



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2301

by Rep. Debbie Meyers-Martin

SYNOPSIS AS INTRODUCED:

20 ILCS 5/5-125	was 20 ILCS 5/5.13i
20 ILCS 5/5-155	was 20 ILCS 5/5.04
20 ILCS 5/5-540	was 20 ILCS 5/6.28 and 5/7.01
820 ILCS 305/4	from Ch. 48, par. 138.4
820 ILCS 305/8.3	
820 ILCS 305/13.1	from Ch. 48, par. 138.13-1
820 ILCS 305/19	from Ch. 48, par. 138.19
820 ILCS 310/19	from Ch. 48, par. 172.54

Amends the Civil Administrative Code of Illinois, the Workers' Compensation Act, and the Workers' Occupational Diseases Act. Replaces "employee class" and related terms with "representative of a labor organization recognized under the National Labor Relations Act".

LRB101 08580 TAE 53659 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 Civil Administrative Code of Illinois is
5 amended by changing Sections 5-125, 5-155, and 5-540 as
6 follows:

7 (20 ILCS 5/5-125) (was 20 ILCS 5/5.13i)

8 Sec. 5-125. In the Department of Employment Security. The
9 board of review, which shall consist of 5 members, 2 of whom
10 shall be representatives of a labor organization recognized
11 under the National Labor Relations Act ~~representative citizens~~
12 ~~chosen from the employee class~~, 2 of whom shall be
13 representative citizens chosen from the employing class, and
14 one of whom shall be a representative citizen not identified
15 with either the employing class or a labor organization
16 ~~employee classes~~.

17 (Source: P.A. 91-239, eff. 1-1-00.)

18 (20 ILCS 5/5-155) (was 20 ILCS 5/5.04)

19 Sec. 5-155. In the Office of Mines and Minerals of the
20 Department of Natural Resources. In the Office of Mines and
21 Minerals of the Department of Natural Resources, there shall be
22 a State Mining Board, which shall consist of 6 officers

1 designated as mine officers and the Director of the Office of
2 Mines and Minerals. Three officers shall be representatives of
3 the employing class and 3 officers shall be chosen from a labor
4 organization recognized under the National Labor Relations Act
5 ~~of the employee class~~. The 6 mine officers shall be qualified
6 as follows:

7 (1) Two mine officers from the employing class shall
8 have at least 4 years experience in a supervisory capacity
9 in an underground coal mine and each shall hold a
10 certificate of competency as a mine examiner or mine
11 manager.

12 (2) The third mine officer from the employing class
13 shall have at least 4 years experience in a supervisory
14 capacity in a surface coal mine.

15 (3) Two mine officers chosen from a labor organization
16 ~~from the employee class~~ shall have 4 years experience in an
17 underground coal mine and shall hold a first class
18 certificate of competency.

19 (4) The third mine officer chosen from a labor
20 organization ~~from the employee class~~ shall have at least 4
21 years experience in a surface coal mine.

22 (Source: P.A. 91-239, eff. 1-1-00.)

23 (20 ILCS 5/5-540) (was 20 ILCS 5/6.28 and 5/7.01)

24 Sec. 5-540. In the Department of Employment Security. An
25 Employment Security Advisory Board, composed of 12 persons. Of

1 the 12 members of the Employment Security Advisory Board, 4
2 members shall be chosen from a labor organization recognized
3 under the National Labor Relations Act ~~representative citizens~~
4 ~~chosen from the employee class~~, 4 members shall be
5 representative citizens chosen from the employing class, and 4
6 members shall be representative citizens not identified with
7 either the employing class or a labor organization ~~the employee~~
8 ~~class~~.

9 (Source: P.A. 93-634, eff. 1-1-04.)

10 Section 10. The Workers' Compensation Act is amended by
11 changing Sections 4, 8.3, 13.1, and 19 as follows:

12 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

13 Sec. 4. (a) Any employer, including but not limited to
14 general contractors and their subcontractors, who shall come
15 within the provisions of Section 3 of this Act, and any other
16 employer who shall elect to provide and pay the compensation
17 provided for in this Act shall:

18 (1) File with the Commission annually an application
19 for approval as a self-insurer which shall include a
20 current financial statement, and annually, thereafter, an
21 application for renewal of self-insurance, which shall
22 include a current financial statement. Said application
23 and financial statement shall be signed and sworn to by the
24 president or vice president and secretary or assistant

1 secretary of the employer if it be a corporation, or by all
2 of the partners, if it be a copartnership, or by the owner
3 if it be neither a copartnership nor a corporation. All
4 initial applications and all applications for renewal of
5 self-insurance must be submitted at least 60 days prior to
6 the requested effective date of self-insurance. An
7 employer may elect to provide and pay compensation as
8 provided for in this Act as a member of a group workers'
9 compensation pool under Article V 3/4 of the Illinois
10 Insurance Code. If an employer becomes a member of a group
11 workers' compensation pool, the employer shall not be
12 relieved of any obligations imposed by this Act.

13 If the sworn application and financial statement of any
14 such employer does not satisfy the Commission of the
15 financial ability of the employer who has filed it, the
16 Commission shall require such employer to,

17 (2) Furnish security, indemnity or a bond guaranteeing
18 the payment by the employer of the compensation provided
19 for in this Act, provided that any such employer whose
20 application and financial statement shall not have
21 satisfied the commission of his or her financial ability
22 and who shall have secured his liability in part by excess
23 liability insurance shall be required to furnish to the
24 Commission security, indemnity or bond guaranteeing his or
25 her payment up to the effective limits of the excess
26 coverage, or

1 (3) Insure his entire liability to pay such
2 compensation in some insurance carrier authorized,
3 licensed, or permitted to do such insurance business in
4 this State. Every policy of an insurance carrier, insuring
5 the payment of compensation under this Act shall cover all
6 the employees and the entire compensation liability of the
7 insured: Provided, however, that any employer may insure
8 his or her compensation liability with 2 or more insurance
9 carriers or may insure a part and qualify under subsection
10 1, 2, or 4 for the remainder of his or her liability to pay
11 such compensation, subject to the following two
12 provisions:

13 Firstly, the entire compensation liability of the
14 employer to employees working at or from one location
15 shall be insured in one such insurance carrier or shall
16 be self-insured, and

17 Secondly, the employer shall submit evidence
18 satisfactorily to the Commission that his or her entire
19 liability for the compensation provided for in this Act
20 will be secured. Any provisions in any policy, or in
21 any endorsement attached thereto, attempting to limit
22 or modify in any way, the liability of the insurance
23 carriers issuing the same except as otherwise provided
24 herein shall be wholly void.

25 Nothing herein contained shall apply to policies of
26 excess liability carriage secured by employers who have

1 been approved by the Commission as self-insurers, or

2 (4) Make some other provision, satisfactory to the
3 Commission, for the securing of the payment of compensation
4 provided for in this Act, and

5 (5) Upon becoming subject to this Act and thereafter as
6 often as the Commission may in writing demand, file with
7 the Commission in form prescribed by it evidence of his or
8 her compliance with the provision of this Section.

9 (a-1) Regardless of its state of domicile or its principal
10 place of business, an employer shall make payments to its
11 insurance carrier or group self-insurance fund, where
12 applicable, based upon the premium rates of the situs where the
13 work or project is located in Illinois if:

14 (A) the employer is engaged primarily in the building
15 and construction industry; and

16 (B) subdivision (a)(3) of this Section applies to the
17 employer or the employer is a member of a group
18 self-insurance plan as defined in subsection (1) of Section
19 4a.

20 The Illinois Workers' Compensation Commission shall impose
21 a penalty upon an employer for violation of this subsection
22 (a-1) if:

23 (i) the employer is given an opportunity at a hearing
24 to present evidence of its compliance with this subsection
25 (a-1); and

26 (ii) after the hearing, the Commission finds that the

1 employer failed to make payments upon the premium rates of
2 the situs where the work or project is located in Illinois.

3 The penalty shall not exceed \$1,000 for each day of work
4 for which the employer failed to make payments upon the premium
5 rates of the situs where the work or project is located in
6 Illinois, but the total penalty shall not exceed \$50,000 for
7 each project or each contract under which the work was
8 performed.

9 Any penalty under this subsection (a-1) must be imposed not
10 later than one year after the expiration of the applicable
11 limitation period specified in subsection (d) of Section 6 of
12 this Act. Penalties imposed under this subsection (a-1) shall
13 be deposited into the Illinois Workers' Compensation
14 Commission Operations Fund, a special fund that is created in
15 the State treasury. Subject to appropriation, moneys in the
16 Fund shall be used solely for the operations of the Illinois
17 Workers' Compensation Commission and by the Department of
18 Insurance for the purposes authorized in subsection (c) of
19 Section 25.5 of this Act.

20 (a-2) Every Employee Leasing Company (ELC), as defined in
21 Section 15 of the Employee Leasing Company Act, shall at a
22 minimum provide the following information to the Commission or
23 any entity designated by the Commission regarding each workers'
24 compensation insurance policy issued to the ELC:

25 (1) Any client company of the ELC listed as an
26 additional named insured.

1 (2) Any informational schedule attached to the master
2 policy that identifies any individual client company's
3 name, FEIN, and job location.

4 (3) Any certificate of insurance coverage document
5 issued to a client company specifying its rights and
6 obligations under the master policy that establishes both
7 the identity and status of the client, as well as the dates
8 of inception and termination of coverage, if applicable.

9 (b) The sworn application and financial statement, or
10 security, indemnity or bond, or amount of insurance, or other
11 provisions, filed, furnished, carried, or made by the employer,
12 as the case may be, shall be subject to the approval of the
13 Commission.

14 Deposits under escrow agreements shall be cash, negotiable
15 United States government bonds or negotiable general
16 obligation bonds of the State of Illinois. Such cash or bonds
17 shall be deposited in escrow with any State or National Bank or
18 Trust Company having trust authority in the State of Illinois.

19 Upon the approval of the sworn application and financial
20 statement, security, indemnity or bond or amount of insurance,
21 filed, furnished or carried, as the case may be, the Commission
22 shall send to the employer written notice of its approval
23 thereof. The certificate of compliance by the employer with the
24 provisions of subparagraphs (2) and (3) of paragraph (a) of
25 this Section shall be delivered by the insurance carrier to the
26 Illinois Workers' Compensation Commission within five days

1 after the effective date of the policy so certified. The
2 insurance so certified shall cover all compensation liability
3 occurring during the time that the insurance is in effect and
4 no further certificate need be filed in case such insurance is
5 renewed, extended or otherwise continued by such carrier. The
6 insurance so certified shall not be cancelled or in the event
7 that such insurance is not renewed, extended or otherwise
8 continued, such insurance shall not be terminated until at
9 least 10 days after receipt by the Illinois Workers'
10 Compensation Commission of notice of the cancellation or
11 termination of said insurance; provided, however, that if the
12 employer has secured insurance from another insurance carrier,
13 or has otherwise secured the payment of compensation in
14 accordance with this Section, and such insurance or other
15 security becomes effective prior to the expiration of the 10
16 days, cancellation or termination may, at the option of the
17 insurance carrier indicated in such notice, be effective as of
18 the effective date of such other insurance or security.

19 (c) Whenever the Commission shall find that any
20 corporation, company, association, aggregation of individuals,
21 reciprocal or interinsurers exchange, or other insurer
22 effecting workers' compensation insurance in this State shall
23 be insolvent, financially unsound, or unable to fully meet all
24 payments and liabilities assumed or to be assumed for
25 compensation insurance in this State, or shall practice a
26 policy of delay or unfairness toward employees in the

1 adjustment, settlement, or payment of benefits due such
2 employees, the Commission may after reasonable notice and
3 hearing order and direct that such corporation, company,
4 association, aggregation of individuals, reciprocal or
5 interinsurers exchange, or insurer, shall from and after a date
6 fixed in such order discontinue the writing of any such
7 workers' compensation insurance in this State. Subject to such
8 modification of the order as the Commission may later make on
9 review of the order, as herein provided, it shall thereupon be
10 unlawful for any such corporation, company, association,
11 aggregation of individuals, reciprocal or interinsurers
12 exchange, or insurer to effect any workers' compensation
13 insurance in this State. A copy of the order shall be served
14 upon the Director of Insurance by registered mail. Whenever the
15 Commission finds that any service or adjustment company used or
16 employed by a self-insured employer or by an insurance carrier
17 to process, adjust, investigate, compromise or otherwise
18 handle claims under this Act, has practiced or is practicing a
19 policy of delay or unfairness toward employees in the
20 adjustment, settlement or payment of benefits due such
21 employees, the Commission may after reasonable notice and
22 hearing order and direct that such service or adjustment
23 company shall from and after a date fixed in such order be
24 prohibited from processing, adjusting, investigating,
25 compromising or otherwise handling claims under this Act.

