



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB6428

by Rep. Dwight Kay

SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/8.1c new	

Provides that the Act may be referred to as the Public Employer and Non-Profit Employer Workers' Compensation Benefit Act. Sets forth findings and purposes. Amends the Workers' Compensation Act in relation to employees of public employers and non-profit employers. Provides that, to obtain compensation under the Act, an employee of a public employer or non-profit employer 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. 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. Provides for a reduction of an award by amounts an injured worker has previously received for prior injuries that resulted in permanency awards.

LRB099 21153 JLS 46464 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 1. This Act may be referred to as the Public
5 Employer and Non-Profit Employer Workers' Compensation Benefit
6 Act.

7 Section 5. Findings. The General Assembly finds and
8 declares the following:

9 (1) workers' compensation and occupational diseases
10 benefits impacting State and local government and
11 non-profit entities must have balance between the
12 interests of the employee, employer, and taxpayer;

13 (2) Illinois' lack of economic recovery and slow growth
14 by the private sector has adversely impacted the ability of
15 State and local government and non-profit entities to
16 possess the revenues to meet the needs of taxpayers and
17 clients;

18 (3) high workers' compensation costs for State and
19 local government and non-profit entities are significantly
20 reducing resources that could be used to provide services
21 to taxpayers and clients; and

22 (4) the General Assembly and Governor must address the
23 high cost of workers' compensation to ensure that the

1 State, local governments, and non-profits are better able
2 to provide the services taxpayers and the public expect.

3 Section 10. Purposes. The purposes of this Act are to:

4 (1) ensure that the cost of the workers' compensation
5 system are balanced between public employees, public
6 employers and taxpayers;

7 (2) ensure that the cost of the workers' compensation
8 system are balanced between non-profit employees,
9 non-profit employers, and client of non-profit entities;

10 (3) address excesses of the Illinois workers'
11 compensation benefit system for workers with injuries that
12 were sustained primarily outside of employment; and

13 (4) ensure that adequate and timely benefits are
14 provided to workers injured while in the course of
15 employment and while rising out of employment as provided
16 in the Workers' Compensation Act.

17 Section 15. The Workers' Compensation Act is amended by
18 changing Sections 1 and 8 and by adding Section 8.1c as
19 follows:

20 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

21 Sec. 1. This Act may be cited as the Workers' Compensation
22 Act.

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

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

4 2. Every person, firm, public or private corporation,
5 including hospitals, public service, eleemosynary, religious
6 or charitable corporations or associations who has any person
7 in service or under any contract for hire, express or implied,
8 oral or written, and who is engaged in any of the enterprises
9 or businesses enumerated in Section 3 of this Act, or who at or
10 prior to the time of the accident to the employee for which
11 compensation under this Act may be claimed, has in the manner
12 provided in this Act elected to become subject to the
13 provisions of this Act, and who has not, prior to such
14 accident, effected a withdrawal of such election in the manner
15 provided in this Act.

16 3. Any one engaging in any business or enterprise referred
17 to in subsections 1 and 2 of Section 3 of this Act who
18 undertakes to do any work enumerated therein, is liable to pay
19 compensation to his own immediate employees in accordance with
20 the provisions of this Act, and in addition thereto if he
21 directly or indirectly engages any contractor whether
22 principal or sub-contractor to do any such work, he is liable
23 to pay compensation to the employees of any such contractor or
24 sub-contractor unless such contractor or sub-contractor has
25 insured, in any company or association authorized under the
26 laws of this State to insure the liability to pay compensation

1 under this Act, or guaranteed his liability to pay such
2 compensation. With respect to any time limitation on the filing
3 of claims provided by this Act, the timely filing of a claim
4 against a contractor or subcontractor, as the case may be,
5 shall be deemed to be a timely filing with respect to all
6 persons upon whom liability is imposed by this paragraph.

