



## 98TH GENERAL ASSEMBLY

### State of Illinois

### 2013 and 2014

### SB2624

Introduced 11/7/2013, 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. 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" includes the aggravation of a pre-existing condition by an accident arising out of and in the course of the employment, but only for so long as the aggravation of the pre-existing condition continues to be the major contributing cause of the disability. 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. Provides for the computation of compensation when there are multiple employers and when there is less than full-time work. Effective immediately.

LRB098 14505 OMW 49251 b

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by  
5 changing 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. 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" as used in this Act means a medical  
11 condition or impairment that arises out of and in the course of  
12 employment. An injury, its occupational cause, and any  
13 resulting manifestations or disability must be established to a  
14 reasonable degree of medical certainty, based on objective  
15 relevant medical findings, and the accidental compensable  
16 injury must be the major contributing cause of any resulting  
17 injuries. For the purposes of this Section, "major contributing  
18 cause" means the cause which is more than 50% responsible for  
19 the injury as compared to all other causes combined for which  
20 treatment or benefits are sought. "Injury" includes the  
21 aggravation of a pre-existing condition by an accident arising  
22 out of and in the course of the employment, but only for so  
23 long as the aggravation of the pre-existing condition continues  
24 to be the major contributing cause of the disability.

25 An injury is deemed to arise out of and in the course of  
26 the employment only if:

1           (1) it is reasonably apparent, upon consideration of  
2           all circumstances, that the accident is the major  
3           contributing cause of the injury; and

4           (2) it does not come from a hazard or risk unrelated to  
5           the employment to which employees would have been equally  
6           exposed outside of the employment.

7           An injury resulting directly or indirectly from idiopathic  
8           causes is not compensable.

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

11          (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

15          (a) The employer shall provide and pay the negotiated rate,  
16          if applicable, or the lesser of the health care provider's  
17          actual charges or according to a fee schedule, subject to  
18          Section 8.2, in effect at the time the service was rendered for  
19          all the necessary first aid, medical and surgical services, and  
20          all necessary medical, surgical and hospital services  
21          thereafter incurred, limited, however, to that which is  
22          reasonably required to cure or relieve from the effects of the  
23          accidental injury, even if a health care provider sells,  
24          transfers, or otherwise assigns an account receivable for  
25          procedures, treatments, or services covered under this Act. If

1 the employer does not dispute payment of first aid, medical,  
2 surgical, and hospital services, the employer shall make such  
3 payment to the provider on behalf of the employee. The employer  
4 shall also pay for treatment, instruction and training  
5 necessary for the physical, mental and vocational  
6 rehabilitation of the employee, including all maintenance  
7 costs and expenses incidental thereto. If as a result of the  
8 injury the employee is unable to be self-sufficient the  
9 employer shall further pay for such maintenance or  
10 institutional care as shall be required.

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

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

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

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

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

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

13           No employer shall be required to pay temporary partial  
14 disability or maintenance benefits to an employee who has been  
15 discharged for cause. Prior to suspension of temporary partial  
16 disability or maintenance benefits, the employer shall provide  
17 notice to the employee who has been discharged for cause.  
18 Following a hearing, the Commission may reinstate the temporary  
19 partial benefits and retroactively restore any benefits the  
20 employer should have paid if it finds the employer's discharge  
21 of the employee was not for cause. "Discharge for cause" means  
22 a discharge resulting from the employee's voluntary violation  
23 of a rule or policy of the employer not caused by the  
24 employee's disability.

25           Every hospital, physician, surgeon or other person  
26 rendering treatment or services in accordance with the

1 provisions of this Section shall upon written request furnish  
2 full and complete reports thereof to, and permit their records  
3 to be copied by, the employer, the employee or his dependents,  
4 as the case may be, or any other party to any proceeding for  
5 compensation before the Commission, or their attorneys.

