



Sen. Terry Link

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1 AMENDMENT TO HOUSE BILL 805

2 AMENDMENT NO. _____. Amend House Bill 805 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Workers' Compensation Act is amended by
5 changing Sections 2, 4, 8, 10, and 19 and by adding Sections
6 8.1, 8.2, and 8.3 as follows:

7 (820 ILCS 305/2) (from Ch. 48, par. 138.2)

8 Sec. 2. An employer in this State, who does not come within
9 the classes enumerated by Section 3 of this Act, may elect to
10 provide and pay compensation for accidental injuries sustained
11 by himself or any employee, arising out of and in the course of
12 the employment according to the provisions of this Act, and
13 thereby relieve himself from any liability for the recovery of
14 damages, except as herein provided. The State of Illinois
15 hereby elects to provide and pay compensation according to the
16 provisions of this Act. For purposes of this Act, an injury
17 arises out of the employment if the injury occurred as a result
18 of a terrorist act. For purposes of this Section, "terrorist
19 act" means a violent act committed by one or more individuals
20 as part of an effort to coerce the civilian population of the
21 United States or to influence the policy or affect the conduct
22 of the United States Government.

23 (a) Election by any employer to provide and pay
24 compensation according to the provisions of this Act shall be

1 made by the employer filing notice of such election with the
2 Commission, or by insuring his liability to pay compensation
3 under this Act in some insurance carrier authorized, licensed
4 or permitted to do such insurance business in this State.

5 (b) Every employer within the provisions of this Act who
6 has elected to provide and pay compensation according to the
7 provisions of this Act by filing notice of such election with
8 the Commission, shall be bound thereby as to all his employees
9 until January 1st of the next succeeding year and for terms of
10 each year thereafter.

11 Any such employer who may have once elected, may elect not
12 to provide and pay the compensation herein provided for
13 accidents resulting in either injury or death and occurring
14 after the expiration of any such calendar year by filing notice
15 of such election with the Commission at least 60 days prior to
16 the expiration of any such calendar year, and by posting such
17 notice at a conspicuous place in the plant, shop, office, room
18 or place where such employee is employed, or by personal
19 service, in written or printed form, upon such employees, at
20 least 60 days prior to the expiration of any such calendar
21 year.

22 Every employer within the provisions of this Act who has
23 elected to provide and pay compensation according to the
24 provisions of this Act by insuring his liability to pay
25 compensation under this Act, as above provided, shall be bound
26 thereby as to all his employees until the date of expiration or
27 cancellation of such policy of insurance, or any renewal
28 thereof.

29 (c) In the event any employer mentioned in this section,
30 elects to provide and pay the compensation provided in this
31 Act, then every employee of such employer, as a part of his
32 contract of hiring or who may be employed at the time of the
33 taking effect of this Act and the acceptance of its provisions
34 by such employer, shall be deemed to have accepted all the

1 provisions of this Act and shall be bound thereby unless within
2 30 days after such hiring or after the taking effect of this
3 Act, and its acceptance by such employee, he shall file a
4 notice to the contrary with the Commission, whose duty it shall
5 be to immediately notify the employer, and until such notice to
6 the contrary is given to the employer, the measure of liability
7 of such employer shall be determined according to the
8 compensation provisions of this Act.

9 However, any employee may withdraw from the operation of
10 this Act, except those under Section 3, upon filing a written
11 notice of withdrawal at least 10 days prior to January 1st of
12 any year with the Commission, whose duty it shall be to
13 immediately notify such employer by registered mail, and, until
14 such notice to the contrary is given to such employer, the
15 measure of liability of such employer shall be determined
16 according to the compensation provisions of this Act.

17 (d) Any such employer or employee may, without prejudice to
18 any existing right or claim withdraw his election to reject
19 this Act by giving 30 days' written notice in such manner and
20 form as may be provided by the Commission.

21 (Source: P.A. 83-190.)

22 (820 ILCS 305/4) (from Ch. 48, par. 138.4)

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

28 (1) File with the Commission annually an application
29 for approval as a self-insurer which shall include a
30 current financial statement, and annually, thereafter, an
31 application for renewal of self-insurance, which shall
32 include a current financial statement. Said application
33 and financial statement shall be signed and sworn to by the

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

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

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

28 (3) Insure his entire liability to pay such
29 compensation in some insurance carrier authorized,
30 licensed, or permitted to do such insurance business in
31 this State. Every policy of an insurance carrier, insuring
32 the payment of compensation under this Act shall cover all
33 the employees and the entire compensation liability of the
34 insured: Provided, however, that any employer may insure

1 his or her compensation liability with 2 or more insurance
2 carriers or may insure a part and qualify under subsection
3 1, 2, or 4 for the remainder of his or her liability to pay
4 such compensation, subject to the following two
5 provisions:

6 Firstly, the entire compensation liability of the
7 employer to employees working at or from one location
8 shall be insured in one such insurance carrier or shall
9 be self-insured, and

10 Secondly, the employer shall submit evidence
11 satisfactorily to the Commission that his or her entire
12 liability for the compensation provided for in this Act
13 will be secured. Any provisions in any policy, or in
14 any endorsement attached thereto, attempting to limit
15 or modify in any way, the liability of the insurance
16 carriers issuing the same except as otherwise provided
17 herein shall be wholly void.

18 Nothing herein contained shall apply to policies of
19 excess liability carriage secured by employers who
20 have been approved by the Commission as self-insurers,
21 or

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

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

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

34 (A) the employer is engaged primarily in the building

1 and construction industry; and

2 (B) subdivision (a)(3) of this Section applies to the
3 employer or the employer is a member of a group
4 self-insurance plan as defined in subsection (1) of Section
5 4a.

6 The Industrial Commission shall impose a penalty upon an
7 employer for violation of this subsection (a-1) if:

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

11 (ii) after the hearing, the Commission finds that the
12 employer failed to make payments upon the premium rates of
13 the situs where the work or project is located in Illinois.

14 The penalty shall not exceed \$1,000 for each day of work
15 for which the employer failed to make payments upon the premium
16 rates of the situs where the work or project is located in
17 Illinois, but the total penalty shall not exceed \$50,000 for
18 each project or each contract under which the work was
19 performed.

