



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1539

Introduced 2/15/2019, by Sen. Jason A. Barickman

SYNOPSIS AS INTRODUCED:

820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/10	from Ch. 48, par. 138.10

Amends the Workers' Compensation Act. Provides that an employee who is required to travel in connection with his or her employment and who suffers an injury while in travel status is eligible for benefits only if the injury arises out of and in the course of employment while he or she is actively engaged in the duties of employment. Adds definitions of "accident" and "injury". Provides that an injury is a condition that arises out of and in the course of employment, and adds provisions concerning establishment of an injury. Establishes the manner of computing compensation for partial disability, with a maximum cumulative compensation of 500 weeks. Provides that injuries to the shoulder and hip are deemed to be injuries to the arm and leg respectively. Provides for the computation of compensation when there are multiple employers and when there is less than full-time work. Provides that no employer shall be required to pay temporary partial disability benefits to an employee who has been discharged for cause. Provides that, following a hearing, the Illinois Workers' Compensation Commission may reinstate the temporary partial benefits and retroactively restore any benefits the employer should have paid if it finds the employer's discharge of the employee was not for cause. Effective immediately.

SRS101 00014 JEJ 45014 b

1 AN ACT concerning employment.

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

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

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

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

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

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

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

1 provided in this Act.

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

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

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

1 done.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 2.1. The compensation rate in all cases of serious and
5 permanent disfigurement under paragraph (c) and of
6 permanent partial disability under subparagraph (2) of
7 paragraph (d) or under paragraph (e) of this Section shall
8 be equal to 60% of the employee's average weekly wage
9 computed in accordance with the provisions of Section 10,
10 provided that it shall be not less than 66 2/3% of the sum
11 of the Federal minimum wage under the Fair Labor Standards
12 Act, or the Illinois minimum wage under the Minimum Wage
13 Law, whichever is more, multiplied by 40 hours. This
14 percentage rate shall be increased by 10% for each spouse
15 and child, not to exceed 100% of the total minimum wage
16 calculation, nor exceed the employee's average weekly wage
17 computed in accordance with the provisions of Section 10,
18 whichever is less.

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

26 4. All weekly compensation rates provided under

1 subparagraphs 1, 2 and 2.1 of this paragraph (b) of this
2 Section shall be subject to the following limitations:

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

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

21 The maximum weekly compensation rate, for the period
22 January 1, 1981 through December 31, 1983, except as
23 hereinafter provided, shall be 100% of the State's average
24 weekly wage in covered industries under the Unemployment
25 Insurance Act in effect on January 1, 1981. Effective
26 January 1, 1984 and on January 1, of each year thereafter

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

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

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

24 4.1. Any provision herein to the contrary
25 notwithstanding, the weekly compensation rate for
26 compensation payments under subparagraph 18 of paragraph

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

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

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

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

1 determined and published by the Department of Employment
2 Security. The amount when so posted and published shall be
3 conclusive and shall be applicable as the basis of
4 computation of compensation rates until the next posting
5 and publication as aforesaid.

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

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

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

25 A duly appointed member of a fire department in a city, the
26 population of which exceeds 500,000 according to the last

1 federal or State census, is eligible for compensation under
2 this paragraph only where such serious and permanent
3 disfigurement results from burns.

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

22 2. If, as a result of the accident, the employee sustains
23 serious and permanent injuries not covered by paragraphs (c)
24 and (e) of this Section or having sustained injuries covered by
25 the aforesaid paragraphs (c) and (e), he shall have sustained
26 in addition thereto other injuries which injuries do not

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

17 In computing the compensation to be paid to any employee
18 who, before the accident for which he or she claims
19 compensation, had previously sustained an injury resulting in
20 the payment of compensation for a percentage of partial
21 disability under this subparagraph 2, such percentage of
22 partial disability shall be deducted from any award made under
23 this subparagraph 2 for a subsequent injury to the same portion
24 of the body as was involved in the prior injury for which
25 compensation was paid; provided, however, nothing herein
26 contained shall permit cumulative awards for compensation for

1 partial disability under this subparagraph 2 to exceed 500
2 weeks, which shall constitute complete loss of use of the body
3 as a whole.

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

24 (e) For accidental injuries in the following schedule, the
25 employee shall receive compensation for the period of temporary
26 total incapacity for work resulting from such accidental

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

8 1. Thumb-

9 70 weeks if the accidental injury occurs on or
10 after the effective date of this amendatory Act of the
11 94th General Assembly but before February 1, 2006.

