



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4248

by Rep. Jim Durkin

SYNOPSIS AS INTRODUCED:

See Index

Amends the Workers' Compensation Act. Provides that, to obtain compensation under the Act, an employee bears the burden of showing, by a preponderance of the credible evidence, that he or she has sustained accidental injuries arising out of and in the course of the employment and the accidental injuries arising out of and in the course of the employment are the major contributing cause of the medical condition or injury for which compensation is being sought. Defines "major contributing cause". Provides that accidental injuries are not considered to be arising out of and in the course of employment under specified circumstances; adds provisions regarding certain injuries; provides that an injury, its occupational cause, and any resulting manifestations or disability must be established to a reasonable degree of medical certainty, based on objective relevant medical findings; and adds provisions regarding employees who are traveling or on a break. Makes changes regarding workers' compensation insurance. Provides for a reduction of an award by amounts an injured worker has previously received for prior injuries that resulted in permanency awards. Reduces certain payments under fee schedules. Provides that the Illinois Workers' Compensation Commission, rather than the Director of Insurance, shall adopt rules regarding electronic claims. Provides that the Commission shall establish the Workers' Compensation Ombudsman Program within the Commission and sets forth the Program's responsibilities. Creates the Workers' Compensation Edit, Alignment, and Reform Commission to develop a proposed recodification of the Workers' Compensation Act. Provides that the Commission shall procure and implement a computer system to replace its current computer system. Makes changes regarding unlawful acts and penalties. Makes other changes.

LRB099 13064 SXM 36948 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, 19, and 25.5
6 and by adding Sections 14.2, 14.3, and 14.4 as 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. The
16 "major contributing cause" of a medical condition or injury is
17 the cause that is greater than 50% of all combined causes of
18 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 before that time sustained an injury
26 resulting in an award or settlement for permanency given under

1 paragraph 2 of paragraph (d) of this Section, such award shall
2 be deducted from any award made for the subsequent injury
3 resulting in an award or settlement for permanency given under
4 paragraph 2 of paragraph (d) of this Section.

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 permanency award, including without
11 limitation the loss by amputation or partial loss by
12 amputation of any member, including hand, arm, thumb or
13 fingers, leg, foot or any toes, the partial loss of sight
14 of an eye, or an award given under paragraph (2) of
15 paragraph (d) of Section 8, such award ~~loss or partial loss~~
16 ~~of any such member~~ shall be deducted from any award made
17 for the subsequent injury. ~~For the permanent loss of use or~~
18 ~~the permanent partial loss of use of any such member or the~~
19 ~~partial loss of sight of an eye, for which compensation has~~
20 ~~been paid, then such loss shall be taken into consideration~~
21 ~~and deducted from any award for the subsequent injury.~~

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

1 paragraph (f) of this Section. These specific cases of
2 total and permanent disability do not exclude other cases.

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

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

20 Beginning July 1, 1980, and every 6 months thereafter, the
21 Commission shall examine the Second Injury Fund and when, after
22 deducting all advances or loans made to such Fund, the amount
23 therein is \$500,000 then the amount required to be paid by
24 employers pursuant to paragraph (f) of Section 7 shall be
25 reduced by one-half. When the Second Injury Fund reaches the
26 sum of \$600,000 then the payments shall cease entirely.

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

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

23 (f) In case of complete disability, which renders the
24 employee wholly and permanently incapable of work, or in the
25 specific case of total and permanent disability as provided in
26 subparagraph 18 of paragraph (e) of this Section, compensation

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

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

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

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

23 If an employee who had previously incurred loss or the
24 permanent and complete loss of use of one member, through the
25 loss or the permanent and complete loss of the use of one hand,
26 one arm, one foot, one leg, or one eye, incurs permanent and

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

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

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

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

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

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

1 first be made on July 15, 1977, and all awards made and entered
2 prior to July 1, 1975 and on July 15 of each year thereafter.
3 In all other cases such adjustment shall be made on July 15 of
4 the second year next following the date of the entry of the
5 award and shall further be made on July 15 annually thereafter.
6 If during the intervening period from the date of the entry of
7 the award, or the last periodic adjustment, there shall have
8 been an increase in the State's average weekly wage in covered
9 industries under the Unemployment Insurance Act, the weekly
10 compensation rate shall be proportionately increased by the
11 same percentage as the percentage of increase in the State's
12 average weekly wage in covered industries under the
13 Unemployment Insurance Act. The increase in the compensation
14 rate under this paragraph shall in no event bring the total
15 compensation rate to an amount greater than the prevailing
16 maximum rate at the time that the annual adjustment is made.
17 Such increase shall be paid in the same manner as herein
18 provided for payments under the Second Injury Fund to the
19 injured employee, or his dependents, as the case may be, out of
20 the Rate Adjustment Fund provided in paragraph (f) of Section 7
21 of this Act. Payments shall be made at the same intervals as
22 provided in the award or, at the option of the Commission, may
23 be made in quarterly payment on the 15th day of January, April,
24 July and October of each year. In the event of a decrease in
25 such average weekly wage there shall be no change in the then
26 existing compensation rate. The within paragraph shall not

1 apply to cases where there is disputed liability and in which a
2 compromise lump sum settlement between the employer and the
3 injured employee, or his dependents, as the case may be, has
4 been duly approved by the Illinois Workers' Compensation
5 Commission.

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

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

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

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

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

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

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

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

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

25 Nothing herein contained repeals or amends the provisions
26 of the Child Labor Law relating to the employment of minors

1 under the age of 16 years.

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

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

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

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

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

24 (Source: P.A. 97-18, eff. 6-28-11; 97-268, eff. 8-8-11; 97-813,
25 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) if such a report exists; (ii) the
22 occupation of the injured employee; (iii) the age of the
23 employee at the time of the injury; (iv) the employee's future
24 earning capacity; and (v) evidence of disability corroborated
25 by objective findings in the treating medical records and
26 independent medical examinations. ~~No single enumerated factor~~

1 ~~shall be the sole determinant of disability.~~ In determining the
2 level of disability, the relevance and weight of any factors
3 used in addition to the level of impairment as reported by the
4 physician must be explained in a written order.

