



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0772

Introduced 2/4/2015, by Sen. Kyle McCarter

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 305/10	from Ch. 48, par. 138.10

Amends the Workers' Compensation Act. Adds definitions of "accident" and "injury". Provides that an injury is a condition that arises out of and in the course of employment, and adds provisions concerning establishment of an injury. Establishes the manner of computing compensation for partial disability, with a maximum cumulative compensation of 500 weeks. Provides that injuries to the shoulder and hip are deemed to be injuries to the arm and leg respectively. Provides for the computation of compensation when there are multiple employers and when there is less than full-time work.

LRB099 04026 KTG 24044 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Sections 1, 8, and 10 as follows:

6 (820 ILCS 305/1) (from Ch. 48, par. 138.1)

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

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

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

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

1 provided in this Act.

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

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

24 This subsection does not apply in any case where the
25 accident occurs elsewhere than on, in or about the immediate
26 premises on which the principal has contracted that the work be

1 done.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (e) The term "accident" as used in this Act means an
13 occurrence arising out of the employment resulting from a risk
14 incidental to the employment and in the course of the
15 employment at a time and place and under circumstances
16 reasonably required by the employment.

17 (f) The term "injury" as used in this Act means a condition
18 or impairment that arises out of and in the course of
19 employment. An injury, its occupational cause, and any
20 resulting manifestations of disability must be established to a
21 reasonable degree of medical certainty, based on objective
22 relevant medical findings, and the accidental compensable
23 injury must be the major contributing cause of any resulting
24 injuries. For the purposes of this Section, "major contributing
25 cause" means the cause which is more than 50% responsible for
26 the injury as compared to all other causes combined for which

1 treatment or benefits are sought. "Injury" includes the
2 aggravation of a pre-existing condition by an accident arising
3 out of and in the course of the employment, but only for so
4 long as the aggravation of the pre-existing condition continues
5 to be the major contributing cause of the disability.

6 (1) An injury is deemed to arise out of and in the
7 course of the employment only if:

8 (A) it is reasonably apparent, upon consideration
9 of all circumstances, that the accident is the major
10 contributing cause of the injury; and

11 (B) it does not come from a hazard or risk
12 unrelated to the employment to which employees would
13 have been equally exposed outside of the employment.

14 (2) An injury resulting directly or indirectly from
15 idiopathic causes is not compensable.

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

18 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

22 (a) The employer shall provide and pay the negotiated rate,
23 if applicable, or the lesser of the health care provider's
24 actual charges or according to a fee schedule, subject to
25 Section 8.2, in effect at the time the service was rendered for

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

18 The employee may at any time elect to secure his own
19 physician, surgeon and hospital services at the employer's
20 expense, or,

21 Upon agreement between the employer and the employees, or
22 the employees' exclusive representative, and subject to the
23 approval of the Illinois Workers' Compensation Commission, the
24 employer shall maintain a list of physicians, to be known as a
25 Panel of Physicians, who are accessible to the employees. The
26 employer shall post this list in a place or places easily

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

18 Any vocational rehabilitation counselors who provide
19 service under this Act shall have appropriate certifications
20 which designate the counselor as qualified to render opinions
21 relating to vocational rehabilitation. Vocational
22 rehabilitation may include, but is not limited to, counseling
23 for job searches, supervising a job search program, and
24 vocational retraining including education at an accredited
25 learning institution. The employee or employer may petition to
26 the Commission to decide disputes relating to vocational

1 rehabilitation and the Commission shall resolve any such
2 dispute, including payment of the vocational rehabilitation
3 program by the employer.

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

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

20 Every hospital, physician, surgeon or other person
21 rendering treatment or services in accordance with the
22 provisions of this Section shall upon written request furnish
23 full and complete reports thereof to, and permit their records
24 to be copied by, the employer, the employee or his dependents,
25 as the case may be, or any other party to any proceeding for
26 compensation before the Commission, or their attorneys.