7 In the event any such person pays compensation under this
8 subsection he may recover the amount thereof from the
9 contractor or sub-contractor, if any, and in the event the
10 contractor pays compensation under this subsection he may
11 recover the amount thereof from the sub-contractor, if any.

12 This subsection does not apply in any case where the
13 accident occurs elsewhere than on, in or about the immediate
14 premises on which the principal has contracted that the work be
15 done.

16 4. Where an employer operating under and subject to the
17 provisions of this Act loans an employee to another such
18 employer and such loaned employee sustains a compensable
19 accidental injury in the employment of such borrowing employer
20 and where such borrowing employer does not provide or pay the
21 benefits or payments due such injured employee, such loaning
22 employer is liable to provide or pay all benefits or payments
23 due such employee under this Act and as to such employee the
24 liability of such loaning and borrowing employers is joint and
25 several, provided that such loaning employer is in the absence
26 of agreement to the contrary entitled to receive from such

1 borrowing employer full reimbursement for all sums paid or
2 incurred pursuant to this paragraph together with reasonable
3 attorneys' fees and expenses in any hearings before the
4 Illinois Workers' Compensation Commission or in any action to
5 secure such reimbursement. Where any benefit is provided or
6 paid by such loaning employer the employee has the duty of
7 rendering reasonable cooperation in any hearings, trials or
8 proceedings in the case, including such proceedings for
9 reimbursement.

10 Where an employee files an Application for Adjustment of
11 Claim with the Illinois Workers' Compensation Commission
12 alleging that his claim is covered by the provisions of the
13 preceding paragraph, and joining both the alleged loaning and
14 borrowing employers, they and each of them, upon written demand
15 by the employee and within 7 days after receipt of such demand,
16 shall have the duty of filing with the Illinois Workers'
17 Compensation Commission a written admission or denial of the
18 allegation that the claim is covered by the provisions of the
19 preceding paragraph and in default of such filing or if any
20 such denial be ultimately determined not to have been bona fide
21 then the provisions of Paragraph K of Section 19 of this Act
22 shall apply.

23 An employer whose business or enterprise or a substantial
24 part thereof consists of hiring, procuring or furnishing
25 employees to or for other employers operating under and subject
26 to the provisions of this Act for the performance of the work

1 of such other employers and who pays such employees their
2 salary or wages notwithstanding that they are doing the work of
3 such other employers shall be deemed a loaning employer within
4 the meaning and provisions of this Section.

5 (a-1) "Public employer" means: the State of Illinois; any
6 political subdivision of the State, unit of local government,
7 or school district; or an authority including a department,
8 division, bureau, board, commission, or other agency of the
9 foregoing entities.

10 (a-2) "Non-profit employer" means any entity organized
11 under the General Not For Profit Corporation Act of 1986.

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

13 1. Every person in the service of the State, including
14 members of the General Assembly, members of the Commerce
15 Commission, members of the Illinois Workers' Compensation
16 Commission, and all persons in the service of the University of
17 Illinois, county, including deputy sheriffs and assistant
18 state's attorneys, city, town, township, incorporated village
19 or school district, body politic, or municipal corporation
20 therein, whether by election, under appointment or contract of
21 hire, express or implied, oral or written, including all
22 members of the Illinois National Guard while on active duty in
23 the service of the State, and all probation personnel of the
24 Juvenile Court appointed pursuant to Article VI of the Juvenile
25 Court Act of 1987, and including any official of the State, any
26 county, city, town, township, incorporated village, school

1 district, body politic or municipal corporation therein except
2 any duly appointed member of a police department in any city
3 whose population exceeds 500,000 according to the last Federal
4 or State census, and except any member of a fire insurance
5 patrol maintained by a board of underwriters in this State. A
6 duly appointed member of a fire department in any city, the
7 population of which exceeds 500,000 according to the last
8 federal or State census, is an employee under this Act only
9 with respect to claims brought under paragraph (c) of Section
10 8.

