



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0846

Introduced 2/11/2015, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

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

Amends the Workers' Compensation Act. Provides that an employee who is required to travel in connection with his or her employment and who suffers an injury while in travel status shall be eligible for benefits only if the injury arises out of and in the course of employment while he or she is actively engaged in the duties of employment. Defines "accident" and "injury". Provides that "injury" does not include the aggravation of a pre-existing condition by an accident unless it can be shown to a reasonable degree of medical certainty that the aggravation arose primarily out of and in the course of the employment. Provides that an injury resulting directly or indirectly from idiopathic causes is not compensable. Further provides that, with respect to the computation of compensation to be paid to an employee who had previously sustained an injury resulting in payment of compensation for partial disability for injuries not involving serious and permanent disfigurement and injuries for which the Act provides a schedule of benefits, the amount of the prior award for the partial disability with respect to the same portion of the body shall be deducted. Limits cumulative awards for partial disability to 500 weeks, which shall constitute a complete loss of use of the body as a whole. Provides that no employer shall be required to pay temporary partial disability benefits to an employee who has been discharged for cause. Provides that injuries to the shoulder are deemed to be injuries to the arm and injuries to the hip are deemed to be injuries to the leg. Effective immediately.

LRB099 04350 JLS 24377 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 and 8 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. An employee
12 who is required to travel in connection with his or her
13 employment and who suffers an injury while in travel status
14 shall be eligible for benefits only if the injury arises out of
15 and in the course of employment while he or she is actively
16 engaged in the duties of employment. This subsection (d)
17 applies to travel necessarily incident to the performance of
18 the employee's job responsibility if: (i) the employer
19 furnishes the transportation or the employee receives
20 reimbursement from the employer for costs of travel, gas, oil,
21 or lodging as a part of the employee's benefits or employment
22 agreement and the travel is necessitated by and on behalf of
23 the employer as an integral part or condition of the
24 employment; or (ii) the travel is required by the employer as
25 part of the employee's job duties. Arising out of and in the
26 course of the employment does not include travel to and from

1 work. Arising out of and in the course of employment does not
2 include when an employee is on a paid or unpaid break and is
3 not performing any specific tasks for the employer during the
4 break.

5 (e) The term "accident" as used in this Act means an
6 occurrence arising out of the employment, resulting from a risk
7 incidental to the employment, and in the course of the
8 employment at a time and place and under circumstances
9 reasonably required by the employment.

10 (f) The term "injury" means an injury by accident, a mental
11 injury, occupational disease including diseases of the heart,
12 lung and hypertension, or cumulative trauma conditions
13 including hearing loss, carpal tunnel syndrome, or any other
14 repetitive motion conditions, arising primarily out of and in
15 the course and scope of employment, that causes death,
16 disablement, or the need for medical treatment of the employee;
17 provided, that:

18 (i) An injury is "accidental" only if the injury is
19 caused by a specific incident, or set of incidents, arising
20 primarily out of and in the course and scope of employment,
21 and is identifiable by time and place of occurrence, and
22 shall not include the aggravation of a preexisting disease,
23 condition or ailment unless it can be shown to a reasonable
24 degree of medical certainty that the aggravation arose
25 primarily out of and in the course and scope of employment;

26 (ii) An injury "arises primarily out of and in the

1 course and scope of employment" only if it has been shown
2 by a preponderance of the evidence that the employment
3 contributed more than 50% in causing the injury,
4 considering all causes;

5 (iii) An injury causes death, disablement, or the need
6 for medical treatment only if it has been shown to a
7 reasonable degree of medical certainty that the employment
8 contributed more than 50% in causing the death,
9 disablement, or need for medical treatment, considering
10 all causes;

11 (iv) "Shown to a reasonable degree of medical
12 certainty" means that, in the opinion of a physician, it is
13 more likely than not considering all causes, as opposed to
14 speculation or possibility;

15 (v) If the injured worker selects a preferred provider
16 from the employer's Preferred Provider Program (PPP), the
17 opinion of the treating physician shall be rebuttably
18 presumed correct on the issue of causation.

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

21 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

25 (a) The employer shall provide and pay the negotiated rate,

1 if applicable, or the lesser of the health care provider's
2 actual charges or according to a fee schedule, subject to
3 Section 8.2, in effect at the time the service was rendered for
4 all the necessary first aid, medical and surgical services, and
5 all necessary medical, surgical and hospital services
6 thereafter incurred, limited, however, to that which is
7 reasonably required to cure or relieve from the effects of the
8 accidental injury, even if a health care provider sells,
9 transfers, or otherwise assigns an account receivable for
10 procedures, treatments, or services covered under this Act. If
11 the employer does not dispute payment of first aid, medical,
12 surgical, and hospital services, the employer shall make such
13 payment to the provider on behalf of the employee. The employer
14 shall also pay for treatment, instruction and training
15 necessary for the physical, mental and vocational
16 rehabilitation of the employee, including all maintenance
17 costs and expenses incidental thereto. If as a result of the
18 injury the employee is unable to be self-sufficient the
19 employer shall further pay for such maintenance or
20 institutional care as shall be required.