5 (c) A report of impairment prepared pursuant to subsection
6 (a) is not required for the arbitrator or Commission to approve
7 a Settlement Contract Lump Sum Petition.

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

9 (820 ILCS 305/8.2)

10 Sec. 8.2. Fee schedule.

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

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

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

19 (a-1) Notwithstanding the provisions of subsection (a) and
20 unless otherwise indicated, the following provisions shall
21 apply to the medical fee schedule starting on September 1,
22 2011:

23 (1) The Commission shall establish and maintain fee
24 schedules for procedures, treatments, products, services,
25 or supplies for hospital inpatient, hospital outpatient,
26 emergency room, ambulatory surgical treatment centers,

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

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

11 (i) Cook County;

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

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

16 (iv) All other counties of the State.

17 (B) Fourteen regions for hospital fee schedule
18 amounts shall be utilized:

19 (i) Cook, DuPage, Will, Kane, McHenry, DeKalb,
20 Kendall, and Grundy Counties;

21 (ii) Kankakee County;

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

24 (iv) Winnebago and Boone Counties;

25 (v) Peoria, Tazewell, Woodford, Marshall, and
26 Stark Counties;

- 1 (vi) Champaign, Piatt, and Ford Counties;
2 (vii) Rock Island, Henry, and Mercer Counties;
3 (viii) Sangamon and Menard Counties;
4 (ix) McLean County;
5 (x) Lake County;
6 (xi) Macon County;
7 (xii) Vermilion County;
8 (xiii) Alexander County; and
9 (xiv) All other counties of the State.

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

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

26 (4) To establish additional fee schedule amounts, the

1 Commission shall utilize provider non-discounted charge
2 data, non-Medicare relative values and conversion factors
3 derived from established fee schedule amounts, and coding
4 crosswalks. The Commission may establish additional fee
5 schedule amounts based on either the charge or cost of the
6 procedure, treatment, product, supply, or service.

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

1 (6) The Commission shall automatically update all
2 codes and associated rules with the version of the codes
3 and rules valid on January 1 of that year.

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

10 (a-2.5) For procedures, treatments, services, or supplies
11 covered under this Act and rendered or to be rendered on or
12 after June 1, 2016, the maximum allowable payment for the
13 following service categories set forth in Title 50, Section
14 7110.90 of the Illinois Administrative Code shall be 70% of the
15 fee schedule amounts in effect on May 31, 2016, which shall be
16 adjusted yearly by the Consumer Price Index-U, as described in
17 subsection (a) of this Section:

18 (1) Section 1: Ambulatory Surgical Treatment Center
19 (ASTC) and Accredited Ambulatory Surgical Treatment
20 Facility (ASTF).

21 (2) Section 2: Anesthesia.

22 (3) Section 6: Hospital Inpatient Services: Standard
23 and Trauma.

24 (4) Section 7: Hospital Outpatient.

25 (5) Section 8: Professional Services.

26 The 30% reduction shall not apply to any procedure,

1 treatment, or service classified by an evaluation and
2 management code or a physical medicine code on the fee
3 schedule.

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

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

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

23 (d) When a patient notifies a provider that the treatment,
24 procedure, or service being sought is for a work-related
25 illness or injury and furnishes the provider the name and
26 address of the responsible employer, the provider shall bill

1 the employer directly. The employer shall make payment and
2 providers shall submit bills and records in accordance with the
3 provisions of this Section.

4 (1) All payments to providers for treatment provided
5 pursuant to this Act shall be made within 30 days of
6 receipt of the bills as long as the claim contains
7 substantially all the required data elements necessary to
8 adjudicate the bills.

9 (2) If the claim does not contain substantially all the
10 required data elements necessary to adjudicate the bill, or
11 the claim is denied for any other reason, in whole or in
12 part, the employer or insurer shall provide written
13 notification, explaining the basis for the denial and
14 describing any additional necessary data elements, to the
15 provider within 30 days of receipt of the bill.

16 (3) In the case of nonpayment to a provider within 30
17 days of receipt of the bill which contained substantially
18 all of the required data elements necessary to adjudicate
19 the bill or nonpayment to a provider of a portion of such a
20 bill up to the lesser of the actual charge or the payment
21 level set by the Commission in the fee schedule established
22 in this Section, the bill, or portion of the bill, shall
23 incur interest at a rate of 1% per month payable to the
24 provider. Any required interest payments shall be made
25 within 30 days after payment.

26 (e) Except as provided in subsections (e-5), (e-10), and

1 (e-15), a provider shall not hold an employee liable for costs
2 related to a non-disputed procedure, treatment, or service
3 rendered in connection with a compensable injury. The
4 provisions of subsections (e-5), (e-10), (e-15), and (e-20)
5 shall not apply if an employee provides information to the
6 provider regarding participation in a group health plan. If the
7 employee participates in a group health plan, the provider may
8 submit a claim for services to the group health plan. If the
9 claim for service is covered by the group health plan, the
10 employee's responsibility shall be limited to applicable
11 deductibles, co-payments, or co-insurance. Except as provided
12 under subsections (e-5), (e-10), (e-15), and (e-20), a provider
13 shall not bill or otherwise attempt to recover from the
14 employee the difference between the provider's charge and the
15 amount paid by the employer or the insurer on a compensable
16 injury, or for medical services or treatment determined by the
17 Commission to be excessive or unnecessary.

18 (e-5) If an employer notifies a provider that the employer
19 does not consider the illness or injury to be compensable under
20 this Act, the provider may seek payment of the provider's
21 actual charges from the employee for any procedure, treatment,
22 or service rendered. Once an employee informs the provider that
23 there is an application filed with the Commission to resolve a
24 dispute over payment of such charges, the provider shall cease
25 any and all efforts to collect payment for the services that
26 are the subject of the dispute. Any statute of limitations or

1 statute of repose applicable to the provider's efforts to
2 collect payment from the employee shall be tolled from the date
3 that the employee files the application with the Commission
4 until the date that the provider is permitted to resume
5 collection efforts under the provisions of this Section.