26 Whenever the Commission finds that any self-insured

1 employer has practiced or is practicing delay or unfairness
2 toward employees in the adjustment, settlement or payment of
3 benefits due such employees, the Commission may, after
4 reasonable notice and hearing, order and direct that after a
5 date fixed in the order such self-insured employer shall be
6 disqualified to operate as a self-insurer and shall be required
7 to insure his entire liability to pay compensation in some
8 insurance carrier authorized, licensed and permitted to do such
9 insurance business in this State, as provided in subparagraph 3
10 of paragraph (a) of this Section.

11 All orders made by the Commission under this Section shall
12 be subject to review by the courts, said review to be taken in
13 the same manner and within the same time as provided by Section
14 19 of this Act for review of awards and decisions of the
15 Commission, upon the party seeking the review filing with the
16 clerk of the court to which said review is taken a bond in an
17 amount to be fixed and approved by the court to which the
18 review is taken, conditioned upon the payment of all
19 compensation awarded against the person taking said review
20 pending a decision thereof and further conditioned upon such
21 other obligations as the court may impose. Upon the review the
22 Circuit Court shall have power to review all questions of fact
23 as well as of law. The penalty hereinafter provided for in this
24 paragraph shall not attach and shall not begin to run until the
25 final determination of the order of the Commission.

26 (d) Whenever a panel of 3 Commissioners comprised of one

1 member of the employing class, one representative of a labor
2 organization recognized under the National Labor Relations Act
3 ~~member of the employee class~~, and one member not identified
4 with either the employing class or a labor organization ~~or~~
5 ~~employee class~~, with due process and after a hearing,
6 determines an employer has knowingly failed to provide coverage
7 as required by paragraph (a) of this Section, the failure shall
8 be deemed an immediate serious danger to public health, safety,
9 and welfare sufficient to justify service by the Commission of
10 a work-stop order on such employer, requiring the cessation of
11 all business operations of such employer at the place of
12 employment or job site. Any law enforcement agency in the State
13 shall, at the request of the Commission, render any assistance
14 necessary to carry out the provisions of this Section,
15 including, but not limited to, preventing any employee of such
16 employer from remaining at a place of employment or job site
17 after a work-stop order has taken effect. Any work-stop order
18 shall be lifted upon proof of insurance as required by this
19 Act. Any orders under this Section are appealable under Section
20 19(f) to the Circuit Court.

21 Any individual employer, corporate officer or director of a
22 corporate employer, partner of an employer partnership, or
23 member of an employer limited liability company who knowingly
24 fails to provide coverage as required by paragraph (a) of this
25 Section is guilty of a Class 4 felony. This provision shall not
26 apply to any corporate officer or director of any

1 publicly-owned corporation. Each day's violation constitutes a
2 separate offense. The State's Attorney of the county in which
3 the violation occurred, or the Attorney General, shall bring
4 such actions in the name of the People of the State of
5 Illinois, or may, in addition to other remedies provided in
6 this Section, bring an action for an injunction to restrain the
7 violation or to enjoin the operation of any such employer.

8 Any individual employer, corporate officer or director of a
9 corporate employer, partner of an employer partnership, or
10 member of an employer limited liability company who negligently
11 fails to provide coverage as required by paragraph (a) of this
12 Section is guilty of a Class A misdemeanor. This provision
13 shall not apply to any corporate officer or director of any
14 publicly-owned corporation. Each day's violation constitutes a
15 separate offense. The State's Attorney of the county in which
16 the violation occurred, or the Attorney General, shall bring
17 such actions in the name of the People of the State of
18 Illinois.

19 The criminal penalties in this subsection (d) shall not
20 apply where there exists a good faith dispute as to the
21 existence of an employment relationship. Evidence of good faith
22 shall include, but not be limited to, compliance with the
23 definition of employee as used by the Internal Revenue Service.

24 Employers who are subject to and who knowingly fail to
25 comply with this Section shall not be entitled to the benefits
26 of this Act during the period of noncompliance, but shall be

1 liable in an action under any other applicable law of this
2 State. In the action, such employer shall not avail himself or
3 herself of the defenses of assumption of risk or negligence or
4 that the injury was due to a co-employee. In the action, proof
5 of the injury shall constitute prima facie evidence of
6 negligence on the part of such employer and the burden shall be
7 on such employer to show freedom of negligence resulting in the
8 injury. The employer shall not join any other defendant in any
9 such civil action. Nothing in this amendatory Act of the 94th
10 General Assembly shall affect the employee's rights under
11 subdivision (a)3 of Section 1 of this Act. Any employer or
12 carrier who makes payments under subdivision (a)3 of Section 1
13 of this Act shall have a right of reimbursement from the
14 proceeds of any recovery under this Section.

15 An employee of an uninsured employer, or the employee's
16 dependents in case death ensued, may, instead of proceeding
17 against the employer in a civil action in court, file an
18 application for adjustment of claim with the Commission in
19 accordance with the provisions of this Act and the Commission
20 shall hear and determine the application for adjustment of
21 claim in the manner in which other claims are heard and
22 determined before the Commission.

23 All proceedings under this subsection (d) shall be reported
24 on an annual basis to the Workers' Compensation Advisory Board.

25 An investigator with the Illinois Workers' Compensation
26 Commission Insurance Compliance Division may issue a citation

1 to any employer that is not in compliance with its obligation
2 to have workers' compensation insurance under this Act. The
3 amount of the fine shall be based on the period of time the
4 employer was in non-compliance, but shall be no less than \$500,
5 and shall not exceed \$2,500. An employer that has been issued a
6 citation shall pay the fine to the Commission and provide to
7 the Commission proof that it obtained the required workers'
8 compensation insurance within 10 days after the citation was
9 issued. This Section does not affect any other obligations this
10 Act imposes on employers.

11 Upon a finding by the Commission, after reasonable notice
12 and hearing, of the knowing and wilful failure or refusal of an
13 employer to comply with any of the provisions of paragraph (a)
14 of this Section, the failure or refusal of an employer, service
15 or adjustment company, or an insurance carrier to comply with
16 any order of the Illinois Workers' Compensation Commission
17 pursuant to paragraph (c) of this Section disqualifying him or
18 her to operate as a self insurer and requiring him or her to
19 insure his or her liability, or the knowing and willful failure
20 of an employer to comply with a citation issued by an
21 investigator with the Illinois Workers' Compensation
22 Commission Insurance Compliance Division, the Commission may
23 assess a civil penalty of up to \$500 per day for each day of
24 such failure or refusal after the effective date of this
25 amendatory Act of 1989. The minimum penalty under this Section
26 shall be the sum of \$10,000. Each day of such failure or

1 refusal shall constitute a separate offense. The Commission may
2 assess the civil penalty personally and individually against
3 the corporate officers and directors of a corporate employer,
4 the partners of an employer partnership, and the members of an
5 employer limited liability company, after a finding of a
6 knowing and willful refusal or failure of each such named
7 corporate officer, director, partner, or member to comply with
8 this Section. The liability for the assessed penalty shall be
9 against the named employer first, and if the named employer
10 fails or refuses to pay the penalty to the Commission within 30
11 days after the final order of the Commission, then the named
12 corporate officers, directors, partners, or members who have
13 been found to have knowingly and willfully refused or failed to
14 comply with this Section shall be liable for the unpaid penalty
15 or any unpaid portion of the penalty. Upon investigation by the
16 insurance non-compliance unit of the Commission, the Attorney
17 General shall have the authority to prosecute all proceedings
18 to enforce the civil and administrative provisions of this
19 Section before the Commission. The Commission shall promulgate
20 procedural rules for enforcing this Section.

21 Upon the failure or refusal of any employer, service or
22 adjustment company or insurance carrier to comply with the
23 provisions of this Section and with the orders of the
24 Commission under this Section, or the order of the court on
25 review after final adjudication, the Commission may bring a
26 civil action to recover the amount of the penalty in Cook

1 County or in Sangamon County in which litigation the Commission
2 shall be represented by the Attorney General. The Commission
3 shall send notice of its finding of non-compliance and
4 assessment of the civil penalty to the Attorney General. It
5 shall be the duty of the Attorney General within 30 days after
6 receipt of the notice, to institute prosecutions and promptly
7 prosecute all reported violations of this Section.

8 Any individual employer, corporate officer or director of a
9 corporate employer, partner of an employer partnership, or
10 member of an employer limited liability company who, with the
11 intent to avoid payment of compensation under this Act to an
12 injured employee or the employee's dependents, knowingly
13 transfers, sells, encumbers, assigns, or in any manner disposes
14 of, conceals, secretes, or destroys any property belonging to
15 the employer, officer, director, partner, or member is guilty
16 of a Class 4 felony.

17 Penalties and fines collected pursuant to this paragraph
18 (d) shall be deposited upon receipt into a special fund which
19 shall be designated the Injured Workers' Benefit Fund, of which
20 the State Treasurer is ex-officio custodian, such special fund
21 to be held and disbursed in accordance with this paragraph (d)
22 for the purposes hereinafter stated in this paragraph (d), upon
23 the final order of the Commission. The Injured Workers' Benefit
24 Fund shall be deposited the same as are State funds and any
25 interest accruing thereon shall be added thereto every 6
26 months. The Injured Workers' Benefit Fund is subject to audit

1 the same as State funds and accounts and is protected by the
2 general bond given by the State Treasurer. The Injured Workers'
3 Benefit Fund is considered always appropriated for the purposes
4 of disbursements as provided in this paragraph, and shall be
5 paid out and disbursed as herein provided and shall not at any
6 time be appropriated or diverted to any other use or purpose.
7 Moneys in the Injured Workers' Benefit Fund shall be used only
8 for payment of workers' compensation benefits for injured
9 employees when the employer has failed to provide coverage as
10 determined under this paragraph (d) and has failed to pay the
11 benefits due to the injured employee. The Commission shall have
12 the right to obtain reimbursement from the employer for
13 compensation obligations paid by the Injured Workers' Benefit
14 Fund. Any such amounts obtained shall be deposited by the
15 Commission into the Injured Workers' Benefit Fund. If an
16 injured employee or his or her personal representative receives
17 payment from the Injured Workers' Benefit Fund, the State of
18 Illinois has the same rights under paragraph (b) of Section 5
19 that the employer who failed to pay the benefits due to the
20 injured employee would have had if the employer had paid those
21 benefits, and any moneys recovered by the State as a result of
22 the State's exercise of its rights under paragraph (b) of
23 Section 5 shall be deposited into the Injured Workers' Benefit
24 Fund. The custodian of the Injured Workers' Benefit Fund shall
25 be joined with the employer as a party respondent in the
26 application for adjustment of claim. After July 1, 2006, the

1 Commission shall make disbursements from the Fund once each
2 year to each eligible claimant. An eligible claimant is an
3 injured worker who has within the previous fiscal year obtained
4 a final award for benefits from the Commission against the
5 employer and the Injured Workers' Benefit Fund and has notified
6 the Commission within 90 days of receipt of such award. Within
7 a reasonable time after the end of each fiscal year, the
8 Commission shall make a disbursement to each eligible claimant.
9 At the time of disbursement, if there are insufficient moneys
10 in the Fund to pay all claims, each eligible claimant shall
11 receive a pro-rata share, as determined by the Commission, of
12 the available moneys in the Fund for that year. Payment from
13 the Injured Workers' Benefit Fund to an eligible claimant
14 pursuant to this provision shall discharge the obligations of
15 the Injured Workers' Benefit Fund regarding the award entered
16 by the Commission.

17 (e) This Act shall not affect or disturb the continuance of
18 any existing insurance, mutual aid, benefit, or relief
19 association or department, whether maintained in whole or in
20 part by the employer or whether maintained by the employees,
21 the payment of benefits of such association or department being
22 guaranteed by the employer or by some person, firm or
23 corporation for him or her: Provided, the employer contributes
24 to such association or department an amount not less than the
25 full compensation herein provided, exclusive of the cost of the
26 maintenance of such association or department and without any

1 expense to the employee. This Act shall not prevent the
2 organization and maintaining under the insurance laws of this
3 State of any benefit or insurance company for the purpose of
4 insuring against the compensation provided for in this Act, the
5 expense of which is maintained by the employer. This Act shall
6 not prevent the organization or maintaining under the insurance
7 laws of this State of any voluntary mutual aid, benefit or
8 relief association among employees for the payment of
9 additional accident or sick benefits.

10 (f) No existing insurance, mutual aid, benefit or relief
11 association or department shall, by reason of anything herein
12 contained, be authorized to discontinue its operation without
13 first discharging its obligations to any and all persons
14 carrying insurance in the same or entitled to relief or
15 benefits therein.

16 (g) Any contract, oral, written or implied, of employment
17 providing for relief benefit, or insurance or any other device
18 whereby the employee is required to pay any premium or premiums
19 for insurance against the compensation provided for in this Act
20 shall be null and void. Any employer withholding from the wages
21 of any employee any amount for the purpose of paying any such
22 premium shall be guilty of a Class B misdemeanor.