20 Any penalty under this subsection (a-1) must be imposed not
21 later than one year after the expiration of the applicable
22 limitation period specified in subsection (d) of Section 6 of
23 this Act. Penalties imposed under this subsection (a-1) shall
24 be deposited into the Industrial Commission Operations Fund, a
25 special fund that is created in the State treasury. Subject to
26 appropriation, moneys in the Fund shall be used solely for the
27 operations of the Industrial Commission.

28 (b) The sworn application and financial statement, or
29 security, indemnity or bond, or amount of insurance, or other
30 provisions, filed, furnished, carried, or made by the employer,
31 as the case may be, shall be subject to the approval of the
32 Commission.

33 Deposits under escrow agreements shall be cash, negotiable
34 United States government bonds or negotiable general

1 obligation bonds of the State of Illinois. Such cash or bonds
2 shall be deposited in escrow with any State or National Bank or
3 Trust Company having trust authority in the State of Illinois.

4 Upon the approval of the sworn application and financial
5 statement, security, indemnity or bond or amount of insurance,
6 filed, furnished or carried, as the case may be, the Commission
7 shall send to the employer written notice of its approval
8 thereof. The certificate of compliance by the employer with the
9 provisions of subparagraphs (2) and (3) of paragraph (a) of
10 this Section shall be delivered by the insurance carrier to the
11 Industrial Commission within five days after the effective date
12 of the policy so certified. The insurance so certified shall
13 cover all compensation liability occurring during the time that
14 the insurance is in effect and no further certificate need be
15 filed in case such insurance is renewed, extended or otherwise
16 continued by such carrier. The insurance so certified shall not
17 be cancelled or in the event that such insurance is not
18 renewed, extended or otherwise continued, such insurance shall
19 not be terminated until at least 10 days after receipt by the
20 Industrial Commission of notice of the cancellation or
21 termination of said insurance; provided, however, that if the
22 employer has secured insurance from another insurance carrier,
23 or has otherwise secured the payment of compensation in
24 accordance with this Section, and such insurance or other
25 security becomes effective prior to the expiration of the 10
26 days, cancellation or termination may, at the option of the
27 insurance carrier indicated in such notice, be effective as of
28 the effective date of such other insurance or security.

29 (c) Whenever the Commission shall find that any
30 corporation, company, association, aggregation of individuals,
31 reciprocal or interinsurers exchange, or other insurer
32 effecting workers' compensation insurance in this State shall
33 be insolvent, financially unsound, or unable to fully meet all
34 payments and liabilities assumed or to be assumed for

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

28 Whenever the Commission finds that any self-insured
29 employer has practiced or is practicing delay or unfairness
30 toward employees in the adjustment, settlement or payment of
31 benefits due such employees, the Commission may, after
32 reasonable notice and hearing, order and direct that after a
33 date fixed in the order such self-insured employer shall be
34 disqualified to operate as a self-insurer and shall be required

1 to insure his entire liability to pay compensation in some
2 insurance carrier authorized, licensed and permitted to do such
3 insurance business in this State, as provided in subparagraph 3
4 of paragraph (a) of this Section.

5 All orders made by the Commission under this Section shall
6 be subject to review by the courts, said review to be taken in
7 the same manner and within the same time as provided by Section
8 19 of this Act for review of awards and decisions of the
9 Commission, upon the party seeking the review filing with the
10 clerk of the court to which said review is taken a bond in an
11 amount to be fixed and approved by the court to which the
12 review is taken, conditioned upon the payment of all
13 compensation awarded against the person taking said review
14 pending a decision thereof and further conditioned upon such
15 other obligations as the court may impose. Upon the review the
16 Circuit Court shall have power to review all questions of fact
17 as well as of law. The penalty hereinafter provided for in this
18 paragraph shall not attach and shall not begin to run until the
19 final determination of the order of the Commission.

20 (d) Whenever the Commission determines an employer has
21 failed to provide coverage as required by paragraph (a) of this
22 Section, the failure shall be deemed an immediate serious
23 danger to public health, safety, and welfare sufficient to
24 justify service by the Commission of a work-stop order on such
25 employer, requiring the cessation of all business operations of
26 such employer at the place of employment or job site. Any law
27 enforcement agency in the State shall, at the request of the
28 Commission, render any assistance necessary to carry out the
29 provisions of this Section, including, but not limited to,
30 preventing any employee of such employer from remaining at a
31 place of employment or job site after a work-stop order has
32 taken effect.

33 Any individual employer, corporate officer or director of a
34 corporate employer, partner of an employer partnership, or

1 member of an employer limited liability company who knowingly
2 fails to provide coverage as required by paragraph (a) of this
3 Section is guilty of a Class 4 felony. Each day's violation
4 constitutes a separate offense. The State's Attorney of the
5 county in which the violation occurred, or the Attorney
6 General, shall bring such actions in the name of the People of
7 the State of Illinois, or may, in addition to other remedies
8 provided in this Section, bring an action for an injunction to
9 restrain the violation or to enjoin the operation of any such
10 employer.

11 Any individual employer, corporate officer or director of a
12 corporate employer, partner of an employer partnership, or
13 member of an employer limited liability company who negligently
14 fails to provide coverage as required by paragraph (a) of this
15 Section is guilty of a Class A misdemeanor. Each day's
16 violation constitutes a separate offense. The State's Attorney
17 of the county in which the violation occurred, or the Attorney
18 General, shall bring such actions in the name of the people of
19 the State of Illinois, or may, in addition to other remedies
20 provided in this Section, bring an action for an injunction to
21 restrain such violation or to enjoin the operation of any such
22 employer.

23 Employers who are subject to and who fail to comply with
24 this Section shall not be entitled to the benefits of this Act
25 during the period of noncompliance, but shall be liable in an
26 action under any other applicable law of this State. In the
27 action, such employer shall not avail himself or herself of the
28 defenses of assumption of risk or negligence or that the injury
29 was due to a co-employee. In the action, proof of the injury
30 shall constitute prima facie evidence of negligence on the part
31 of such employer and the burden shall be on such employer to
32 show freedom of negligence resulting in the injury. The
33 employer shall not join any other defendant in any such civil
34 action. Nothing in this amendatory Act of the 93rd General

1 Assembly shall affect the employee's rights under subdivision
2 (a)3 of Section 1 of this Act.

3 An employee of an uninsured employer, or the employee's
4 dependents in case death ensued, may, instead of proceeding
5 against the employer in a civil action in court, file an
6 application for adjustment of claim with the Commission in
7 accordance with the provisions of this Act and the Commission
8 shall hear and determine the application for adjustment of
9 claim in the manner in which other claims are heard and
10 determined before the Commission.