21 The employee may at any time elect to secure his own
22 physician, surgeon and hospital services at the employer's
23 expense, or,

24 Upon agreement between the employer and the employees, or
25 the employees' exclusive representative, and subject to the
26 approval of the Illinois Workers' Compensation Commission, the

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

21 Any vocational rehabilitation counselors who provide
22 service under this Act shall have appropriate certifications
23 which designate the counselor as qualified to render opinions
24 relating to vocational rehabilitation. Vocational
25 rehabilitation may include, but is not limited to, counseling
26 for job searches, supervising a job search program, and

1 vocational retraining including education at an accredited
2 learning institution. The employee or employer may petition to
3 the Commission to decide disputes relating to vocational
4 rehabilitation and the Commission shall resolve any such
5 dispute, including payment of the vocational rehabilitation
6 program by the employer.

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

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

23 No employer shall be required to pay temporary partial
24 disability or maintenance benefits to an employee who has been
25 discharged for cause. Prior to suspension of temporary partial
26 disability or maintenance benefits, the employer shall provide

1 notice to the employee who has been discharged for cause.
2 Following a hearing, the Commission may reinstate the temporary
3 partial benefits and retroactively restore any benefits the
4 employer should have paid if it finds the employer's discharge
5 of the employee was not for cause. "Discharge for cause" means
6 a discharge resulting from the employee's voluntary violation
7 of a rule or policy of the employer not caused by the
8 employee's disability.

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

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

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

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

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

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

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

24 (B) Subsequent to the report of an injury by an
25 employee, the employee may choose in writing at any
26 time to decline the preferred provider program, in

1 which case that would constitute one of the two choices
2 of medical providers to which the employee is entitled
3 under subsection (a) (2) or (a) (3); and

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

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

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

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

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

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

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

25 1. The compensation rate for temporary total
26 incapacity under this paragraph (b) of this Section shall

1 be equal to 66 2/3% of the employee's average weekly wage
2 computed in accordance with Section 10, provided that it
3 shall be not less than 66 2/3% of the sum of the Federal
4 minimum wage under the Fair Labor Standards Act, or the
5 Illinois minimum wage under the Minimum Wage Law, whichever
6 is more, multiplied by 40 hours. This percentage rate shall
7 be increased by 10% for each spouse and child, not to
8 exceed 100% of the total minimum wage calculation,
9 nor exceed the employee's average weekly wage computed in
10 accordance with the provisions of Section 10, whichever is
11 less. No employer shall be required to pay temporary
12 partial disability or maintenance benefits to an employee
13 who has been discharged for cause. Prior to suspension of
14 temporary partial disability or maintenance benefits, the
15 employer shall provide notice to the employee who has been
16 discharged for cause. Following a hearing, the Commission
17 may reinstate the temporary partial benefits and
18 retroactively restore any benefits the employer should
19 have paid if it finds the employer's discharge of the
20 employee was not for cause. "Discharge for cause" means a
21 discharge resulting from the employee's voluntary
22 violation of a rule or policy of the employer not caused by
23 the employee's disability.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 as hereinafter provided.

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

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

22 (c) For any serious and permanent disfigurement to the
23 hand, head, face, neck, arm, leg below the knee or the chest
24 above the axillary line, the employee is entitled to
25 compensation for such disfigurement, the amount determined by
26 agreement at any time or by arbitration under this Act, at a

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

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

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

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

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

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

1 resulting from the injuries covered by this paragraph bears to
2 total disability.

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

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

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

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

20 1. Thumb-

21 70 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

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

26 2. First, or index finger-

1 40 weeks if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the
3 94th General Assembly but before February 1, 2006.

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

6 3. Second, or middle finger-

7 35 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

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

12 4. Third, or ring finger-

13 25 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

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

18 5. Fourth, or little finger-

19 20 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 22 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 6. Great toe-

25 35 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 38 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 7. Each toe other than great toe-

5 12 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

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

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

19 9. Hand-

20 190 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.

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

25 190 weeks if the accidental injury occurs on or
26 after June 28, 2011 (the effective date of Public Act

1 97-18) and if the accidental injury involves carpal
2 tunnel syndrome due to repetitive or cumulative
3 trauma, in which case the permanent partial disability
4 shall not exceed 15% loss of use of the hand, except
5 for cause shown by clear and convincing evidence and in
6 which case the award shall not exceed 30% loss of use
7 of the hand.