6 (e-10) If an employer notifies a provider that the employer
7 will pay only a portion of a bill for any procedure, treatment,
8 or service rendered in connection with a compensable illness or
9 disease, the provider may seek payment from the employee for
10 the remainder of the amount of the bill up to the lesser of the
11 actual charge, negotiated rate, if applicable, or the payment
12 level set by the Commission in the fee schedule established in
13 this Section. Once an employee informs the provider that there
14 is an application filed with the Commission to resolve a
15 dispute over payment of such charges, the provider shall cease
16 any and all efforts to collect payment for the services that
17 are the subject of the dispute. Any statute of limitations or
18 statute of repose applicable to the provider's efforts to
19 collect payment from the employee shall be tolled from the date
20 that the employee files the application with the Commission
21 until the date that the provider is permitted to resume
22 collection efforts under the provisions of this Section.

23 (e-15) When there is a dispute over the compensability of
24 or amount of payment for a procedure, treatment, or service,
25 and a case is pending or proceeding before an Arbitrator or the
26 Commission, the provider may mail the employee reminders that

1 the employee will be responsible for payment of any procedure,
2 treatment or service rendered by the provider. The reminders
3 must state that they are not bills, to the extent practicable
4 include itemized information, and state that the employee need
5 not pay until such time as the provider is permitted to resume
6 collection efforts under this Section. The reminders shall not
7 be provided to any credit rating agency. The reminders may
8 request that the employee furnish the provider with information
9 about the proceeding under this Act, such as the file number,
10 names of parties, and status of the case. If an employee fails
11 to respond to such request for information or fails to furnish
12 the information requested within 90 days of the date of the
13 reminder, the provider is entitled to resume any and all
14 efforts to collect payment from the employee for the services
15 rendered to the employee and the employee shall be responsible
16 for payment of any outstanding bills for a procedure,
17 treatment, or service rendered by a provider.

18 (e-20) Upon a final award or judgment by an Arbitrator or
19 the Commission, or a settlement agreed to by the employer and
20 the employee, a provider may resume any and all efforts to
21 collect payment from the employee for the services rendered to
22 the employee and the employee shall be responsible for payment
23 of any outstanding bills for a procedure, treatment, or service
24 rendered by a provider as well as the interest awarded under
25 subsection (d) of this Section. In the case of a procedure,
26 treatment, or service deemed compensable, the provider shall

1 not require a payment rate, excluding the interest provisions
2 under subsection (d), greater than the lesser of the actual
3 charge or the payment level set by the Commission in the fee
4 schedule established in this Section. Payment for services
5 deemed not covered or not compensable under this Act is the
6 responsibility of the employee unless a provider and employee
7 have agreed otherwise in writing. Services not covered or not
8 compensable under this Act are not subject to the fee schedule
9 in this Section.

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

14 (g) On or before January 1, 2010 the Commission shall
15 provide to the Governor and General Assembly a report regarding
16 the implementation of the medical fee schedule and the index
17 used for annual adjustment to that schedule as described in
18 this Section.

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

20 (820 ILCS 305/8.2a)

21 Sec. 8.2a. Electronic claims.

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

24 (1) Ensure that all health care providers and
25 facilities submit medical bills for payment on

1 standardized forms.

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

4 (3) Ensure confidentiality of medical information
5 submitted on electronic claims for payment of medical
6 services.

7 (4) Ensure that the rules establishing electronic
8 claims include a specific enforcement mechanism to ensure
9 compliance with these rules.

10 (5) Ensure that health care providers have at least 15
11 business days to comply with records requested by employers
12 and insurers for the authorization of the payment of
13 workers' compensation claims.

14 (b) To the extent feasible, standards adopted pursuant to
15 subdivision (a) shall be consistent with existing standards
16 under the federal Health Insurance Portability and
17 Accountability Act of 1996 and standards adopted under the
18 Illinois Health Information Exchange and Technology Act.

19 (c) The rules requiring employers and insurers to accept
20 electronic claims for payment of medical services shall be
21 proposed on or before May 31, 2016 ~~January 1, 2012~~, and shall
22 require all employers and insurers to accept electronic claims
23 for payment of medical services on or before January 1, 2017
24 ~~June 30, 2012~~.

25 (d) The Illinois Workers' Compensation Commission ~~Director~~
26 ~~of Insurance~~ shall by rule establish criteria for granting

1 exceptions to employers, insurance carriers, and health care
2 providers who are unable to submit or accept medical bills
3 electronically.

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

5 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

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

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

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

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

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

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

25 (d) orientation to each operational unit of the

1 Illinois Workers' Compensation Commission;

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

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

8 (g) writing skills;

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

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

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

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

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

1 enhancing their professional competence. Each arbitrator shall
2 complete 20 hours of training in the above-noted areas during
3 every 2 years such arbitrator shall remain in office.

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

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

25 On and after the effective date of this amendatory Act of
26 the 97th General Assembly, arbitrators shall be appointed to

1 3-year terms as follows:

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

4 (2) For their initial appointments, 12 arbitrators
5 shall be appointed to terms expiring July 1, 2012; 12
6 arbitrators shall be appointed to terms expiring July 1,
7 2013; and all additional arbitrators shall be appointed to
8 terms expiring July 1, 2014. Thereafter, all arbitrators
9 shall be appointed to 3-year terms.

10 Upon the expiration of a term, the Chairman shall evaluate
11 the performance of the arbitrator and may recommend to the
12 Governor that he or she be reappointed to a second or
13 subsequent term by the Governor with the advice and consent of
14 the Senate.