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 or the failure or refusal of an employer,
15 service or adjustment company, or an insurance carrier to
16 comply with any order of the Industrial Commission pursuant to
17 paragraph (c) of this Section disqualifying him or her to
18 operate as a self insurer and requiring him or her to insure
19 his or her liability, the Commission may assess a civil penalty
20 of up to \$500 per day for each day of such failure or refusal
21 after the effective date of this amendatory Act of 1989. The
22 minimum penalty under this Section shall be the sum of \$10,000.
23 Each day of such failure or refusal shall constitute a separate
24 offense. The Commission may assess the civil penalty personally
25 and individually against the corporate officers and directors
26 of a corporate employer, the partners of an employer
27 partnership, and the members of an employer limited liability
28 company, after a finding of a knowing and willful refusal or
29 failure of each such named corporate officer, director,
30 partner, or member to comply with this Section. The liability
31 for the assessed penalty shall be against the named employer
32 first, and if the named employer fails or refuses to pay the
33 penalty to the Commission within 30 days after the final order
34 of the Commission, then the named corporate officers,

1 directors, partners, or members who have been found to have
2 knowingly and willfully refused or failed to comply with this
3 Section shall be liable for the unpaid penalty or any unpaid
4 portion of the penalty. All penalties collected under this
5 Section shall be deposited in the Industrial Commission
6 Operations Fund.

7 Upon the failure or refusal of any employer, service or
8 adjustment company or insurance carrier to comply with the
9 provisions of this Section and with the orders of the
10 Commission under this Section, or the order of the court on
11 review after final adjudication, the Commission may bring a
12 civil action to recover the amount of the penalty in Cook
13 County or in Sangamon County in which litigation the Commission
14 shall be represented by the Attorney General. The Commission
15 shall send notice of its finding of non-compliance and
16 assessment of the civil penalty to the Attorney General. It
17 shall be the duty of the Attorney General within 30 days after
18 receipt of the notice, to institute prosecutions and promptly
19 prosecute all reported violations of this Section.

20 Any individual employer, corporate officer or director of a
21 corporate employer, partner of an employer partnership, or
22 member of an employer limited liability company who, with the
23 intent to avoid payment of compensation under this Act to an
24 injured employee or the employee's dependents, knowingly
25 transfers, sells, encumbers, assigns, or in any manner disposes
26 of, conceals, secretes, or destroys any property belonging to
27 the employer, officer, director, partner, or member, is guilty
28 of a Class 4 felony.

29 Penalties collected pursuant to this paragraph (d) shall be
30 deposited upon receipt by the Commission into a special fund
31 which shall be designated the Injured Workers Benefit Fund, of
32 which the State Treasurer is ex-officio custodian, such special
33 fund to be held and disbursed in accordance with this paragraph
34 (d) for the purposes hereinafter stated in this paragraph (d),

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

1 Commission.

2 The Commission shall hold all final awards determined in a
3 fiscal year to be made from the Fund in that fiscal year until
4 the end of the fiscal year, at which time the Commission shall
5 make disbursements on a pro-rata share basis only to the extent
6 of the available moneys in the Fund for that fiscal year.

7 (e) This Act shall not affect or disturb the continuance of
8 any existing insurance, mutual aid, benefit, or relief
9 association or department, whether maintained in whole or in
10 part by the employer or whether maintained by the employees,
11 the payment of benefits of such association or department being
12 guaranteed by the employer or by some person, firm or
13 corporation for him or her: Provided, the employer contributes
14 to such association or department an amount not less than the
15 full compensation herein provided, exclusive of the cost of the
16 maintenance of such association or department and without any
17 expense to the employee. This Act shall not prevent the
18 organization and maintaining under the insurance laws of this
19 State of any benefit or insurance company for the purpose of
20 insuring against the compensation provided for in this Act, the
21 expense of which is maintained by the employer. This Act shall
22 not prevent the organization or maintaining under the insurance
23 laws of this State of any voluntary mutual aid, benefit or
24 relief association among employees for the payment of
25 additional accident or sick benefits.

26 (f) No existing insurance, mutual aid, benefit or relief
27 association or department shall, by reason of anything herein
28 contained, be authorized to discontinue its operation without
29 first discharging its obligations to any and all persons
30 carrying insurance in the same or entitled to relief or
31 benefits therein.

32 (g) Any contract, oral, written or implied, of employment
33 providing for relief benefit, or insurance or any other device
34 whereby the employee is required to pay any premium or premiums

1 for insurance against the compensation provided for in this Act
2 shall be null and void. Any employer withholding from the wages
3 of any employee any amount for the purpose of paying any such
4 premium shall be guilty of a Class B misdemeanor.

5 In the event the employer does not pay the compensation for
6 which he or she is liable, then an insurance company,
7 association or insurer which may have insured such employer
8 against such liability shall become primarily liable to pay to
9 the employee, his or her personal representative or beneficiary
10 the compensation required by the provisions of this Act to be
11 paid by such employer. The insurance carrier may be made a
12 party to the proceedings in which the employer is a party and
13 an award may be entered jointly against the employer and the
14 insurance carrier.

15 (h) It shall be unlawful for any employer, insurance
16 company or service or adjustment company to interfere with,
17 restrain or coerce an employee in any manner whatsoever in the
18 exercise of the rights or remedies granted to him or her by
19 this Act or to discriminate, attempt to discriminate, or
20 threaten to discriminate against an employee in any way because
21 of his or her exercise of the rights or remedies granted to him
22 or her by this Act.

23 It shall be unlawful for any employer, individually or
24 through any insurance company or service or adjustment company,
25 to discharge or to threaten to discharge, or to refuse to
26 rehire or recall to active service in a suitable capacity an
27 employee because of the exercise of his or her rights or
28 remedies granted to him or her by this Act.

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

34 (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
27 (f) of Section 19 of this Act for review of awards and
28 decisions of the Commission, upon the party seeking the review
29 filing with the clerk of the court to which such review is
30 taken a bond in an amount to be fixed and approved by the court
31 to which the review is taken, conditioned upon the payment of
32 all compensation awarded against the person taking such review
33 pending a decision thereof and further conditioned upon such
34 other obligations as the court may impose. Upon the review the

1 Circuit Court shall have power to review all questions of fact
2 as well as of law.

3 (Source: P.A. 91-375, eff. 1-1-00; 91-757, eff. 1-1-01; 92-324,
4 eff. 8-9-01.)

