



Sen. Kwame Raoul

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1 AMENDMENT TO SENATE BILL 162

2 AMENDMENT NO. _____. Amend Senate Bill 162 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 8.1b, 8.2a, 14, and 25.5 and by adding
6 Sections 14.2, 14.3, and 14.4 as follows:

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

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

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

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

14 2. Every person, firm, public or private corporation,
15 including hospitals, public service, eleemosynary, religious
16 or charitable corporations or associations who has any person

1 in service or under any contract for hire, express or implied,
2 oral or written, and who is engaged in any of the enterprises
3 or businesses enumerated in Section 3 of this Act, or who at or
4 prior to the time of the accident to the employee for which
5 compensation under this Act may be claimed, has in the manner
6 provided in this Act elected to become subject to the
7 provisions of this Act, and who has not, prior to such
8 accident, effected a withdrawal of such election in the manner
9 provided in this Act.

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

1 In the event any such person pays compensation under this
2 subsection he may recover the amount thereof from the
3 contractor or sub-contractor, if any, and in the event the
4 contractor pays compensation under this subsection he may
5 recover the amount thereof from the sub-contractor, if any.

6 This subsection does not apply in any case where the
7 accident occurs elsewhere than on, in or about the immediate
8 premises on which the principal has contracted that the work be
9 done.

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

1 rendering reasonable cooperation in any hearings, trials or
2 proceedings in the case, including such proceedings for
3 reimbursement.

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

17 An employer whose business or enterprise or a substantial
18 part thereof consists of hiring, procuring or furnishing
19 employees to or for other employers operating under and subject
20 to the provisions of this Act for the performance of the work
21 of such other employers and who pays such employees their
22 salary or wages notwithstanding that they are doing the work of
23 such other employers shall be deemed a loaning employer within
24 the meaning and provisions of this Section.

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

26 1. Every person in the service of the State, including

1 members of the General Assembly, members of the Commerce
2 Commission, members of the Illinois Workers' Compensation
3 Commission, and all persons in the service of the University of
4 Illinois, county, including deputy sheriffs and assistant
5 state's attorneys, city, town, township, incorporated village
6 or school district, body politic, or municipal corporation
7 therein, whether by election, under appointment or contract of
8 hire, express or implied, oral or written, including all
9 members of the Illinois National Guard while on active duty in
10 the service of the State, and all probation personnel of the
11 Juvenile Court appointed pursuant to Article VI of the Juvenile
12 Court Act of 1987, and including any official of the State, any
13 county, city, town, township, incorporated village, school
14 district, body politic or municipal corporation therein except
15 any duly appointed member of a police department in any city
16 whose population exceeds 500,000 according to the last Federal
17 or State census, and except any member of a fire insurance
18 patrol maintained by a board of underwriters in this State. A
19 duly appointed member of a fire department in any city, the
20 population of which exceeds 500,000 according to the last
21 federal or State census, is an employee under this Act only
22 with respect to claims brought under paragraph (c) of Section
23 8.

24 One employed by a contractor who has contracted with the
25 State, or a county, city, town, township, incorporated village,
26 school district, body politic or municipal corporation

1 therein, through its representatives, is not considered as an
2 employee of the State, county, city, town, township,
3 incorporated village, school district, body politic or
4 municipal corporation which made the contract.

5 2. Every person in the service of another under any
6 contract of hire, express or implied, oral or written,
7 including persons whose employment is outside of the State of
8 Illinois where the contract of hire is made within the State of
9 Illinois, persons whose employment results in fatal or
10 non-fatal injuries within the State of Illinois where the
11 contract of hire is made outside of the State of Illinois, and
12 persons whose employment is principally localized within the
13 State of Illinois, regardless of the place of the accident or
14 the place where the contract of hire was made, and including
15 aliens, and minors who, for the purpose of this Act are
16 considered the same and have the same power to contract,
17 receive payments and give quittances therefor, as adult
18 employees.

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

21 An employee or his dependents under this Act who shall have
22 a cause of action by reason of any injury, disablement or death
23 arising out of and in the course of his employment may elect to
24 pursue his remedy in the State where injured or disabled, or in
25 the State where the contract of hire is made, or in the State
26 where the employment is principally localized.

