2 for that percentage of 500 weeks that the partial disability  
3 resulting from the injuries covered by this paragraph bears to  
4 total disability. If the employee shall have sustained a  
5 fracture of one or more vertebra or fracture of the skull, the  
6 amount of compensation allowed under this Section shall be not  
7 less than 6 weeks for a fractured skull and 6 weeks for each  
8 fractured vertebra, and in the event the employee shall have  
9 sustained a fracture of any of the following facial bones:  
10 nasal, lachrymal, vomer, zygoma, maxilla, palatine or  
11 mandible, the amount of compensation allowed under this Section  
12 shall be not less than 2 weeks for each such fractured bone,  
13 and for a fracture of each transverse process not less than 3  
14 weeks. In the event such injuries shall result in the loss of a  
15 kidney, spleen or lung, the amount of compensation allowed  
16 under this Section shall be not less than 10 weeks for each  
17 such organ. Compensation awarded under this subparagraph 2  
18 shall not take into consideration injuries covered under  
19 paragraphs (c) and (e) of this Section and the compensation  
20 provided in this paragraph shall not affect the employee's  
21 right to compensation payable under paragraphs (b), (c) and (e)  
22 of this Section for the disabilities therein covered.

23 In computing the compensation to be paid to any employee  
24 who, before the accident for which he or she claims  
25 compensation, had previously sustained an injury resulting in  
26 an award or settlement for permanency given under this

1 subparagraph 2, such percentage of partial disability shall be  
2 deducted from any award made for the subsequent injury  
3 resulting in an award or settlement for permanency given under  
4 this subparagraph 2.

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

15 1. Thumb-

16 70 weeks if the accidental injury occurs on or  
17 after the effective date of this amendatory Act of the  
18 94th General Assembly but before February 1, 2006.

19 76 weeks if the accidental injury occurs on or  
20 after February 1, 2006.

21 2. First, or index finger-

22 40 weeks if the accidental injury occurs on or  
23 after the effective date of this amendatory Act of the  
24 94th General Assembly but before February 1, 2006.

25 43 weeks if the accidental injury occurs on or  
26 after February 1, 2006.

1           3. Second, or middle finger-

2                 35 weeks if the accidental injury occurs on or  
3 after the effective date of this amendatory Act of the  
4 94th General Assembly but before February 1, 2006.

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

7           4. Third, or ring finger-

8                 25 weeks if the accidental injury occurs on or  
9 after the effective date of this amendatory Act of the  
10 94th General Assembly but before February 1, 2006.

11                27 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13           5. Fourth, or little finger-

14                20 weeks if the accidental injury occurs on or  
15 after the effective date of this amendatory Act of the  
16 94th General Assembly but before February 1, 2006.

17                22 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19           6. Great toe-

20                35 weeks if the accidental injury occurs on or  
21 after the effective date of this amendatory Act of the  
22 94th General Assembly but before February 1, 2006.

23                38 weeks if the accidental injury occurs on or  
24 after February 1, 2006.

25           7. Each toe other than great toe-

26                12 weeks if the accidental injury occurs on or

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

3 13 weeks if the accidental injury occurs on or  
4 after February 1, 2006.

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

14 9. Hand-

15 190 weeks if the accidental injury occurs on or  
16 after the effective date of this amendatory Act of the  
17 94th General Assembly but before February 1, 2006.

18 205 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 190 weeks if the accidental injury occurs on or  
21 after June 28, 2011 (the effective date of Public Act  
22 97-18) and if the accidental injury involves carpal  
23 tunnel syndrome due to repetitive or cumulative  
24 trauma, in which case the permanent partial disability  
25 shall not exceed 15% loss of use of the hand, except  
26 for cause shown by clear and convincing evidence and in



1           which case the award shall not exceed 30% loss of use  
2           of the hand.

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

9           10. Arm-

10           235 weeks if the accidental injury occurs on or  
11           after the effective date of this amendatory Act of the  
12           94th General Assembly but before February 1, 2006.

13           253 weeks if the accidental injury occurs on or  
14           after February 1, 2006.