6 Notwithstanding the foregoing, the employer's liability to  
7 pay for such medical services selected by the employee shall be  
8 limited to:

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

10 (2) all medical, surgical and hospital services  
11 provided by the physician, surgeon or hospital initially  
12 chosen by the employee or by any other physician,  
13 consultant, expert, institution or other provider of  
14 services recommended by said initial service provider or  
15 any subsequent provider of medical services in the chain of  
16 referrals from said initial service provider; plus

17 (3) all medical, surgical and hospital services  
18 provided by any second physician, surgeon or hospital  
19 subsequently chosen by the employee or by any other  
20 physician, consultant, expert, institution or other  
21 provider of services recommended by said second service  
22 provider or any subsequent provider of medical services in  
23 the chain of referrals from said second service provider.  
24 Thereafter the employer shall select and pay for all  
25 necessary medical, surgical and hospital treatment and the  
26 employee may not select a provider of medical services at

1 the employer's expense unless the employer agrees to such  
2 selection. At any time the employee may obtain any medical  
3 treatment he or she desires at his or her own expense. This  
4 paragraph shall not affect the duty to pay for  
5 rehabilitation referred to above.

6 (4) The following shall apply for injuries occurring on  
7 or after June 28, 2011 (the effective date of Public Act  
8 97-18) and only when an employer has an approved preferred  
9 provider program pursuant to Section 8.1a on the date the  
10 employee sustained his or her accidental injuries:

11 (A) The employer shall, in writing, on a form  
12 promulgated by the Commission, inform the employee of  
13 the preferred provider program;

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

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

26 When an employer and employee so agree in writing, nothing

1 in this Act prevents an employee whose injury or disability has  
2 been established under this Act, from relying in good faith, on  
3 treatment by prayer or spiritual means alone, in accordance  
4 with the tenets and practice of a recognized church or  
5 religious denomination, by a duly accredited practitioner  
6 thereof, and having nursing services appropriate therewith,  
7 without suffering loss or diminution of the compensation  
8 benefits under this Act. However, the employee shall submit to  
9 all physical examinations required by this Act. The cost of  
10 such treatment and nursing care shall be paid by the employee  
11 unless the employer agrees to make such payment.

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



1           The furnishing by the employer of any such services or  
2 appliances is not an admission of liability on the part of the  
3 employer to pay compensation.

4           The furnishing of any such services or appliances or the  
5 servicing thereof by the employer is not the payment of  
6 compensation.

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

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

1        less. No employer shall be required to pay temporary  
2        partial disability or maintenance benefits to an employee  
3        who has been discharged for cause. Prior to suspension of  
4        temporary partial disability or maintenance benefits, the  
5        employer shall provide notice to the employee who has been  
6        discharged for cause. Following a hearing, the Commission  
7        may reinstate the temporary partial benefits and  
8        retroactively restore any benefits the employer should  
9        have paid if it finds the employer's discharge of the  
10       employee was not for cause. "Discharge for cause" means a  
11       discharge resulting from the employee's voluntary  
12       violation of a rule or policy of the employer not caused by  
13       the employee's disability.

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

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

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

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

1 The term "children" means the plural of "child".

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

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

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

23 The maximum weekly compensation rate, for the period  
24 January 1, 1981 through December 31, 1983, except as  
25 hereinafter provided, shall be 100% of the State's average  
26 weekly wage in covered industries under the Unemployment

1 Insurance Act in effect on January 1, 1981. Effective  
2 January 1, 1984 and on January 1, of each year thereafter  
3 the maximum weekly compensation rate, except as  
4 hereinafter provided, shall be determined as follows: if  
5 during the preceding 12 month period there shall have been  
6 an increase in the State's average weekly wage in covered  
7 industries under the Unemployment Insurance Act, the  
8 weekly compensation rate shall be proportionately  
9 increased by the same percentage as the percentage of  
10 increase in the State's average weekly wage in covered  
11 industries under the Unemployment Insurance Act during  
12 such period.

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

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

26 4.1. Any provision herein to the contrary

1           notwithstanding, the weekly compensation rate for  
2           compensation payments under subparagraph 18 of paragraph  
3           (e) of this Section and under paragraph (f) of this Section  
4           and under paragraph (a) of Section 7 and for amputation of  
5           a member or enucleation of an eye under paragraph (e) of  
6           this Section, shall in no event be less than 50% of the  
7           State's average weekly wage in covered industries under the  
8           Unemployment Insurance Act.