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

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

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

16 (d) For the purposes of this subsection (d):

17 "In the course of employment" means the time, place, and
18 circumstances surrounding the accidental injuries.

19 "Arising out of the employment" means causal connection. It
20 must be shown that the injury had its origin in some risk
21 connected with, or incidental to, the employment so as to
22 create a causal connection between the employment and the
23 accidental injuries. An injury arises out of the employment if,
24 at the time of the occurrence, the employee was performing acts
25 he or she was instructed to perform by his or her employer,
26 acts which he or she had a common law or statutory duty to

1 perform, or acts which the employee might reasonably be
2 expected to perform incident to his or her assigned duties. A
3 risk is incidental to the employment where it belongs to or is
4 connected with what an employee has to do in fulfilling his or
5 her duties.

6 To obtain compensation under this Act, an employee bears
7 the burden of showing, by a preponderance of the evidence, that
8 he or she has sustained accidental injuries arising out of and
9 in the course of the employment. Except as provided in
10 subsection (e) of this Section, accidental injuries sustained
11 while traveling to or from work do not arise out of and in the
12 course of employment.

13 (e) Where an employee is required to travel away from his
14 or her employer's premises in order to perform his or her job,
15 the traveling employee's accidental injuries arise out of his
16 or her employment, and are in the course of his or her
17 employment, when the conduct in which he or she was engaged at
18 the time of the injury is reasonable and when that conduct
19 might have been anticipated or foreseen by the employer.
20 Accidental injuries while traveling do not occur in the course
21 of employment if the accident occurs during a purely personal
22 deviation or personal errand unless such deviation or errand is
23 insubstantial.

24 In determining whether an employee is required to travel
25 away from his or her employer's premises in order to perform
26 his or her job, along with all other relevant factors, the

1 following factors may be considered: whether the employer had
2 knowledge that the employee may be required to travel to
3 perform the job; whether the employer furnished any mode of
4 transportation to or from the employee; whether the employee
5 received or the employer paid or agreed to pay any remuneration
6 or reimbursement for costs or expenses of any form of travel;
7 whether the employer in any way directed the course or method
8 of travel; whether the employer in any way assisted the
9 employee in making any travel arrangements; whether the
10 employer furnished lodging or in any way reimbursed the
11 employee for lodging; or whether the employer received any
12 benefit from the employee traveling.

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

15 (820 ILCS 305/8.1b)

16 Sec. 8.1b. Determination of permanent partial disability.
17 For accidental injuries that occur on or after September 1,
18 2011, permanent partial disability shall be established using
19 the following criteria:

20 (a) A physician licensed to practice medicine in all of its
21 branches preparing a permanent partial disability impairment
22 report shall report the level of impairment in writing. The
23 report shall include an evaluation of medically defined and
24 professionally appropriate measurements of impairment that
25 include, but are not limited to: loss of range of motion; loss

1 of strength; measured atrophy of tissue mass consistent with
2 the injury; and any other measurements that establish the
3 nature and extent of the impairment. The most current edition
4 of the American Medical Association's "Guides to the Evaluation
5 of Permanent Impairment" shall be used by the physician in
6 determining the level of impairment.

7 (b) In determining the level of permanent partial
8 disability, the Commission shall base its determination on the
9 following factors: (i) the reported level of impairment
10 pursuant to subsection (a), if such report exists; (ii) the
11 occupation of the injured employee; (iii) the age of the
12 employee at the time of the injury; (iv) the employee's future
13 earning capacity; and (v) evidence of disability corroborated
14 by the treating medical records or examination under Section 12
15 of this Act. No single enumerated factor shall be the sole
16 determinant of disability. In determining the level of
17 disability, the relevance and weight of any factors used in
18 addition to the level of impairment as reported by the
19 physician must be explained in a written order.

20 (c) A report of impairment prepared pursuant to subsection
21 (a) is not required for an arbitrator or the Commission to make
22 an award for permanent partial disability or permanent total
23 disability benefits or any award for benefits under subsection
24 (c) of Section 8 or subsection (d) of Section 8 of this Act or
25 to approve a Settlement Contract Lump Sum Petition.