1 Notwithstanding the foregoing, the employer's liability to
2 pay for such medical services selected by the employee shall be
3 limited to:

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

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

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

1 (4) The following shall apply for injuries occurring on
2 or after June 28, 2011 (the effective date of Public Act
3 97-18) and only when an employer has an approved preferred
4 provider program pursuant to Section 8.1a on the date the
5 employee sustained his or her accidental injuries:

6 (A) The employer shall, in writing, on a form
7 promulgated by the Commission, inform the employee of
8 the preferred provider program;

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

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

21 When an employer and employee so agree in writing, nothing
22 in this Act prevents an employee whose injury or disability has
23 been established under this Act, from relying in good faith, on
24 treatment by prayer or spiritual means alone, in accordance
25 with the tenets and practice of a recognized church or
26 religious denomination, by a duly accredited practitioner

1 thereof, and having nursing services appropriate therewith,
2 without suffering loss or diminution of the compensation
3 benefits under this Act. However, the employee shall submit to
4 all physical examinations required by this Act. The cost of
5 such treatment and nursing care shall be paid by the employee
6 unless the employer agrees to make such payment.

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

22 The furnishing by the employer of any such services or
23 appliances is not an admission of liability on the part of the
24 employer to pay compensation.

25 The furnishing of any such services or appliances or the
26 servicing thereof by the employer is not the payment of

1 compensation.

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

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

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

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

14 2.1. The compensation rate in all cases of serious and
15 permanent disfigurement under paragraph (c) and of
16 permanent partial disability under subparagraph (2) of
17 paragraph (d) or under paragraph (e) of this Section shall
18 be equal to 60% of the employee's average weekly wage
19 computed in accordance with the provisions of Section 10,
20 provided that it shall be not less than 66 2/3% of the sum
21 of the Federal minimum wage under the Fair Labor Standards
22 Act, or the Illinois minimum wage under the Minimum Wage
23 Law, whichever is more, multiplied by 40 hours. This
24 percentage rate shall be increased by 10% for each spouse
25 and child, not to exceed 100% of the total minimum wage
26 calculation,

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

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

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

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

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

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

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

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

1 Section and for amputation of a member or enucleation of an
2 eye under paragraph (e) of this Section shall be increased
3 to 133-1/3% of the State's average weekly wage in covered
4 industries under the Unemployment Insurance Act.

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

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

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

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

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

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

21 (c) For any serious and permanent disfigurement to the
22 hand, head, face, neck, arm, leg below the knee or the chest
23 above the axillary line, the employee is entitled to
24 compensation for such disfigurement, the amount determined by
25 agreement at any time or by arbitration under this Act, at a
26 hearing not less than 6 months after the date of the accidental

1 injury, which amount shall not exceed 150 weeks (if the
2 accidental injury occurs on or after the effective date of this
3 amendatory Act of the 94th General Assembly but before February
4 1, 2006) or 162 weeks (if the accidental injury occurs on or
5 after February 1, 2006) at the applicable rate provided in
6 subparagraph 2.1 of paragraph (b) of this Section.

7 No compensation is payable under this paragraph where
8 compensation is payable under paragraphs (d), (e) or (f) of
9 this Section.

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

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

1 suitable employment or business after the accident. For
2 accidental injuries that occur on or after September 1, 2011,
3 an award for wage differential under this subsection shall be
4 effective only until the employee reaches the age of 67 or 5
5 years from the date the award becomes final, whichever is
6 later.

7 2. If, as a result of the accident, the employee sustains
8 serious and permanent injuries not covered by paragraphs (c)
9 and (e) of this Section or having sustained injuries covered by
10 the aforesaid paragraphs (c) and (e), he shall have sustained
11 in addition thereto other injuries which injuries do not
12 incapacitate him from pursuing the duties of his employment but
13 which would disable him from pursuing other suitable
14 occupations, or which have otherwise resulted in physical
15 impairment; or if such injuries partially incapacitate him from
16 pursuing the duties of his usual and customary line of
17 employment but do not result in an impairment of earning
18 capacity, or having resulted in an impairment of earning
19 capacity, the employee elects to waive his right to recover
20 under the foregoing subparagraph 1 of paragraph (d) of this
21 Section then in any of the foregoing events, he shall receive
22 in addition to compensation for temporary total disability
23 under paragraph (b) of this Section, compensation at the rate
24 provided in subparagraph 2.1 of paragraph (b) of this Section
25 for that percentage of 500 weeks that the partial disability
26 resulting from the injuries covered by this paragraph bears to

1 total disability.