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

14 10. Arm-

15 235 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

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

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

1 additional 17 weeks (if the accidental injury occurs on or
2 after February 1, 2006) shall be paid, except where the
3 accidental injury results in the amputation of an arm at
4 the shoulder joint, or so close to shoulder joint that an
5 artificial arm cannot be used, or results in the
6 disarticulation of an arm at the shoulder joint, in which
7 case compensation for an additional 65 weeks (if the
8 accidental injury occurs on or after the effective date of
9 this amendatory Act of the 94th General Assembly but before
10 February 1, 2006) or an additional 70 weeks (if the
11 accidental injury occurs on or after February 1, 2006)
12 shall be paid. For purposes of awards under this
13 subdivision (e), injuries to the shoulder shall be
14 considered to be injuries to part of the arm. This
15 amendatory Act of the 99th General Assembly is declarative
16 of existing law and is not a new enactment.

17 11. Foot-

18 155 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.

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

23 12. Leg-

24 200 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.

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

3 Where an accidental injury results in the amputation of
4 a leg below the knee, such injury shall be compensated as
5 loss of a leg. Where an accidental injury results in the
6 amputation of a leg above the knee, compensation for an
7 additional 25 weeks (if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the 94th
9 General Assembly but before February 1, 2006) or an
10 additional 27 weeks (if the accidental injury occurs on or
11 after February 1, 2006) shall be paid, except where the
12 accidental injury results in the amputation of a leg at the
13 hip joint, or so close to the hip joint that an artificial
14 leg cannot be used, or results in the disarticulation of a
15 leg at the hip joint, in which case compensation for an
16 additional 75 weeks (if the accidental injury occurs on or
17 after the effective date of this amendatory Act of the 94th
18 General Assembly but before February 1, 2006) or an
19 additional 81 weeks (if the accidental injury occurs on or
20 after February 1, 2006) shall be paid. For purposes of
21 awards under this subdivision (e), injuries to the hip
22 shall be considered to be injuries to part of the leg. This
23 amendatory Act of the 99th General Assembly is declarative
24 of existing law and is not a new enactment.

25 13. Eye-

26 150 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.

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

5 Where an accidental injury results in the enucleation
6 of an eye, compensation for an additional 10 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 11 weeks (if the
10 accidental injury occurs on or after February 1, 2006)
11 shall be paid.

12 14. Loss of hearing of one ear-

13 50 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

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

18 Total and permanent loss of hearing of both ears-

19 200 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.

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

24 15. Testicle-

25 50 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 54 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 Both testicles-

5 150 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

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

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

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

23 (b) The percent of hearing loss, for purposes of
24 the determination of compensation claims for
25 occupational deafness, shall be calculated as the
26 average in decibels for the thresholds of hearing for

1 the frequencies of 1,000, 2,000 and 3,000 cycles per
2 second. Pure tone air conduction audiometric
3 instruments, approved by nationally recognized
4 authorities in this field, shall be used for measuring
5 hearing loss. If the losses of hearing average 30
6 decibels or less in the 3 frequencies, such losses of
7 hearing shall not then constitute any compensable
8 hearing disability. If the losses of hearing average 85
9 decibels or more in the 3 frequencies, then the same
10 shall constitute and be total or 100% compensable
11 hearing loss.

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

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

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

1 aid.

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

7 Sound Level DBA

8 Slow Response Hours Per Day

9 90 8

10 92 6

11 95 4

12 97 3

13 100 2

14 102 1-1/2

15 105 1

16 110 1/2

17 115 1/4

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

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

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

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

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

22 19. In a case of specific loss and the subsequent death
23 of such injured employee from other causes than such injury
24 leaving a widow, widower, or dependents surviving before
25 payment or payment in full for such injury, then the amount
26 due for such injury is payable to the widow or widower and,

1 if there be no widow or widower, then to such dependents,
2 in the proportion which such dependency bears to total
3 dependency.

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

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

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

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

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

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

1 within 30 months after the date of such termination or
2 reduction to file petition with the Commission for the purpose
3 of determining whether any disability exists as a result of the
4 original accidental injury and the extent thereof.

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

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

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

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

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

1 to "Second Injury Fund" in this Section shall also include the
2 Rate Adjustment Fund.

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

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

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

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

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

25 The annual adjustments for every award of death benefits or
26 permanent total disability involving accidents occurring

1 before July 20, 2005 and accidents occurring on or after the
2 effective date of this amendatory Act of the 94th General
3 Assembly (Senate Bill 1283 of the 94th General Assembly) shall
4 continue to be paid from the Rate Adjustment Fund pursuant to
5 this paragraph and Section 7(f) of this Act.

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

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

24 (i) In case the injured employee is under 16 years of age
25 at the time of the accident and is illegally employed, the
26 amount of compensation payable under paragraphs (b), (c), (d),

1 (e) and (f) of this Section is increased 50%.

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

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

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

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

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

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

26 3. The extension of time for the filing of an Application

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

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

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.