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

1 (820 ILCS 305/8.2a)

2 Sec. 8.2a. Electronic claims.

3 (a) The Director of Insurance shall adopt rules to do all
4 of the following:

5 (1) Ensure that all health care providers and
6 facilities submit medical bills for payment on
7 standardized forms.

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

10 (3) Ensure confidentiality of medical information
11 submitted on electronic claims for payment of medical
12 services.

13 (4) Ensure that the rules establishing electronic
14 claims include a specific enforcement mechanism to ensure
15 compliance with these rules.

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

20 (6) Ensure that health care providers are responsible
21 for supplying only those medical records pertaining to the
22 provider's own claims that are minimally necessary under
23 the federal Health Insurance Portability and
24 Accountability Act of 1996.

25 (b) To the extent feasible, standards adopted pursuant to

1 subdivision (a) shall be consistent with existing standards
2 under the federal Health Insurance Portability and
3 Accountability Act of 1996 and standards adopted under the
4 Illinois Health Information Exchange and Technology Act.

5 (c) The rules requiring employers and insurers to accept
6 electronic claims for payment of medical services shall be
7 proposed on or before May 31, 2016, ~~January 1, 2012~~, and shall
8 require all employers and insurers to accept electronic claims
9 for payment of medical services on or before January 1, 2017
10 ~~June 30, 2012~~.

11 (d) The Director of Insurance shall by rule establish
12 criteria for granting exceptions to employers, insurance
13 carriers, and health care providers who are unable to submit or
14 accept medical bills electronically.

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

16 (820 ILCS 305/14) (from Ch. 48, par. 138.14)

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

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

1 A formal training program for newly-hired arbitrators
2 shall be implemented. The training program shall include the
3 following:

4 (a) substantive and procedural aspects of the
5 arbitrator position;

6 (b) current issues in workers' compensation law and
7 practice;

8 (c) medical lectures by specialists in areas such as
9 orthopedics, ophthalmology, psychiatry, rehabilitation
10 counseling;

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

13 (e) observation of experienced arbitrators conducting
14 hearings of cases, combined with the opportunity to discuss
15 evidence presented and rulings made;

16 (f) the use of hypothetical cases requiring the trainee
17 to issue judgments as a means to evaluating knowledge and
18 writing ability;

19 (g) writing skills;

20 (h) professional and ethical standards pursuant to
21 Section 1.1 of this Act;

22 (i) detection of workers' compensation fraud and
23 reporting obligations of Commission employees and
24 appointees;

25 (j) standards of evidence-based medical treatment and
26 best practices for measuring and improving quality and

1 health care outcomes in the workers' compensation system,
2 including but not limited to the use of the American
3 Medical Association's "Guides to the Evaluation of
4 Permanent Impairment" and the practice of utilization
5 review; and

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

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

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

1 decision is reached in every case heard by that arbitrator
2 while serving as an acting Commissioner.

3 Notwithstanding any other provision of this Section, the
4 term of all arbitrators serving on the effective date of this
5 amendatory Act of the 97th General Assembly, including any
6 arbitrators on administrative leave, shall terminate at the
7 close of business on July 1, 2011, but the incumbents shall
8 continue to exercise all of their duties until they are
9 reappointed or their successors are appointed.

10 On and after the effective date of this amendatory Act of
11 the 97th General Assembly, arbitrators shall be appointed to
12 3-year terms as follows:

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

15 (2) For their initial appointments, 12 arbitrators
16 shall be appointed to terms expiring July 1, 2012; 12
17 arbitrators shall be appointed to terms expiring July 1,
18 2013; and all additional arbitrators shall be appointed to
19 terms expiring July 1, 2014. Thereafter, all arbitrators
20 shall be appointed to 3-year terms.

21 Upon the expiration of a term, the Chairman shall evaluate
22 the performance of the arbitrator and may recommend to the
23 Governor that he or she be reappointed to a second or
24 subsequent term by the Governor with the advice and consent of
25 the Senate.

26 Each arbitrator appointed on or after the effective date of

1 this amendatory Act of the 97th General Assembly and who has
2 not previously served as an arbitrator for the Commission shall
3 be required to be authorized to practice law in this State by
4 the Supreme Court, and to maintain this authorization
5 throughout his or her term of employment.

6 The performance of all arbitrators shall be reviewed by the
7 Chairman on an annual basis. The Chairman shall allow input
8 from the Commissioners in all such reviews.