12 76 weeks if the accidental injury occurs on or
13 after February 1, 2006.

14 2. First, or index finger-

15 40 weeks if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the
17 94th General Assembly but before February 1, 2006.

18 43 weeks if the accidental injury occurs on or
19 after February 1, 2006.

20 3. Second, or middle finger-

21 35 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

24 38 weeks if the accidental injury occurs on or
25 after February 1, 2006.

26 4. Third, or ring finger-

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

4 27 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 5. Fourth, or little finger-

7 20 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 22 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 6. Great toe-

13 35 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 38 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 7. Each toe other than great toe-

19 12 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

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

24 8. The loss of the first or distal phalanx of the thumb
25 or of any finger or toe shall be considered to be equal to
26 the loss of one-half of such thumb, finger or toe and the

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

7 9. Hand-

8 190 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 205 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 190 weeks if the accidental injury occurs on or
14 after June 28, 2011 (the effective date of Public Act
15 97-18) and if the accidental injury involves carpal
16 tunnel syndrome due to repetitive or cumulative
17 trauma, in which case the permanent partial disability
18 shall not exceed 15% loss of use of the hand, except
19 for cause shown by clear and convincing evidence and in
20 which case the award shall not exceed 30% loss of use
21 of the hand.

22 The loss of 2 or more digits, or one or more phalanges
23 of 2 or more digits, of a hand may be compensated on the
24 basis of partial loss of use of a hand, provided, further,
25 that the loss of 4 digits, or the loss of use of 4 digits,
26 in the same hand shall constitute the complete loss of a

1 hand.

2 10. Arm-

3 235 weeks if the accidental injury occurs on or
4 after the effective date of this amendatory Act of the
5 94th General Assembly but before February 1, 2006.

6 253 weeks if the accidental injury occurs on or
7 after February 1, 2006.

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

1 subdivision (e), injuries to the shoulder shall be
2 considered to be injuries to part of the arm. This
3 amendatory Act of the 101st General Assembly is declarative
4 of existing law and is not a new enactment.

5 11. Foot-

6 155 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 167 weeks if the accidental injury occurs on or
10 after February 1, 2006.

11 12. Leg-

12 200 weeks if the accidental injury occurs on or
13 after the effective date of this amendatory Act of the
14 94th General Assembly but before February 1, 2006.

15 215 weeks if the accidental injury occurs on or
16 after February 1, 2006.

17 Where an accidental injury results in the amputation of
18 a leg below the knee, such injury shall be compensated as
19 loss of a leg. Where an accidental injury results in the
20 amputation of a leg above the knee, compensation for an
21 additional 25 weeks (if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the 94th
23 General Assembly but before February 1, 2006) or an
24 additional 27 weeks (if the accidental injury occurs on or
25 after February 1, 2006) shall be paid, except where the
26 accidental injury results in the amputation of a leg at the

1 hip joint, or so close to the hip joint that an artificial
2 leg cannot be used, or results in the disarticulation of a
3 leg at the hip joint, in which case compensation for an
4 additional 75 weeks (if the accidental injury occurs on or
5 after the effective date of this amendatory Act of the 94th
6 General Assembly but before February 1, 2006) or an
7 additional 81 weeks (if the accidental injury occurs on or
8 after February 1, 2006) shall be paid.

9 For purposes of awards under this subdivision (e), injuries
10 to the hip shall be considered to be injuries to part of the
11 leg. This amendatory Act of the 101st General Assembly is
12 declarative of existing law and is not a new enactment.

13 13. Eye-

14 150 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

17 162 weeks if the accidental injury occurs on or
18 after February 1, 2006.

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

26 14. Loss of hearing of one ear-

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

4 54 weeks if the accidental injury occurs on or
5 after February 1, 2006.

6 Total and permanent loss of hearing of both ears-

7 200 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 215 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 15. Testicle-

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

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

18 Both testicles-

19 150 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 162 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 16. For the permanent partial loss of use of a member
25 or sight of an eye, or hearing of an ear, compensation
26 during that proportion of the number of weeks in the

1 foregoing schedule provided for the loss of such member or
2 sight of an eye, or hearing of an ear, which the partial
3 loss of use thereof bears to the total loss of use of such
4 member, or sight of eye, or hearing of an ear.