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

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

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

1 publish the State's average weekly wage in covered  
2 industries under the Unemployment Insurance Act as last  
3 determined and published by the Department of Employment  
4 Security. The amount when so posted and published shall be  
5 conclusive and shall be applicable as the basis of  
6 computation of compensation rates until the next posting  
7 and publication as aforesaid.

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

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

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

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

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

24           2. If, as a result of the accident, the employee sustains  
25 serious and permanent injuries not covered by paragraphs (c)  
26 and (e) of this Section or having sustained injuries covered by



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

19 In computing the compensation to be paid to any employee  
20 who, before the accident for which he or she claims  
21 compensation, had previously sustained an injury resulting in  
22 the payment of compensation for a percentage of partial  
23 disability under this subparagraph 2, such percentage of  
24 partial disability shall be deducted from any award made under  
25 this subparagraph 2 for a subsequent injury to the same portion  
26 of the body as was involved in the prior injury for which

1 compensation was paid; provided, however, nothing herein  
2 contained shall permit cumulative awards for compensation for  
3 partial disability under this subparagraph 2 to exceed 500  
4 weeks, which shall constitute complete loss of use of the body  
5 as a whole.

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

26 (e) For accidental injuries in the following schedule, the

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

10 1. Thumb-

11 70 weeks if the accidental injury occurs on or  
12 after the effective date of this amendatory Act of the  
13 94th General Assembly but before February 1, 2006.

14 76 weeks if the accidental injury occurs on or  
15 after February 1, 2006.

16 2. First, or index finger-

17 40 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 43 weeks if the accidental injury occurs on or  
21 after February 1, 2006.

22 3. Second, or middle finger-

23 35 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 38 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 4. Third, or ring finger-

3 25 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 27 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

8 5. Fourth, or little finger-

9 20 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

12 22 weeks if the accidental injury occurs on or  
13 after February 1, 2006.

14 6. Great toe-

15 35 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 38 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 7. Each toe other than great toe-

21 12 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 13 weeks if the accidental injury occurs on or  
25 after February 1, 2006.

26 8. The loss of the first or distal phalanx of the thumb

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

9 9. Hand-

10 190 weeks if the accidental injury occurs on or  
11 after the effective date of this amendatory Act of the  
12 94th General Assembly but before February 1, 2006.

13 205 weeks if the accidental injury occurs on or  
14 after February 1, 2006.

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

24 The loss of 2 or more digits, or one or more phalanges  
25 of 2 or more digits, of a hand may be compensated on the  
26 basis of partial loss of use of a hand, provided, further,

1           that the loss of 4 digits, or the loss of use of 4 digits,  
2           in the same hand shall constitute the complete loss of a  
3           hand.

4           10. Arm-

5                   235 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                   253 weeks if the accidental injury occurs on or  
9                   after February 1, 2006.

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

1 accidental injury occurs on or after February 1, 2006)  
2 shall be paid. For purposes of awards under this  
3 subdivision (e), injuries to the shoulder shall be  
4 considered to be injuries to part of the arm. This  
5 amendatory Act of the 98th General Assembly is declarative  
6 of existing law and is not a new enactment.

7 11. Foot-

8 155 weeks if the accidental injury occurs on or  
9 after the effective date of this amendatory Act of the  
10 94th General Assembly but before February 1, 2006.

11 167 weeks if the accidental injury occurs on or  
12 after February 1, 2006.

13 12. Leg-

14 200 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.

17 215 weeks if the accidental injury occurs on or  
18 after February 1, 2006.

19 Where an accidental injury results in the amputation of  
20 a leg below the knee, such injury shall be compensated as  
21 loss of a leg. Where an accidental injury results in the  
22 amputation of a leg above the knee, compensation for an  
23 additional 25 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 27 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 a leg at the  
3 hip joint, or so close to the hip joint that an artificial  
4 leg cannot be used, or results in the disarticulation of a  
5 leg at the hip joint, in which case compensation for an  
6 additional 75 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 81 weeks (if the accidental injury occurs on or  
10 after February 1, 2006) shall be paid. For purposes of  
11 awards under this subdivision (e), injuries to the hip  
12 shall be considered to be injuries to part of the leg. This  
13 amendatory Act of the 98th General Assembly is declarative  
14 of existing law and is not a new enactment.

