



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB5653

by Rep. Mark Batinick

#### SYNOPSIS AS INTRODUCED:

820 ILCS 305/8

from Ch. 48, par. 138.8

Amends the Workers' Compensation Act. Provides that the payment of temporary benefits is without prejudice and is not an admission of liability. Provides that, upon a determination that a payor is not responsible for the payments of benefits, the payments made may be recovered from the recipient of the benefits.

LRB099 19363 JLS 44994 b

1 AN ACT concerning employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (B) Subsequent to the report of an injury by an  
26 employee, the employee may choose in writing at any

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

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

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

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

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

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

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

18 The payment by the employer or payor for any first aid,  
19 medical, surgical, or hospital services, total permanent  
20 disability, services for vocational rehabilitation or  
21 associated payments, or payments for prescription or  
22 non-prescription medications shall not be an admission of  
23 liability on the part of the employer or payor to pay  
24 compensation or for any like or similar future services,  
25 treatments, or associated payments. Upon a determination that  
26 the employer or payor is not responsible for the treatments,



1 services, or payments made, the employer or payor may recover  
2 any payments from the recipients.

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

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

24 2. The compensation rate in all cases other than for  
25 temporary total disability under this paragraph (b), and  
26 other than for serious and permanent disfigurement under

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

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

1           computed in accordance with the provisions of Section 10,  
2           whichever is less.

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

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

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

18                 The maximum weekly compensation rate, for the period  
19                 July 1, 1984, through June 30, 1987, except as hereinafter  
20                 provided, shall be \$293.61. Effective July 1, 1987 and on  
21                 July 1 of each year thereafter the maximum weekly  
22                 compensation rate, except as hereinafter provided, shall  
23                 be determined as follows: if during the preceding 12 month  
24                 period there shall have been an increase in the State's  
25                 average weekly wage in covered industries under the  
26                 Unemployment Insurance Act, the weekly compensation rate

1 shall be proportionately increased by the same percentage  
2 as the percentage of increase in the State's average weekly  
3 wage in covered industries under the Unemployment  
4 Insurance Act during such period.

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

21 From July 1, 1977 and thereafter such maximum weekly  
22 compensation rate in death cases under Section 7, and  
23 permanent total disability cases under paragraph (f) or  
24 subparagraph 18 of paragraph (3) of this Section and for  
25 temporary total disability under paragraph (b) of this  
26 Section and for amputation of a member or enucleation of an

1 eye under paragraph (e) of this Section shall be increased  
2 to 133-1/3% of the State's average weekly wage in covered  
3 industries under the Unemployment Insurance Act.

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

8 4.1. Any provision herein to the contrary  
9 notwithstanding, the weekly compensation rate for  
10 compensation payments under subparagraph 18 of paragraph  
11 (e) of this Section and under paragraph (f) of this Section  
12 and under paragraph (a) of Section 7 and for amputation of  
13 a member or enucleation of an eye under paragraph (e) of  
14 this Section, shall in no event be less than 50% of the  
15 State's average weekly wage in covered industries under the  
16 Unemployment Insurance Act.

17 4.2. Any provision to the contrary notwithstanding,  
18 the total compensation payable under Section 7 shall not  
19 exceed the greater of \$500,000 or 25 years.

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

26 6. The Department of Employment Security of the State

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

16 7. The payment of compensation by an employer or his  
17 insurance carrier to an injured employee shall not  
18 constitute an admission of the employer's liability to pay  
19 compensation.

20 Payment of temporary benefits is without prejudice and is  
21 not an admission of liability. Upon a determination that the  
22 employer or payor is not responsible for payments of benefits  
23 previously made, the employer or payor may recover the payments  
24 of benefits previously made from the recipient.

25 (c) For any serious and permanent disfigurement to the  
26 hand, head, face, neck, arm, leg below the knee or the chest

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

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

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

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

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

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



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

24 (e) For accidental injuries in the following schedule, the  
25 employee shall receive compensation for the period of temporary  
26 total incapacity for work resulting from such accidental

1 injury, under subparagraph 1 of paragraph (b) of this Section,  
2 and shall receive in addition thereto compensation for a  
3 further period for the specific loss herein mentioned, but  
4 shall not receive any compensation under any other provisions  
5 of this Act. The following listed amounts apply to either the  
6 loss of or the permanent and complete loss of use of the member  
7 specified, such compensation for the length of time as follows:

8 1. Thumb-

9 70 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 76 weeks if the accidental injury occurs on or  
13 after February 1, 2006.