15           Where an accidental injury results in the amputation of  
16           an arm below the elbow, such injury shall be compensated as  
17           a loss of an arm. Where an accidental injury results in the  
18           amputation of an arm above the elbow, compensation for an  
19           additional 15 weeks (if the accidental injury occurs on or  
20           after the effective date of this amendatory Act of the 94th  
21           General Assembly but before February 1, 2006) or an  
22           additional 17 weeks (if the accidental injury occurs on or  
23           after February 1, 2006) shall be paid, except where the  
24           accidental injury results in the amputation of an arm at  
25           the shoulder joint, or so close to shoulder joint that an  
26           artificial arm cannot be used, or results in the

1 disarticulation of an arm at the shoulder joint, in which  
2 case compensation for an additional 65 weeks (if the  
3 accidental injury occurs on or after the effective date of  
4 this amendatory Act of the 94th General Assembly but before  
5 February 1, 2006) or an additional 70 weeks (if the  
6 accidental injury occurs on or after February 1, 2006)  
7 shall be paid.

8 11. Foot-

9 155 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

12 167 weeks if the accidental injury occurs on or  
13 after February 1, 2006.

14 12. Leg-

15 200 weeks if the accidental injury occurs on or  
16 after the effective date of this amendatory Act of the  
17 94th General Assembly but before February 1, 2006.

18 215 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 Where an accidental injury results in the amputation of  
21 a leg below the knee, such injury shall be compensated as  
22 loss of a leg. Where an accidental injury results in the  
23 amputation of a leg above the knee, compensation for an  
24 additional 25 weeks (if the accidental injury occurs on or  
25 after the effective date of this amendatory Act of the 94th  
26 General Assembly but before February 1, 2006) or an

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

12 13. Eye-

13 150 weeks if the accidental injury occurs on or  
14 after the effective date of this amendatory Act of the  
15 94th General Assembly but before February 1, 2006.

16 162 weeks if the accidental injury occurs on or  
17 after February 1, 2006.

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

25 14. Loss of hearing of one ear-

26 50 weeks if the accidental injury occurs on or

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

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

5 Total and permanent loss of hearing of both ears-

6 200 weeks if the accidental injury occurs on or  
7 after the effective date of this amendatory Act of the  
8 94th General Assembly but before February 1, 2006.

9 215 weeks if the accidental injury occurs on or  
10 after February 1, 2006.

11 15. Testicle-

12 50 weeks if the accidental injury occurs on or  
13 after the effective date of this amendatory Act of the  
14 94th General Assembly but before February 1, 2006.

15 54 weeks if the accidental injury occurs on or  
16 after February 1, 2006.

17 Both testicles-

18 150 weeks if the accidental injury occurs on or  
19 after the effective date of this amendatory Act of the  
20 94th General Assembly but before February 1, 2006.

21 162 weeks if the accidental injury occurs on or  
22 after February 1, 2006.

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

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

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

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

25 (c) In measuring hearing impairment, the lowest  
26 measured losses in each of the 3 frequencies shall be

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

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

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

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

20 Sound Level DBA

21	Slow Response	Hours Per Day
22	90	8
23	92	6
24	95	4
25	97	3
26	100	2

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

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

7           17. In computing the compensation to be paid to any  
8 employee who, before the accident for which he claims  
9 compensation, had before that time sustained an injury  
10 resulting in any award or settlement for permanency  
11 including, without limitation, the loss by amputation or  
12 partial loss by amputation of any member, including hand,  
13 arm, thumb or fingers, leg, foot or any toes, the partial  
14 loss of sight of an eye, or an award given under paragraph  
15 2 of paragraph (d) of Section 8 such award ~~loss or partial~~  
16 ~~loss of any such member~~ shall be deducted from any award or  
17 settlement for permanency made for the subsequent injury.  
18 ~~For the permanent loss of use or the permanent partial loss~~  
19 ~~of use of any such member or the partial loss of sight of~~  
20 ~~an eye, for which compensation has been paid, then such~~  
21 ~~loss shall be taken into consideration and deducted from~~  
22 ~~any award for the subsequent injury.~~

23           18. The specific case of loss of both hands, both arms,  
24 or both feet, or both legs, or both eyes, or of any two  
25 thereof, or the permanent and complete loss of the use  
26 thereof, constitutes total and permanent disability, to be

1            compensated according to the compensation fixed by  
2            paragraph (f) of this Section. These specific cases of  
3            total and permanent disability do not exclude other cases.