5 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

9 (a) The employer shall provide and pay the lesser of the
10 health care provider's actual charges or the usual and
11 customary charges incurred, subject to Section 8.2, for all the
12 necessary first aid, medical and surgical services, and all
13 necessary medical, surgical and hospital services thereafter
14 incurred, limited, however, to that which is reasonably
15 required to cure or relieve from the effects of the accidental
16 injury. The employer shall also pay for treatment, instruction
17 and training necessary for the physical, mental and vocational
18 rehabilitation of the employee, including all maintenance
19 costs and expenses incidental thereto. If as a result of the
20 injury the employee is unable to be self-sufficient the
21 employer shall further pay for such maintenance or
22 institutional care as shall be required.

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

26 Upon agreement between the employer and the employees, or
27 the employees' exclusive representative, and subject to the
28 approval of the Industrial Commission, the employer shall
29 maintain a list of physicians, to be known as a Panel of
30 Physicians, who are accessible to the employees. The employer
31 shall post this list in a place or places easily accessible to
32 his employees. The employee shall have the right to make an
33 alternative choice of physician from such Panel if he is not

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

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

28 The maintenance benefit shall not be less than the
29 temporary total disability rate determined for the employee. In
30 addition, maintenance shall include costs and expenses
31 incidental to the vocational rehabilitation program.

32 When the employee is working light duty on a part-time
33 basis or full-time basis and earns less than he or she would be
34 earning if employed in the full capacity of the job or jobs,

1 then the employee shall be entitled to temporary partial
2 disability benefits. Temporary partial disability benefits
3 shall be equal to two-thirds of the difference between the
4 average amount that the employee would be able to earn in the
5 full performance of his or her duties in the occupation in
6 which he or she was engaged at the time of accident and the net
7 amount which he or she is earning in the modified job provided
8 to the employee by the employer or in any other job that the
9 employee is working.

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

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

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

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

28 (3) all medical, surgical and hospital services
29 provided by any second physician, surgeon or hospital
30 subsequently chosen by the employee or by any other
31 physician, consultant, expert, institution or other
32 provider of services recommended by said second service
33 provider or any subsequent provider of medical services in
34 the chain of referrals from said second service provider.

1 Thereafter the employer shall select and pay for all
2 necessary medical, surgical and hospital treatment and the
3 employee may not select a provider of medical services at
4 the employer's expense unless the employer agrees to such
5 selection. At any time the employee may obtain any medical
6 treatment he desires at his own expense. This paragraph
7 shall not affect the duty to pay for rehabilitation
8 referred to above.

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

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

1 artificial member.

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

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

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

16 1. The compensation rate for temporary total
17 incapacity under this paragraph (b) of this Section shall
18 be equal to 66 2/3% of the employee's average weekly wage
19 computed in accordance with Section 10, provided that it
20 shall be not less than 66 2/3% of the sum of the Federal
21 minimum wage under the Fair Labor Standards Act, or the
22 Illinois minimum wage under the Minimum Wage Law, whichever
23 is more, multiplied by 40 hours. This percentage rate shall
24 be increased by 10% for each spouse and child, not to
25 exceed 100% of the total minimum wage calculation, the
26 following amounts in the following cases:

27 ~~\$100.90 in case of a single person;~~

28 ~~\$105.50 in case of a married person with no~~
29 ~~children;~~

30 ~~\$108.30 in case of one child;~~

31 ~~\$113.40 in case of 2 children;~~

32 ~~\$117.40 in case of 3 children;~~

33 ~~\$124.30 in case of 4 or more children;~~

34 nor exceed the employee's average weekly wage computed in

1 accordance with the provisions of Section 10, whichever is
2 less.

3 2. The compensation rate in all cases other than for
4 temporary total disability under this paragraph (b), and
5 other than for serious and permanent disfigurement under
6 paragraph (c) and other than for permanent partial
7 disability under subparagraph (2) of paragraph (d) or under
8 paragraph (e), of this Section shall be equal to 66 2/3% of
9 the employee's average weekly wage computed in accordance
10 with the provisions of Section 10, provided that it shall
11 be not less than 66 2/3% of the sum of the Federal minimum
12 wage under the Fair Labor Standards Act, or the Illinois
13 minimum wage under the Minimum Wage Law, whichever is more,
14 multiplied by 40 hours. This percentage rate shall be
15 increased by 10% for each spouse and child, not to exceed
16 100% of the total minimum wage calculation, ~~the following~~
17 ~~amounts in the following cases:~~

18 ~~\$80.90 in case of a single person;~~

19 ~~\$83.20 in case of a married person with no~~
20 ~~children;~~

21 ~~\$86.10 in case of one child;~~

22 ~~\$88.90 in case of 2 children;~~

23 ~~\$91.80 in case of 3 children;~~

24 ~~\$96.90 in case of 4 or more children;~~

25 nor exceed the employee's average weekly wage computed in
26 accordance with the provisions of Section 10, whichever is
27 less.

28 2.1. The compensation rate in all cases of serious and
29 permanent disfigurement under paragraph (c) and of
30 permanent partial disability under subparagraph (2) of
31 paragraph (d) or under paragraph (e) of this Section shall
32 be equal to 66 2/3% ~~60%~~ of the employee's average weekly
33 wage computed in accordance with the provisions of Section
34 10, provided that it shall be not less than 66 2/3% of the

1 sum of the Federal minimum wage under the Fair Labor
2 Standards Act, or the Illinois minimum wage under the
3 Minimum Wage Law, whichever is more, multiplied by 40
4 hours. This percentage rate shall be increased by 10% for
5 each spouse and child, not to exceed 100% of the total
6 minimum wage calculation, ~~the following amounts in the~~
7 ~~following cases:~~

8 ~~\$80.90 in case of a single person;~~

9 ~~\$83.20 in case of a married person with no~~
10 ~~children;~~

11 ~~\$86.10 in case of one child;~~

12 ~~\$88.90 in case of 2 children;~~

13 ~~\$91.80 in case of 3 children;~~

14 ~~\$96.90 in case of 4 or more children;~~

15 nor exceed the employee's average weekly wage computed in
16 accordance with the provisions of Section 10, whichever is
17 less.