14 2. First, or index finger-

15 40 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 43 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 3. Second, or middle finger-

21 35 weeks if the accidental injury occurs on or  
22 after the effective date of this amendatory Act of the  
23 94th General Assembly but before February 1, 2006.

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

26 4. Third, or ring finger-

1           25 weeks if the accidental injury occurs on or  
2 after the effective date of this amendatory Act of the  
3 94th General Assembly but before February 1, 2006.

4           27 weeks if the accidental injury occurs on or  
5 after February 1, 2006.

6 5. Fourth, or little finger-

7           20 weeks if the accidental injury occurs on or  
8 after the effective date of this amendatory Act of the  
9 94th General Assembly but before February 1, 2006.

10          22 weeks if the accidental injury occurs on or  
11 after February 1, 2006.

12 6. Great toe-

13          35 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          38 weeks if the accidental injury occurs on or  
17 after February 1, 2006.

18 7. Each toe other than great toe-

19          12 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22          13 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 8. The loss of the first or distal phalanx of the thumb  
25 or of any finger or toe shall be considered to be equal to  
26 the loss of one-half of such thumb, finger or toe and the

1 compensation payable shall be one-half of the amount above  
2 specified. The loss of more than one phalanx shall be  
3 considered as the loss of the entire thumb, finger or toe.  
4 In no case shall the amount received for more than one  
5 finger exceed the amount provided in this schedule for the  
6 loss of a hand.

7 9. Hand-

8 190 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.

11 205 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13 190 weeks if the accidental injury occurs on or  
14 after June 28, 2011 (the effective date of Public Act  
15 97-18) and if the accidental injury involves carpal  
16 tunnel syndrome due to repetitive or cumulative  
17 trauma, in which case the permanent partial disability  
18 shall not exceed 15% loss of use of the hand, except  
19 for cause shown by clear and convincing evidence and in  
20 which case the award shall not exceed 30% loss of use  
21 of the hand.

22 The loss of 2 or more digits, or one or more phalanges  
23 of 2 or more digits, of a hand may be compensated on the  
24 basis of partial loss of use of a hand, provided, further,  
25 that the loss of 4 digits, or the loss of use of 4 digits,  
26 in the same hand shall constitute the complete loss of a

1 hand.

2 10. Arm-

3 235 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 253 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

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

1 11. Foot-

2 155 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.

5 167 weeks if the accidental injury occurs on or  
6 after February 1, 2006.

7 12. Leg-

8 200 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.

11 215 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

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

1 after the effective date of this amendatory Act of the 94th  
2 General Assembly but before February 1, 2006) or an  
3 additional 81 weeks (if the accidental injury occurs on or  
4 after February 1, 2006) shall be paid.

5 13. Eye-

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

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

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

18 14. Loss of hearing of one ear-

19 50 weeks if the accidental injury occurs on or  
20 after the effective date of this amendatory Act of the  
21 94th General Assembly but before February 1, 2006.

22 54 weeks if the accidental injury occurs on or  
23 after February 1, 2006.

24 Total and permanent loss of hearing of both ears-

25 200 weeks if the accidental injury occurs on or  
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 215 weeks if the accidental injury occurs on or  
3 after February 1, 2006.

4 15. Testicle-

5 50 weeks if the accidental injury occurs on or  
6 after the effective date of this amendatory Act of the  
7 94th General Assembly but before February 1, 2006.

8 54 weeks if the accidental injury occurs on or  
9 after February 1, 2006.

10 Both testicles-

11 150 weeks if the accidental injury occurs on or  
12 after the effective date of this amendatory Act of the  
13 94th General Assembly but before February 1, 2006.

14 162 weeks if the accidental injury occurs on or  
15 after February 1, 2006.

16 16. For the permanent partial loss of use of a member  
17 or sight of an eye, or hearing of an ear, compensation  
18 during that proportion of the number of weeks in the  
19 foregoing schedule provided for the loss of such member or  
20 sight of an eye, or hearing of an ear, which the partial  
21 loss of use thereof bears to the total loss of use of such  
22 member, or sight of eye, or hearing of an ear.

23 (a) Loss of hearing for compensation purposes  
24 shall be confined to the frequencies of 1,000, 2,000  
25 and 3,000 cycles per second. Loss of hearing ability  
26 for frequency tones above 3,000 cycles per second are



1 not to be considered as constituting disability for  
2 hearing.

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

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

25 (d) If a hearing loss is established to have  
26 existed on July 1, 1975 by audiometric testing the

1 employer shall not be liable for the previous loss so  
 2 established nor shall he be liable for any loss for  
 3 which compensation has been paid or awarded.