15 13. Eye-

16 150 weeks if the accidental injury occurs on or  
17 after the effective date of this amendatory Act of the  
18 94th General Assembly but before February 1, 2006.

19 162 weeks if the accidental injury occurs on or  
20 after February 1, 2006.

21 Where an accidental injury results in the enucleation  
22 of an eye, compensation for an additional 10 weeks (if the  
23 accidental injury occurs on or after the effective date of  
24 this amendatory Act of the 94th General Assembly but before  
25 February 1, 2006) or an additional 11 weeks (if the  
26 accidental injury occurs on or after February 1, 2006)



1 shall be paid.

2 14. Loss of hearing of one ear-

3 50 weeks if the accidental injury occurs on or  
4 after the effective date of this amendatory Act of the  
5 94th General Assembly but before February 1, 2006.

6 54 weeks if the accidental injury occurs on or  
7 after February 1, 2006.

8 Total and permanent loss of hearing of both ears-

9 200 weeks if the accidental injury occurs on or  
10 after the effective date of this amendatory Act of the  
11 94th General Assembly but before February 1, 2006.

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

14 15. Testicle-

15 50 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 54 weeks if the accidental injury occurs on or  
19 after February 1, 2006.

20 Both testicles-

21 150 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.

24 162 weeks if the accidental injury occurs on or  
25 after February 1, 2006.

26 16. For the permanent partial loss of use of a member

1 or sight of an eye, or hearing of an ear, compensation  
2 during that proportion of the number of weeks in the  
3 foregoing schedule provided for the loss of such member or  
4 sight of an eye, or hearing of an ear, which the partial  
5 loss of use thereof bears to the total loss of use of such  
6 member, or sight of eye, or hearing of an ear.

7 (a) Loss of hearing for compensation purposes  
8 shall be confined to the frequencies of 1,000, 2,000  
9 and 3,000 cycles per second. Loss of hearing ability  
10 for frequency tones above 3,000 cycles per second are  
11 not to be considered as constituting disability for  
12 hearing.

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

1 hearing loss.

2 (c) In measuring hearing impairment, the lowest  
3 measured losses in each of the 3 frequencies shall be  
4 added together and divided by 3 to determine the  
5 average decibel loss. For every decibel of loss  
6 exceeding 30 decibels an allowance of 1.82% shall be  
7 made up to the maximum of 100% which is reached at 85  
8 decibels.

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

14 (e) No consideration shall be given to the question  
15 of whether or not the ability of an employee to  
16 understand speech is improved by the use of a hearing  
17 aid.

18 (f) No claim for loss of hearing due to industrial  
19 noise shall be brought against an employer or allowed  
20 unless the employee has been exposed for a period of  
21 time sufficient to cause permanent impairment to noise  
22 levels in excess of the following:

23 Sound Level DBA

24	Slow Response	Hours Per Day
25	90	8
26	92	6

1	95	4
2	97	3
3	100	2
4	102	1-1/2
5	105	1
6	110	1/2
7	115	1/4

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

10           17. In computing the compensation to be paid to any  
11 employee who, before the accident for which he claims  
12 compensation, had before that time sustained an injury  
13 resulting in the loss by amputation or partial loss by  
14 amputation of any member, including hand, arm, thumb or  
15 fingers, leg, foot or any toes, such loss or partial loss  
16 of any such member shall be deducted from any award made  
17 for the subsequent injury. For the permanent loss of use or  
18 the permanent partial loss of use of any such member or the  
19 partial loss of sight of an eye, for which compensation has  
20 been paid, then such loss shall be taken into consideration  
21 and deducted from any award for the subsequent injury.

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

1 paragraph (f) of this Section. These specific cases of  
2 total and permanent disability do not exclude other cases.

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

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

20 Beginning July 1, 1980, and every 6 months thereafter, the  
21 Commission shall examine the Second Injury Fund and when, after  
22 deducting all advances or loans made to such Fund, the amount  
23 therein is \$500,000 then the amount required to be paid by  
24 employers pursuant to paragraph (f) of Section 7 shall be  
25 reduced by one-half. When the Second Injury Fund reaches the  
26 sum of \$600,000 then the payments shall cease entirely.