9 The Commission shall assign no fewer than 3 arbitrators to
10 each hearing site. The Commission shall establish a procedure
11 to ensure that the arbitrators assigned to each hearing site
12 are assigned cases on a random basis. The Chairperson of the
13 Commission shall have discretion to assign and reassign
14 arbitrators to each hearing site as needed. ~~No arbitrator shall~~
15 ~~hear cases in any county, other than Cook County, for more than~~
16 ~~2 years in each 3 year term.~~

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

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

1 The Commission shall provide itself with a seal for the
2 authentication of its orders, awards and proceedings upon which
3 shall be inscribed the name of the Commission and the words
4 "Illinois--Seal".

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

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

22 (820 ILCS 305/14.2 new)

23 Sec. 14.2. Ombudsman Program.

24 (a) The Commission shall establish the Workers'
25 Compensation Ombudsman Program as an office within the Illinois

1 Workers' Compensation Commission no later than July 1, 2016.
2 The Ombudsman Program shall be composed of at least one
3 full-time ombudsman who shall develop a plan to provide
4 assistance to all regions of this State. One full-time
5 Ombudsman shall be designated as the Chief Ombudsman and the
6 Chief Ombudsman shall be an attorney licensed to practice law
7 in the State of Illinois and shall have demonstrated experience
8 in Illinois workers' compensation law. The Ombudsman Program
9 shall be staffed with personnel who are trained in techniques
10 performed by ombudsmen and who are familiar with the provisions
11 of this Act and its rules, vocational rehabilitation
12 principles, the obligations of medical providers under this
13 Act, the provisions of the Medical Fee Schedule, an employer's
14 responsibility to maintain workers' compensation insurance,
15 the duties and obligations of self-insurers, and workers'
16 compensation fraud.

17 (b) The duties of the Ombudsman Program shall be as
18 follows:

19 (1) assist injured employees in understanding their
20 rights and obligations under this Act, including, but not
21 limited to, filing their own claims with the Commission and
22 obtaining medical records, job descriptions, and other
23 materials pertinent to filing a claim before the
24 Commission;

25 (2) assist employers seeking information regarding
26 their rights and obligations under this Act, including

1 their obligation to maintain workers' compensation
2 insurance;

3 (3) assist medical providers with their rights and
4 obligations under this Act;

5 (4) provide information to employers, employees, and
6 medical providers with questions about workers'
7 compensation fraud;

8 (5) assist injured employees with referral to local,
9 State, and federal financial assistance, rehabilitation,
10 and work placement programs, as well as other social
11 services that the Ombudsman Program considers appropriate;

12 (6) respond to inquiries and complaints relative to the
13 workers' compensation program;

14 (7) serve as an information source for employees,
15 employers, medical, vocational, and rehabilitation
16 personnel, insurers, third-party administrators, and
17 self-insurers; and

18 (8) perform other duties as required by the Chairman.

19 (c) The Ombudsman Program may not appear or intervene, as a
20 party or otherwise, before the Commission on behalf of an
21 injured employee, employer, or medical provider. This Section
22 shall not be construed as requiring or allowing legal
23 representation for an injured employee by the Ombudsman Program
24 in any proceeding before the Commission.

25 (d) The Ombudsman Program shall prepare a report to the
26 Commission, which shall also be included in the Commission's

1 annual report required under Section 15 of this Act. The report
2 prepared by the Ombudsman Program shall include the following
3 information for the preceding fiscal year:

4 (1) the total number of persons and entities assisted
5 during the fiscal year;

6 (2) the number of injured employers assisted during the
7 fiscal year;

8 (3) the number of employers, insurers, self-insureds,
9 and third-party administrators assisted during the fiscal
10 year;

11 (4) the total number of medical providers assisted
12 during the fiscal year;

13 (5) the number of referrals made to the Workers'
14 Compensation Fraud Unit;

15 (6) an analysis of the areas of workers' compensation
16 law requiring the most assistance for injured workers,
17 employers, and medical providers; and

18 (7) recommendations, if any, for legislation or rules
19 to be initiated by the Commission, based on the inquiries
20 received by the Ombudsman Program.