23 In the event the employer does not pay the compensation for
24 which he or she is liable, then an insurance company,
25 association or insurer which may have insured such employer
26 against such liability shall become primarily liable to pay to

1 the employee, his or her personal representative or beneficiary
2 the compensation required by the provisions of this Act to be
3 paid by such employer. The insurance carrier may be made a
4 party to the proceedings in which the employer is a party and
5 an award may be entered jointly against the employer and the
6 insurance carrier.

7 (h) It shall be unlawful for any employer, insurance
8 company or service or adjustment company to interfere with,
9 restrain or coerce an employee in any manner whatsoever in the
10 exercise of the rights or remedies granted to him or her by
11 this Act or to discriminate, attempt to discriminate, or
12 threaten to discriminate against an employee in any way because
13 of his or her exercise of the rights or remedies granted to him
14 or her by this Act.

15 It shall be unlawful for any employer, individually or
16 through any insurance company or service or adjustment company,
17 to discharge or to threaten to discharge, or to refuse to
18 rehire or recall to active service in a suitable capacity an
19 employee because of the exercise of his or her rights or
20 remedies granted to him or her by this Act.

21 (i) If an employer elects to obtain a life insurance policy
22 on his employees, he may also elect to apply such benefits in
23 satisfaction of all or a portion of the death benefits payable
24 under this Act, in which case, the employer's compensation
25 premium shall be reduced accordingly.

26 (j) Within 45 days of receipt of an initial application or

1 application to renew self-insurance privileges the
2 Self-Insurers Advisory Board shall review and submit for
3 approval by the Chairman of the Commission recommendations of
4 disposition of all initial applications to self-insure and all
5 applications to renew self-insurance privileges filed by
6 private self-insurers pursuant to the provisions of this
7 Section and Section 4a-9 of this Act. Each private self-insurer
8 shall submit with its initial and renewal applications the
9 application fee required by Section 4a-4 of this Act.

10 The Chairman of the Commission shall promptly act upon all
11 initial applications and applications for renewal in full
12 accordance with the recommendations of the Board or, should the
13 Chairman disagree with any recommendation of disposition of the
14 Self-Insurer's Advisory Board, he shall within 30 days of
15 receipt of such recommendation provide to the Board in writing
16 the reasons supporting his decision. The Chairman shall also
17 promptly notify the employer of his decision within 15 days of
18 receipt of the recommendation of the Board.

19 If an employer is denied a renewal of self-insurance
20 privileges pursuant to application it shall retain said
21 privilege for 120 days after receipt of a notice of
22 cancellation of the privilege from the Chairman of the
23 Commission.

24 All orders made by the Chairman under this Section shall be
25 subject to review by the courts, such review to be taken in the
26 same manner and within the same time as provided by subsection

1 (f) of Section 19 of this Act for review of awards and
2 decisions of the Commission, upon the party seeking the review
3 filing with the clerk of the court to which such review is
4 taken a bond in an amount to be fixed and approved by the court
5 to which the review is taken, conditioned upon the payment of
6 all compensation awarded against the person taking such review
7 pending a decision thereof and further conditioned upon such
8 other obligations as the court may impose. Upon the review the
9 Circuit Court shall have power to review all questions of fact
10 as well as of law.

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

12 (820 ILCS 305/8.3)

13 Sec. 8.3. Workers' Compensation Medical Fee Advisory
14 Board. There is created a Workers' Compensation Medical Fee
15 Advisory Board consisting of 9 members appointed by the
16 Governor with the advice and consent of the Senate. Three
17 members of the Advisory Board shall be representatives of a
18 labor organization recognized under the National Labor
19 Relations Act ~~representative citizens chosen from the employee~~
20 ~~class~~, 3 members shall be representative citizens chosen from
21 the employing class, and 3 members shall be representative
22 citizens chosen from the medical provider class. Each member
23 shall serve a 4-year term and shall continue to serve until a
24 successor is appointed. A vacancy on the Advisory Board shall
25 be filled by the Governor for the unexpired term.

1 Members of the Advisory Board shall receive no compensation
2 for their services but shall be reimbursed for expenses
3 incurred in the performance of their duties by the Commission
4 from appropriations made to the Commission for that purpose.

5 The Advisory Board shall advise the Commission on
6 establishment of fees for medical services and accessibility of
7 medical treatment.

8 (Source: P.A. 94-277, eff. 7-20-05.)

9 (820 ILCS 305/13.1) (from Ch. 48, par. 138.13-1)

10 Sec. 13.1. (a) There is created a Workers' Compensation
11 Advisory Board hereinafter referred to as the Advisory Board.
12 After the effective date of this amendatory Act of the 94th
13 General Assembly, the Advisory Board shall consist of 12
14 members appointed by the Governor with the advice and consent
15 of the Senate. Six members of the Advisory Board shall be
16 representative citizens chosen from a labor organization
17 recognized under the National Labor Relations Act ~~the employee~~
18 ~~class~~, and 6 members shall be representative citizens chosen
19 from the employing class. The Chairman of the Commission shall
20 serve as the ex officio Chairman of the Advisory Board. After
21 the effective date of this amendatory Act of the 94th General
22 Assembly, each member of the Advisory Board shall serve a term
23 ending on the third Monday in January 2007 and shall continue
24 to serve until his or her successor is appointed and qualified.
25 Members of the Advisory Board shall thereafter be appointed for

1 4 year terms from the third Monday in January of the year of
2 their appointment, and until their successors are appointed and
3 qualified. Seven members of the Advisory Board shall constitute
4 a quorum to do business, but in no case shall there be less
5 than one representative from each class. A vacancy on the
6 Advisory Board shall be filled by the Governor for the
7 unexpired term.

8 (b) Members of the Advisory Board shall receive no
9 compensation for their services but shall be reimbursed for
10 expenses incurred in the performance of their duties by the
11 Commission from appropriations made to the Commission for such
12 purpose.

13 (c) The Advisory Board shall aid the Commission in
14 formulating policies, discussing problems, setting priorities
15 of expenditures, reviewing advisory rates filed by an advisory
16 organization as defined in Section 463 of the Illinois
17 Insurance Code, and establishing short and long range
18 administrative goals. Prior to making the (1) initial set of
19 arbitrator appointments pursuant to this amendatory Act of the
20 97th General Assembly and (2) appointment of Commissioners, the
21 Governor shall request that the Advisory Board make
22 recommendations as to candidates to consider for appointment
23 and the Advisory Board may then make such recommendations.

24 (d) The terms of all Advisory Board members serving on the
25 effective date of this amendatory Act of the 97th General
26 Assembly are terminated. The Governor shall appoint new members

1 to the Advisory Board within 30 days after the effective date
2 of the amendatory Act of the 97th General Assembly, subject to
3 the advice and consent of the Senate.

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

5 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

6 Sec. 19. Any disputed questions of law or fact shall be
7 determined as herein provided.

8 (a) It shall be the duty of the Commission upon
9 notification that the parties have failed to reach an
10 agreement, to designate an Arbitrator.

11 1. Whenever any claimant misconceives his remedy and
12 files an application for adjustment of claim under this Act
13 and it is subsequently discovered, at any time before final
14 disposition of such cause, that the claim for disability or
15 death which was the basis for such application should
16 properly have been made under the Workers' Occupational
17 Diseases Act, then the provisions of Section 19, paragraph
18 (a-1) of the Workers' Occupational Diseases Act having
19 reference to such application shall apply.

20 2. Whenever any claimant misconceives his remedy and
21 files an application for adjustment of claim under the
22 Workers' Occupational Diseases Act and it is subsequently
23 discovered, at any time before final disposition of such
24 cause that the claim for injury or death which was the
25 basis for such application should properly have been made

1 under this Act, then the application so filed under the
2 Workers' Occupational Diseases Act may be amended in form,
3 substance or both to assert claim for such disability or
4 death under this Act and it shall be deemed to have been so
5 filed as amended on the date of the original filing
6 thereof, and such compensation may be awarded as is
7 warranted by the whole evidence pursuant to this Act. When
8 such amendment is submitted, further or additional
9 evidence may be heard by the Arbitrator or Commission when
10 deemed necessary. Nothing in this Section contained shall
11 be construed to be or permit a waiver of any provisions of
12 this Act with reference to notice but notice if given shall
13 be deemed to be a notice under the provisions of this Act
14 if given within the time required herein.

15 (b) The Arbitrator shall make such inquiries and
16 investigations as he or they shall deem necessary and may
17 examine and inspect all books, papers, records, places, or
18 premises relating to the questions in dispute and hear such
19 proper evidence as the parties may submit.

20 The hearings before the Arbitrator shall be held in the
21 vicinity where the injury occurred after 10 days' notice of the
22 time and place of such hearing shall have been given to each of
23 the parties or their attorneys of record.

24 The Arbitrator may find that the disabling condition is
25 temporary and has not yet reached a permanent condition and may
26 order the payment of compensation up to the date of the

1 hearing, which award shall be reviewable and enforceable in the
2 same manner as other awards, and in no instance be a bar to a
3 further hearing and determination of a further amount of
4 temporary total compensation or of compensation for permanent
5 disability, but shall be conclusive as to all other questions
6 except the nature and extent of said disability.

7 The decision of the Arbitrator shall be filed with the
8 Commission which Commission shall immediately send to each
9 party or his attorney a copy of such decision, together with a
10 notification of the time when it was filed. As of the effective
11 date of this amendatory Act of the 94th General Assembly, all
12 decisions of the Arbitrator shall set forth in writing findings
13 of fact and conclusions of law, separately stated, if requested
14 by either party. Unless a petition for review is filed by
15 either party within 30 days after the receipt by such party of
16 the copy of the decision and notification of time when filed,
17 and unless such party petitioning for a review shall within 35
18 days after the receipt by him of the copy of the decision, file
19 with the Commission either an agreed statement of the facts
20 appearing upon the hearing before the Arbitrator, or if such
21 party shall so elect a correct transcript of evidence of the
22 proceedings at such hearings, then the decision shall become
23 the decision of the Commission and in the absence of fraud
24 shall be conclusive. The Petition for Review shall contain a
25 statement of the petitioning party's specific exceptions to the
26 decision of the arbitrator. The jurisdiction of the Commission

1 to review the decision of the arbitrator shall not be limited
2 to the exceptions stated in the Petition for Review. The
3 Commission, or any member thereof, may grant further time not
4 exceeding 30 days, in which to file such agreed statement or
5 transcript of evidence. Such agreed statement of facts or
6 correct transcript of evidence, as the case may be, shall be
7 authenticated by the signatures of the parties or their
8 attorneys, and in the event they do not agree as to the
9 correctness of the transcript of evidence it shall be
10 authenticated by the signature of the Arbitrator designated by
11 the Commission.

12 Whether the employee is working or not, if the employee is
13 not receiving or has not received medical, surgical, or
14 hospital services or other services or compensation as provided
15 in paragraph (a) of Section 8, or compensation as provided in
16 paragraph (b) of Section 8, the employee may at any time
17 petition for an expedited hearing by an Arbitrator on the issue
18 of whether or not he or she is entitled to receive payment of
19 the services or compensation. Provided the employer continues
20 to pay compensation pursuant to paragraph (b) of Section 8, the
21 employer may at any time petition for an expedited hearing on
22 the issue of whether or not the employee is entitled to receive
23 medical, surgical, or hospital services or other services or
24 compensation as provided in paragraph (a) of Section 8, or
25 compensation as provided in paragraph (b) of Section 8. When an
26 employer has petitioned for an expedited hearing, the employer

1 shall continue to pay compensation as provided in paragraph (b)
2 of Section 8 unless the arbitrator renders a decision that the
3 employee is not entitled to the benefits that are the subject
4 of the expedited hearing or unless the employee's treating
5 physician has released the employee to return to work at his or
6 her regular job with the employer or the employee actually
7 returns to work at any other job. If the arbitrator renders a
8 decision that the employee is not entitled to the benefits that
9 are the subject of the expedited hearing, a petition for review
10 filed by the employee shall receive the same priority as if the
11 employee had filed a petition for an expedited hearing by an
12 Arbitrator. Neither party shall be entitled to an expedited
13 hearing when the employee has returned to work and the sole
14 issue in dispute amounts to less than 12 weeks of unpaid
15 compensation pursuant to paragraph (b) of Section 8.

16 Expedited hearings shall have priority over all other
17 petitions and shall be heard by the Arbitrator and Commission
18 with all convenient speed. Any party requesting an expedited
19 hearing shall give notice of a request for an expedited hearing
20 under this paragraph. A copy of the Application for Adjustment
21 of Claim shall be attached to the notice. The Commission shall
22 adopt rules and procedures under which the final decision of
23 the Commission under this paragraph is filed not later than 180
24 days from the date that the Petition for Review is filed with
25 the Commission.