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

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

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



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

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

24 (f) In case of complete disability, which renders the  
25 employee wholly and permanently incapable of work, or in the  
26 specific case of total and permanent disability as provided in

1 subparagraph 18 of paragraph (e) of this Section, compensation  
2 shall be payable at the rate provided in subparagraph 2 of  
3 paragraph (b) of this Section for life.

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

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

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

24 If an employee who had previously incurred loss or the  
25 permanent and complete loss of use of one member, through the  
26 loss or the permanent and complete loss of the use of one hand,

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

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

18 In its award the Commission or the Arbitrator shall  
19 specifically find the amount the injured employee shall be  
20 weekly paid, the number of weeks compensation which shall be  
21 paid by the employer, the date upon which payments begin out of  
22 the Second Injury Fund provided for in paragraph (f) of Section  
23 7 of this Act, the length of time the weekly payments continue,  
24 the date upon which the pension payments commence and the  
25 monthly amount of the payments. The Commission shall 30 days  
26 after the date upon which payments out of the Second Injury

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

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

20 (g) Every award for permanent total disability entered by  
21 the Commission on and after July 1, 1965 under which  
22 compensation payments shall become due and payable after the  
23 effective date of this amendatory Act, and every award for  
24 death benefits or permanent total disability entered by the  
25 Commission on and after the effective date of this amendatory  
26 Act shall be subject to annual adjustments as to the amount of

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

1 existing compensation rate. The within paragraph shall not  
2 apply to cases where there is disputed liability and in which a  
3 compromise lump sum settlement between the employer and the  
4 injured employee, or his dependents, as the case may be, has  
5 been duly approved by the Illinois Workers' Compensation  
6 Commission.

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

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

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

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

23 (h) In case death occurs from any cause before the total  
24 compensation to which the employee would have been entitled has  
25 been paid, then in case the employee leaves any widow, widower,  
26 child, parent (or any grandchild, grandparent or other lineal

1 heir or any collateral heir dependent at the time of the  
2 accident upon the earnings of the employee to the extent of 50%  
3 or more of total dependency) such compensation shall be paid to  
4 the beneficiaries of the deceased employee and distributed as  
5 provided in paragraph (g) of Section 7.

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

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

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

26 Nothing herein contained repeals or amends the provisions



1 of the Child Labor Law relating to the employment of minors  
2 under the age of 16 years.

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

23 Any excess benefits paid to or on behalf of a State  
24 employee by the State Employees' Retirement System under  
25 Article 14 of the Illinois Pension Code on a death claim or  
26 disputed disability claim shall be credited against any

1 payments made or to be made by the State of Illinois to or on  
2 behalf of such employee under this Act, except for payments for  
3 medical expenses which have already been incurred at the time  
4 of the award. The State of Illinois shall directly reimburse  
5 the State Employees' Retirement System to the extent of such  
6 credit.

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

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

25 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,  
26 eff. 7-13-12.)

1 (820 ILCS 305/8.1b)

2 Sec. 8.1b. Determination of permanent partial disability.  
3 For accidental injuries that occur on or after September 1,  
4 2011, permanent partial disability shall be established using  
5 the following criteria:

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

18 (b) In determining the level of permanent partial  
19 disability, the Commission shall base its determination on the  
20 following factors: (i) the reported level of impairment  
21 pursuant to subsection (a); (ii) the occupation of the injured  
22 employee; (iii) the age of the employee at the time of the  
23 injury; (iv) the employee's future earning capacity; and (v)  
24 evidence of disability corroborated by objective findings in  
25 the treating medical records and independent medical

1 examinations. ~~No single enumerated factor shall be the sole~~  
2 ~~determinant of disability.~~ In determining the level of  
3 disability, the relevance and weight of any factors used in  
4 addition to the level of impairment as reported by the  
5 physician must be explained in a written order.

6 (Source: P.A. 97-18, eff. 6-28-11.)