21 (820 ILCS 305/14.3 new)

22 Sec. 14.3. WEAR Commission.

23 (a) There is created the Workers' Compensation Edit,
24 Alignment, and Reform Commission, which shall be known as the
25 WEAR Commission. The purpose of the WEAR Commission is to

1 develop a proposed recodification of the Workers' Compensation
2 Act that meets the following goals:

3 (1) to make this Act more accessible to laypeople
4 seeking benefits under this Act and employers seeking
5 insurance coverage for their responsibilities under this
6 Act;

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

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

12 (4) to reduce the size of each Section of this Act to
13 promote understanding, interpretation, and indexing of
14 this Act;

15 (5) to assist policymakers so that they can more easily
16 understand the implication of amendments to this Act that
17 may be proposed in the future;

18 (6) to replace outdated and obsolete language within
19 this Act;

20 (7) to limit the opportunity for lengthy and expensive
21 appeals due to confusion or contrary language within this
22 Act; and

23 (8) to meet the preceding objectives without changing
24 substantive law or disturbing established case law
25 precedent. Nothing in this Section 14.3 shall be construed
26 to allow or authorize the WEAR Commission to seek to or to

1 diminish, restrict, limit, expand, abrogate, alter, or
2 change in way the current interpretation of any substantive
3 or procedural provision of this Act by the Commission or
4 any Court.

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

6 (1) one Senator appointed by the President of the
7 Senate;

8 (2) one Senator appointed by the Minority Leader of the
9 Senate;

10 (3) one Representative appointed by the Speaker of the
11 House of Representatives;

12 (4) one Representative appointed by the Minority
13 Leader of the House of Representatives;

14 (5) four attorneys representing petitioners, one each
15 appointed by the President of the Senate, Minority Leader
16 of the Senate, Speaker of the House of Representatives, and
17 Minority Leader of the House of Representatives; and

18 (6) four attorneys representing respondents, one each
19 appointed by the President of the Senate, Minority Leader
20 of the Senate, Speaker of the House of Representatives, and
21 Minority Leader of the House of Representatives.

22 The members of the WEAR Commission shall serve without
23 compensation. The Chairperson of the Illinois Workers'
24 Compensation Commission shall serve as the Chairperson of the
25 WEAR Commission.

26 (c) The Illinois Workers' Compensation Commission, the

1 Workers' Compensation Insurance Compliance Unit, and the
2 Legislative Reference Bureau shall provide administrative
3 support for the WEAR Commission.

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

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

10 (820 ILCS 305/14.4 new)

11 Sec. 14.4. System improvements.

12 (a) By January 1, 2017, the Commission shall procure and
13 implement a computer system to replace its current outdated and
14 obsolete mainframe computer system. The Commission shall use
15 the funds allocated for this purpose as set forth in the
16 settlement agreement for the case entitled Illinois State
17 Chamber of Commerce v. Filan.

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

20 (1) require the electronic filing of claims before the
21 Commission, including the Application for Adjustment of
22 Claim and all subsequent filings by a petitioner or
23 respondent; the electronic filing fields for the
24 Application of Adjustment of Claim shall include the
25 following:

1 (i) for cases involving the State of Illinois, a
2 data field for the specific agency, department,
3 constitutional officer, board, or commission;

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

6 (iii) a data field for the petitioner to indicate
7 that the claim involved an injury incurred when the
8 petitioner was traveling as part of his or her
9 employment; and

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

12 (2) allow for a respondent to indicate the insurance
13 carrier of the employer, or the third-party administrator
14 of the employer, if self-insured;

15 (3) allow for documents and exhibits to be uploaded
16 electronically;

17 (4) allow for the case history of each claim to be
18 viewed in a summary format arranged by the date of each
19 filing or hearing, which shall be available to the public;

20 (5) allow for the attorney of record for the
21 petitioner, if any, and the respondent to be clearly
22 indicated on any summary format, including the attorney who
23 actually tried or argued the case before an arbitrator or
24 Commissioner;

25 (6) allow for the decision of the arbitrator or the
26 Commission to be uploaded electronically;

1 (7) allow for the following data reports to be produced
2 from the electronic system:

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

5 (ii) the total number of awards by injury type,
6 including repetitive injuries or injuries suffered by
7 employees when traveling in the course of their
8 employment or alleged to be suffered by employees when
9 traveling in the course of their employment;

10 (iii) the penalties assessed against employers,
11 searchable by each employer;

12 (iv) the total number of decisions by each panel of
13 Commissioners;

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

16 (vi) the total number of new claims filed in each
17 arbitration zone;

18 (vii) the total number of Settlement Contract Lump
19 Sum Petitions; and

20 (viii) the industry types of the employers against
21 whom claims are filed.