2 In computing the compensation to be paid to any employee
3 who, before the accident for which he or she claims
4 compensation, had previously sustained an injury resulting in
5 the payment of compensation for a percentage of partial
6 disability under this subparagraph 2, such percentage of
7 partial disability shall be deducted from any award made under
8 this subparagraph 2 for a subsequent injury to the same portion
9 of the body as was involved in the prior injury for which
10 compensation was paid; provided, however, nothing herein
11 contained shall permit cumulative awards for compensation for
12 partial disability under this subparagraph 2 to exceed 500
13 weeks, which shall constitute complete loss of use of the body
14 as a whole.

15 If, as a result of the accident, the employee shall have
16 sustained a fracture of one or more vertebra or fracture of the
17 skull, the amount of compensation allowed under this Section
18 shall be not less than 6 weeks for a fractured skull and 6
19 weeks for each fractured vertebra, and in the event the
20 employee shall have sustained a fracture of any of the
21 following facial bones: nasal, lachrymal, vomer, zygoma,
22 maxilla, palatine or mandible, the amount of compensation
23 allowed under this Section shall be not less than 2 weeks for
24 each such fractured bone, and for a fracture of each transverse
25 process not less than 3 weeks. In the event such injuries shall
26 result in the loss of a kidney, spleen or lung, the amount of

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

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

19 1. Thumb-

20 70 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 76 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 2. First, or index finger-

26 40 weeks if the accidental injury occurs on or

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

3 43 weeks if the accidental injury occurs on or
4 after February 1, 2006.

5 3. Second, or middle finger-

6 35 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 38 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 4. Third, or ring finger-

12 25 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 27 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 5. Fourth, or little finger-

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

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

23 6. Great toe-

24 35 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 7. Each toe other than great toe-

4 12 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 13 weeks if the accidental injury occurs on or
8 after February 1, 2006.

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

18 9. Hand-

19 190 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.

22 205 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 190 weeks if the accidental injury occurs on or
25 after June 28, 2011 (the effective date of Public Act
26 97-18) and if the accidental injury involves carpal

1 tunnel syndrome due to repetitive or cumulative
2 trauma, in which case the permanent partial disability
3 shall not exceed 15% loss of use of the hand, except
4 for cause shown by clear and convincing evidence and in
5 which case the award shall not exceed 30% loss of use
6 of the hand.

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

13 10. Arm-

14 235 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 253 weeks if the accidental injury occurs on or
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of
20 an arm below the elbow, such injury shall be compensated as
21 a loss of an arm. Where an accidental injury results in the
22 amputation of an arm above the elbow, compensation for an
23 additional 15 weeks (if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the 94th
25 General Assembly but before February 1, 2006) or an
26 additional 17 weeks (if the accidental injury occurs on or

1 after February 1, 2006) shall be paid, except where the
2 accidental injury results in the amputation of an arm at
3 the shoulder joint, or so close to shoulder joint that an
4 artificial arm cannot be used, or results in the
5 disarticulation of an arm at the shoulder joint, in which
6 case compensation for an additional 65 weeks (if the
7 accidental injury occurs on or after the effective date of
8 this amendatory Act of the 94th General Assembly but before
9 February 1, 2006) or an additional 70 weeks (if the
10 accidental injury occurs on or after February 1, 2006)
11 shall be paid. For purposes of awards under this
12 subdivision (e), injuries to the shoulder shall be
13 considered to be injuries to part of the arm. This
14 amendatory Act of the 99th General Assembly is declarative
15 of existing law and is not a new enactment.

16 11. Foot-

17 155 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 167 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 12. Leg-

23 200 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 215 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 Where an accidental injury results in the amputation of
3 a leg below the knee, such injury shall be compensated as
4 loss of a leg. Where an accidental injury results in the
5 amputation of a leg above the knee, compensation for an
6 additional 25 weeks (if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly but before February 1, 2006) or an
9 additional 27 weeks (if the accidental injury occurs on or
10 after February 1, 2006) shall be paid, except where the
11 accidental injury results in the amputation of a leg at the
12 hip joint, or so close to the hip joint that an artificial
13 leg cannot be used, or results in the disarticulation of a
14 leg at the hip joint, in which case compensation for an
15 additional 75 weeks (if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the 94th
17 General Assembly but before February 1, 2006) or an
18 additional 81 weeks (if the accidental injury occurs on or
19 after February 1, 2006) shall be paid.

20 For purposes of awards under this subdivision (e), injuries
21 to the hip shall be considered to be injuries to part of the
22 leg. This amendatory Act of the 99th General Assembly is
23 declarative of existing law and is not a new enactment.

24 13. Eye-

25 150 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.