26 Where 2 or more insurance carriers, private self-insureds,

1 or a group workers' compensation pool under Article V 3/4 of
2 the Illinois Insurance Code dispute coverage for the same
3 injury, any such insurance carrier, private self-insured, or
4 group workers' compensation pool may request an expedited
5 hearing pursuant to this paragraph to determine the issue of
6 coverage, provided coverage is the only issue in dispute and
7 all other issues are stipulated and agreed to and further
8 provided that all compensation benefits including medical
9 benefits pursuant to Section 8(a) continue to be paid to or on
10 behalf of petitioner. Any insurance carrier, private
11 self-insured, or group workers' compensation pool that is
12 determined to be liable for coverage for the injury in issue
13 shall reimburse any insurance carrier, private self-insured,
14 or group workers' compensation pool that has paid benefits to
15 or on behalf of petitioner for the injury.

16 (b-1) If the employee is not receiving medical, surgical or
17 hospital services as provided in paragraph (a) of Section 8 or
18 compensation as provided in paragraph (b) of Section 8, the
19 employee, in accordance with Commission Rules, may file a
20 petition for an emergency hearing by an Arbitrator on the issue
21 of whether or not he is entitled to receive payment of such
22 compensation or services as provided therein. Such petition
23 shall have priority over all other petitions and shall be heard
24 by the Arbitrator and Commission with all convenient speed.

25 Such petition shall contain the following information and
26 shall be served on the employer at least 15 days before it is

1 filed:

2 (i) the date and approximate time of accident;

3 (ii) the approximate location of the accident;

4 (iii) a description of the accident;

5 (iv) the nature of the injury incurred by the employee;

6 (v) the identity of the person, if known, to whom the
7 accident was reported and the date on which it was
8 reported;

9 (vi) the name and title of the person, if known,
10 representing the employer with whom the employee conferred
11 in any effort to obtain compensation pursuant to paragraph
12 (b) of Section 8 of this Act or medical, surgical or
13 hospital services pursuant to paragraph (a) of Section 8 of
14 this Act and the date of such conference;

15 (vii) a statement that the employer has refused to pay
16 compensation pursuant to paragraph (b) of Section 8 of this
17 Act or for medical, surgical or hospital services pursuant
18 to paragraph (a) of Section 8 of this Act;

19 (viii) the name and address, if known, of each witness
20 to the accident and of each other person upon whom the
21 employee will rely to support his allegations;

22 (ix) the dates of treatment related to the accident by
23 medical practitioners, and the names and addresses of such
24 practitioners, including the dates of treatment related to
25 the accident at any hospitals and the names and addresses
26 of such hospitals, and a signed authorization permitting

1 the employer to examine all medical records of all
2 practitioners and hospitals named pursuant to this
3 paragraph;

4 (x) a copy of a signed report by a medical
5 practitioner, relating to the employee's current inability
6 to return to work because of the injuries incurred as a
7 result of the accident or such other documents or
8 affidavits which show that the employee is entitled to
9 receive compensation pursuant to paragraph (b) of Section 8
10 of this Act or medical, surgical or hospital services
11 pursuant to paragraph (a) of Section 8 of this Act. Such
12 reports, documents or affidavits shall state, if possible,
13 the history of the accident given by the employee, and
14 describe the injury and medical diagnosis, the medical
15 services for such injury which the employee has received
16 and is receiving, the physical activities which the
17 employee cannot currently perform as a result of any
18 impairment or disability due to such injury, and the
19 prognosis for recovery;

20 (xi) complete copies of any reports, records,
21 documents and affidavits in the possession of the employee
22 on which the employee will rely to support his allegations,
23 provided that the employer shall pay the reasonable cost of
24 reproduction thereof;

25 (xii) a list of any reports, records, documents and
26 affidavits which the employee has demanded by subpoena and

1 on which he intends to rely to support his allegations;

2 (xiii) a certification signed by the employee or his
3 representative that the employer has received the petition
4 with the required information 15 days before filing.

5 Fifteen days after receipt by the employer of the petition
6 with the required information the employee may file said
7 petition and required information and shall serve notice of the
8 filing upon the employer. The employer may file a motion
9 addressed to the sufficiency of the petition. If an objection
10 has been filed to the sufficiency of the petition, the
11 arbitrator shall rule on the objection within 2 working days.
12 If such an objection is filed, the time for filing the final
13 decision of the Commission as provided in this paragraph shall
14 be tolled until the arbitrator has determined that the petition
15 is sufficient.

16 The employer shall, within 15 days after receipt of the
17 notice that such petition is filed, file with the Commission
18 and serve on the employee or his representative a written
19 response to each claim set forth in the petition, including the
20 legal and factual basis for each disputed allegation and the
21 following information: (i) complete copies of any reports,
22 records, documents and affidavits in the possession of the
23 employer on which the employer intends to rely in support of
24 his response, (ii) a list of any reports, records, documents
25 and affidavits which the employer has demanded by subpoena and
26 on which the employer intends to rely in support of his

1 response, (iii) the name and address of each witness on whom
2 the employer will rely to support his response, and (iv) the
3 names and addresses of any medical practitioners selected by
4 the employer pursuant to Section 12 of this Act and the time
5 and place of any examination scheduled to be made pursuant to
6 such Section.

7 Any employer who does not timely file and serve a written
8 response without good cause may not introduce any evidence to
9 dispute any claim of the employee but may cross examine the
10 employee or any witness brought by the employee and otherwise
11 be heard.

12 No document or other evidence not previously identified by
13 either party with the petition or written response, or by any
14 other means before the hearing, may be introduced into evidence
15 without good cause. If, at the hearing, material information is
16 discovered which was not previously disclosed, the Arbitrator
17 may extend the time for closing proof on the motion of a party
18 for a reasonable period of time which may be more than 30 days.
19 No evidence may be introduced pursuant to this paragraph as to
20 permanent disability. No award may be entered for permanent
21 disability pursuant to this paragraph. Either party may
22 introduce into evidence the testimony taken by deposition of
23 any medical practitioner.

24 The Commission shall adopt rules, regulations and
25 procedures whereby the final decision of the Commission is
26 filed not later than 90 days from the date the petition for

1 review is filed but in no event later than 180 days from the
2 date the petition for an emergency hearing is filed with the
3 Illinois Workers' Compensation Commission.

4 All service required pursuant to this paragraph (b-1) must
5 be by personal service or by certified mail and with evidence
6 of receipt. In addition for the purposes of this paragraph, all
7 service on the employer must be at the premises where the
8 accident occurred if the premises are owned or operated by the
9 employer. Otherwise service must be at the employee's principal
10 place of employment by the employer. If service on the employer
11 is not possible at either of the above, then service shall be
12 at the employer's principal place of business. After initial
13 service in each case, service shall be made on the employer's
14 attorney or designated representative.

15 (c) (1) At a reasonable time in advance of and in connection
16 with the hearing under Section 19(e) or 19(h), the Commission
17 may on its own motion order an impartial physical or mental
18 examination of a petitioner whose mental or physical condition
19 is in issue, when in the Commission's discretion it appears
20 that such an examination will materially aid in the just
21 determination of the case. The examination shall be made by a
22 member or members of a panel of physicians chosen for their
23 special qualifications by the Illinois State Medical Society.
24 The Commission shall establish procedures by which a physician
25 shall be selected from such list.

26 (2) Should the Commission at any time during the hearing

1 find that compelling considerations make it advisable to have
2 an examination and report at that time, the commission may in
3 its discretion so order.

4 (3) A copy of the report of examination shall be given to
5 the Commission and to the attorneys for the parties.

6 (4) Either party or the Commission may call the examining
7 physician or physicians to testify. Any physician so called
8 shall be subject to cross-examination.

9 (5) The examination shall be made, and the physician or
10 physicians, if called, shall testify, without cost to the
11 parties. The Commission shall determine the compensation and
12 the pay of the physician or physicians. The compensation for
13 this service shall not exceed the usual and customary amount
14 for such service.

15 (6) The fees and payment thereof of all attorneys and
16 physicians for services authorized by the Commission under this
17 Act shall, upon request of either the employer or the employee
18 or the beneficiary affected, be subject to the review and
19 decision of the Commission.

20 (d) If any employee shall persist in insanitary or
21 injurious practices which tend to either imperil or retard his
22 recovery or shall refuse to submit to such medical, surgical,
23 or hospital treatment as is reasonably essential to promote his
24 recovery, the Commission may, in its discretion, reduce or
25 suspend the compensation of any such injured employee. However,
26 when an employer and employee so agree in writing, the

1 foregoing provision shall not be construed to authorize the
2 reduction or suspension of compensation of an employee who is
3 relying in good faith, on treatment by prayer or spiritual
4 means alone, in accordance with the tenets and practice of a
5 recognized church or religious denomination, by a duly
6 accredited practitioner thereof.

7 (e) This paragraph shall apply to all hearings before the
8 Commission. Such hearings may be held in its office or
9 elsewhere as the Commission may deem advisable. The taking of
10 testimony on such hearings may be had before any member of the
11 Commission. If a petition for review and agreed statement of
12 facts or transcript of evidence is filed, as provided herein,
13 the Commission shall promptly review the decision of the
14 Arbitrator and all questions of law or fact which appear from
15 the statement of facts or transcript of evidence.

16 In all cases in which the hearing before the arbitrator is
17 held after December 18, 1989, no additional evidence shall be
18 introduced by the parties before the Commission on review of
19 the decision of the Arbitrator. In reviewing decisions of an
20 arbitrator the Commission shall award such temporary
21 compensation, permanent compensation and other payments as are
22 due under this Act. The Commission shall file in its office its
23 decision thereon, and shall immediately send to each party or
24 his attorney a copy of such decision and a notification of the
25 time when it was filed. Decisions shall be filed within 60 days
26 after the Statement of Exceptions and Supporting Brief and

1 Response thereto are required to be filed or oral argument
2 whichever is later.

3 In the event either party requests oral argument, such
4 argument shall be had before a panel of 3 members of the
5 Commission (or before all available members pursuant to the
6 determination of 7 members of the Commission that such argument
7 be held before all available members of the Commission)
8 pursuant to the rules and regulations of the Commission. A
9 panel of 3 members, which shall be comprised of not more than
10 one representative citizen of the employing class and not more
11 than one representative from a labor organization recognized
12 under the National Labor Relations Act ~~citizen of the employee~~
13 ~~class~~, shall hear the argument; provided that if all the issues
14 in dispute are solely the nature and extent of the permanent
15 partial disability, if any, a majority of the panel may deny
16 the request for such argument and such argument shall not be
17 held; and provided further that 7 members of the Commission may
18 determine that the argument be held before all available
19 members of the Commission. A decision of the Commission shall
20 be approved by a majority of Commissioners present at such
21 hearing if any; provided, if no such hearing is held, a
22 decision of the Commission shall be approved by a majority of a
23 panel of 3 members of the Commission as described in this
24 Section. The Commission shall give 10 days' notice to the
25 parties or their attorneys of the time and place of such taking
26 of testimony and of such argument.

1 In any case the Commission in its decision may find
2 specially upon any question or questions of law or fact which
3 shall be submitted in writing by either party whether ultimate
4 or otherwise; provided that on issues other than nature and
5 extent of the disability, if any, the Commission in its
6 decision shall find specially upon any question or questions of
7 law or fact, whether ultimate or otherwise, which are submitted
8 in writing by either party; provided further that not more than
9 5 such questions may be submitted by either party. Any party
10 may, within 20 days after receipt of notice of the Commission's
11 decision, or within such further time, not exceeding 30 days,
12 as the Commission may grant, file with the Commission either an
13 agreed statement of the facts appearing upon the hearing, or,
14 if such party shall so elect, a correct transcript of evidence
15 of the additional proceedings presented before the Commission,
16 in which report the party may embody a correct statement of
17 such other proceedings in the case as such party may desire to
18 have reviewed, such statement of facts or transcript of
19 evidence to be authenticated by the signature of the parties or
20 their attorneys, and in the event that they do not agree, then
21 the authentication of such transcript of evidence shall be by
22 the signature of any member of the Commission.

23 If a reporter does not for any reason furnish a transcript
24 of the proceedings before the Arbitrator in any case for use on
25 a hearing for review before the Commission, within the
26 limitations of time as fixed in this Section, the Commission

1 may, in its discretion, order a trial de novo before the
2 Commission in such case upon application of either party. The
3 applications for adjustment of claim and other documents in the
4 nature of pleadings filed by either party, together with the
5 decisions of the Arbitrator and of the Commission and the
6 statement of facts or transcript of evidence hereinbefore
7 provided for in paragraphs (b) and (c) shall be the record of
8 the proceedings of the Commission, and shall be subject to
9 review as hereinafter provided.

10 At the request of either party or on its own motion, the
11 Commission shall set forth in writing the reasons for the
12 decision, including findings of fact and conclusions of law
13 separately stated. The Commission shall by rule adopt a format
14 for written decisions for the Commission and arbitrators. The
15 written decisions shall be concise and shall succinctly state
16 the facts and reasons for the decision. The Commission may
17 adopt in whole or in part, the decision of the arbitrator as
18 the decision of the Commission. When the Commission does so
19 adopt the decision of the arbitrator, it shall do so by order.
20 Whenever the Commission adopts part of the arbitrator's
21 decision, but not all, it shall include in the order the
22 reasons for not adopting all of the arbitrator's decision. When
23 a majority of a panel, after deliberation, has arrived at its
24 decision, the decision shall be filed as provided in this
25 Section without unnecessary delay, and without regard to the
26 fact that a member of the panel has expressed an intention to

1 dissent. Any member of the panel may file a dissent. Any
2 dissent shall be filed no later than 10 days after the decision
3 of the majority has been filed.