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

21 The performance of all arbitrators shall be reviewed by the
22 Chairman on an annual basis. The Chairman shall allow input
23 from the Commissioners in all such reviews.

24 The Commission shall assign no fewer than 3 arbitrators to
25 each hearing site. The Commission shall establish a procedure
26 to ensure that the arbitrators assigned to each hearing site

1 are assigned cases on a random basis. The Chairman of the
2 Workers' Compensation Commission shall have discretion to
3 assign and reassign arbitrators to each hearing site as needed.
4 ~~No arbitrator shall hear cases in any county, other than Cook~~
5 ~~County, for more than 2 years in each 3 year term.~~

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

10 The members of the Commission, Arbitrators and other
11 employees whose duties require them to travel, shall have
12 reimbursed to them their actual traveling expenses and
13 disbursements made or incurred by them in the discharge of
14 their official duties while away from their place of residence
15 in the performance of their duties.

16 The Commission shall provide itself with a seal for the
17 authentication of its orders, awards and proceedings upon which
18 shall be inscribed the name of the Commission and the words
19 "Illinois--Seal".

20 The Secretary or Assistant Secretary, under the direction
21 of the Commission, shall have charge and custody of the seal of
22 the Commission and also have charge and custody of all records,
23 files, orders, proceedings, decisions, awards and other
24 documents on file with the Commission. He shall furnish
25 certified copies, under the seal of the Commission, of any such
26 records, files, orders, proceedings, decisions, awards and

1 other documents on file with the Commission as may be required.
2 Certified copies so furnished by the Secretary or Assistant
3 Secretary shall be received in evidence before the Commission
4 or any Arbitrator thereof, and in all courts, provided that the
5 original of such certified copy is otherwise competent and
6 admissible in evidence. The Secretary or Assistant Secretary
7 shall perform such other duties as may be prescribed from time
8 to time by the Commission.

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

11 (820 ILCS 305/14.2 new)

12 Sec. 14.2. Workers' Compensation Ombudsman Program.

13 (a) The Illinois Workers' Compensation Commission shall
14 establish the Workers' Compensation Ombudsman Program as a
15 program within the Commission no later than July 1, 2016. The
16 Ombudsman Program shall provide assistance to all regions of
17 the State. The Ombudsman Program shall be staffed with
18 personnel who are trained in techniques performed by ombudsmen
19 and who are familiar with the Commission.

20 The Ombudsman Program may:

21 (1) assist injured workers with the use of the
22 Commission's information portal;

23 (2) provide information to employers, employees, and
24 medical provider with questions about workers'
25 compensation fraud;

1 (3) assist injured employees with referral to local,
2 State, and federal financial assistance, rehabilitation,
3 and work placement programs, as well as other social
4 services that the Ombudsman Program considers appropriate;

5 (4) respond to inquiries and complaints relative to the
6 workers' compensation program; and

7 (5) serve as an information source for employees,
8 employers, medical, vocational, and rehabilitation
9 personnel, insurers, third-party administrators, and
10 self-insurers.

11 (b) Individuals within the Ombudsman Program may not appear
12 or intervene, as a party or otherwise, before the Commission on
13 behalf of an injured employee, employer, or medical provider.
14 This Section shall not construed as requiring or allowing legal
15 representation for an injured employee by the Ombudsman Program
16 in any proceeding for the Commission.

17 (820 ILCS 305/14.3 new)

18 Sec. 14.3. WEAR Commission.

19 (a) There is created the Workers' Compensation Edit,
20 Alignment, and Reform Commission, which shall be known as the
21 WEAR Commission. The purpose of the WEAR Commission is to
22 develop a proposed recodification of the Workers' Compensation
23 Act that meets the following goals:

24 (1) to make this Act more accessible to laypeople
25 seeking benefits under this Act and employers seeking

1 insurance coverage for their responsibilities under this
2 Act;

3 (2) to aid the Commission, attorneys, and judges in
4 understanding and applying the provisions of this Act;

5 (3) to prevent disputes over interpretations of this
6 Act that can add additional costs to the function and
7 administration of the workers' compensation system;

8 (4) to reduce the size of each Section of this Act to
9 promote understanding, interpretation, and indexing of
10 this Act;

11 (5) to assist policymakers so that they can more easily
12 understand the implications of amendments to this Act that
13 may be proposed in the future;

14 (6) to replace outdated and obsolete language within
15 this Act;

16 (7) to limit the opportunity for lengthy and expensive
17 appeals due to confusion or contrary language within this
18 Act; and

19 (8) to meet the preceding objectives without changing
20 substantive law or disturbing established case law
21 precedent.

22 (b) The members of the WEAR Commission shall be as follows:

23 (1) One Senator appointed the President of the Senate;

24 (2) One Senator appointed by the Minority Leader of the
25 Senate;

26 (3) One Representative appointed by the Speaker of the

1 House of Representatives;

2 (4) One Representative appointed by the Minority
3 Leader of the House of Representatives;

4 (5) Four attorneys representing petitioners, one each
5 appointed by the President of the Senate, the Minority
6 Leader of the Senate, Speaker of the House of
7 Representatives, and Minority Leader of the House of
8 Representatives; and

9 (6) Four attorneys representing respondents, one each
10 appointed by the President of the Senate, Minority Leader
11 of the Senate, Speaker of the House of Representatives, and
12 Minority Leader of the House of Representatives.

13 The members of the WEAR Commission shall serve without
14 compensation. The Chairperson of the Illinois Workers'
15 Compensation Commission shall serve as Chairperson of the WEAR
16 Commission.

17 (c) The Illinois Workers' Compensation Commission, the
18 Workers' Compensation Insurance Compliance Unit, and the
19 Legislative Reference Bureau shall provide administrative
20 support for the WEAR Commission.

21 (d) The WEAR Commission shall present a report to the
22 General Assembly no later than July 1, 2017. This report shall
23 include a draft of proposed legislation for the reorganization
24 of the Workers' Compensation Act that accomplishes the goals
25 set forth by this Section.