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

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

23 (f) In case of complete disability, which renders the  
24 employee wholly and permanently incapable of work, or in the  
25 specific case of total and permanent disability as provided in  
26 subparagraph 18 of paragraph (e) of this Section, compensation

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

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

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

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

23 If an employee who had previously incurred loss or the  
24 permanent and complete loss of use of one member, through the  
25 loss or the permanent and complete loss of the use of one hand,  
26 one arm, one foot, one leg, or one eye, incurs permanent and

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

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

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



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

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

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

1 first be made on July 15, 1977, and all awards made and entered  
2 prior to July 1, 1975 and on July 15 of each year thereafter.  
3 In all other cases such adjustment shall be made on July 15 of  
4 the second year next following the date of the entry of the  
5 award and shall further be made on July 15 annually thereafter.  
6 If during the intervening period from the date of the entry of  
7 the award, or the last periodic adjustment, there shall have  
8 been an increase in the State's average weekly wage in covered  
9 industries under the Unemployment Insurance Act, the weekly  
10 compensation rate shall be proportionately increased by the  
11 same percentage as the percentage of increase in the State's  
12 average weekly wage in covered industries under the  
13 Unemployment Insurance Act. The increase in the compensation  
14 rate under this paragraph shall in no event bring the total  
15 compensation rate to an amount greater than the prevailing  
16 maximum rate at the time that the annual adjustment is made.  
17 Such increase shall be paid in the same manner as herein  
18 provided for payments under the Second Injury Fund to the  
19 injured employee, or his dependents, as the case may be, out of  
20 the Rate Adjustment Fund provided in paragraph (f) of Section 7  
21 of this Act. Payments shall be made at the same intervals as  
22 provided in the award or, at the option of the Commission, may  
23 be made in quarterly payment on the 15th day of January, April,  
24 July and October of each year. In the event of a decrease in  
25 such average weekly wage there shall be no change in the then  
26 existing compensation rate. The within paragraph shall not

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

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

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

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

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

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

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

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

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

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

25 Nothing herein contained repeals or amends the provisions  
26 of the Child Labor Law relating to the employment of minors

1 under the age of 16 years.

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

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

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

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

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

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

1 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

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

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

15 (2) Where the employment prior to the injury extended over  
16 a period of less than 52 weeks, or the employment is  
17 noncontinuous or less than full-time, or the employee lost one  
18 or more calendar days during that period, the earnings earned  
19 during that period shall be divided by the number of weeks  
20 during which the employee worked, regardless of the number of  
21 hours worked during that week ~~the method of dividing the  
22 earnings during that period by the number of weeks and parts  
23 thereof during which the employee actually earned wages shall  
24 be followed.~~

25 (3) When the employee is working concurrently with 2 or  
26 more employers and the respondent employer has knowledge of



1 such additional employment prior to the injury, the employee's  
2 wages from all such employers shall be considered as if earned  
3 from the employer liable for compensation.

4 (4) Each week during which the employee earned wages counts  
5 as one week for purposes of computation under subdivisions (1),  
6 (2), and (3), regardless of the number of hours worked during  
7 that week.

8 (5) Where by reason of the shortness of the time during  
9 which the employee has been in the employment of his employer  
10 or of the casual nature or terms of the employment, it is  
11 impractical to compute the average weekly wages as above  
12 defined, regard shall be had to the average weekly amount which  
13 during the 52 weeks previous to the injury, illness or  
14 disablement was being or would have been earned by a person in  
15 the same grade employed at the same work for each of such 52  
16 weeks for the same number of hours per week by the same  
17 employer. In the case of volunteer firemen, police and civil  
18 defense members or trainees, the income benefits shall be based  
19 on the average weekly wage in their regular employment. ~~When~~  
20 ~~the employee is working concurrently with two or more employers~~  
21 ~~and the respondent employer has knowledge of such employment~~  
22 ~~prior to the injury, his wages from all such employers shall be~~  
23 ~~considered as if earned from the employer liable for~~  
24 ~~compensation.~~

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.