2 162 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Where an accidental injury results in the enucleation
5 of an eye, compensation for an additional 10 weeks (if the
6 accidental injury occurs on or after the effective date of
7 this amendatory Act of the 94th General Assembly but before
8 February 1, 2006) or an additional 11 weeks (if the
9 accidental injury occurs on or after February 1, 2006)
10 shall be paid.

11 14. Loss of hearing of one ear-

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

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

17 Total and permanent loss of hearing of both ears-

18 200 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 215 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 15. Testicle-

24 50 weeks if the accidental injury occurs on or
25 after the effective date of this amendatory Act of the
26 94th General Assembly but before February 1, 2006.

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

3 Both testicles-

4 150 weeks if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the
6 94th General Assembly but before February 1, 2006.

7 162 weeks if the accidental injury occurs on or
8 after February 1, 2006.

9 16. For the permanent partial loss of use of a member
10 or sight of an eye, or hearing of an ear, compensation
11 during that proportion of the number of weeks in the
12 foregoing schedule provided for the loss of such member or
13 sight of an eye, or hearing of an ear, which the partial
14 loss of use thereof bears to the total loss of use of such
15 member, or sight of eye, or hearing of an ear.

16 (a) Loss of hearing for compensation purposes
17 shall be confined to the frequencies of 1,000, 2,000
18 and 3,000 cycles per second. Loss of hearing ability
19 for frequency tones above 3,000 cycles per second are
20 not to be considered as constituting disability for
21 hearing.

22 (b) The percent of hearing loss, for purposes of
23 the determination of compensation claims for
24 occupational deafness, shall be calculated as the
25 average in decibels for the thresholds of hearing for
26 the frequencies of 1,000, 2,000 and 3,000 cycles per

1 second. Pure tone air conduction audiometric
2 instruments, approved by nationally recognized
3 authorities in this field, shall be used for measuring
4 hearing loss. If the losses of hearing average 30
5 decibels or less in the 3 frequencies, such losses of
6 hearing shall not then constitute any compensable
7 hearing disability. If the losses of hearing average 85
8 decibels or more in the 3 frequencies, then the same
9 shall constitute and be total or 100% compensable
10 hearing loss.

11 (c) In measuring hearing impairment, the lowest
12 measured losses in each of the 3 frequencies shall be
13 added together and divided by 3 to determine the
14 average decibel loss. For every decibel of loss
15 exceeding 30 decibels an allowance of 1.82% shall be
16 made up to the maximum of 100% which is reached at 85
17 decibels.

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

23 (e) No consideration shall be given to the question
24 of whether or not the ability of an employee to
25 understand speech is improved by the use of a hearing
26 aid.

1 (f) No claim for loss of hearing due to industrial
2 noise shall be brought against an employer or allowed
3 unless the employee has been exposed for a period of
4 time sufficient to cause permanent impairment to noise
5 levels in excess of the following:

6 Sound Level DBA

7 Slow Response Hours Per Day

8 90 8

9 92 6

10 95 4

11 97 3

12 100 2

13 102 1-1/2

14 105 1

15 110 1/2

16 115 1/4

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

19 17. In computing the compensation to be paid to any
20 employee who, before the accident for which he claims
21 compensation, had before that time sustained an injury
22 resulting in the loss by amputation or partial loss by
23 amputation of any member, including hand, arm, thumb or
24 fingers, leg, foot or any toes, such loss or partial loss
25 of any such member shall be deducted from any award made
26 for the subsequent injury. For the permanent loss of use or

1 the permanent partial loss of use of any such member or the
2 partial loss of sight of an eye, for which compensation has
3 been paid, then such loss shall be taken into consideration
4 and deducted from any award for the subsequent injury.

5 18. The specific case of loss of both hands, both arms,
6 or both feet, or both legs, or both eyes, or of any two
7 thereof, or the permanent and complete loss of the use
8 thereof, constitutes total and permanent disability, to be
9 compensated according to the compensation fixed by
10 paragraph (f) of this Section. These specific cases of
11 total and permanent disability do not exclude other cases.

12 Any employee who has previously suffered the loss or
13 permanent and complete loss of the use of any of such
14 members, and in a subsequent independent accident loses
15 another or suffers the permanent and complete loss of the
16 use of any one of such members the employer for whom the
17 injured employee is working at the time of the last
18 independent accident is liable to pay compensation only for
19 the loss or permanent and complete loss of the use of the
20 member occasioned by the last independent accident.