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

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

28 The maximum weekly compensation rate from July 1, 1975,
29 except as hereinafter provided, shall be 100% of the
30 State's average weekly wage in covered industries under the
31 Unemployment Insurance Act, that being the wage that most
32 closely approximates the State's average weekly wage.

33 The maximum weekly compensation rate, for the period
34 July 1, 1984, through June 30, 1987, except as hereinafter

1 provided, shall be \$293.61. Effective July 1, 1987 and on
2 July 1 of each year thereafter the maximum weekly
3 compensation rate, except as hereinafter provided, shall
4 be determined as follows: if during the preceding 12 month
5 period there shall have been an increase in the State's
6 average weekly wage in covered industries under the
7 Unemployment Insurance Act, the weekly compensation rate
8 shall be proportionately increased by the same percentage
9 as the percentage of increase in the State's average weekly
10 wage in covered industries under the Unemployment
11 Insurance Act during such period.

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

28 From July 1, 1977 and thereafter such maximum weekly
29 compensation rate in death cases under Section 7, and
30 permanent total disability cases under paragraph (f) or
31 subparagraph 18 of paragraph (3) of this Section and for
32 temporary total disability under paragraph (b) of this
33 Section and for amputation of a member or enucleation of an
34 eye under paragraph (e) of this Section shall be increased

1 to 133-1/3% of the State's average weekly wage in covered
2 industries under the Unemployment Insurance Act.

3 For injuries occurring on or after January 1, 2005, the
4 maximum weekly benefit under paragraph (d)1 of this Section
5 shall be 133-1/3% of the State's average weekly wage in
6 covered industries under the Unemployment Insurance Act.

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

16 4.2. Any provision to the contrary notwithstanding,
17 the total compensation payable under Section 7 shall not
18 exceed the greater of \$250,000 or 20 years.

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

25 6. The Department of Employment Security of the State
26 shall on or before the first day of December, 1977, and on
27 or before the first day of June, 1978, and on the first day
28 of each December and June of each year thereafter, publish
29 the State's average weekly wage in covered industries under
30 the Unemployment Insurance Act and the Industrial
31 Commission shall on the 15th day of January, 1978 and on
32 the 15th day of July, 1978 and on the 15th day of each
33 January and July of each year thereafter, post and publish
34 the State's average weekly wage in covered industries under

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

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

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

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

23 A duly appointed member of a fire department in a city, the
24 population of which exceeds 200,000 according to the last
25 federal or State census, is eligible for compensation under
26 this paragraph only where such serious and permanent
27 disfigurement results from burns.

28 (d) 1. If, after the accidental injury has been sustained,
29 the employee as a result thereof becomes partially
30 incapacitated from pursuing his usual and customary line of
31 employment, he shall, except in cases compensated under the
32 specific schedule set forth in paragraph (e) of this Section,
33 receive compensation for the duration of his disability,
34 subject to the limitations as to maximum amounts fixed in

1 paragraph (b) of this Section, equal to 66-2/3% of the
2 difference between the average amount which he would be able to
3 earn in the full performance of his duties in the occupation in
4 which he was engaged at the time of the accident and the
5 average amount which he is earning or is able to earn in some
6 suitable employment or business after the accident.

7 2. If, as a result of the accident, the employee sustains
8 serious and permanent injuries not covered by paragraphs (c)
9 and (e) of this Section or having sustained injuries covered by
10 the aforesaid paragraphs (c) and (e), he shall have sustained
11 in addition thereto other injuries which injuries do not
12 incapacitate him from pursuing the duties of his employment but
13 which would disable him from pursuing other suitable
14 occupations, or which have otherwise resulted in physical
15 impairment; or if such injuries partially incapacitate him from
16 pursuing the duties of his usual and customary line of
17 employment but do not result in an impairment of earning
18 capacity, or having resulted in an impairment of earning
19 capacity, the employee elects to waive his right to recover
20 under the foregoing subparagraph 1 of paragraph (d) of this
21 Section then in any of the foregoing events, he shall receive
22 in addition to compensation for temporary total disability
23 under paragraph (b) of this Section, compensation at the rate
24 provided in subparagraph 2.1 of paragraph (b) of this Section
25 for that percentage of 500 weeks that the partial disability
26 resulting from the injuries covered by this paragraph bears to
27 total disability. If the employee shall have sustained a
28 fracture of one or more vertebra or fracture of the skull, the
29 amount of compensation allowed under this Section shall be not
30 less than 6 weeks for a fractured skull and 6 weeks for each
31 fractured vertebra, and in the event the employee shall have
32 sustained a fracture of any of the following facial bones:
33 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
34 mandible, the amount of compensation allowed under this Section

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

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

- 22 1. Thumb-70 weeks.
- 23 2. First, or index finger-40 weeks.
- 24 3. Second, or middle finger-35 weeks.
- 25 4. Third, or ring finger-25 weeks.
- 26 5. Fourth, or little finger-20 weeks.
- 27 6. Great toe-35 weeks.
- 28 7. Each toe other than great toe-12 weeks.
- 29 8. The loss of the first or distal phalanx of the thumb
30 or of any finger or toe shall be considered to be equal to
31 the loss of one-half of such thumb, finger or toe and the
32 compensation payable shall be one-half of the amount above
33 specified. The loss of more than one phalanx shall be
34 considered as the loss of the entire thumb, finger or toe.

1 In no case shall the amount received for more than one
2 finger exceed the amount provided in this schedule for the
3 loss of a hand.

4 9. Hand-190 weeks. The loss of 2 or more digits, or one
5 or more phalanges of 2 or more digits, of a hand may be
6 compensated on the basis of partial loss of use of a hand,
7 provided, further, that the loss of 4 digits, or the loss
8 of use of 4 digits, in the same hand shall constitute the
9 complete loss of a hand.

10 10. Arm-235 weeks. Where an accidental injury results
11 in the amputation of an arm below the elbow, such injury
12 shall be compensated as a loss of an arm. Where an
13 accidental injury results in the amputation of an arm above
14 the elbow, compensation for an additional 15 weeks shall be
15 paid, except where the accidental injury results in the
16 amputation of an arm at the shoulder joint, or so close to
17 shoulder joint that an artificial arm cannot be used, or
18 results in the disarticulation of an arm at the shoulder
19 joint, in which case compensation for an additional 65
20 weeks shall be paid.