26 (e) This Section is repealed on January 1, 2018.

1 (820 ILCS 305/14.4 new)

2 Sec. 14.4. System improvements.

3 (a) By January 1, 2017, the Commission shall procure and
4 implement a computer system to replace its current outdated and
5 obsolete mainframe computer system. The Commission shall use
6 the funds allocated for this purpose as set forth in the
7 settlement agreement for the case entitled Illinois State
8 Chamber of Commerce v. Filan.

9 (b) The system procured by the Commission shall have all of
10 the following capabilities:

11 (1) require the electronic filing of claims before the
12 Commission, including the Application for Adjustment of
13 Claim and all subsequent filings by a petitioner or
14 respondent; the electronic filing fields for the
15 Application of Adjustment of Claim shall include the
16 following:

17 (i) for cases involving the State of Illinois, a
18 data field for the specific agency, department,
19 constitutional officer, board, or commission;

20 (ii) a data field for the petitioner to indicate
21 that the claim involves a repetitive injury;

22 (iii) a data field for the petitioner to indicate
23 that the claim involved an injury incurred when the
24 petitioner was traveling as part of his or her
25 employment; and

1 (iv) a data field for the petitioner to indicate
2 that he or she is pro se;

3 (2) allow for a searchable portal for injured workers
4 to access their cases status, including respondent or
5 respondent's attorney contact information, arbitrator
6 name, call location, and date;

7 (3) allow for the respondent to indicate the insurance
8 carrier of the employer, or third-party administrator of
9 the employer, if self-insured;

10 (4) allow for documents and exhibits to be uploaded
11 electronically;

12 (5) allow for the case history of each claim to be
13 viewed in a summary format arranged by the date of each
14 filing or hearing, which shall be available to the public;

15 (6) allow for the attorney of record for the
16 petitioner, if any, and the respondent to be clearly
17 indicated on any summary format, including the attorney who
18 actually tried or argued the case before an arbitrator or
19 Commissioner;

20 (7) allow for the decision of the arbitrator or the
21 Commission to be uploaded electronically;

22 (8) allow for the following data reports to be produced
23 from the electronic system:

24 (i) the total number of decisions by each
25 arbitrator within any time period;

26 (ii) the total number of awards by injury type,

1 including repetitive injury or injuries suffered by
2 employees when traveling in the course of their
3 employment or alleged to be suffered by employees when
4 traveling in the course of their employment;

5 (iii) the penalties assessed against employers,
6 searchable by each employer;

7 (iv) the total number of decisions by each panel of
8 Commissioners;

9 (v) the total number of claims filed by State
10 employees within any time period;

11 (vi) the total number of new claims filed in each
12 arbitration zone;

13 (vii) the total number of Settlement Contract Lump
14 Sum Petitions; and

15 (viii) the industry types of employers against
16 whom claims are filed;

17 (9) allow for an electronic, searchable record of any
18 approved Settlement Contract Lump Petitions, including the
19 amount of such Settlement Contract Lump Sum Petitions, the
20 type of injury, and the attorneys representing each party,
21 if any, for such Settlement Contract Lump Sum Petitions;

22 (10) allow for the random assignment of cases by
23 arbitrator and to the Commission panels, if appealed;

24 (11) allow for the electronic transmission of the
25 record of proceedings before the Commission to be
26 transmitted to the circuit court in the event of an appeal

1 from the Commission; and

2 (12) ensure the confidentiality of all protected
3 information, including medical records.

4 (c) The Commission shall make all efforts to ensure that
5 parties practicing before the Commission, including injured
6 employees, are aware of the changes required by the procurement
7 of the computer system required by this Section.

8 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

23 2. Whenever any claimant misconceives his remedy and
24 files an application for adjustment of claim under the
25 Workers' Occupational Diseases Act and it is subsequently

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

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

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

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

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

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

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

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

19 Expedited hearings shall have priority over all other
20 petitions and shall be heard by the Arbitrator and Commission
21 with all convenient speed. Any party requesting an expedited
22 hearing shall give notice of a request for an expedited hearing
23 under this paragraph. A copy of the Application for Adjustment
24 of Claim shall be attached to the notice. The Commission shall
25 adopt rules and procedures under which the final decision of
26 the Commission under this paragraph is filed not later than 180

1 days from the date that the Petition for Review is filed with
2 the Commission.

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

19 (b-1) If the employee is not receiving medical, surgical or
20 hospital services as provided in paragraph (a) of Section 8 or
21 compensation as provided in paragraph (b) of Section 8, the
22 employee, in accordance with Commission Rules, may file a
23 petition for an emergency hearing by an Arbitrator on the issue
24 of whether or not he is entitled to receive payment of such
25 compensation or services as provided therein. Such petition
26 shall have priority over all other petitions and shall be heard

1 by the Arbitrator and Commission with all convenient speed.

2 Such petition shall contain the following information and
3 shall be served on the employer at least 15 days before it is
4 filed:

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

6 (ii) the approximate location of the accident;

7 (iii) a description of the accident;

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

9 (v) the identity of the person, if known, to whom the
10 accident was reported and the date on which it was
11 reported;

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

18 (vii) a statement that the employer has refused to pay
19 compensation pursuant to paragraph (b) of Section 8 of this
20 Act or for medical, surgical or hospital services pursuant
21 to paragraph (a) of Section 8 of this Act;

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

25 (ix) the dates of treatment related to the accident by
26 medical practitioners, and the names and addresses of such

1 practitioners, including the dates of treatment related to
2 the accident at any hospitals and the names and addresses
3 of such hospitals, and a signed authorization permitting
4 the employer to examine all medical records of all
5 practitioners and hospitals named pursuant to this
6 paragraph;

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

23 (xi) complete copies of any reports, records,
24 documents and affidavits in the possession of the employee
25 on which the employee will rely to support his allegations,
26 provided that the employer shall pay the reasonable cost of

1 reproduction thereof;

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

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

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

19 The employer shall, within 15 days after receipt of the
20 notice that such petition is filed, file with the Commission
21 and serve on the employee or his representative a written
22 response to each claim set forth in the petition, including the
23 legal and factual basis for each disputed allegation and the
24 following information: (i) complete copies of any reports,
25 records, documents and affidavits in the possession of the
26 employer on which the employer intends to rely in support of

1 his response, (ii) a list of any reports, records, documents
2 and affidavits which the employer has demanded by subpoena and
3 on which the employer intends to rely in support of his
4 response, (iii) the name and address of each witness on whom
5 the employer will rely to support his response, and (iv) the
6 names and addresses of any medical practitioners selected by
7 the employer pursuant to Section 12 of this Act and the time
8 and place of any examination scheduled to be made pursuant to
9 such Section.