7 (820 ILCS 305/8.2)

8 Sec. 8.2. Fee schedule.

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

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

1 region in which the employee resides. If no fee schedule exists  
2 in that state, the provider shall be reimbursed at the lesser  
3 of the actual charge or the fee schedule amount for the region  
4 in which the employee resides. Not later than September 30 in  
5 2006 and each year thereafter, the Commission shall  
6 automatically increase or decrease the maximum allowable  
7 payment for a procedure, treatment, or service established and  
8 in effect on January 1 of that year by the percentage change in  
9 the Consumer Price Index-U for the 12 month period ending  
10 August 31 of that year. The increase or decrease shall become  
11 effective on January 1 of the following year. As used in this  
12 Section, "Consumer Price Index-U" means the index published by  
13 the Bureau of Labor Statistics of the U.S. Department of Labor,  
14 that measures the average change in prices of all goods and  
15 services purchased by all urban consumers, U.S. city average,  
16 all items, 1982-84=100.

17 (a-1) Notwithstanding the provisions of subsection (a) and  
18 unless otherwise indicated, the following provisions shall  
19 apply to the medical fee schedule starting on September 1,  
20 2011:

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

1 pharmacy, dental services, and professional services. This  
2 fee schedule shall be based on the fee schedule amounts  
3 already established by the Commission pursuant to  
4 subsection (a) of this Section. However, starting on  
5 January 1, 2012, these fee schedule amounts shall be  
6 grouped into geographic regions in the following manner:

7 (A) Four regions for non-hospital fee schedule  
8 amounts shall be utilized:

9 (i) Cook County;

10 (ii) DuPage, Kane, Lake, and Will Counties;

11 (iii) Bond, Calhoun, Clinton, Jersey,  
12 Macoupin, Madison, Monroe, Montgomery, Randolph,  
13 St. Clair, and Washington Counties; and

14 (iv) All other counties of the State.

15 (B) Fourteen regions for hospital fee schedule  
16 amounts shall be utilized:

17 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,  
18 Kendall, and Grundy Counties;

19 (ii) Kankakee County;

20 (iii) Madison, St. Clair, Macoupin, Clinton,  
21 Monroe, Jersey, Bond, and Calhoun Counties;

22 (iv) Winnebago and Boone Counties;

23 (v) Peoria, Tazewell, Woodford, Marshall, and  
24 Stark Counties;

25 (vi) Champaign, Piatt, and Ford Counties;

26 (vii) Rock Island, Henry, and Mercer Counties;

- 1 (viii) Sangamon and Menard Counties;  
2 (ix) McLean County;  
3 (x) Lake County;  
4 (xi) Macon County;  
5 (xii) Vermilion County;  
6 (xiii) Alexander County; and  
7 (xiv) All other counties of the State.

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

13 (3) In cases where the compiled data contains less than  
14 9 charges or fees for a procedure, treatment, product,  
15 supply, or service or where the fee schedule amount cannot  
16 be determined by the non-discounted charge data,  
17 non-Medicare relative values and conversion factors  
18 derived from established fee schedule amounts, coding  
19 crosswalks, or other data as determined by the Commission,  
20 reimbursement shall occur at 76% of charges and fees until  
21 September 1, 2011 and 53.2% of charges and fees thereafter  
22 as determined by the Commission in a manner consistent with  
23 the provisions of this paragraph.

24 (4) To establish additional fee schedule amounts, the  
25 Commission shall utilize provider non-discounted charge  
26 data, non-Medicare relative values and conversion factors



1 derived from established fee schedule amounts, and coding  
2 crosswalks. The Commission may establish additional fee  
3 schedule amounts based on either the charge or cost of the  
4 procedure, treatment, product, supply, or service.

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

25 (6) The Commission shall automatically update all  
26 codes and associated rules with the version of the codes

1 and rules valid on January 1 of that year.

2 (a-2) For procedures, treatments, services, or supplies  
3 covered under this Act and rendered or to be rendered on or  
4 after September 1, 2011, the maximum allowable payment shall be  
5 70% of the fee schedule amounts, which shall be adjusted yearly  
6 by the Consumer Price Index-U, as described in subsection (a)  
7 of this Section.