22 (7) allow for an electronic, searchable record of any
23 approved Settlement Contract Lump Sum Petitions, including
24 the amount of such Settlement Contract Lump Sum Petitions,
25 the type of injury, and the attorneys representing each
26 party, if any, for such Settlement Contract Lump Sum

1 Petitions;

2 (8) allow for the random assignment of cases by
3 arbitrator and to Commission panels, if appealed;

4 (9) allow for the electronic transmission of the record
5 of proceedings before the Commission to be transmitted to
6 the circuit court in the event of an appeal from the
7 Commission; and

8 (10) ensure the confidentiality of all protected
9 information, including medical records.

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

14 (820 ILCS 305/25.5)

15 Sec. 25.5. Unlawful acts; penalties.

16 (a) It is unlawful for any person, company, corporation,
17 insurance carrier, healthcare provider, or other entity to:

18 (1) Intentionally present or cause to be presented any
19 false or fraudulent claim for the payment of any workers'
20 compensation benefit.

21 (2) Intentionally make or cause to be made any false or
22 fraudulent material statement or material representation
23 for the purpose of obtaining or denying any workers'
24 compensation benefit.

25 (3) Intentionally make or cause to be made any false or

1 fraudulent statements with regard to entitlement to
2 workers' compensation benefits with the intent to prevent
3 an injured worker from making a legitimate claim for any
4 workers' compensation benefits.

5 (4) Intentionally prepare or provide an invalid,
6 false, or counterfeit certificate of insurance as proof of
7 workers' compensation insurance.

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

12 (6) Intentionally make or cause to be made any false or
13 fraudulent material statement or material representation
14 on an initial or renewal self-insurance application or
15 accompanying financial statement for the purpose of
16 obtaining self-insurance status or reducing the amount of
17 security that may be required to be furnished pursuant to
18 Section 4 of this Act.

19 (7) Intentionally make or cause to be made any false or
20 fraudulent material statement to the Commission's
21 ~~Department of Insurance's~~ fraud and insurance
22 non-compliance unit in the course of an investigation of
23 fraud or insurance non-compliance.

24 (8) Intentionally assist, abet, solicit, or conspire
25 with any person, company, or other entity to commit any of
26 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)

1 of this subsection (a).

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

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

8 (b) Sentences for violations of subsection (a) are as
9 follows:

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

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

16 (3) A violation in which the value of the property
17 obtained or attempted to be obtained is more than \$10,000
18 but not more than \$100,000 is a Class 2 felony.

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

22 (5) A person convicted under this Section shall be
23 ordered to pay monetary restitution to the insurance
24 company or self-insured entity or any other person for any
25 financial loss sustained as a result of a violation of this
26 Section, including any court costs and attorney fees. An

1 order of restitution also includes expenses incurred and
2 paid by the State of Illinois or an insurance company or
3 self-insured entity in connection with any medical
4 evaluation or treatment services.

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

17 (c) The Illinois Workers' Compensation Commission
18 ~~Department of Insurance~~ shall establish a fraud and insurance
19 non-compliance unit responsible for investigating incidences
20 of fraud and insurance non-compliance pursuant to this Section.
21 The size of the staff of the unit shall be subject to
22 appropriation by the General Assembly. It shall be the duty of
23 the fraud and insurance non-compliance unit to determine the
24 identity of insurance carriers, employers, employees, or other
25 persons or entities who have violated the fraud and insurance
26 non-compliance provisions of this Section. The fraud and

1 insurance non-compliance unit shall report violations of the
2 fraud and insurance non-compliance provisions of this Section
3 to the Special Prosecutions Bureau of the Criminal Division of
4 the Office of the Attorney General or to the State's Attorney
5 of the county in which the offense allegedly occurred, either
6 of whom has the authority to prosecute violations under this
7 Section.