4 (e) No consideration shall be given to the question  
 5 of whether or not the ability of an employee to  
 6 understand speech is improved by the use of a hearing  
 7 aid.

8 (f) No claim for loss of hearing due to industrial  
 9 noise shall be brought against an employer or allowed  
 10 unless the employee has been exposed for a period of  
 11 time sufficient to cause permanent impairment to noise  
 12 levels in excess of the following:

13 Sound Level DBA

14	Slow Response	Hours Per Day
15	90	8
16	92	6
17	95	4
18	97	3
19	100	2
20	102	1-1/2
21	105	1
22	110	1/2
23	115	1/4

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

26 17. In computing the compensation to be paid to any

1 employee who, before the accident for which he claims  
2 compensation, had before that time sustained an injury  
3 resulting in the loss by amputation or partial loss by  
4 amputation of any member, including hand, arm, thumb or  
5 fingers, leg, foot or any toes, such loss or partial loss  
6 of any such member shall be deducted from any award made  
7 for the subsequent injury. For the permanent loss of use or  
8 the permanent partial loss of use of any such member or the  
9 partial loss of sight of an eye, for which compensation has  
10 been paid, then such loss shall be taken into consideration  
11 and deducted from any award for the subsequent injury.

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

19 Any employee who has previously suffered the loss or  
20 permanent and complete loss of the use of any of such  
21 members, and in a subsequent independent accident loses  
22 another or suffers the permanent and complete loss of the  
23 use of any one of such members the employer for whom the  
24 injured employee is working at the time of the last  
25 independent accident is liable to pay compensation only for  
26 the loss or permanent and complete loss of the use of the

1 member occasioned by the last independent accident.

2 19. In a case of specific loss and the subsequent death  
3 of such injured employee from other causes than such injury  
4 leaving a widow, widower, or dependents surviving before  
5 payment or payment in full for such injury, then the amount  
6 due for such injury is payable to the widow or widower and,  
7 if there be no widow or widower, then to such dependents,  
8 in the proportion which such dependency bears to total  
9 dependency.

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

1 order, irrespective of the date of the accidental injury.

2 On August 1, 1996 and on February 1 and August 1 of each  
3 subsequent year, the Commission shall examine the special fund  
4 designated as the "Rate Adjustment Fund" and when, after  
5 deducting all advances or loans made to said fund, the amount  
6 therein is \$4,000,000, the amount required to be paid by  
7 employers pursuant to paragraph (f) of Section 7 shall be  
8 reduced by one-half. When the Rate Adjustment Fund reaches the  
9 sum of \$5,000,000 the payment therein shall cease entirely.  
10 However, when said Rate Adjustment Fund has been reduced to  
11 \$3,000,000 the amounts required by paragraph (f) of Section 7  
12 shall be resumed in the manner herein provided.

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

19 An employee entitled to benefits under paragraph (f) of  
20 this Section shall also be entitled to receive from the Rate  
21 Adjustment Fund provided in paragraph (f) of Section 7 of the  
22 supplementary benefits provided in paragraph (g) of this  
23 Section 8.

24 If any employee who receives an award under this paragraph  
25 afterwards returns to work or is able to do so, and earns or is  
26 able to earn as much as before the accident, payments under

1 such award shall cease. If such employee returns to work, or is  
2 able to do so, and earns or is able to earn part but not as much  
3 as before the accident, such award shall be modified so as to  
4 conform to an award under paragraph (d) of this Section. If  
5 such award is terminated or reduced under the provisions of  
6 this paragraph, such employees have the right at any time  
7 within 30 months after the date of such termination or  
8 reduction to file petition with the Commission for the purpose  
9 of determining whether any disability exists as a result of the  
10 original accidental injury and the extent thereof.

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

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

1           The custodian of the Second Injury Fund provided for in  
2 paragraph (f) of Section 7 shall be joined with the employer as  
3 a party respondent in the application for adjustment of claim.  
4 The application for adjustment of claim shall state briefly and  
5 in general terms the approximate time and place and manner of  
6 the loss of the first member.

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

1 according to the terms of the awards.

2 As of July 1, 1980 to July 1, 1982, all claims against and  
3 obligations of the Second Injury Fund shall become claims  
4 against and obligations of the Rate Adjustment Fund to the  
5 extent there is insufficient money in the Second Injury Fund to  
6 pay such claims and obligations. In that case, all references  
7 to "Second Injury Fund" in this Section shall also include the  
8 Rate Adjustment Fund.