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

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

26 (c) In measuring hearing impairment, the lowest

1 measured losses in each of the 3 frequencies shall be
2 added together and divided by 3 to determine the
3 average decibel loss. For every decibel of loss
4 exceeding 30 decibels an allowance of 1.82% shall be
5 made up to the maximum of 100% which is reached at 85
6 decibels.

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

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

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

21 Sound Level DBA

22	Slow Response	Hours Per Day
23	90	8
24	92	6
25	95	4
26	97	3

1	100	2
2	102	1-1/2
3	105	1
4	110	1/2
5	115	1/4

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

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

20 18. The specific case of loss of both hands, both arms,
21 or both feet, or both legs, or both eyes, or of any two
22 thereof, or the permanent and complete loss of the use
23 thereof, constitutes total and permanent disability, to be
24 compensated according to the compensation fixed by
25 paragraph (f) of this Section. These specific cases of
26 total and permanent disability do not exclude other cases.

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

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

18 Beginning July 1, 1980, and every 6 months thereafter, the
19 Commission shall examine the Second Injury Fund and when, after
20 deducting all advances or loans made to such Fund, the amount
21 therein is \$500,000 then the amount required to be paid by
22 employers pursuant to paragraph (f) of Section 7 shall be
23 reduced by one-half. When the Second Injury Fund reaches the
24 sum of \$600,000 then the payments shall cease entirely.
25 However, when the Second Injury Fund has been reduced to
26 \$400,000, payment of one-half of the amounts required by

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

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

21 (f) In case of complete disability, which renders the
22 employee wholly and permanently incapable of work, or in the
23 specific case of total and permanent disability as provided in
24 subparagraph 18 of paragraph (e) of this Section, compensation
25 shall be payable at the rate provided in subparagraph 2 of
26 paragraph (b) of this Section for life.

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

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

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

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

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

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

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

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

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

17 (g) Every award for permanent total disability entered by
18 the Commission on and after July 1, 1965 under which
19 compensation payments shall become due and payable after the
20 effective date of this amendatory Act, and every award for
21 death benefits or permanent total disability entered by the
22 Commission on and after the effective date of this amendatory
23 Act shall be subject to annual adjustments as to the amount of
24 the compensation rate therein provided. Such adjustments shall
25 first be made on July 15, 1977, and all awards made and entered
26 prior to July 1, 1975 and on July 15 of each year thereafter.

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

1 injured employee, or his dependents, as the case may be, has
2 been duly approved by the Illinois Workers' Compensation
3 Commission.

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

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

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

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

20 (h) In case death occurs from any cause before the total
21 compensation to which the employee would have been entitled has
22 been paid, then in case the employee leaves any widow, widower,
23 child, parent (or any grandchild, grandparent or other lineal
24 heir or any collateral heir dependent at the time of the
25 accident upon the earnings of the employee to the extent of 50%
26 or more of total dependency) such compensation shall be paid to

1 the beneficiaries of the deceased employee and distributed as
2 provided in paragraph (g) of Section 7.

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

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

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

23 Nothing herein contained repeals or amends the provisions
24 of the Child Labor Law relating to the employment of minors
25 under the age of 16 years.

26 (j) 1. In the event the injured employee receives benefits,

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

20 Any excess benefits paid to or on behalf of a State
21 employee by the State Employees' Retirement System under
22 Article 14 of the Illinois Pension Code on a death claim or
23 disputed disability claim shall be credited against any
24 payments made or to be made by the State of Illinois to or on
25 behalf of such employee under this Act, except for payments for
26 medical expenses which have already been incurred at the time

1 of the award. The State of Illinois shall directly reimburse
2 the State Employees' Retirement System to the extent of such
3 credit.

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

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

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

24 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

25 Sec. 10. The basis for computing the compensation provided

1 for in Sections 7 and 8 of the Act shall be as follows:

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

13 (2) Where the employment prior to the injury extended over
14 a period of less than 52 weeks, or where the employment is
15 noncontinuous or less than full-time, or the employee lost one
16 or more calendar days during that period, the earnings earned
17 during that period shall be divided by the number of weeks
18 during which the employee worked, regardless of the number of
19 hours worked during that week.

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

25 (4) Each week during which the employee earned wages counts
26 as one week for purposes of computation under subdivisions (1),

1 (2) and (3), regardless of the number of hours worked during
2 that week ~~the method of dividing the earnings during that~~
3 ~~period by the number of weeks and parts thereof during which~~
4 ~~the employee actually earned wages shall be followed.~~

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

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.