21 19. In a case of specific loss and the subsequent death
22 of such injured employee from other causes than such injury
23 leaving a widow, widower, or dependents surviving before
24 payment or payment in full for such injury, then the amount
25 due for such injury is payable to the widow or widower and,
26 if there be no widow or widower, then to such dependents,

1 in the proportion which such dependency bears to total
2 dependency.

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

21 On August 1, 1996 and on February 1 and August 1 of each
22 subsequent year, the Commission shall examine the special fund
23 designated as the "Rate Adjustment Fund" and when, after
24 deducting all advances or loans made to said fund, the amount
25 therein is \$4,000,000, the amount required to be paid by
26 employers pursuant to paragraph (f) of Section 7 shall be

1 reduced by one-half. When the Rate Adjustment Fund reaches the
2 sum of \$5,000,000 the payment therein shall cease entirely.
3 However, when said Rate Adjustment Fund has been reduced to
4 \$3,000,000 the amounts required by paragraph (f) of Section 7
5 shall be resumed in the manner herein provided.

6 (f) In case of complete disability, which renders the
7 employee wholly and permanently incapable of work, or in the
8 specific case of total and permanent disability as provided in
9 subparagraph 18 of paragraph (e) of this Section, compensation
10 shall be payable at the rate provided in subparagraph 2 of
11 paragraph (b) of this Section for life.

12 An employee entitled to benefits under paragraph (f) of
13 this Section shall also be entitled to receive from the Rate
14 Adjustment Fund provided in paragraph (f) of Section 7 of the
15 supplementary benefits provided in paragraph (g) of this
16 Section 8.

17 If any employee who receives an award under this paragraph
18 afterwards returns to work or is able to do so, and earns or is
19 able to earn as much as before the accident, payments under
20 such award shall cease. If such employee returns to work, or is
21 able to do so, and earns or is able to earn part but not as much
22 as before the accident, such award shall be modified so as to
23 conform to an award under paragraph (d) of this Section. If
24 such award is terminated or reduced under the provisions of
25 this paragraph, such employees have the right at any time
26 within 30 months after the date of such termination or

1 reduction to file petition with the Commission for the purpose
2 of determining whether any disability exists as a result of the
3 original accidental injury and the extent thereof.

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

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

20 The custodian of the Second Injury Fund provided for in
21 paragraph (f) of Section 7 shall be joined with the employer as
22 a party respondent in the application for adjustment of claim.
23 The application for adjustment of claim shall state briefly and
24 in general terms the approximate time and place and manner of
25 the loss of the first member.

26 In its award the Commission or the Arbitrator shall

1 specifically find the amount the injured employee shall be
2 weekly paid, the number of weeks compensation which shall be
3 paid by the employer, the date upon which payments begin out of
4 the Second Injury Fund provided for in paragraph (f) of Section
5 7 of this Act, the length of time the weekly payments continue,
6 the date upon which the pension payments commence and the
7 monthly amount of the payments. The Commission shall 30 days
8 after the date upon which payments out of the Second Injury
9 Fund have begun as provided in the award, and every month
10 thereafter, prepare and submit to the State Comptroller a
11 voucher for payment for all compensation accrued to that date
12 at the rate fixed by the Commission. The State Comptroller
13 shall draw a warrant to the injured employee along with a
14 receipt to be executed by the injured employee and returned to
15 the Commission. The endorsed warrant and receipt is a full and
16 complete acquittance to the Commission for the payment out of
17 the Second Injury Fund. No other appropriation or warrant is
18 necessary for payment out of the Second Injury Fund. The Second
19 Injury Fund is appropriated for the purpose of making payments
20 according to the terms of the awards.

21 As of July 1, 1980 to July 1, 1982, all claims against and
22 obligations of the Second Injury Fund shall become claims
23 against and obligations of the Rate Adjustment Fund to the
24 extent there is insufficient money in the Second Injury Fund to
25 pay such claims and obligations. In that case, all references
26 to "Second Injury Fund" in this Section shall also include the