9 (g) Every award for permanent total disability entered by  
10 the Commission on and after July 1, 1965 under which  
11 compensation payments shall become due and payable after the  
12 effective date of this amendatory Act, and every award for  
13 death benefits or permanent total disability entered by the  
14 Commission on and after the effective date of this amendatory  
15 Act shall be subject to annual adjustments as to the amount of  
16 the compensation rate therein provided. Such adjustments shall  
17 first be made on July 15, 1977, and all awards made and entered  
18 prior to July 1, 1975 and on July 15 of each year thereafter.  
19 In all other cases such adjustment shall be made on July 15 of  
20 the second year next following the date of the entry of the  
21 award and shall further be made on July 15 annually thereafter.  
22 If during the intervening period from the date of the entry of  
23 the award, or the last periodic adjustment, there shall have  
24 been an increase in the State's average weekly wage in covered  
25 industries under the Unemployment Insurance Act, the weekly  
26 compensation rate shall be proportionately increased by the



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

22        Provided, that in cases of awards entered by the Commission  
23 for injuries occurring before July 1, 1975, the increases in  
24 the compensation rate adjusted under the foregoing provision of  
25 this paragraph (g) shall be limited to increases in the State's  
26 average weekly wage in covered industries under the

1 Unemployment Insurance Act occurring after July 1, 1975.

2 For every accident occurring on or after July 20, 2005 but  
3 before the effective date of this amendatory Act of the 94th  
4 General Assembly (Senate Bill 1283 of the 94th General  
5 Assembly), the annual adjustments to the compensation rate in  
6 awards for death benefits or permanent total disability, as  
7 provided in this Act, shall be paid by the employer. The  
8 adjustment shall be made by the employer on July 15 of the  
9 second year next following the date of the entry of the award  
10 and shall further be made on July 15 annually thereafter. If  
11 during the intervening period from the date of the entry of the  
12 award, or the last periodic adjustment, there shall have been  
13 an increase in the State's average weekly wage in covered  
14 industries under the Unemployment Insurance Act, the employer  
15 shall increase the weekly compensation rate proportionately by  
16 the same percentage as the percentage of increase in the  
17 State's average weekly wage in covered industries under the  
18 Unemployment Insurance Act. The increase in the compensation  
19 rate under this paragraph shall in no event bring the total  
20 compensation rate to an amount greater than the prevailing  
21 maximum rate at the time that the annual adjustment is made. In  
22 the event of a decrease in such average weekly wage there shall  
23 be no change in the then existing compensation rate. Such  
24 increase shall be paid by the employer in the same manner and  
25 at the same intervals as the payment of compensation in the  
26 award. This paragraph shall not apply to cases where there is

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

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

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

21            (h-1) In case an injured employee is under legal disability  
22    at the time when any right or privilege accrues to him or her  
23    under this Act, a guardian may be appointed pursuant to law,  
24    and may, on behalf of such person under legal disability, claim  
25    and exercise any such right or privilege with the same effect  
26    as if the employee himself or herself had claimed or exercised

1 the right or privilege. No limitations of time provided by this  
2 Act run so long as the employee who is under legal disability  
3 is without a conservator or guardian.

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

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

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

18 (j) 1. In the event the injured employee receives benefits,  
19 including medical, surgical or hospital benefits under any  
20 group plan covering non-occupational disabilities contributed  
21 to wholly or partially by the employer, which benefits should  
22 not have been payable if any rights of recovery existed under  
23 this Act, then such amounts so paid to the employee from any  
24 such group plan as shall be consistent with, and limited to,  
25 the provisions of paragraph 2 hereof, shall be credited to or  
26 against any compensation payment for temporary total

1 incapacity for work or any medical, surgical or hospital  
2 benefits made or to be made under this Act. In such event, the  
3 period of time for giving notice of accidental injury and  
4 filing application for adjustment of claim does not commence to  
5 run until the termination of such payments. This paragraph does  
6 not apply to payments made under any group plan which would  
7 have been payable irrespective of an accidental injury under  
8 this Act. Any employer receiving such credit shall keep such  
9 employee safe and harmless from any and all claims or  
10 liabilities that may be made against him by reason of having  
11 received such payments only to the extent of such credit.

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

22 2. Nothing contained in this Act shall be construed to give  
23 the employer or the insurance carrier the right to credit for  
24 any benefits or payments received by the employee other than  
25 compensation payments provided by this Act, and where the  
26 employee receives payments other than compensation payments,

1 whether as full or partial salary, group insurance benefits,  
2 bonuses, annuities or any other payments, the employer or  
3 insurance carrier shall receive credit for each such payment  
4 only to the extent of the compensation that would have been  
5 payable during the period covered by such payment.

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

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