8 (a-2.5) For procedures, treatments, services, or supplies  
9 rendered under Sections 1, 2, 6, 7, and 8 of the fee schedule  
10 covered under this Act and rendered or to be rendered on or  
11 after January 1, 2016, the maximum allowable payment shall be  
12 49% of the fee schedule amount, which shall be adjusted yearly  
13 by the Consumer Price Index-U, as described in subsection (a)  
14 of this Section. This shall not apply to any procedure,  
15 treatment, or service classified by an evaluation and  
16 management code or a physical medicine code in Section 8 of the  
17 fee schedule.

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

24 (b) Notwithstanding the provisions of subsection (a), if  
25 the Commission finds that there is a significant limitation on  
26 access to quality health care in either a specific field of

1 health care services or a specific geographic limitation on  
2 access to health care, it may change the Consumer Price Index-U  
3 increase or decrease for that specific field or specific  
4 geographic limitation on access to health care to address that  
5 limitation.

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

11 (d) When a patient notifies a provider that the treatment,  
12 procedure, or service being sought is for a work-related  
13 illness or injury and furnishes the provider the name and  
14 address of the responsible employer, the provider shall bill  
15 the employer directly. The employer shall make payment and  
16 providers shall submit bills and records in accordance with the  
17 provisions of this Section.

18 (1) All payments to providers for treatment provided  
19 pursuant to this Act shall be made within 30 days of  
20 receipt of the bills as long as the claim contains  
21 substantially all the required data elements necessary to  
22 adjudicate the bills.

23 (2) If the claim does not contain substantially all the  
24 required data elements necessary to adjudicate the bill, or  
25 the claim is denied for any other reason, in whole or in  
26 part, the employer or insurer shall provide written

1 notification, explaining the basis for the denial and  
2 describing any additional necessary data elements, to the  
3 provider within 30 days of receipt of the bill.

4 (3) In the case of nonpayment to a provider within 30  
5 days of receipt of the bill which contained substantially  
6 all of the required data elements necessary to adjudicate  
7 the bill or nonpayment to a provider of a portion of such a  
8 bill up to the lesser of the actual charge or the payment  
9 level set by the Commission in the fee schedule established  
10 in this Section, the bill, or portion of the bill, shall  
11 incur interest at a rate of 1% per month payable to the  
12 provider. Any required interest payments shall be made  
13 within 30 days after payment.

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

1 shall not bill or otherwise attempt to recover from the  
2 employee the difference between the provider's charge and the  
3 amount paid by the employer or the insurer on a compensable  
4 injury, or for medical services or treatment determined by the  
5 Commission to be excessive or unnecessary.

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

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

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

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

1 reminder, the provider is entitled to resume any and all  
2 efforts to collect payment from the employee for the services  
3 rendered to the employee and the employee shall be responsible  
4 for payment of any outstanding bills for a procedure,  
5 treatment, or service rendered by a provider.

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

24 (f) Nothing in this Act shall prohibit an employer or  
25 insurer from contracting with a health care provider or group  
26 of health care providers for reimbursement levels for benefits

1 under this Act different from those provided in this Section.

2 (g) On or before January 1, 2010 the Commission shall  
3 provide to the Governor and General Assembly a report regarding  
4 the implementation of the medical fee schedule and the index  
5 used for annual adjustment to that schedule as described in  
6 this Section.

7 (Source: P.A. 97-18, eff. 6-28-11.)

8 (820 ILCS 305/8.2a)

9 Sec. 8.2a. Electronic claims.

10 (a) The Illinois Workers' Compensation Commission ~~Director~~  
11 ~~of Insurance~~ shall adopt rules to do all of the following:

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

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

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

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

25 (c) The rules requiring employers and insurers to accept



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

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

10 (Source: P.A. 97-18, eff. 6-28-11.)

11 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

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

17 Each arbitrator appointed after June 28, 2011 shall be  
18 required to demonstrate in writing his or her knowledge of and  
19 expertise in the law of and judicial processes of the Workers'  
20 Compensation Act and the Occupational Diseases Act.