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

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

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

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

18 (c)(1) At a reasonable time in advance of and in connection
19 with the hearing under Section 19(e) or 19(h), the Commission
20 may on its own motion order an impartial physical or mental
21 examination of a petitioner whose mental or physical condition
22 is in issue, when in the Commission's discretion it appears
23 that such an examination will materially aid in the just
24 determination of the case. The examination shall be made by a
25 member or members of a panel of physicians chosen for their
26 special qualifications by the Illinois State Medical Society.

1 The Commission shall establish procedures by which a physician
2 shall be selected from such list.

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

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

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

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

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

23 (d) If any employee shall persist in insanitary or
24 injurious practices which tend to either imperil or retard his
25 recovery or shall refuse to submit to such medical, surgical,
26 or hospital treatment as is reasonably essential to promote his

1 recovery, the Commission may, in its discretion, reduce or
2 suspend the compensation of any such injured employee. However,
3 when an employer and employee so agree in writing, the
4 foregoing provision shall not be construed to authorize the
5 reduction or suspension of compensation of an employee who is
6 relying in good faith, on treatment by prayer or spiritual
7 means alone, in accordance with the tenets and practice of a
8 recognized church or religious denomination, by a duly
9 accredited practitioner thereof.

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

19 In all cases in which the hearing before the arbitrator is
20 held after December 18, 1989, no additional evidence shall be
21 introduced by the parties before the Commission on review of
22 the decision of the Arbitrator. In reviewing decisions of an
23 arbitrator the Commission shall award such temporary
24 compensation, permanent compensation and other payments as are
25 due under this Act. The Commission shall file in its office its
26 decision thereon, and shall immediately send to each party or

1 his attorney a copy of such decision and a notification of the
2 time when it was filed. Decisions shall be filed within 60 days
3 after the Statement of Exceptions and Supporting Brief and
4 Response thereto are required to be filed or oral argument
5 whichever is later.

6 In the event either party requests oral argument, such
7 argument shall be had before a panel of 3 members of the
8 Commission (or before all available members pursuant to the
9 determination of 7 members of the Commission that such argument
10 be held before all available members of the Commission)
11 pursuant to the rules and regulations of the Commission. A
12 panel of 3 members, which shall be comprised of not more than
13 one representative citizen of the employing class and not more
14 than one representative citizen of the employee class, shall
15 hear the argument; provided that if all the issues in dispute
16 are solely the nature and extent of the permanent partial
17 disability, if any, a majority of the panel may deny the
18 request for such argument and such argument shall not be held;
19 and provided further that 7 members of the Commission may
20 determine that the argument be held before all available
21 members of the Commission. A decision of the Commission shall
22 be approved by a majority of Commissioners present at such
23 hearing if any; provided, if no such hearing is held, a
24 decision of the Commission shall be approved by a majority of a
25 panel of 3 members of the Commission as described in this
26 Section. The Commission shall give 10 days' notice to the

1 parties or their attorneys of the time and place of such taking
2 of testimony and of such argument.

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

25 If a reporter does not for any reason furnish a transcript
26 of the proceedings before the Arbitrator in any case for use on

1 a hearing for review before the Commission, within the
2 limitations of time as fixed in this Section, the Commission
3 may, in its discretion, order a trial de novo before the
4 Commission in such case upon application of either party. The
5 applications for adjustment of claim and other documents in the
6 nature of pleadings filed by either party, together with the
7 decisions of the Arbitrator and of the Commission and the
8 statement of facts or transcript of evidence hereinbefore
9 provided for in paragraphs (b) and (c) shall be the record of
10 the proceedings of the Commission, and shall be subject to
11 review as hereinafter provided.

12 At the request of either party or on its own motion, the
13 Commission shall set forth in writing the reasons for the
14 decision, including findings of fact and conclusions of law
15 separately stated. The Commission shall by rule adopt a format
16 for written decisions for the Commission and arbitrators. The
17 written decisions shall be concise and shall succinctly state
18 the facts and reasons for the decision. The Commission may
19 adopt in whole or in part, the decision of the arbitrator as
20 the decision of the Commission. When the Commission does so
21 adopt the decision of the arbitrator, it shall do so by order.
22 Whenever the Commission adopts part of the arbitrator's
23 decision, but not all, it shall include in the order the
24 reasons for not adopting all of the arbitrator's decision. When
25 a majority of a panel, after deliberation, has arrived at its
26 decision, the decision shall be filed as provided in this

1 Section without unnecessary delay, and without regard to the
2 fact that a member of the panel has expressed an intention to
3 dissent. Any member of the panel may file a dissent. Any
4 dissent shall be filed no later than 10 days after the decision
5 of the majority has been filed.

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

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

25 (1) Except in cases of claims against the State of
26 Illinois other than those claims under Section 18.1, in

1 which case the decision of the Commission shall not be
2 subject to judicial review, the Circuit Court of the county
3 where any of the parties defendant may be found, or if none
4 of the parties defendant can be found in this State then
5 the Circuit Court of the county where the accident
6 occurred, shall by summons to the Commission have power to
7 review all questions of law and fact presented by such
8 record.