4 Decisions rendered by the Commission and dissents, if any,
5 shall be published together by the Commission. The conclusions
6 of law set out in such decisions shall be regarded as
7 precedents by arbitrators for the purpose of achieving a more
8 uniform administration of this Act.

9 (f) The decision of the Commission acting within its
10 powers, according to the provisions of paragraph (e) of this
11 Section shall, in the absence of fraud, be conclusive unless
12 reviewed as in this paragraph hereinafter provided. However,
13 the Arbitrator or the Commission may on his or its own motion,
14 or on the motion of either party, correct any clerical error or
15 errors in computation within 15 days after the date of receipt
16 of any award by such Arbitrator or any decision on review of
17 the Commission and shall have the power to recall the original
18 award on arbitration or decision on review, and issue in lieu
19 thereof such corrected award or decision. Where such correction
20 is made the time for review herein specified shall begin to run
21 from the date of the receipt of the corrected award or
22 decision.

23 (1) Except in cases of claims against the State of
24 Illinois other than those claims under Section 18.1, in
25 which case the decision of the Commission shall not be
26 subject to judicial review, the Circuit Court of the county

1 where any of the parties defendant may be found, or if none
2 of the parties defendant can be found in this State then
3 the Circuit Court of the county where the accident
4 occurred, shall by summons to the Commission have power to
5 review all questions of law and fact presented by such
6 record.

7 A proceeding for review shall be commenced within 20
8 days of the receipt of notice of the decision of the
9 Commission. The summons shall be issued by the clerk of
10 such court upon written request returnable on a designated
11 return day, not less than 10 or more than 60 days from the
12 date of issuance thereof, and the written request shall
13 contain the last known address of other parties in interest
14 and their attorneys of record who are to be served by
15 summons. Service upon any member of the Commission or the
16 Secretary or the Assistant Secretary thereof shall be
17 service upon the Commission, and service upon other parties
18 in interest and their attorneys of record shall be by
19 summons, and such service shall be made upon the Commission
20 and other parties in interest by mailing notices of the
21 commencement of the proceedings and the return day of the
22 summons to the office of the Commission and to the last
23 known place of residence of other parties in interest or
24 their attorney or attorneys of record. The clerk of the
25 court issuing the summons shall on the day of issue mail
26 notice of the commencement of the proceedings which shall

1 be done by mailing a copy of the summons to the office of
2 the Commission, and a copy of the summons to the other
3 parties in interest or their attorney or attorneys of
4 record and the clerk of the court shall make certificate
5 that he has so sent said notices in pursuance of this
6 Section, which shall be evidence of service on the
7 Commission and other parties in interest.

8 The Commission shall not be required to certify the
9 record of their proceedings to the Circuit Court, unless
10 the party commencing the proceedings for review in the
11 Circuit Court as above provided, shall file with the
12 Commission notice of intent to file for review in Circuit
13 Court. It shall be the duty of the Commission upon such
14 filing of notice of intent to file for review in the
15 Circuit Court to prepare a true and correct copy of such
16 testimony and a true and correct copy of all other matters
17 contained in such record and certified to by the Secretary
18 or Assistant Secretary thereof. The changes made to this
19 subdivision (f)(1) by this amendatory Act of the 98th
20 General Assembly apply to any Commission decision entered
21 after the effective date of this amendatory Act of the 98th
22 General Assembly.

23 No request for a summons may be filed and no summons
24 shall issue unless the party seeking to review the decision
25 of the Commission shall exhibit to the clerk of the Circuit
26 Court proof of filing with the Commission of the notice of

1 the intent to file for review in the Circuit Court or an
2 affidavit of the attorney setting forth that notice of
3 intent to file for review in the Circuit Court has been
4 given in writing to the Secretary or Assistant Secretary of
5 the Commission.

6 (2) No such summons shall issue unless the one against
7 whom the Commission shall have rendered an award for the
8 payment of money shall upon the filing of his written
9 request for such summons file with the clerk of the court a
10 bond conditioned that if he shall not successfully
11 prosecute the review, he will pay the award and the costs
12 of the proceedings in the courts. The amount of the bond
13 shall be fixed by any member of the Commission and the
14 surety or sureties of the bond shall be approved by the
15 clerk of the court. The acceptance of the bond by the clerk
16 of the court shall constitute evidence of his approval of
17 the bond.

18 Every county, city, town, township, incorporated
19 village, school district, body politic or municipal
20 corporation against whom the Commission shall have
21 rendered an award for the payment of money shall not be
22 required to file a bond to secure the payment of the award
23 and the costs of the proceedings in the court to authorize
24 the court to issue such summons.

25 The court may confirm or set aside the decision of the
26 Commission. If the decision is set aside and the facts

1 found in the proceedings before the Commission are
2 sufficient, the court may enter such decision as is
3 justified by law, or may remand the cause to the Commission
4 for further proceedings and may state the questions
5 requiring further hearing, and give such other
6 instructions as may be proper. Appeals shall be taken to
7 the Appellate Court in accordance with Supreme Court Rules
8 22(g) and 303. Appeals shall be taken from the Appellate
9 Court to the Supreme Court in accordance with Supreme Court
10 Rule 315.

11 It shall be the duty of the clerk of any court
12 rendering a decision affecting or affirming an award of the
13 Commission to promptly furnish the Commission with a copy
14 of such decision, without charge.

15 The decision of a majority of the members of the panel
16 of the Commission, shall be considered the decision of the
17 Commission.

18 (g) Except in the case of a claim against the State of
19 Illinois, either party may present a certified copy of the
20 award of the Arbitrator, or a certified copy of the decision of
21 the Commission when the same has become final, when no
22 proceedings for review are pending, providing for the payment
23 of compensation according to this Act, to the Circuit Court of
24 the county in which such accident occurred or either of the
25 parties are residents, whereupon the court shall enter a
26 judgment in accordance therewith. In a case where the employer

1 refuses to pay compensation according to such final award or
2 such final decision upon which such judgment is entered the
3 court shall in entering judgment thereon, tax as costs against
4 him the reasonable costs and attorney fees in the arbitration
5 proceedings and in the court entering the judgment for the
6 person in whose favor the judgment is entered, which judgment
7 and costs taxed as therein provided shall, until and unless set
8 aside, have the same effect as though duly entered in an action
9 duly tried and determined by the court, and shall with like
10 effect, be entered and docketed. The Circuit Court shall have
11 power at any time upon application to make any such judgment
12 conform to any modification required by any subsequent decision
13 of the Supreme Court upon appeal, or as the result of any
14 subsequent proceedings for review, as provided in this Act.

15 Judgment shall not be entered until 15 days' notice of the
16 time and place of the application for the entry of judgment
17 shall be served upon the employer by filing such notice with
18 the Commission, which Commission shall, in case it has on file
19 the address of the employer or the name and address of its
20 agent upon whom notices may be served, immediately send a copy
21 of the notice to the employer or such designated agent.

22 (h) An agreement or award under this Act providing for
23 compensation in installments, may at any time within 18 months
24 after such agreement or award be reviewed by the Commission at
25 the request of either the employer or the employee, on the
26 ground that the disability of the employee has subsequently

1 recurred, increased, diminished or ended.

2 However, as to accidents occurring subsequent to July 1,
3 1955, which are covered by any agreement or award under this
4 Act providing for compensation in installments made as a result
5 of such accident, such agreement or award may at any time
6 within 30 months, or 60 months in the case of an award under
7 Section 8(d)1, after such agreement or award be reviewed by the
8 Commission at the request of either the employer or the
9 employee on the ground that the disability of the employee has
10 subsequently recurred, increased, diminished or ended.

11 On such review, compensation payments may be
12 re-established, increased, diminished or ended. The Commission
13 shall give 15 days' notice to the parties of the hearing for
14 review. Any employee, upon any petition for such review being
15 filed by the employer, shall be entitled to one day's notice
16 for each 100 miles necessary to be traveled by him in attending
17 the hearing of the Commission upon the petition, and 3 days in
18 addition thereto. Such employee shall, at the discretion of the
19 Commission, also be entitled to 5 cents per mile necessarily
20 traveled by him within the State of Illinois in attending such
21 hearing, not to exceed a distance of 300 miles, to be taxed by
22 the Commission as costs and deposited with the petition of the
23 employer.

24 When compensation which is payable in accordance with an
25 award or settlement contract approved by the Commission, is
26 ordered paid in a lump sum by the Commission, no review shall

1 be had as in this paragraph mentioned.

2 (i) Each party, upon taking any proceedings or steps
3 whatsoever before any Arbitrator, Commission or court, shall
4 file with the Commission his address, or the name and address
5 of any agent upon whom all notices to be given to such party
6 shall be served, either personally or by registered mail,
7 addressed to such party or agent at the last address so filed
8 with the Commission. In the event such party has not filed his
9 address, or the name and address of an agent as above provided,
10 service of any notice may be had by filing such notice with the
11 Commission.

12 (j) Whenever in any proceeding testimony has been taken or
13 a final decision has been rendered and after the taking of such
14 testimony or after such decision has become final, the injured
15 employee dies, then in any subsequent proceedings brought by
16 the personal representative or beneficiaries of the deceased
17 employee, such testimony in the former proceeding may be
18 introduced with the same force and effect as though the witness
19 having so testified were present in person in such subsequent
20 proceedings and such final decision, if any, shall be taken as
21 final adjudication of any of the issues which are the same in
22 both proceedings.

23 (k) In case where there has been any unreasonable or
24 vexatious delay of payment or intentional underpayment of
25 compensation, or proceedings have been instituted or carried on
26 by the one liable to pay the compensation, which do not present

1 a real controversy, but are merely frivolous or for delay, then
2 the Commission may award compensation additional to that
3 otherwise payable under this Act equal to 50% of the amount
4 payable at the time of such award. Failure to pay compensation
5 in accordance with the provisions of Section 8, paragraph (b)
6 of this Act, shall be considered unreasonable delay.

7 When determining whether this subsection (k) shall apply,
8 the Commission shall consider whether an Arbitrator has
9 determined that the claim is not compensable or whether the
10 employer has made payments under Section 8(j).

11 (1) If the employee has made written demand for payment of
12 benefits under Section 8(a) or Section 8(b), the employer shall
13 have 14 days after receipt of the demand to set forth in
14 writing the reason for the delay. In the case of demand for
15 payment of medical benefits under Section 8(a), the time for
16 the employer to respond shall not commence until the expiration
17 of the allotted 30 days specified under Section 8.2(d). In case
18 the employer or his or her insurance carrier shall without good
19 and just cause fail, neglect, refuse, or unreasonably delay the
20 payment of benefits under Section 8(a) or Section 8(b), the
21 Arbitrator or the Commission shall allow to the employee
22 additional compensation in the sum of \$30 per day for each day
23 that the benefits under Section 8(a) or Section 8(b) have been
24 so withheld or refused, not to exceed \$10,000. A delay in
25 payment of 14 days or more shall create a rebuttable
26 presumption of unreasonable delay.

1 (m) If the commission finds that an accidental injury was
2 directly and proximately caused by the employer's wilful
3 violation of a health and safety standard under the Health and
4 Safety Act or the Occupational Safety and Health Act in force
5 at the time of the accident, the arbitrator or the Commission
6 shall allow to the injured employee or his dependents, as the
7 case may be, additional compensation equal to 25% of the amount
8 which otherwise would be payable under the provisions of this
9 Act exclusive of this paragraph. The additional compensation
10 herein provided shall be allowed by an appropriate increase in
11 the applicable weekly compensation rate.

12 (n) After June 30, 1984, decisions of the Illinois Workers'
13 Compensation Commission reviewing an award of an arbitrator of
14 the Commission shall draw interest at a rate equal to the yield
15 on indebtedness issued by the United States Government with a
16 26-week maturity next previously auctioned on the day on which
17 the decision is filed. Said rate of interest shall be set forth
18 in the Arbitrator's Decision. Interest shall be drawn from the
19 date of the arbitrator's award on all accrued compensation due
20 the employee through the day prior to the date of payments.
21 However, when an employee appeals an award of an Arbitrator or
22 the Commission, and the appeal results in no change or a
23 decrease in the award, interest shall not further accrue from
24 the date of such appeal.

25 The employer or his insurance carrier may tender the
26 payments due under the award to stop the further accrual of

1 interest on such award notwithstanding the prosecution by
2 either party of review, certiorari, appeal to the Supreme Court
3 or other steps to reverse, vacate or modify the award.