1 Rate Adjustment Fund.

2 (g) Every award for permanent total disability entered by
3 the Commission on and after July 1, 1965 under which
4 compensation payments shall become due and payable after the
5 effective date of this amendatory Act, and every award for
6 death benefits or permanent total disability entered by the
7 Commission on and after the effective date of this amendatory
8 Act shall be subject to annual adjustments as to the amount of
9 the compensation rate therein provided. Such adjustments shall
10 first be made on July 15, 1977, and all awards made and entered
11 prior to July 1, 1975 and on July 15 of each year thereafter.
12 In all other cases such adjustment shall be made on July 15 of
13 the second year next following the date of the entry of the
14 award and shall further be made on July 15 annually thereafter.
15 If during the intervening period from the date of the entry of
16 the award, or the last periodic adjustment, there shall have
17 been an increase in the State's average weekly wage in covered
18 industries under the Unemployment Insurance Act, the weekly
19 compensation rate shall be proportionately increased by the
20 same percentage as the percentage of increase in the State's
21 average weekly wage in covered industries under the
22 Unemployment Insurance Act. The increase in the compensation
23 rate under this paragraph shall in no event bring the total
24 compensation rate to an amount greater than the prevailing
25 maximum rate at the time that the annual adjustment is made.
26 Such increase shall be paid in the same manner as herein

1 provided for payments under the Second Injury Fund to the
2 injured employee, or his dependents, as the case may be, out of
3 the Rate Adjustment Fund provided in paragraph (f) of Section 7
4 of this Act. Payments shall be made at the same intervals as
5 provided in the award or, at the option of the Commission, may
6 be made in quarterly payment on the 15th day of January, April,
7 July and October of each year. In the event of a decrease in
8 such average weekly wage there shall be no change in the then
9 existing compensation rate. The within paragraph shall not
10 apply to cases where there is disputed liability and in which a
11 compromise lump sum settlement between the employer and the
12 injured employee, or his dependents, as the case may be, has
13 been duly approved by the Illinois Workers' Compensation
14 Commission.

15 Provided, that in cases of awards entered by the Commission
16 for injuries occurring before July 1, 1975, the increases in
17 the compensation rate adjusted under the foregoing provision of
18 this paragraph (g) shall be limited to increases in the State's
19 average weekly wage in covered industries under the
20 Unemployment Insurance Act occurring after July 1, 1975.

21 For every accident occurring on or after July 20, 2005 but
22 before the effective date of this amendatory Act of the 94th
23 General Assembly (Senate Bill 1283 of the 94th General
24 Assembly), the annual adjustments to the compensation rate in
25 awards for death benefits or permanent total disability, as
26 provided in this Act, shall be paid by the employer. The

1 adjustment shall be made by the employer on July 15 of the
2 second year next following the date of the entry of the award
3 and shall further be made on July 15 annually thereafter. If
4 during the intervening period from the date of the entry of the
5 award, or the last periodic adjustment, there shall have been
6 an increase in the State's average weekly wage in covered
7 industries under the Unemployment Insurance Act, the employer
8 shall increase the weekly compensation rate proportionately by
9 the same percentage as the percentage of increase in the
10 State's average weekly wage in covered industries under the
11 Unemployment Insurance Act. The increase in the compensation
12 rate under this paragraph shall in no event bring the total
13 compensation rate to an amount greater than the prevailing
14 maximum rate at the time that the annual adjustment is made. In
15 the event of a decrease in such average weekly wage there shall
16 be no change in the then existing compensation rate. Such
17 increase shall be paid by the employer in the same manner and
18 at the same intervals as the payment of compensation in the
19 award. This paragraph shall not apply to cases where there is
20 disputed liability and in which a compromise lump sum
21 settlement between the employer and the injured employee, or
22 his or her dependents, as the case may be, has been duly
23 approved by the Illinois Workers' Compensation Commission.

24 The annual adjustments for every award of death benefits or
25 permanent total disability involving accidents occurring
26 before July 20, 2005 and accidents occurring on or after the

1 effective date of this amendatory Act of the 94th General
2 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
3 continue to be paid from the Rate Adjustment Fund pursuant to
4 this paragraph and Section 7(f) of this Act.

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

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

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

1 However, where an employer has on file an employment
2 certificate issued pursuant to the Child Labor Law or work
3 permit issued pursuant to the Federal Fair Labor Standards Act,
4 as amended, or a birth certificate properly and duly issued,
5 such certificate, permit or birth certificate is conclusive
6 evidence as to the age of the injured minor employee for the
7 purposes of this Section.