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

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

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

25 No request for a summons may be filed and no summons
26 shall issue unless the party seeking to review the decision

1 of the Commission shall exhibit to the clerk of the Circuit
2 Court proof of filing with the Commission of the notice of
3 the intent to file for review in the Circuit Court or an
4 affidavit of the attorney setting forth that notice of
5 intent to file for review in the Circuit Court has been
6 given in writing to the Secretary or Assistant Secretary of
7 the Commission.

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

20 The State of Illinois, including its constitutional
21 officers, boards, commissions, agencies, public
22 institutions of higher learning, and funds administered by
23 the Treasurer ex officio, and every ~~Every~~ county, city,
24 town, township, incorporated village, school district,
25 body politic or municipal corporation against whom the
26 Commission shall have rendered an award for the payment of

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

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

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

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

23 (g) Except in the case of a claim against the State of
24 Illinois, either party may present a certified copy of the
25 award of the Arbitrator, or a certified copy of the decision of
26 the Commission when the same has become final, when no

1 proceedings for review are pending, providing for the payment
2 of compensation according to this Act, to the Circuit Court of
3 the county in which such accident occurred or either of the
4 parties are residents, whereupon the court shall enter a
5 judgment in accordance therewith. In a case where the employer
6 refuses to pay compensation according to such final award or
7 such final decision upon which such judgment is entered the
8 court shall in entering judgment thereon, tax as costs against
9 him the reasonable costs and attorney fees in the arbitration
10 proceedings and in the court entering the judgment for the
11 person in whose favor the judgment is entered, which judgment
12 and costs taxed as therein provided shall, until and unless set
13 aside, have the same effect as though duly entered in an action
14 duly tried and determined by the court, and shall with like
15 effect, be entered and docketed. The Circuit Court shall have
16 power at any time upon application to make any such judgment
17 conform to any modification required by any subsequent decision
18 of the Supreme Court upon appeal, or as the result of any
19 subsequent proceedings for review, as provided in this Act.

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

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

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

16 On such review, compensation payments may be
17 re-established, increased, diminished or ended. The Commission
18 shall give 15 days' notice to the parties of the hearing for
19 review. Any employee, upon any petition for such review being
20 filed by the employer, shall be entitled to one day's notice
21 for each 100 miles necessary to be traveled by him in attending
22 the hearing of the Commission upon the petition, and 3 days in
23 addition thereto. Such employee shall, at the discretion of the
24 Commission, also be entitled to 5 cents per mile necessarily
25 traveled by him within the State of Illinois in attending such
26 hearing, not to exceed a distance of 300 miles, to be taxed by

1 the Commission as costs and deposited with the petition of the
2 employer.

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

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

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

1 both proceedings.

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

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

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

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

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

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

1 the Commission, and the appeal results in no change or a
2 decrease in the award, interest shall not further accrue from
3 the date of such appeal.

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

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

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

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

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

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

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

23 (820 ILCS 305/25.5)

24 Sec. 25.5. Unlawful acts; penalties.

25 (a) It is unlawful for any person, company, corporation,

1 insurance carrier, healthcare provider, or other entity to:

2 (1) Intentionally present or cause to be presented any
3 false or fraudulent claim for the payment of any workers'
4 compensation benefit.

5 (2) Intentionally make or cause to be made any false or
6 fraudulent material statement or material representation
7 for the purpose of obtaining or denying any workers'
8 compensation benefit.

9 (3) Intentionally make or cause to be made any false or
10 fraudulent statements with regard to entitlement to
11 workers' compensation benefits with the intent to prevent
12 an injured worker from making a legitimate claim for any
13 workers' compensation benefits.

14 (4) Intentionally prepare or provide an invalid,
15 false, or counterfeit certificate of insurance as proof of
16 workers' compensation insurance.

17 (5) Intentionally make or cause to be made any false or
18 fraudulent material statement or material representation
19 for the purpose of obtaining workers' compensation
20 insurance at less than the proper rate for that insurance.

21 (6) Intentionally make or cause to be made any false or
22 fraudulent material statement or material representation
23 on an initial or renewal self-insurance application or
24 accompanying financial statement for the purpose of
25 obtaining self-insurance status or reducing the amount of
26 security that may be required to be furnished pursuant to

1 Section 4 of this Act.

2 (7) Intentionally make or cause to be made any false or
3 fraudulent material statement to the Illinois Workers'
4 Compensation Commission's ~~Department of Insurance's~~ fraud
5 and insurance non-compliance unit in the course of an
6 investigation of fraud or insurance non-compliance.

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

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

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

17 (b) Sentences for violations of subsection (a) are as
18 follows:

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

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

25 (3) A violation in which the value of the property
26 obtained or attempted to be obtained is more than \$10,000

1 but not more than \$100,000 is a Class 2 felony.

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

5 (5) A person convicted under this Section shall be
6 ordered to pay monetary restitution to the insurance
7 company or self-insured entity or any other person for any
8 financial loss sustained as a result of a violation of this
9 Section, including any court costs and attorney fees. An
10 order of restitution also includes expenses incurred and
11 paid by the State of Illinois or an insurance company or
12 self-insured entity in connection with any medical
13 evaluation or treatment services.

14 For the purposes of this Section, where the exact value of
15 property obtained or attempted to be obtained is either not
16 alleged or is not specifically set by the terms of a policy of
17 insurance, the value of the property shall be the fair market
18 replacement value of the property claimed to be lost, the
19 reasonable costs of reimbursing a vendor or other claimant for
20 services to be rendered, or both. Notwithstanding the
21 foregoing, an insurance company, self-insured entity, or any
22 other person suffering financial loss sustained as a result of
23 violation of this Section may seek restitution, including court
24 costs and attorney's fees in a civil action in a court of
25 competent jurisdiction.