21 A formal training program for newly-hired arbitrators  
22 shall be implemented. The training program shall include the  
23 following:

24 (a) substantive and procedural aspects of the  
25 arbitrator position;

1 (b) current issues in workers' compensation law and  
2 practice;

3 (c) medical lectures by specialists in areas such as  
4 orthopedics, ophthalmology, psychiatry, rehabilitation  
5 counseling;

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

8 (e) observation of experienced arbitrators conducting  
9 hearings of cases, combined with the opportunity to discuss  
10 evidence presented and rulings made;

11 (f) the use of hypothetical cases requiring the trainee  
12 to issue judgments as a means to evaluating knowledge and  
13 writing ability;

14 (g) writing skills;

15 (h) professional and ethical standards pursuant to  
16 Section 1.1 of this Act;

17 (i) detection of workers' compensation fraud and  
18 reporting obligations of Commission employees and  
19 appointees;

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

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

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

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

24           Notwithstanding any other provision of this Section, the  
25 term of all arbitrators serving on the effective date of this  
26 amendatory Act of the 97th General Assembly, including any

1 arbitrators on administrative leave, shall terminate at the  
2 close of business on July 1, 2011, but the incumbents shall  
3 continue to exercise all of their duties until they are  
4 reappointed or their successors are appointed.

5 On and after the effective date of this amendatory Act of  
6 the 97th General Assembly, arbitrators shall be appointed to  
7 3-year terms as follows:

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

10 (2) For their initial appointments, 12 arbitrators  
11 shall be appointed to terms expiring July 1, 2012; 12  
12 arbitrators shall be appointed to terms expiring July 1,  
13 2013; and all additional arbitrators shall be appointed to  
14 terms expiring July 1, 2014. Thereafter, all arbitrators  
15 shall be appointed to 3-year terms.

16 Upon the expiration of a term, the Chairman shall evaluate  
17 the performance of the arbitrator and may recommend to the  
18 Governor that he or she be reappointed to a second or  
19 subsequent term by the Governor with the advice and consent of  
20 the Senate.

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

1           The performance of all arbitrators shall be reviewed by the  
2 Chairman on an annual basis. The Chairman shall allow input  
3 from the Commissioners in all such reviews.

4           The Commission shall assign no fewer than 3 arbitrators to  
5 each hearing site. The Commission shall establish a procedure  
6 to ensure that the arbitrators assigned to each hearing site  
7 are assigned cases on a random basis. The Chairman of the  
8 Illinois Workers' Compensation Commission shall have  
9 discretion to assign and reassign arbitrators to each hearing  
10 site as needed. ~~No arbitrator shall hear cases in any county,~~  
11 ~~other than Cook County, for more than 2 years in each 3-year~~  
12 ~~term.~~

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

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

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

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

16           (Source: P.A. 97-18, eff. 6-28-11; 97-719, eff. 6-29-12; 98-40,  
17 eff. 6-28-13.)

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

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

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

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

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

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

1           if given within the time required herein.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

1           this Act and the date of such conference;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



1 attorney or designated representative.

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

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

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

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

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

1 for such service.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 The Commission shall not be required to certify the  
21 record of their proceedings to the Circuit Court, unless  
22 the party commencing the proceedings for review in the  
23 Circuit Court as above provided, shall file with the  
24 Commission notice of intent to file for review in Circuit  
25 Court. It shall be the duty of the Commission upon such  
26 filing of notice of intent to file for review in the



1 Circuit Court to prepare a true and correct copy of such  
2 testimony and a true and correct copy of all other matters  
3 contained in such record and certified to by the Secretary  
4 or Assistant Secretary thereof. The changes made to this  
5 subdivision (f)(1) by this amendatory Act of the 98th  
6 General Assembly apply to any Commission decision entered  
7 after the effective date of this amendatory Act of the 98th  
8 General Assembly.

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

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

1 clerk of the court. The acceptance of the bond by the clerk  
2 of the court shall constitute evidence of his approval of  
3 the bond.

4 The State of Illinois, including its constitutional  
5 officers, boards, commissions, agencies, public  
6 institutions of higher learning, and funds administered by  
7 the Treasurer ex officio, and every ~~Every~~ county, city,  
8 town, township, incorporated village, school district,  
9 body politic or municipal corporation against whom the  
10 Commission shall have rendered an award for the payment of  
11 money shall not be required to file a bond to secure the  
12 payment of the award and the costs of the proceedings in  
13 the court to authorize the court to issue such summons.

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

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

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

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

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

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

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

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

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

26 On such review, compensation payments may be

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

5 (Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13; 98-874,  
6 eff. 1-1-15.)