4 (o) By the 15th day of each month each insurer providing
5 coverage for losses under this Act shall notify each insured
6 employer of any compensable claim incurred during the preceding
7 month and the amounts paid or reserved on the claim including a
8 summary of the claim and a brief statement of the reasons for
9 compensability. A cumulative report of all claims incurred
10 during a calendar year or continued from the previous year
11 shall be furnished to the insured employer by the insurer
12 within 30 days after the end of that calendar year.

13 The insured employer may challenge, in proceeding before
14 the Commission, payments made by the insurer without
15 arbitration and payments made after a case is determined to be
16 noncompensable. If the Commission finds that the case was not
17 compensable, the insurer shall purge its records as to that
18 employer of any loss or expense associated with the claim,
19 reimburse the employer for attorneys' fees arising from the
20 challenge and for any payment required of the employer to the
21 Rate Adjustment Fund or the Second Injury Fund, and may not
22 reflect the loss or expense for rate making purposes. The
23 employee shall not be required to refund the challenged
24 payment. The decision of the Commission may be reviewed in the
25 same manner as in arbitrated cases. No challenge may be
26 initiated under this paragraph more than 3 years after the

1 payment is made. An employer may waive the right of challenge
2 under this paragraph on a case by case basis.

3 (p) After filing an application for adjustment of claim but
4 prior to the hearing on arbitration the parties may voluntarily
5 agree to submit such application for adjustment of claim for
6 decision by an arbitrator under this subsection (p) where such
7 application for adjustment of claim raises only a dispute over
8 temporary total disability, permanent partial disability or
9 medical expenses. Such agreement shall be in writing in such
10 form as provided by the Commission. Applications for adjustment
11 of claim submitted for decision by an arbitrator under this
12 subsection (p) shall proceed according to rule as established
13 by the Commission. The Commission shall promulgate rules
14 including, but not limited to, rules to ensure that the parties
15 are adequately informed of their rights under this subsection
16 (p) and of the voluntary nature of proceedings under this
17 subsection (p). The findings of fact made by an arbitrator
18 acting within his or her powers under this subsection (p) in
19 the absence of fraud shall be conclusive. However, the
20 arbitrator may on his own motion, or the motion of either
21 party, correct any clerical errors or errors in computation
22 within 15 days after the date of receipt of such award of the
23 arbitrator and shall have the power to recall the original
24 award on arbitration, and issue in lieu thereof such corrected
25 award. The decision of the arbitrator under this subsection (p)
26 shall be considered the decision of the Commission and

1 proceedings for review of questions of law arising from the
2 decision may be commenced by either party pursuant to
3 subsection (f) of Section 19. The Advisory Board established
4 under Section 13.1 shall compile a list of certified Commission
5 arbitrators, each of whom shall be approved by at least 7
6 members of the Advisory Board. The chairman shall select 5
7 persons from such list to serve as arbitrators under this
8 subsection (p). By agreement, the parties shall select one
9 arbitrator from among the 5 persons selected by the chairman
10 except that if the parties do not agree on an arbitrator from
11 among the 5 persons, the parties may, by agreement, select an
12 arbitrator of the American Arbitration Association, whose fee
13 shall be paid by the State in accordance with rules promulgated
14 by the Commission. Arbitration under this subsection (p) shall
15 be voluntary.

16 (Source: P.A. 97-18, eff. 6-28-11; 98-40, eff. 6-28-13; 98-874,
17 eff. 1-1-15.)

18 Section 15. The Workers' Occupational Diseases Act is
19 amended by changing Section 19 as follows:

20 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

21 Sec. 19. Any disputed questions of law or fact shall be
22 determined as herein provided.

23 (a) It shall be the duty of the Commission upon
24 notification that the parties have failed to reach an agreement

1 to designate an Arbitrator.

2 (1) The application for adjustment of claim filed with
3 the Commission shall state:

4 A. The approximate date of the last day of the last
5 exposure and the approximate date of the disablement.

6 B. The general nature and character of the illness
7 or disease claimed.

8 C. The name and address of the employer by whom
9 employed on the last day of the last exposure and if
10 employed by any other employer after such last exposure
11 and before disablement the name and address of such
12 other employer or employers.

13 D. In case of death, the date and place of death.

14 (2) Amendments to applications for adjustment of claim
15 which relate to the same disablement or disablement
16 resulting in death originally claimed upon may be allowed
17 by the Commissioner or an Arbitrator thereof, in their
18 discretion, and in the exercise of such discretion, they
19 may in proper cases order a trial de novo; such amendment
20 shall relate back to the date of the filing of the original
21 application so amended.

22 (3) Whenever any claimant misconceives his remedy and
23 files an application for adjustment of claim under this Act
24 and it is subsequently discovered, at any time before final
25 disposition of such cause, that the claim for disability or
26 death which was the basis for such application should

1 properly have been made under the Workers' Compensation
2 Act, then the provisions of Section 19 paragraph (a-1) of
3 the Workers' Compensation Act having reference to such
4 application shall apply.

5 Whenever any claimant misconceives his remedy and
6 files an application for adjustment of claim under the
7 Workers' Compensation Act and it is subsequently
8 discovered, at any time before final disposition of such
9 cause that the claim for injury or death which was the
10 basis for such application should properly have been made
11 under this Act, then the application so filed under the
12 Workers' Compensation Act may be amended in form, substance
13 or both to assert claim for such disability or death under
14 this Act and it shall be deemed to have been so filed as
15 amended on the date of the original filing thereof, and
16 such compensation may be awarded as is warranted by the
17 whole evidence pursuant to the provisions of this Act. When
18 such amendment is submitted, further or additional
19 evidence may be heard by the Arbitrator or Commission when
20 deemed necessary; provided, that nothing in this Section
21 contained shall be construed to be or permit a waiver of
22 any provisions of this Act with reference to notice, but
23 notice if given shall be deemed to be a notice under the
24 provisions of this Act if given within the time required
25 herein.

26 (b) The Arbitrator shall make such inquiries and

1 investigations as he shall deem necessary and may examine and
2 inspect all books, papers, records, places, or premises
3 relating to the questions in dispute and hear such proper
4 evidence as the parties may submit.

5 The hearings before the Arbitrator shall be held in the
6 vicinity where the last exposure occurred, after 10 days'
7 notice of the time and place of such hearing shall have been
8 given to each of the parties or their attorneys of record.

9 The Arbitrator may find that the disabling condition is
10 temporary and has not yet reached a permanent condition and may
11 order the payment of compensation up to the date of the
12 hearing, which award shall be reviewable and enforceable in the
13 same manner as other awards, and in no instance be a bar to a
14 further hearing and determination of a further amount of
15 temporary total compensation or of compensation for permanent
16 disability, but shall be conclusive as to all other questions
17 except the nature and extent of such disability.

18 The decision of the Arbitrator shall be filed with the
19 Commission which Commission shall immediately send to each
20 party or his attorney a copy of such decision, together with a
21 notification of the time when it was filed. As of the effective
22 date of this amendatory Act of the 94th General Assembly, all
23 decisions of the Arbitrator shall set forth in writing findings
24 of fact and conclusions of law, separately stated, if requested
25 by either party. Unless a petition for review is filed by
26 either party within 30 days after the receipt by such party of

1 the copy of the decision and notification of time when filed,
2 and unless such party petitioning for a review shall within 35
3 days after the receipt by him of the copy of the decision, file
4 with the Commission either an agreed statement of the facts
5 appearing upon the hearing before the Arbitrator, or if such
6 party shall so elect a correct transcript of evidence of the
7 proceedings at such hearings, then the decision shall become
8 the decision of the Commission and in the absence of fraud
9 shall be conclusive. The Petition for Review shall contain a
10 statement of the petitioning party's specific exceptions to the
11 decision of the arbitrator. The jurisdiction of the Commission
12 to review the decision of the arbitrator shall not be limited
13 to the exceptions stated in the Petition for Review. The
14 Commission, or any member thereof, may grant further time not
15 exceeding 30 days, in which to file such agreed statement or
16 transcript of evidence. Such agreed statement of facts or
17 correct transcript of evidence, as the case may be, shall be
18 authenticated by the signatures of the parties or their
19 attorneys, and in the event they do not agree as to the
20 correctness of the transcript of evidence it shall be
21 authenticated by the signature of the Arbitrator designated by
22 the Commission.

23 Whether the employee is working or not, if the employee is
24 not receiving or has not received medical, surgical, or
25 hospital services or other services or compensation as provided
26 in paragraph (a) of Section 8 of the Workers' Compensation Act,

1 or compensation as provided in paragraph (b) of Section 8 of
2 the Workers' Compensation Act, the employee may at any time
3 petition for an expedited hearing by an Arbitrator on the issue
4 of whether or not he or she is entitled to receive payment of
5 the services or compensation. Provided the employer continues
6 to pay compensation pursuant to paragraph (b) of Section 8 of
7 the Workers' Compensation Act, the employer may at any time
8 petition for an expedited hearing on the issue of whether or
9 not the employee is entitled to receive medical, surgical, or
10 hospital services or other services or compensation as provided
11 in paragraph (a) of Section 8 of the Workers' Compensation Act,
12 or compensation as provided in paragraph (b) of Section 8 of
13 the Workers' Compensation Act. When an employer has petitioned
14 for an expedited hearing, the employer shall continue to pay
15 compensation as provided in paragraph (b) of Section 8 of the
16 Workers' Compensation Act unless the arbitrator renders a
17 decision that the employee is not entitled to the benefits that
18 are the subject of the expedited hearing or unless the
19 employee's treating physician has released the employee to
20 return to work at his or her regular job with the employer or
21 the employee actually returns to work at any other job. If the
22 arbitrator renders a decision that the employee is not entitled
23 to the benefits that are the subject of the expedited hearing,
24 a petition for review filed by the employee shall receive the
25 same priority as if the employee had filed a petition for an
26 expedited hearing by an arbitrator. Neither party shall be

1 entitled to an expedited hearing when the employee has returned
2 to work and the sole issue in dispute amounts to less than 12
3 weeks of unpaid compensation pursuant to paragraph (b) of
4 Section 8 of the Workers' Compensation Act.

5 Expedited hearings shall have priority over all other
6 petitions and shall be heard by the Arbitrator and Commission
7 with all convenient speed. Any party requesting an expedited
8 hearing shall give notice of a request for an expedited hearing
9 under this paragraph. A copy of the Application for Adjustment
10 of Claim shall be attached to the notice. The Commission shall
11 adopt rules and procedures under which the final decision of
12 the Commission under this paragraph is filed not later than 180
13 days from the date that the Petition for Review is filed with
14 the Commission.

15 Where 2 or more insurance carriers, private self-insureds,
16 or a group workers' compensation pool under Article V 3/4 of
17 the Illinois Insurance Code dispute coverage for the same
18 disease, any such insurance carrier, private self-insured, or
19 group workers' compensation pool may request an expedited
20 hearing pursuant to this paragraph to determine the issue of
21 coverage, provided coverage is the only issue in dispute and
22 all other issues are stipulated and agreed to and further
23 provided that all compensation benefits including medical
24 benefits pursuant to Section 8(a) of the Workers' Compensation
25 Act continue to be paid to or on behalf of petitioner. Any
26 insurance carrier, private self-insured, or group workers'

1 compensation pool that is determined to be liable for coverage
2 for the disease in issue shall reimburse any insurance carrier,
3 private self-insured, or group workers' compensation pool that
4 has paid benefits to or on behalf of petitioner for the
5 disease.

6 (b-1) If the employee is not receiving, pursuant to Section
7 7, medical, surgical or hospital services of the type provided
8 for in paragraph (a) of Section 8 of the Workers' Compensation
9 Act or compensation of the type provided for in paragraph (b)
10 of Section 8 of the Workers' Compensation Act, the employee, in
11 accordance with Commission Rules, may file a petition for an
12 emergency hearing by an Arbitrator on the issue of whether or
13 not he is entitled to receive payment of such compensation or
14 services as provided therein. Such petition shall have priority
15 over all other petitions and shall be heard by the Arbitrator
16 and Commission with all convenient speed.