11 One employed by a contractor who has contracted with the
12 State, or a county, city, town, township, incorporated village,
13 school district, body politic or municipal corporation
14 therein, through its representatives, is not considered as an
15 employee of the State, county, city, town, township,
16 incorporated village, school district, body politic or
17 municipal corporation which made the contract.

18 2. Every person in the service of another under any
19 contract of hire, express or implied, oral or written,
20 including persons whose employment is outside of the State of
21 Illinois where the contract of hire is made within the State of
22 Illinois, persons whose employment results in fatal or
23 non-fatal injuries within the State of Illinois where the
24 contract of hire is made outside of the State of Illinois, and
25 persons whose employment is principally localized within the
26 State of Illinois, regardless of the place of the accident or

1 the place where the contract of hire was made, and including
2 aliens, and minors who, for the purpose of this Act are
3 considered the same and have the same power to contract,
4 receive payments and give quittances therefor, as adult
5 employees.

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

8 An employee or his dependents under this Act who shall have
9 a cause of action by reason of any injury, disablement or death
10 arising out of and in the course of his employment may elect to
11 pursue his remedy in the State where injured or disabled, or in
12 the State where the contract of hire is made, or in the State
13 where the employment is principally localized.

14 However, any employer may elect to provide and pay
15 compensation to any employee other than those engaged in the
16 usual course of the trade, business, profession or occupation
17 of the employer by complying with Sections 2 and 4 of this Act.
18 Employees are not included within the provisions of this Act
19 when excluded by the laws of the United States relating to
20 liability of employers to their employees for personal injuries
21 where such laws are held to be exclusive.

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

25 (c) "Commission" means the Industrial Commission created
26 by Section 5 of "The Civil Administrative Code of Illinois",

1 approved March 7, 1917, as amended, or the Illinois Workers'
2 Compensation Commission created by Section 13 of this Act.

3 (d) To obtain compensation under this Act, an employee
4 bears the burden of showing, by a preponderance of the
5 evidence, that he or she has sustained accidental injuries
6 arising out of and in the course of the employment.

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

9 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

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

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

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

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

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

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

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

25 When the employee is working light duty on a part-time
26 basis or full-time basis and earns less than he or she would be

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

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

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

- 21 (1) all first aid and emergency treatment; plus
22 (2) all medical, surgical and hospital services
23 provided by the physician, surgeon or hospital initially
24 chosen by the employee or by any other physician,
25 consultant, expert, institution or other provider of
26 services recommended by said initial service provider or

1 any subsequent provider of medical services in the chain of
2 referrals from said initial service provider; plus

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

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

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

26 (B) Subsequent to the report of an injury by an

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

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

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

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

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

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

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

19 (b) If the period of temporary total incapacity for work
20 lasts more than 3 working days, weekly compensation as
21 hereinafter provided shall be paid beginning on the 4th day of
22 such temporary total incapacity and continuing as long as the
23 total temporary incapacity lasts. In cases where the temporary
24 total incapacity for work continues for a period of 14 days or
25 more from the day of the accident compensation shall commence
26 on the day after the accident.

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

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

1 100% of the total minimum wage calculation, nor exceed the
2 employee's average weekly wage computed in accordance with
3 the provisions of Section 10, whichever is less.

4 2.1. The compensation rate in all cases of serious and
5 permanent disfigurement under paragraph (c) and of
6 permanent partial disability under subparagraph (2) of
7 paragraph (d) or under paragraph (e) of this Section shall
8 be equal to 60% of the employee's average weekly wage
9 computed in accordance with the provisions of Section 10,
10 provided that it shall be not less than 66 2/3% of the sum
11 of the Federal minimum wage under the Fair Labor Standards
12 Act, or the Illinois minimum wage under the Minimum Wage
13 Law, whichever is more, multiplied by 40 hours. This
14 percentage rate shall be increased by 10% for each spouse
15 and child, not to exceed 100% of the total minimum wage
16 calculation, nor exceed the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 whichever is less.