21 11. Foot-155 weeks.

22 12. Leg-200 weeks. Where an accidental injury results
23 in the amputation of a leg below the knee, such injury
24 shall be compensated as loss of a leg. Where an accidental
25 injury results in the amputation of a leg above the knee,
26 compensation for an additional 25 weeks shall be paid,
27 except where the accidental injury results in the
28 amputation of a leg at the hip joint, or so close to the
29 hip joint that an artificial leg cannot be used, or results
30 in the disarticulation of a leg at the hip joint, in which
31 case compensation for an additional 75 weeks shall be paid.

32 13. Eye-150 weeks. Where an accidental injury results
33 in the enucleation of an eye, compensation for an
34 additional 10 weeks shall be paid.

1 14. Loss of hearing of one ear-50 weeks; total and
2 permanent loss of hearing of both ears-200 weeks.

3 15. Testicle-50 weeks; both testicles-150 weeks.

4 16. For the permanent partial loss of use of a member
5 or sight of an eye, or hearing of an ear, compensation
6 during that proportion of the number of weeks in the
7 foregoing schedule provided for the loss of such member or
8 sight of an eye, or hearing of an ear, which the partial
9 loss of use thereof bears to the total loss of use of such
10 member, or sight of eye, or hearing of an ear.

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

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

32 (c) In measuring hearing impairment, the lowest
33 measured losses in each of the 3 frequencies shall be
34 added together and divided by 3 to determine the

1 average decibel loss. For every decibel of loss
 2 exceeding 30 decibels an allowance of 1.82% shall be
 3 made up to the maximum of 100% which is reached at 85
 4 decibels.

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

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

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

19 Sound Level DBA

20	Slow Response	Hours Per Day
21	90	8
22	92	6
23	95	4
24	97	3
25	100	2
26	102	1-1/2
27	105	1
28	110	1/2
29	115	1/4

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

32 17. In computing the compensation to be paid to any
 33 employee who, before the accident for which he claims
 34 compensation, had before that time sustained an injury

1 resulting in the loss by amputation or partial loss by
2 amputation of any member, including hand, arm, thumb or
3 fingers, leg, foot or any toes, such loss or partial loss
4 of any such member shall be deducted from any award made
5 for the subsequent injury. For the permanent loss of use or
6 the permanent partial loss of use of any such member or the
7 partial loss of sight of an eye, for which compensation has
8 been paid, then such loss shall be taken into consideration
9 and deducted from any award for the subsequent injury.

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

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

26 19. In a case of specific loss and the subsequent death
27 of such injured employee from other causes than such injury
28 leaving a widow, widower, or dependents surviving before
29 payment or payment in full for such injury, then the amount
30 due for such injury is payable to the widow or widower and,
31 if there be no widow or widower, then to such dependents,
32 in the proportion which such dependency bears to total
33 dependency.

34 Beginning July 1, 1980, and every 6 months thereafter, the

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

18 On August 1, 1996 and on February 1 and August 1 of each
19 subsequent year, the Commission shall examine the special fund
20 designated as the "Rate Adjustment Fund" and when, after
21 deducting all advances or loans made to said fund, the amount
22 therein is \$4,000,000, the amount required to be paid by
23 employers pursuant to paragraph (f) of Section 7 shall be
24 reduced by one-half. When the Rate Adjustment Fund reaches the
25 sum of \$5,000,000 the payment therein shall cease entirely.
26 However, when said Rate Adjustment Fund has been reduced to
27 \$3,000,000 the amounts required by paragraph (f) of Section 7
28 shall be resumed in the manner herein provided.

29 (f) In case of complete disability, which renders the
30 employee wholly and permanently incapable of work, or in the
31 specific case of total and permanent disability as provided in
32 subparagraph 18 of paragraph (e) of this Section, compensation
33 shall be payable at the rate provided in subparagraph 2 of
34 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,
27 in addition to the compensation payable by the employer and
28 after such payments have ceased, an amount from the Second
29 Injury Fund provided for in paragraph (f) of Section 7, which,
30 together with the compensation payable from the employer in
31 whose employ he was when the last accidental injury was
32 incurred, will equal the amount payable for permanent and
33 complete disability as provided in this paragraph of this
34 Section.

1 The custodian of the Second Injury Fund provided for in
2 paragraph (f) of Section 7 shall be joined with the employer as
3 a party respondent in the application for adjustment of claim.
4 The application for adjustment of claim shall state briefly and
5 in general terms the approximate time and place and manner of
6 the loss of the first member.

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

28 As of July 1, 1980 to July 1, 1982, all claims against and
29 obligations of the Second Injury Fund shall become claims
30 against and obligations of the Rate Adjustment Fund to the
31 extent there is insufficient money in the Second Injury Fund to
32 pay such claims and obligations. In that case, all references
33 to "Second Injury Fund" in this Section shall also include the
34 Rate Adjustment Fund.

1 (g) Every award for permanent total disability entered by
2 the Commission on and after July 1, 1965 under which
3 compensation payments shall become due and payable after the
4 effective date of this amendatory Act, and every award for
5 death benefits or permanent total disability entered by the
6 Commission on and after the effective date of this amendatory
7 Act shall be subject to annual adjustments as to the amount of
8 the compensation rate therein provided. Such adjustments shall
9 first be made on July 15, 1977, and all awards made and entered
10 prior to July 1, 1975 and on July 15 of each year thereafter.
11 In all other cases such adjustment shall be made on July 15 of
12 the second year next following the date of the entry of the
13 award and shall further be made on July 15 annually thereafter.
14 If during the intervening period from the date of the entry of
15 the award, or the last periodic adjustment, there shall have
16 been an increase in the State's average weekly wage in covered
17 industries under the Unemployment Insurance Act, the weekly
18 compensation rate shall be proportionately increased by the
19 same percentage as the percentage of increase in the State's
20 average weekly wage in covered industries under the
21 Unemployment Insurance Act. The increase in the compensation
22 rate under this paragraph shall in no event bring the total
23 compensation rate to an amount greater than the prevailing
24 maximum rate. Such increase shall be paid in the same manner as
25 herein provided for payments under the Second Injury Fund to
26 the injured employee, or his dependents, as the case may be,
27 out of the Rate Adjustment Fund provided in paragraph (f) of
28 Section 7 of this Act. Payments shall be made at the same
29 intervals as provided in the award or, at the option of the
30 Commission, may be made in quarterly payment on the 15th day of
31 January, April, July and October of each year. In the event of
32 a decrease in such average weekly wage there shall be no change
33 in the then existing compensation rate. The within paragraph
34 shall not apply to cases where there is disputed liability and