17 Such petition shall contain the following information and
18 shall be served on the employer at least 15 days before it is
19 filed:

- 20 (i) the date and approximate time of the last exposure;
21 (ii) the approximate location of the last exposure;
22 (iii) a description of the last exposure;
23 (iv) the nature of the disability incurred by the
24 employee;
25 (v) the identity of the person, if known, to whom the
26 disability was reported and the date on which it was

1 reported;

2 (vi) the name and title of the person, if known,
3 representing the employer with whom the employee conferred
4 in any effort to obtain pursuant to Section 7 compensation
5 of the type provided for in paragraph (b) of Section 8 of
6 the Workers' Compensation Act or medical, surgical or
7 hospital services of the type provided for in paragraph (a)
8 of Section 8 of the Workers' Compensation Act and the date
9 of such conference;

10 (vii) a statement that the employer has refused to pay
11 compensation pursuant to Section 7 of the type provided for
12 in paragraph (b) of Section 8 of the Workers' Compensation
13 Act or for medical, surgical or hospital services pursuant
14 to Section 7 of the type provided for in paragraph (a) of
15 Section 8 of the Workers' Compensation Act;

16 (viii) the name and address, if known, of each witness
17 to the last exposure and of each other person upon whom the
18 employee will rely to support his allegations;

19 (ix) the dates of treatment related to the disability
20 by medical practitioners, and the names and addresses of
21 such practitioners, including the dates of treatment
22 related to the disability at any hospitals and the names
23 and addresses of such hospitals, and a signed authorization
24 permitting the employer to examine all medical records of
25 all practitioners and hospitals named pursuant to this
26 paragraph;

1 (x) a copy of a signed report by a medical
2 practitioner, relating to the employee's current inability
3 to return to work because of the disability incurred as a
4 result of the exposure or such other documents or
5 affidavits which show that the employee is entitled to
6 receive pursuant to Section 7 compensation of the type
7 provided for in paragraph (b) of Section 8 of the Workers'
8 Compensation Act or medical, surgical or hospital services
9 of the type provided for in paragraph (a) of Section 8 of
10 the Workers' Compensation Act. Such reports, documents or
11 affidavits shall state, if possible, the history of the
12 exposure given by the employee, and describe the disability
13 and medical diagnosis, the medical services for such
14 disability which the employee has received and is
15 receiving, the physical activities which the employee
16 cannot currently perform as a result of such disability,
17 and the prognosis for recovery;

18 (xi) complete copies of any reports, records,
19 documents and affidavits in the possession of the employee
20 on which the employee will rely to support his allegations,
21 provided that the employer shall pay the reasonable cost of
22 reproduction thereof;

23 (xii) a list of any reports, records, documents and
24 affidavits which the employee has demanded by subpoena and
25 on which he intends to rely to support his allegations;

26 (xiii) a certification signed by the employee or his

1 representative that the employer has received the petition
2 with the required information 15 days before filing.

3 Fifteen days after receipt by the employer of the petition
4 with the required information the employee may file said
5 petition and required information and shall serve notice of the
6 filing upon the employer. The employer may file a motion
7 addressed to the sufficiency of the petition. If an objection
8 has been filed to the sufficiency of the petition, the
9 arbitrator shall rule on the objection within 2 working days.
10 If such an objection is filed, the time for filing the final
11 decision of the Commission as provided in this paragraph shall
12 be tolled until the arbitrator has determined that the petition
13 is sufficient.

14 The employer shall, within 15 days after receipt of the
15 notice that such petition is filed, file with the Commission
16 and serve on the employee or his representative a written
17 response to each claim set forth in the petition, including the
18 legal and factual basis for each disputed allegation and the
19 following information: (i) complete copies of any reports,
20 records, documents and affidavits in the possession of the
21 employer on which the employer intends to rely in support of
22 his response, (ii) a list of any reports, records, documents
23 and affidavits which the employer has demanded by subpoena and
24 on which the employer intends to rely in support of his
25 response, (iii) the name and address of each witness on whom
26 the employer will rely to support his response, and (iv) the

1 names and addresses of any medical practitioners selected by
2 the employer pursuant to Section 12 of this Act and the time
3 and place of any examination scheduled to be made pursuant to
4 such Section.

5 Any employer who does not timely file and serve a written
6 response without good cause may not introduce any evidence to
7 dispute any claim of the employee but may cross examine the
8 employee or any witness brought by the employee and otherwise
9 be heard.

10 No document or other evidence not previously identified by
11 either party with the petition or written response, or by any
12 other means before the hearing, may be introduced into evidence
13 without good cause. If, at the hearing, material information is
14 discovered which was not previously disclosed, the Arbitrator
15 may extend the time for closing proof on the motion of a party
16 for a reasonable period of time which may be more than 30 days.
17 No evidence may be introduced pursuant to this paragraph as to
18 permanent disability. No award may be entered for permanent
19 disability pursuant to this paragraph. Either party may
20 introduce into evidence the testimony taken by deposition of
21 any medical practitioner.

22 The Commission shall adopt rules, regulations and
23 procedures whereby the final decision of the Commission is
24 filed not later than 90 days from the date the petition for
25 review is filed but in no event later than 180 days from the
26 date the petition for an emergency hearing is filed with the

1 Illinois Workers' Compensation Commission.

2 All service required pursuant to this paragraph (b-1) must
3 be by personal service or by certified mail and with evidence
4 of receipt. In addition, for the purposes of this paragraph,
5 all service on the employer must be at the premises where the
6 accident occurred if the premises are owned or operated by the
7 employer. Otherwise service must be at the employee's principal
8 place of employment by the employer. If service on the employer
9 is not possible at either of the above, then service shall be
10 at the employer's principal place of business. After initial
11 service in each case, service shall be made on the employer's
12 attorney or designated representative.

13 (c) (1) At a reasonable time in advance of and in connection
14 with the hearing under Section 19(e) or 19(h), the Commission
15 may on its own motion order an impartial physical or mental
16 examination of a petitioner whose mental or physical condition
17 is in issue, when in the Commission's discretion it appears
18 that such an examination will materially aid in the just
19 determination of the case. The examination shall be made by a
20 member or members of a panel of physicians chosen for their
21 special qualifications by the Illinois State Medical Society.
22 The Commission shall establish procedures by which a physician
23 shall be selected from such list.

24 (2) Should the Commission at any time during the hearing
25 find that compelling considerations make it advisable to have
26 an examination and report at that time, the Commission may in

1 its discretion so order.

2 (3) A copy of the report of examination shall be given to
3 the Commission and to the attorneys for the parties.

4 (4) Either party or the Commission may call the examining
5 physician or physicians to testify. Any physician so called
6 shall be subject to cross-examination.

7 (5) The examination shall be made, and the physician or
8 physicians, if called, shall testify, without cost to the
9 parties. The Commission shall determine the compensation and
10 the pay of the physician or physicians. The compensation for
11 this service shall not exceed the usual and customary amount
12 for such service.

13 The fees and payment thereof of all attorneys and
14 physicians for services authorized by the Commission under this
15 Act shall, upon request of either the employer or the employee
16 or the beneficiary affected, be subject to the review and
17 decision of the Commission.

18 (d) If any employee shall persist in insanitary or
19 injurious practices which tend to either imperil or retard his
20 recovery or shall refuse to submit to such medical, surgical,
21 or hospital treatment as is reasonably essential to promote his
22 recovery, the Commission may, in its discretion, reduce or
23 suspend the compensation of any such employee; provided, that
24 when an employer and employee so agree in writing, the
25 foregoing provision shall not be construed to authorize the
26 reduction or suspension of compensation of an employee who is

1 relying in good faith, on treatment by prayer or spiritual
2 means alone, in accordance with the tenets and practice of a
3 recognized church or religious denomination, by a duly
4 accredited practitioner thereof.

5 (e) This paragraph shall apply to all hearings before the
6 Commission. Such hearings may be held in its office or
7 elsewhere as the Commission may deem advisable. The taking of
8 testimony on such hearings may be had before any member of the
9 Commission. If a petition for review and agreed statement of
10 facts or transcript of evidence is filed, as provided herein,
11 the Commission shall promptly review the decision of the
12 Arbitrator and all questions of law or fact which appear from
13 the statement of facts or transcripts of evidence. In all cases
14 in which the hearing before the arbitrator is held after the
15 effective date of this amendatory Act of 1989, no additional
16 evidence shall be introduced by the parties before the
17 Commission on review of the decision of the Arbitrator. The
18 Commission shall file in its office its decision thereon, and
19 shall immediately send to each party or his attorney a copy of
20 such decision and a notification of the time when it was filed.
21 Decisions shall be filed within 60 days after the Statement of
22 Exceptions and Supporting Brief and Response thereto are
23 required to be filed or oral argument whichever is later.

24 In the event either party requests oral argument, such
25 argument shall be had before a panel of 3 members of the
26 Commission (or before all available members pursuant to the

1 determination of 7 members of the Commission that such argument
2 be held before all available members of the Commission)
3 pursuant to the rules and regulations of the Commission. A
4 panel of 3 members, which shall be comprised of not more than
5 one representative citizen of the employing class and not more
6 than one representative from a labor organization recognized
7 under the National Labor Relations Act ~~citizen of the employee~~
8 ~~class~~, shall hear the argument; provided that if all the issues
9 in dispute are solely the nature and extent of the permanent
10 partial disability, if any, a majority of the panel may deny
11 the request for such argument and such argument shall not be
12 held; and provided further that 7 members of the Commission may
13 determine that the argument be held before all available
14 members of the Commission. A decision of the Commission shall
15 be approved by a majority of Commissioners present at such
16 hearing if any; provided, if no such hearing is held, a
17 decision of the Commission shall be approved by a majority of a
18 panel of 3 members of the Commission as described in this
19 Section. The Commission shall give 10 days' notice to the
20 parties or their attorneys of the time and place of such taking
21 of testimony and of such argument.

22 In any case the Commission in its decision may in its
23 discretion find specially upon any question or questions of law
24 or facts which shall be submitted in writing by either party
25 whether ultimate or otherwise; provided that on issues other
26 than nature and extent of the disablement, if any, the

1 Commission in its decision shall find specially upon any
2 question or questions of law or fact, whether ultimate or
3 otherwise, which are submitted in writing by either party;
4 provided further that not more than 5 such questions may be
5 submitted by either party. Any party may, within 20 days after
6 receipt of notice of the Commission's decision, or within such
7 further time, not exceeding 30 days, as the Commission may
8 grant, file with the Commission either an agreed statement of
9 the facts appearing upon the hearing, or, if such party shall
10 so elect, a correct transcript of evidence of the additional
11 proceedings presented before the Commission in which report the
12 party may embody a correct statement of such other proceedings
13 in the case as such party may desire to have reviewed, such
14 statement of facts or transcript of evidence to be
15 authenticated by the signature of the parties or their
16 attorneys, and in the event that they do not agree, then the
17 authentication of such transcript of evidence shall be by the
18 signature of any member of the Commission.

19 If a reporter does not for any reason furnish a transcript
20 of the proceedings before the Arbitrator in any case for use on
21 a hearing for review before the Commission, within the
22 limitations of time as fixed in this Section, the Commission
23 may, in its discretion, order a trial de novo before the
24 Commission in such case upon application of either party. The
25 applications for adjustment of claim and other documents in the
26 nature of pleadings filed by either party, together with the

1 decisions of the Arbitrator and of the Commission and the
2 statement of facts or transcript of evidence hereinbefore
3 provided for in paragraphs (b) and (c) shall be the record of
4 the proceedings of the Commission, and shall be subject to
5 review as hereinafter provided.

6 At the request of either party or on its own motion, the
7 Commission shall set forth in writing the reasons for the
8 decision, including findings of fact and conclusions of law,
9 separately stated. The Commission shall by rule adopt a format
10 for written decisions for the Commission and arbitrators. The
11 written decisions shall be concise and shall succinctly state
12 the facts and reasons for the decision. The Commission may
13 adopt in whole or in part, the decision of the arbitrator as
14 the decision of the Commission. When the Commission does so
15 adopt the decision of the arbitrator, it shall do so by order.
16 Whenever the Commission adopts part of the arbitrator's
17 decision, but not all, it shall include in the order the
18 reasons for not adopting all of the arbitrator's decision. When
19 a majority of a panel, after deliberation, has arrived at its
20 decision, the decision shall be filed as provided in this
21 Section without unnecessary delay, and without regard to the
22 fact that a member of the panel has expressed an intention to
23 dissent. Any member of the panel may file a dissent. Any
24 dissent shall be filed no later than 10 days after the decision
25 of the majority has been filed.

26 Decisions rendered by the Commission after the effective

1 date of this amendatory Act of 1980 and dissents, if any, shall
2 be published together by the Commission. The conclusions of law
3 set out in such decisions shall be regarded as precedents by
4 arbitrators, for the purpose of achieving a more uniform
5 administration of this Act.

6 (f) The decision of the Commission acting within its
7 powers, according to the provisions of paragraph (e) of this
8 Section shall, in the absence of fraud, be conclusive unless
9 reviewed as in this paragraph hereinafter provided. However,
10 the Arbitrator or the Commission may on his or its own motion,
11 or on the motion of either party, correct any clerical error or
12 errors in computation within 15 days after the date of receipt
13 of any award by such Arbitrator or any decision on review of
14 the Commission, and shall have the power to recall the original
15 award on arbitration or decision on review, and issue in lieu
16 thereof such corrected award or decision. Where such correction
17 is made the time for review herein specified shall begin to run
18 from the date of the receipt of the corrected award or
19 decision.

20 (1) Except in cases of claims against the State of
21 Illinois, in which case the decision of the Commission
22 shall not be subject to judicial review, the Circuit Court
23 of the county where any of the parties defendant may be
24 found, or if none of the parties defendant be found in this
25 State then the Circuit Court of the county where any of the
26 exposure occurred, shall by summons to the Commission have

1 power to review all questions of law and fact presented by
2 such record.