19 3. As used in this Section the term "child" means a
20 child of the employee including any child legally adopted
21 before the accident or whom at the time of the accident the
22 employee was under legal obligation to support or to whom
23 the employee stood in loco parentis, and who at the time of
24 the accident was under 18 years of age and not emancipated.
25 The term "children" means the plural of "child".

26 4. All weekly compensation rates provided under

1 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
2 Section shall be subject to the following limitations:

3 The maximum weekly compensation rate from July 1, 1975,
4 except as hereinafter provided, shall be 100% of the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act, that being the wage that most
7 closely approximates the State's average weekly wage.

8 The maximum weekly compensation rate, for the period
9 July 1, 1984, through June 30, 1987, except as hereinafter
10 provided, shall be \$293.61. Effective July 1, 1987 and on
11 July 1 of each year thereafter the maximum weekly
12 compensation rate, except as hereinafter provided, shall
13 be determined as follows: if during the preceding 12 month
14 period there shall have been an increase in the State's
15 average weekly wage in covered industries under the
16 Unemployment Insurance Act, the weekly compensation rate
17 shall be proportionately increased by the same percentage
18 as the percentage of increase in the State's average weekly
19 wage in covered industries under the Unemployment
20 Insurance Act during such period.

21 The maximum weekly compensation rate, for the period
22 January 1, 1981 through December 31, 1983, except as
23 hereinafter provided, shall be 100% of the State's average
24 weekly wage in covered industries under the Unemployment
25 Insurance Act in effect on January 1, 1981. Effective
26 January 1, 1984 and on January 1, of each year thereafter

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

11 From July 1, 1977 and thereafter such maximum weekly
12 compensation rate in death cases under Section 7, and
13 permanent total disability cases under paragraph (f) or
14 subparagraph 18 of paragraph (3) of this Section and for
15 temporary total disability under paragraph (b) of this
16 Section and for amputation of a member or enucleation of an
17 eye under paragraph (e) of this Section shall be increased
18 to 133-1/3% of the State's average weekly wage in covered
19 industries under the Unemployment Insurance Act.

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

24 4.1. Any provision herein to the contrary
25 notwithstanding, the weekly compensation rate for
26 compensation payments under subparagraph 18 of paragraph

1 (e) of this Section and under paragraph (f) of this Section
2 and under paragraph (a) of Section 7 and for amputation of
3 a member or enucleation of an eye under paragraph (e) of
4 this Section, shall in no event be less than 50% of the
5 State's average weekly wage in covered industries under the
6 Unemployment Insurance Act.

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

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

16 6. The Department of Employment Security of the State
17 shall on or before the first day of December, 1977, and on
18 or before the first day of June, 1978, and on the first day
19 of each December and June of each year thereafter, publish
20 the State's average weekly wage in covered industries under
21 the Unemployment Insurance Act and the Illinois Workers'
22 Compensation Commission shall on the 15th day of January,
23 1978 and on the 15th day of July, 1978 and on the 15th day
24 of each January and July of each year thereafter, post and
25 publish the State's average weekly wage in covered
26 industries under the Unemployment Insurance Act as last

1 determined and published by the Department of Employment
2 Security. The amount when so posted and published shall be
3 conclusive and shall be applicable as the basis of
4 computation of compensation rates until the next posting
5 and publication as aforesaid.

6 7. The payment of compensation by an employer or his
7 insurance carrier to an injured employee shall not
8 constitute an admission of the employer's liability to pay
9 compensation.

10 (c) For any serious and permanent disfigurement to the
11 hand, head, face, neck, arm, leg below the knee or the chest
12 above the axillary line, the employee is entitled to
13 compensation for such disfigurement, the amount determined by
14 agreement at any time or by arbitration under this Act, at a
15 hearing not less than 6 months after the date of the accidental
16 injury, which amount shall not exceed 150 weeks (if the
17 accidental injury occurs on or after the effective date of this
18 amendatory Act of the 94th General Assembly but before February
19 1, 2006) or 162 weeks (if the accidental injury occurs on or
20 after February 1, 2006) at the applicable rate provided in
21 subparagraph 2.1 of paragraph (b) of this Section.