1 in which a compromise lump sum settlement between the employer
2 and the injured employee, or his dependents, as the case may
3 be, has been duly approved by the Industrial 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 (h) In case death occurs from any cause before the total
11 compensation to which the employee would have been entitled has
12 been paid, then in case the employee leaves any widow, widower,
13 child, parent (or any grandchild, grandparent or other lineal
14 heir or any collateral heir dependent at the time of the
15 accident upon the earnings of the employee to the extent of 50%
16 or more of total dependency) such compensation shall be paid to
17 the beneficiaries of the deceased employee and distributed as
18 provided in paragraph (g) of Section 7.

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

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

32 However, where an employer has on file an employment
33 certificate issued pursuant to the Child Labor Law or work
34 permit issued pursuant to the Federal Fair Labor Standards Act,

1 as amended, or a birth certificate properly and duly issued,
2 such certificate, permit or birth certificate is conclusive
3 evidence as to the age of the injured minor employee for the
4 purposes of this Section.

5 Nothing herein contained repeals or amends the provisions
6 of the Child Labor Law relating to the employment of minors
7 under the age of 16 years.

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

28 Any excess benefits paid to or on behalf of a State
29 employee by the State Employees' Retirement System under
30 Article 14 of the Illinois Pension Code on a death claim or
31 disputed disability claim shall be credited against any
32 payments made or to be made by the State of Illinois to or on
33 behalf of such employee under this Act, except for payments for
34 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. 89-470, eff. 6-13-96.)

23 (820 ILCS 305/8.1 new)

24 Sec. 8.1. Ineligibility for benefits. Any person convicted
25 of insurance fraud related to workers' compensation shall be
26 subject to the penalties prescribed in Sections 46-1, 46-2,
27 46-3, and 46-6 of the Criminal Code of 1961. Any person
28 convicted of committing insurance fraud related to workers'
29 compensation pursuant to Section 46-1, 46-2, or 46-3 of the
30 Criminal Code of 1961 shall be ineligible to receive or retain
31 any compensation, disability, or medical benefits as defined in
32 this Act if the compensation, disability, or medical benefits
33 were owed or received as a result of a violation of Section

1 46-1, 46-2, or 46-3 of the Criminal Code of 1961 for which the
2 recipient of the compensation, disability, or medical benefit
3 was convicted.

4 (820 ILCS 305/8.2 new)

5 Sec. 8.2. Maximum allowable usual and customary charges;
6 payments.

7 (a) On and after January 1, 2005, the maximum allowable
8 usual and customary charge for procedures, treatments, or
9 services covered under this Act shall be 90% of the 80th
10 percentile of charges and fees as determined by the Commission
11 utilizing information provided by employers' and insurers'
12 national databases, with a minimum of 12,000,000 Illinois line
13 item charges and fees comprised of health care provider and
14 hospital charges and fees as of January 1, 2004. These charges
15 and fees shall be designated by geozip or any smaller
16 geographic unit. The data shall in no way identify or tend to
17 identify any patient, employer, or health care provider. As
18 used in this Section, "geozip" means a group of one or more
19 three-digit zip codes based on data similarities, geographical
20 similarities, and frequencies. A geozip does not cross state
21 boundaries. As used in this Section, "three-digit zip code"
22 means a geographic area in which all zip codes have the same
23 first 3 digits. The Commission has the authority to set the
24 maximum allowable usual and customary charges for procedures
25 not contained in the database in a manner consistent with the
26 provisions of this paragraph.

27 On January 1 in 2006 and each year thereafter, the maximum
28 allowable usual and customary charges established and in effect
29 on January 1, 2005 shall be automatically increased or
30 decreased annually by a percentage equal to the percentage
31 change in the Consumer Price Index-U determined during the
32 first quarter of the previous calendar year. As used in this
33 Section, "Consumer Price Index-U" means the index published by

1 the Bureau of Labor Statistics of the U.S. Department of Labor,
2 that measures the average change in prices of all goods and
3 services purchased by all urban consumers, U.S. city average,
4 all items, 1982-84=100.

5 (b) Notwithstanding the provisions of subsection (a), if
6 the Commission finds that there is a significant limitation on
7 access to quality health care in either a specific field of
8 health care services or a specific geographic limitation on
9 access to health care, it may change the Consumer Price Index-U
10 increase or decrease for that specific field or specific
11 geographic limitation on access to health care to address that
12 limitation.

13 (c) A health care provider shall not require, request, or
14 accept payment for the treatment, accommodations, products, or
15 services in excess of the maximum allowable usual and customary
16 charges established by the Commission.

17 (d) The employer or insurer shall make payment and
18 providers shall submit bills and records in accordance with the
19 provisions of this Section. All payments to providers for
20 treatment provided pursuant to this Act shall be made within 60
21 days of receipt of the bills. In the case of nonpayment to a
22 provider within 60 days of receipt of the bill for treatment
23 provided pursuant to this Act, the bill shall incur interest at
24 a rate of 1% per month.

25 (e) A provider shall not hold an employee liable for costs
26 related to care for service rendered in connection with a
27 compensable injury under this Act. A provider shall not bill or
28 otherwise attempt to recover from the employee the difference
29 between the provider's charge and the amount paid by the
30 employer or the insurer.

31 (f) Nothing in this Act shall prohibit an employer or
32 insurer from contracting with a health care provider or group
33 of health care providers for reimbursement levels different
34 from those provided in this Section.

1 (820 ILCS 305/8.3 new)

2 Sec. 8.3. Workers' Compensation Medical Fee Advisory
3 Board. There is created a Workers' Compensation Medical Fee
4 Advisory Board consisting of 9 members appointed by the
5 Governor with the advice and consent of the Senate. Three
6 members of the Advisory Board shall be representative citizens
7 chosen from the employee class, 3 members shall be
8 representative citizens chosen from the employing class, and 3
9 members shall be representative citizens chosen from the
10 medical provider class. Each member shall serve a 4-year term
11 and shall continue to serve until a successor is appointed. A
12 vacancy on the Advisory Board shall be filled by the Governor
13 for the unexpired term.