8 With respect to the subject of any investigation being
9 conducted, the fraud and insurance non-compliance unit shall
10 have ~~the~~ general power of subpoena ~~of the Department of~~
11 ~~Insurance~~, including the authority to issue a subpoena to a
12 medical provider, pursuant to Section 8-802 of the Code of
13 Civil Procedure.

14 (d) Any person may report allegations of insurance
15 non-compliance and fraud pursuant to this Section to the
16 Illinois Workers' Compensation Commission's ~~Department of~~
17 ~~Insurance's~~ fraud and insurance non-compliance unit whose duty
18 it shall be to investigate the report. ~~The unit shall notify~~
19 ~~the Commission of reports of insurance non-compliance.~~ Any
20 person reporting an allegation of insurance non-compliance or
21 fraud against either an employee or employer under this Section
22 must identify himself. Except as provided in this subsection
23 and in subsection (e), all reports shall remain confidential
24 except to refer an investigation to the Attorney General or
25 State's Attorney for prosecution or if the fraud and insurance
26 non-compliance unit's investigation reveals that the conduct

1 reported may be in violation of other laws or regulations of
2 the State of Illinois, the unit may report such conduct to the
3 appropriate governmental agency charged with administering
4 such laws and regulations. Any person who intentionally makes a
5 false report under this Section to the fraud and insurance
6 non-compliance unit is guilty of a Class A misdemeanor.

7 (e) In order for the fraud and insurance non-compliance
8 unit to investigate a report of fraud related to an employee's
9 claim, (i) the employee must have filed with the Commission an
10 Application for Adjustment of Claim and the employee must have
11 either received or attempted to receive benefits under this Act
12 that are related to the reported fraud or (ii) the employee
13 must have made a written demand for the payment of benefits
14 that are related to the reported fraud. There shall be no
15 immunity, under this Act or otherwise, for any person who files
16 a false report or who files a report without good and just
17 cause. Confidentiality of medical information shall be
18 strictly maintained. Investigations that are not referred for
19 prosecution shall be destroyed upon the expiration of the
20 statute of limitations for the acts under investigation and
21 shall not be disclosed except that the person making the report
22 shall be notified that the investigation is being closed. It is
23 unlawful for any employer, insurance carrier, service
24 adjustment company, third party administrator, self-insured,
25 or similar entity to file or threaten to file a report of fraud
26 against an employee because of the exercise by the employee of

1 the rights and remedies granted to the employee by this Act.

2 (e-5) The fraud and insurance non-compliance unit shall
3 procure and implement a system utilizing advanced analytics
4 inclusive of predictive modeling, data mining, social network
5 analysis, and scoring algorithms for the detection and
6 prevention of fraud, waste, and abuse on or before January 1,
7 2012. The fraud and insurance non-compliance unit shall procure
8 this system using a request for proposals process governed by
9 the Illinois Procurement Code and rules adopted under that
10 Code. The fraud and insurance non-compliance unit shall provide
11 a report to the President of the Senate, Speaker of the House
12 of Representatives, Minority Leader of the House of
13 Representatives, Minority Leader of the Senate, Governor,
14 Chairman of the Commission, and Director of Insurance on or
15 before July 1, 2012 and annually thereafter detailing its
16 activities and providing recommendations regarding
17 opportunities for additional fraud waste and abuse detection
18 and prevention.

19 (f) Any person convicted of fraud related to workers'
20 compensation pursuant to this Section shall be subject to the
21 penalties prescribed in the Criminal Code of 2012 and shall be
22 ineligible to receive or retain any compensation, disability,
23 or medical benefits as defined in this Act if the compensation,
24 disability, or medical benefits were owed or received as a
25 result of fraud for which the recipient of the compensation,
26 disability, or medical benefit was convicted. This subsection

1 applies to accidental injuries or diseases that occur on or
2 after the effective date of this amendatory Act of the 94th
3 General Assembly.

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

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

24 (1) The number of allegations of insurance
25 non-compliance and fraud reported to the fraud and
26 insurance non-compliance unit.

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

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

5 (4) The number of criminal referrals made in accordance
6 with this Section and the entity to which the referral was
7 made.

8 (5) All proceedings under this Section.

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