22 No compensation is payable under this paragraph where
23 compensation is payable under paragraphs (d), (e) or (f) of
24 this Section.

25 A duly appointed member of a fire department in a city, the
26 population of which exceeds 500,000 according to the last

1 federal or State census, is eligible for compensation under
2 this paragraph only where such serious and permanent
3 disfigurement results from burns.

4 (d) 1. If, after the accidental injury has been sustained,
5 the employee as a result thereof becomes partially
6 incapacitated from pursuing his usual and customary line of
7 employment, he shall, except in cases compensated under the
8 specific schedule set forth in paragraph (e) of this Section,
9 receive compensation for the duration of his disability,
10 subject to the limitations as to maximum amounts fixed in
11 paragraph (b) of this Section, equal to $66\frac{2}{3}\%$ of the
12 difference between the average amount which he would be able to
13 earn in the full performance of his duties in the occupation in
14 which he was engaged at the time of the accident and the
15 average amount which he is earning or is able to earn in some
16 suitable employment or business after the accident. For
17 accidental injuries that occur on or after September 1, 2011,
18 an award for wage differential under this subsection shall be
19 effective only until the employee reaches the age of 67 or 5
20 years from the date the award becomes final, whichever is
21 later.

22 2. If, as a result of the accident, the employee sustains
23 serious and permanent injuries not covered by paragraphs (c)
24 and (e) of this Section or having sustained injuries covered by
25 the aforesaid paragraphs (c) and (e), he shall have sustained
26 in addition thereto other injuries which injuries do not

1 incapacitate him from pursuing the duties of his employment but
2 which would disable him from pursuing other suitable
3 occupations, or which have otherwise resulted in physical
4 impairment; or if such injuries partially incapacitate him from
5 pursuing the duties of his usual and customary line of
6 employment but do not result in an impairment of earning
7 capacity, or having resulted in an impairment of earning
8 capacity, the employee elects to waive his right to recover
9 under the foregoing subparagraph 1 of paragraph (d) of this
10 Section then in any of the foregoing events, he shall receive
11 in addition to compensation for temporary total disability
12 under paragraph (b) of this Section, compensation at the rate
13 provided in subparagraph 2.1 of paragraph (b) of this Section
14 for that percentage of 500 weeks that the partial disability
15 resulting from the injuries covered by this paragraph bears to
16 total disability. If the employee shall have sustained a
17 fracture of one or more vertebra or fracture of the skull, the
18 amount of compensation allowed under this Section shall be not
19 less than 6 weeks for a fractured skull and 6 weeks for each
20 fractured vertebra, and in the event the employee shall have
21 sustained a fracture of any of the following facial bones:
22 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
23 mandible, the amount of compensation allowed under this Section
24 shall be not less than 2 weeks for each such fractured bone,
25 and for a fracture of each transverse process not less than 3
26 weeks. In the event such injuries shall result in the loss of a

1 kidney, spleen or lung, the amount of compensation allowed
2 under this Section shall be not less than 10 weeks for each
3 such organ. Compensation awarded under this subparagraph 2
4 shall not take into consideration injuries covered under
5 paragraphs (c) and (e) of this Section and the compensation
6 provided in this paragraph shall not affect the employee's
7 right to compensation payable under paragraphs (b), (c) and (e)
8 of this Section for the disabilities therein covered.

9 In computing the compensation to be paid to any employee of
10 a public employer or non-profit employer who, before the
11 accident for which he or she claims compensation, had sustained
12 an injury resulting in an award or settlement for permanency
13 given under paragraph 2 of paragraph (d) of this Section, such
14 award shall be deducted from any award made for the subsequent
15 injury resulting in an award or settlement for permanency given
16 under paragraph 2 of paragraph (d) of this Section.