3 A proceeding for review shall be commenced within 20
4 days of the receipt of notice of the decision of the
5 Commission. The summons shall be issued by the clerk of
6 such court upon written request returnable on a designated
7 return day, not less than 10 or more than 60 days from the
8 date of issuance thereof, and the written request shall
9 contain the last known address of other parties in interest
10 and their attorneys of record who are to be served by
11 summons. Service upon any member of the Commission or the
12 Secretary or the Assistant Secretary thereof shall be
13 service upon the Commission, and service upon other parties
14 in interest and their attorneys of record shall be by
15 summons, and such service shall be made upon the Commission
16 and other parties in interest by mailing notices of the
17 commencement of the proceedings and the return day of the
18 summons to the office of the Commission and to the last
19 known place of residence of other parties in interest or
20 their attorney or attorneys of record. The clerk of the
21 court issuing the summons shall on the day of issue mail
22 notice of the commencement of the proceedings which shall
23 be done by mailing a copy of the summons to the office of
24 the Commission, and a copy of the summons to the other
25 parties in interest or their attorney or attorneys of
26 record and the clerk of the court shall make certificate

1 that he has so sent such notices in pursuance of this
2 Section, which shall be evidence of service on the
3 Commission and other parties in interest.

4 The Commission shall not be required to certify the
5 record of their proceedings in the Circuit Court unless the
6 party commencing the proceedings for review in the Circuit
7 Court as above provided, shall file with the Commission
8 notice of intent to file for review in Circuit Court. It
9 shall be the duty of the Commission upon such filing of
10 notice of intent to file for review in Circuit Court to
11 prepare a true and correct copy of such testimony and a
12 true and correct copy of all other matters contained in
13 such record and certified to by the Secretary or Assistant
14 Secretary thereof. The changes made to this subdivision
15 (f) (1) by this amendatory Act of the 98th General Assembly
16 apply to any Commission decision entered after the
17 effective date of this amendatory Act of the 98th General
18 Assembly.

19 No request for a summons may be filed and no summons
20 shall issue unless the party seeking to review the decision
21 of the Commission shall exhibit to the clerk of the Circuit
22 Court proof of filing with the Commission of the notice of
23 the intent to file for review in the Circuit Court or an
24 affidavit of the attorney setting forth that notice of
25 intent to file for review in Circuit Court has been given
26 in writing to the Secretary or Assistant Secretary of the

1 Commission.

2 (2) No such summons shall issue unless the one against
3 whom the Commission shall have rendered an award for the
4 payment of money shall upon the filing of his written
5 request for such summons file with the clerk of the court a
6 bond conditioned that if he shall not successfully
7 prosecute the review, he will pay the award and the costs
8 of the proceedings in the court. The amount of the bond
9 shall be fixed by any member of the Commission and the
10 surety or sureties of the bond shall be approved by the
11 clerk of the court. The acceptance of the bond by the clerk
12 of the court shall constitute evidence of his approval of
13 the bond.

14 Every county, city, town, township, incorporated
15 village, school district, body politic or municipal
16 corporation having a population of 500,000 or more against
17 whom the Commission shall have rendered an award for the
18 payment of money shall not be required to file a bond to
19 secure the payment of the award and the costs of the
20 proceedings in the court to authorize the court to issue
21 such summons.

22 The court may confirm or set aside the decision of the
23 Commission. If the decision is set aside and the facts
24 found in the proceedings before the Commission are
25 sufficient, the court may enter such decision as is
26 justified by law, or may remand the cause to the Commission

1 for further proceedings and may state the questions
2 requiring further hearing, and give such other
3 instructions as may be proper. Appeals shall be taken to
4 the Appellate Court in accordance with Supreme Court Rules
5 22(g) and 303. Appeals shall be taken from the Appellate
6 Court to the Supreme Court in accordance with Supreme Court
7 Rule 315.

8 It shall be the duty of the clerk of any court
9 rendering a decision affecting or affirming an award of the
10 Commission to promptly furnish the Commission with a copy
11 of such decision, without charge.

12 The decision of a majority of the members of the panel
13 of the Commission, shall be considered the decision of the
14 Commission.

15 (g) Except in the case of a claim against the State of
16 Illinois, either party may present a certified copy of the
17 award of the Arbitrator, or a certified copy of the decision of
18 the Commission when the same has become final, when no
19 proceedings for review are pending, providing for the payment
20 of compensation according to this Act, to the Circuit Court of
21 the county in which such exposure occurred or either of the
22 parties are residents, whereupon the court shall enter a
23 judgment in accordance therewith. In case where the employer
24 refuses to pay compensation according to such final award or
25 such final decision upon which such judgment is entered, the
26 court shall in entering judgment thereon, tax as costs against

1 him the reasonable costs and attorney fees in the arbitration
2 proceedings and in the court entering the judgment for the
3 person in whose favor the judgment is entered, which judgment
4 and costs taxed as herein provided shall, until and unless set
5 aside, have the same effect as though duly entered in an action
6 duly tried and determined by the court, and shall with like
7 effect, be entered and docketed. The Circuit Court shall have
8 power at any time upon application to make any such judgment
9 conform to any modification required by any subsequent decision
10 of the Supreme Court upon appeal, or as the result of any
11 subsequent proceedings for review, as provided in this Act.

12 Judgment shall not be entered until 15 days' notice of the
13 time and place of the application for the entry of judgment
14 shall be served upon the employer by filing such notice with
15 the Commission, which Commission shall, in case it has on file
16 the address of the employer or the name and address of its
17 agent upon whom notices may be served, immediately send a copy
18 of the notice to the employer or such designated agent.

19 (h) An agreement or award under this Act providing for
20 compensation in installments, may at any time within 18 months
21 after such agreement or award be reviewed by the Commission at
22 the request of either the employer or the employee on the
23 ground that the disability of the employee has subsequently
24 recurred, increased, diminished or ended.

25 However, as to disablements occurring subsequently to July
26 1, 1955, which are covered by any agreement or award under this

1 Act providing for compensation in installments made as a result
2 of such disablement, such agreement or award may at any time
3 within 30 months after such agreement or award be reviewed by
4 the Commission at the request of either the employer or the
5 employee on the ground that the disability of the employee has
6 subsequently recurred, increased, diminished or ended.

7 On such review compensation payments may be
8 re-established, increased, diminished or ended. The Commission
9 shall give 15 days' notice to the parties of the hearing for
10 review. Any employee, upon any petition for such review being
11 filed by the employer, shall be entitled to one day's notice
12 for each 100 miles necessary to be traveled by him in attending
13 the hearing of the Commission upon the petition, and 3 days in
14 addition thereto. Such employee shall, at the discretion of the
15 Commission, also be entitled to 5 cents per mile necessarily
16 traveled by him within the State of Illinois in attending such
17 hearing, not to exceed a distance of 300 miles, to be taxed by
18 the Commission as costs and deposited with the petition of the
19 employer.

20 When compensation which is payable in accordance with an
21 award or settlement contract approved by the Commission, is
22 ordered paid in a lump sum by the Commission, no review shall
23 be had as in this paragraph mentioned.

24 (i) Each party, upon taking any proceedings or steps
25 whatsoever before any Arbitrator, Commission or court, shall
26 file with the Commission his address, or the name and address

1 of any agent upon whom all notices to be given to such party
2 shall be served, either personally or by registered mail,
3 addressed to such party or agent at the last address so filed
4 with the Commission. In the event such party has not filed his
5 address, or the name and address of an agent as above provided,
6 service of any notice may be had by filing such notice with the
7 Commission.

8 (j) Whenever in any proceeding testimony has been taken or
9 a final decision has been rendered, and after the taking of
10 such testimony or after such decision has become final, the
11 employee dies, then in any subsequent proceeding brought by the
12 personal representative or beneficiaries of the deceased
13 employee, such testimony in the former proceeding may be
14 introduced with the same force and effect as though the witness
15 having so testified were present in person in such subsequent
16 proceedings and such final decision, if any, shall be taken as
17 final adjudication of any of the issues which are the same in
18 both proceedings.

19 (k) In any case where there has been any unreasonable or
20 vexatious delay of payment or intentional underpayment of
21 compensation, or proceedings have been instituted or carried on
22 by one liable to pay the compensation, which do not present a
23 real controversy, but are merely frivolous or for delay, then
24 the Commission may award compensation additional to that
25 otherwise payable under this Act equal to 50% of the amount
26 payable at the time of such award. Failure to pay compensation

1 in accordance with the provisions of Section 8, paragraph (b)
2 of this Act, shall be considered unreasonable delay.

3 When determining whether this subsection (k) shall apply,
4 the Commission shall consider whether an arbitrator has
5 determined that the claim is not compensable or whether the
6 employer has made payments under Section 8(j) of the Workers'
7 Compensation Act.

8 (k-1) If the employee has made written demand for payment
9 of benefits under Section 8(a) or Section 8(b) of the Workers'
10 Compensation Act, the employer shall have 14 days after receipt
11 of the demand to set forth in writing the reason for the delay.
12 In the case of demand for payment of medical benefits under
13 Section 8(a) of the Workers' Compensation Act, the time for the
14 employer to respond shall not commence until the expiration of
15 the allotted 60 days specified under Section 8.2(d) of the
16 Workers' Compensation Act. In case the employer or his or her
17 insurance carrier shall without good and just cause fail,
18 neglect, refuse, or unreasonably delay the payment of benefits
19 under Section 8(a) or Section 8(b) of the Workers' Compensation
20 Act, the Arbitrator or the Commission shall allow to the
21 employee additional compensation in the sum of \$30 per day for
22 each day that the benefits under Section 8(a) or Section 8(b)
23 of the Workers' Compensation Act have been so withheld or
24 refused, not to exceed \$10,000. A delay in payment of 14 days
25 or more shall create a rebuttable presumption of unreasonable
26 delay.

1 (1) By the 15th day of each month each insurer providing
2 coverage for losses under this Act shall notify each insured
3 employer of any compensable claim incurred during the preceding
4 month and the amounts paid or reserved on the claim including a
5 summary of the claim and a brief statement of the reasons for
6 compensability. A cumulative report of all claims incurred
7 during a calendar year or continued from the previous year
8 shall be furnished to the insured employer by the insurer
9 within 30 days after the end of that calendar year.

10 The insured employer may challenge, in proceeding before
11 the Commission, payments made by the insurer without
12 arbitration and payments made after a case is determined to be
13 noncompensable. If the Commission finds that the case was not
14 compensable, the insurer shall purge its records as to that
15 employer of any loss or expense associated with the claim,
16 reimburse the employer for attorneys fee arising from the
17 challenge and for any payment required of the employer to the
18 Rate Adjustment Fund or the Second Injury Fund, and may not
19 effect the loss or expense for rate making purposes. The
20 employee shall not be required to refund the challenged
21 payment. The decision of the Commission may be reviewed in the
22 same manner as in arbitrated cases. No challenge may be
23 initiated under this paragraph more than 3 years after the
24 payment is made. An employer may waive the right of challenge
25 under this paragraph on a case by case basis.

26 (m) After filing an application for adjustment of claim but

1 prior to the hearing on arbitration the parties may voluntarily
2 agree to submit such application for adjustment of claim for
3 decision by an arbitrator under this subsection (m) where such
4 application for adjustment of claim raises only a dispute over
5 temporary total disability, permanent partial disability or
6 medical expenses. Such agreement shall be in writing in such
7 form as provided by the Commission. Applications for adjustment
8 of claim submitted for decision by an arbitrator under this
9 subsection (m) shall proceed according to rule as established
10 by the Commission. The Commission shall promulgate rules
11 including, but not limited to, rules to ensure that the parties
12 are adequately informed of their rights under this subsection
13 (m) and of the voluntary nature of proceedings under this
14 subsection (m). The findings of fact made by an arbitrator
15 acting within his or her powers under this subsection (m) in
16 the absence of fraud shall be conclusive. However, the
17 arbitrator may on his own motion, or the motion of either
18 party, correct any clerical errors or errors in computation
19 within 15 days after the date of receipt of such award of the
20 arbitrator and shall have the power to recall the original
21 award on arbitration, and issue in lieu thereof such corrected
22 award. The decision of the arbitrator under this subsection (m)
23 shall be considered the decision of the Commission and
24 proceedings for review of questions of law arising from the
25 decision may be commenced by either party pursuant to
26 subsection (f) of Section 19. The Advisory Board established

1 under Section 13.1 of the Workers' Compensation Act shall
2 compile a list of certified Commission arbitrators, each of
3 whom shall be approved by at least 7 members of the Advisory
4 Board. The chairman shall select 5 persons from such list to
5 serve as arbitrators under this subsection (m). By agreement,
6 the parties shall select one arbitrator from among the 5
7 persons selected by the chairman except, that if the parties do
8 not agree on an arbitrator from among the 5 persons, the
9 parties may, by agreement, select an arbitrator of the American
10 Arbitration Association, whose fee shall be paid by the State
11 in accordance with rules promulgated by the Commission.
12 Arbitration under this subsection (m) shall be voluntary.

13 (Source: P.A. 98-40, eff. 6-28-13.)