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

11 (j) 1. In the event the injured employee receives benefits,
12 including medical, surgical or hospital benefits under any
13 group plan covering non-occupational disabilities contributed
14 to wholly or partially by the employer, which benefits should
15 not have been payable if any rights of recovery existed under
16 this Act, then such amounts so paid to the employee from any
17 such group plan as shall be consistent with, and limited to,
18 the provisions of paragraph 2 hereof, shall be credited to or
19 against any compensation payment for temporary total
20 incapacity for work or any medical, surgical or hospital
21 benefits made or to be made under this Act. In such event, the
22 period of time for giving notice of accidental injury and
23 filing application for adjustment of claim does not commence to
24 run until the termination of such payments. This paragraph does
25 not apply to payments made under any group plan which would
26 have been payable irrespective of an accidental injury under

1 this Act. Any employer receiving such credit shall keep such
2 employee safe and harmless from any and all claims or
3 liabilities that may be made against him by reason of having
4 received such payments only to the extent of such credit.

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

15 2. Nothing contained in this Act shall be construed to give
16 the employer or the insurance carrier the right to credit for
17 any benefits or payments received by the employee other than
18 compensation payments provided by this Act, and where the
19 employee receives payments other than compensation payments,
20 whether as full or partial salary, group insurance benefits,
21 bonuses, annuities or any other payments, the employer or
22 insurance carrier shall receive credit for each such payment
23 only to the extent of the compensation that would have been
24 payable during the period covered by such payment.

25 3. The extension of time for the filing of an Application
26 for Adjustment of Claim as provided in paragraph 1 above shall

1 not apply to those cases where the time for such filing had
2 expired prior to the date on which payments or benefits
3 enumerated herein have been initiated or resumed. Provided
4 however that this paragraph 3 shall apply only to cases wherein
5 the payments or benefits hereinabove enumerated shall be
6 received after July 1, 1969.

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 305/10) (from Ch. 48, par. 138.10)

10 Sec. 10. The basis for computing the compensation provided
11 for in Sections 7 and 8 of the Act shall be as follows:

12 (1) The compensation shall be computed on the basis of the
13 "Average weekly wage" which shall mean the actual earnings of
14 the employee in the employment in which he was working at the
15 time of the injury during the period of 52 weeks ending with
16 the last day of the employee's last full pay period immediately
17 preceding the date of injury, illness or disablement excluding
18 overtime, and bonus divided by 52; ~~but if the injured employee~~
19 ~~lost 5 or more calendar days during such period, whether or not~~
20 ~~in the same week, then the earnings for the remainder of such~~
21 ~~52 weeks shall be divided by the number of weeks and parts~~
22 ~~thereof remaining after the time so lost has been deducted.~~

23 (2) Where the employment prior to the injury extended over
24 a period of less than 52 weeks, or where the employment is
25 noncontinuous or less than full-time, or the employee lost one

1 or more calendar days during that period, the earnings earned
2 during that period shall be divided by the number of weeks
3 during which the employee worked, regardless of the number of
4 hours worked during that week.

5 (3) When the employee is working concurrently with 2 or
6 more employers and the respondent employer has knowledge of
7 such additional employment prior to the injury, his or her
8 wages from all such employers shall be considered as if earned
9 from the employer liable for compensation.

10 (4) Each week during which the employee earned wages counts
11 as one week for purposes of computation under subdivisions (1),
12 (2) and (3), regardless of the number of hours worked during
13 that week ~~the method of dividing the earnings during that~~
14 ~~period by the number of weeks and parts thereof during which~~
15 ~~the employee actually earned wages shall be followed.~~

16 (5) Where by reason of the shortness of the time during
17 which the employee has been in the employment of his employer
18 or of the casual nature or terms of the employment, it is
19 impractical to compute the average weekly wages as above
20 defined, regard shall be had to the average weekly amount which
21 during the 52 weeks previous to the injury, illness or
22 disablement was being or would have been earned by a person in
23 the same grade employed at the same work for each of such 52
24 weeks for the same number of hours per week by the same
25 employer. In the case of volunteer firemen, police and civil
26 defense members or trainees, the income benefits shall be based

1 on the average weekly wage in their regular employment. ~~When~~
2 ~~the employee is working concurrently with two or more employers~~
3 ~~and the respondent employer has knowledge of such employment~~
4 ~~prior to the injury, his wages from all such employers shall be~~
5 ~~considered as if earned from the employer liable for~~
6 ~~compensation.~~

7 (Source: P.A. 81-1482.)