17 (d-1) (1) To obtain compensation under this Act, an employee
18 of a public employer or non-profit employer bears the burden of
19 showing, by a preponderance of the credible evidence, that (i)
20 he or she has sustained accidental injuries arising out of and
21 in the course of the employment and (ii) the accidental
22 injuries arising out of and in the course of the employment are
23 the major contributing cause of the medical condition or injury
24 for which compensation is being sought. The major contributing
25 cause of a medical condition or injury is the cause that is
26 greater than 50% of all combined causes of the medical

1 condition or injury.

2 Accidental injuries shall not be considered to be arising
3 out of and in the course of employment if, without limitation:
4 (A) the accident resulted from a hazard or risk that was not
5 incidental to the employment or the accident resulted from a
6 hazard or risk to which the general public is also exposed; (B)
7 the accident did not occur at a time and place and under
8 circumstances reasonably required by the employment; or (C) the
9 medical condition or injury for which compensation is being
10 sought resulted from a personal or neutral risk.

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

24 (3) An injury, its occupational cause, and any resulting
25 manifestations or disability must be established to a
26 reasonable degree of medical certainty, based on objective,

1 relevant medical findings.

2 An employee of a public employer or non-profit employer who
3 is required to travel in connection with his or her employment
4 and who suffers an injury while in travel status is eligible
5 for benefits only if the injury arises out of and in the course
6 of employment and the travel is necessary for the performance
7 of job duties. Travel is necessary for the performance of job
8 duties if: (i) the employer furnishes the transportation or the
9 employee receives reimbursement from the employer for costs of
10 travel, gas, or lodging as part of the employee's benefits or
11 employment agreement; and (ii) travel is required by the
12 employer as part of the employee's job duties.

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

17 "Arising in and out of the course of employment" does not
18 include travel to and from work or when an employee is on a
19 paid or unpaid break and is not performing any specific tasks
20 for the employer during the break. Common risks associated with
21 travel, even where the traveling employee is exposed to a
22 greater degree than the general public, do not arise out of the
23 employment.

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 17.1. In computing the compensation to be paid to any
13 employee of a public employer or non-profit employer who,
14 before the accident for which he or she claims
15 compensation, had sustained an injury resulting in any
16 permanency award, including, without limitation, the loss
17 by amputation or partial loss by amputation of any member,
18 including hand, arm, thumb or fingers, leg, foot or any
19 toes, the partial loss of sight of an eye, or an award
20 given under paragraph 2 of paragraph (d) of Section 8, such
21 award shall be deducted from any award made for the
22 subsequent injury.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 Nothing herein contained repeals or amends the provisions

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

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

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

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

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

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

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

1 (820 ILCS 305/8.1c new)

2 Sec. 8.1c. Determination of permanent partial disability
3 for an employee of a public employer or non-profit employer.

4 (a) For accidental injuries incurred by an employee of a
5 public employer or non-profit employer on or after January 1,
6 2017, permanent partial disability shall be established using
7 the following criteria:

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

21 (2) In determining the level of permanent partial
22 disability, the Commission shall base its determination on
23 the following factors: (i) the reported level of impairment
24 pursuant to subsection (a) if such a report exists; (ii)
25 the occupation of the injured employee; (iii) the age of

1 the employee at the time of the injury; (iv) the employee's
2 future earning capacity; and (v) evidence of disability
3 corroborated by objective findings in the treating medical
4 records and independent medical examinations. In
5 determining the level of disability, the relevance and
6 weight of any factors used in addition to the level of
7 impairment as reported by the physician must be explained
8 in a written order.

9 (b) A report of impairment prepared pursuant to subsection
10 (a) is not required for the arbitrator or Commission to approve
11 a Settlement Contract Lump Sum Petition.