26 (c) The Illinois Workers' Compensation Commission

1 ~~Department of Insurance~~ shall establish a fraud and insurance
2 non-compliance unit responsible for investigating incidences
3 of fraud and insurance non-compliance pursuant to this Section.
4 The size of the staff of the unit shall be subject to
5 appropriation by the General Assembly. It shall be the duty of
6 the fraud and insurance non-compliance unit to determine the
7 identity of insurance carriers, employers, employees, or other
8 persons or entities who have violated the fraud and insurance
9 non-compliance provisions of this Section. The fraud and
10 insurance non-compliance unit shall report violations of the
11 fraud and insurance non-compliance provisions of this Section
12 to the Special Prosecutions Bureau of the Criminal Division of
13 the Office of the Attorney General or to the State's Attorney
14 of the county in which the offense allegedly occurred, either
15 of whom has the authority to prosecute violations under this
16 Section.

17 With respect to the subject of any investigation being
18 conducted, the fraud and insurance non-compliance unit shall
19 have ~~the~~ general power of subpoena ~~of the Department of~~
20 ~~Insurance~~, including the authority to issue a subpoena to a
21 medical provider, pursuant to Section 8-802 of the Code of
22 Civil Procedure.

23 (d) Any person may report allegations of insurance
24 non-compliance and fraud pursuant to this Section to the
25 Illinois Workers' Compensation Commission's ~~Department of~~
26 ~~Insurance's~~ fraud and insurance non-compliance unit whose duty

1 it shall be to investigate the report. ~~The unit shall notify~~
2 ~~the Commission of reports of insurance non-compliance.~~ Any
3 person reporting an allegation of insurance non-compliance or
4 fraud against either an employee or employer under this Section
5 must identify himself. Except as provided in this subsection
6 and in subsection (e), all reports shall remain confidential
7 except to refer an investigation to the Attorney General or
8 State's Attorney for prosecution or if the fraud and insurance
9 non-compliance unit's investigation reveals that the conduct
10 reported may be in violation of other laws or regulations of
11 the State of Illinois, the unit may report such conduct to the
12 appropriate governmental agency charged with administering
13 such laws and regulations. Any person who intentionally makes a
14 false report under this Section to the fraud and insurance
15 non-compliance unit is guilty of a Class A misdemeanor.

16 (e) In order for the fraud and insurance non-compliance
17 unit to investigate a report of fraud related to an employee's
18 claim, (i) the employee must have filed with the Commission an
19 Application for Adjustment of Claim and the employee must have
20 either received or attempted to receive benefits under this Act
21 that are related to the reported fraud or (ii) the employee
22 must have made a written demand for the payment of benefits
23 that are related to the reported fraud. There shall be no
24 immunity, under this Act or otherwise, for any person who files
25 a false report or who files a report without good and just
26 cause. Confidentiality of medical information shall be

1 strictly maintained. Investigations that are not referred for
2 prosecution shall be destroyed upon the expiration of the
3 statute of limitations for the acts under investigation and
4 shall not be disclosed except that the person making the report
5 shall be notified that the investigation is being closed. It is
6 unlawful for any employer, insurance carrier, service
7 adjustment company, third party administrator, self-insured,
8 or similar entity to file or threaten to file a report of fraud
9 against an employee because of the exercise by the employee of
10 the rights and remedies granted to the employee by this Act.

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

1 and prevention.

2 (f) Any person convicted of fraud related to workers'
3 compensation pursuant to this Section shall be subject to the
4 penalties prescribed in the Criminal Code of 2012 and shall be
5 ineligible to receive or retain any compensation, disability,
6 or medical benefits as defined in this Act if the compensation,
7 disability, or medical benefits were owed or received as a
8 result of fraud for which the recipient of the compensation,
9 disability, or medical benefit was convicted. This subsection
10 applies to accidental injuries or diseases that occur on or
11 after the effective date of this amendatory Act of the 94th
12 General Assembly.

13 (g) Civil liability. Any person convicted of fraud who
14 knowingly obtains, attempts to obtain, or causes to be obtained
15 any benefits under this Act by the making of a false claim or
16 who knowingly misrepresents any material fact shall be civilly
17 liable to the payor of benefits or the insurer or the payor's
18 or insurer's subrogee or assignee in an amount equal to 3 times
19 the value of the benefits or insurance coverage wrongfully
20 obtained or twice the value of the benefits or insurance
21 coverage attempted to be obtained, plus reasonable attorney's
22 fees and expenses incurred by the payor or the payor's subrogee
23 or assignee who successfully brings a claim under this
24 subsection. This subsection applies to accidental injuries or
25 diseases that occur on or after the effective date of this
26 amendatory Act of the 94th General Assembly.

1 (h) The fraud and insurance non-compliance unit shall
2 submit a written report on an annual basis to the Chairman of
3 the Commission, the Workers' Compensation Advisory Board, the
4 General Assembly, the Governor, and the Attorney General by
5 January 1 and July 1 of each year. This report shall include,
6 at the minimum, the following information:

7 (1) The number of allegations of insurance
8 non-compliance and fraud reported to the fraud and
9 insurance non-compliance unit.

10 (2) The source of the reported allegations
11 (individual, employer, or other).

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

14 (4) The number of criminal referrals made in accordance
15 with this Section and the entity to which the referral was
16 made.

17 (5) All proceedings under this Section.

18 (Source: P.A. 97-18, eff. 6-28-11; 97-1150, eff. 1-25-13.)

1		INDEX
2		Statutes amended in order of appearance
3	820 ILCS 305/1	from Ch. 48, par. 138.1
4	820 ILCS 305/4	from Ch. 48, par. 138.4
5	820 ILCS 305/8	from Ch. 48, par. 138.8
6	820 ILCS 305/8.1b	
7	820 ILCS 305/8.2	
8	820 ILCS 305/8.2a	
9	820 ILCS 305/14	from Ch. 48, par. 138.14
10	820 ILCS 305/14.2 new	
11	820 ILCS 305/14.3 new	
12	820 ILCS 305/14.4 new	
13	820 ILCS 305/19	from Ch. 48, par. 138.19
14	820 ILCS 305/25.5	