14 Members of the Advisory Board shall receive no compensation
15 for their services but shall be reimbursed for expenses
16 incurred in the performance of their duties by the Commission
17 from appropriations made to the Commission for that purpose.

18 The Advisory Board shall advise the Commission on
19 establishment of fees for medical services and accessibility of
20 medical treatment.

21 (820 ILCS 305/10) (from Ch. 48, par. 138.10)

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

24 The compensation shall be computed on the basis of the
25 "Average weekly wage" which shall mean the actual earnings of
26 the employee in the employment in which he was working at the
27 time of the injury during the period of 52 weeks ending with
28 the last day of the employee's last full pay period immediately
29 preceding the date of injury, illness or disablement, excluding
30 overtime, and bonus, divided by 52; but if the injured employee
31 lost 5 or more calendar days during such period, whether or not
32 in the same week, then the earnings for the remainder of such

1 52 weeks shall be divided by the number of weeks and parts
2 thereof remaining after the time so lost has been deducted.
3 Where the employment prior to the injury extended over a period
4 of less than 52 weeks, the method of dividing the earnings
5 during that period by the number of weeks and parts thereof
6 during which the employee actually earned wages shall be
7 followed. Where by reason of the shortness of the time during
8 which the employee has been in the employment of his employer
9 or of the casual nature or terms of the employment, it is
10 impractical to compute the average weekly wages as above
11 defined, regard shall be had to the average weekly amount which
12 during the 52 weeks previous to the injury, illness or
13 disablement was being or would have been earned by a person in
14 the same grade employed at the same work for each of such 52
15 weeks for the same number of hours per week by the same
16 employer. In the case of volunteer firemen, police and civil
17 defense members or trainees, the income benefits shall be based
18 on the average weekly wage in their regular employment. When
19 the employee is working concurrently with two or more employers
20 and the respondent employer has knowledge of such employment
21 prior to the injury, his wages from all such employers shall be
22 considered as if earned from the employer liable for
23 compensation.

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

25 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

31 1. Whenever any claimant misconceives his remedy and
32 files an application for adjustment of claim under this Act
33 and it is subsequently discovered, at any time before final

1 disposition of such cause, that the claim for disability or
2 death which was the basis for such application should
3 properly have been made under the Workers' Occupational
4 Diseases Act, then the provisions of Section 19, paragraph
5 (a-1) of the Workers' Occupational Diseases Act having
6 reference to such application shall apply.

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

27 (b) The Arbitrator shall make such inquiries and
28 investigations as he or they shall deem necessary and may
29 examine and inspect all books, papers, records, places, or
30 premises relating to the questions in dispute and hear such
31 proper evidence as the parties may submit.

32 The hearings before the Arbitrator shall be held in the
33 vicinity where the injury occurred after 10 days' notice of the
34 time and place of such hearing shall have been given to each of

1 the parties or their attorneys of record.

2 The Arbitrator may find that the disabling condition is
3 temporary and has not yet reached a permanent condition and may
4 order the payment of compensation up to the date of the
5 hearing, which award shall be reviewable and enforceable in the
6 same manner as other awards, and in no instance be a bar to a
7 further hearing and determination of a further amount of
8 temporary total compensation or of compensation for permanent
9 disability, but shall be conclusive as to all other questions
10 except the nature and extent of said disability.

11 The decision of the Arbitrator shall be filed with the
12 Commission which Commission shall immediately send to each
13 party or his attorney a copy of such decision, together with a
14 notification of the time when it was filed. Beginning January
15 1, 2005 ~~1981~~, all decisions of the Arbitrator shall set forth
16 in writing findings of fact and conclusions of law, separately
17 stated, if requested by either party. Unless a petition for
18 review is filed by either party within 30 days after the
19 receipt by such party of the copy of the decision and
20 notification of time when filed, and unless such party
21 petitioning for a review shall within 35 days after the receipt
22 by him of the copy of the decision, file with the Commission
23 either an agreed statement of the facts appearing upon the
24 hearing before the Arbitrator, or if such party shall so elect
25 a correct transcript of evidence of the proceedings at such
26 hearings, then the decision shall become the decision of the
27 Commission and in the absence of fraud shall be conclusive. The
28 Petition for Review shall contain a statement of the
29 petitioning party's specific exceptions to the decision of the
30 arbitrator. The jurisdiction of the Commission to review the
31 decision of the arbitrator shall not be limited to the
32 exceptions stated in the Petition for Review. The Commission,
33 or any member thereof, may grant further time not exceeding 30
34 days, in which to file such agreed statement or transcript of

1 evidence. Such agreed statement of facts or correct transcript
2 of evidence, as the case may be, shall be authenticated by the
3 signatures of the parties or their attorneys, and in the event
4 they do not agree as to the correctness of the transcript of
5 evidence it shall be authenticated by the signature of the
6 Arbitrator designated by the Commission.

7 Whether the employee is working or not, if the employee is
8 not receiving or has not received medical, surgical, or
9 hospital services or other services or compensation as provided
10 in paragraph (a) of Section 8, or compensation as provided in
11 paragraph (b) of Section 8, the employee may at any time
12 petition for an expedited hearing by an Arbitrator on the issue
13 of whether or not he or she is entitled to receive payment of
14 the services or compensation. The hearing shall have priority
15 over all other petitions and shall be heard by the Arbitrator
16 and Commission with all convenient speed. The employee shall
17 give notice of a request for an expedited hearing under this
18 paragraph. A copy of the application for adjustment of claim
19 shall be attached to the notice. The Commission shall adopt
20 rules and procedures under which the final decision under this
21 paragraph is filed not later than 180 days from the date of the
22 first hearing.

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

32 Such petition shall contain the following information and
33 shall be served on the employer at least 15 days before it is
34 filed:

1 (i) the date and approximate time of accident;
2 (ii) the approximate location of the accident;
3 (iii) a description of the accident;
4 (iv) the nature of the injury incurred by the employee;
5 (v) the identity of the person, if known, to whom the
6 accident was reported and the date on which it was
7 reported;

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

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

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

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

29 (x) a copy of a signed report by a medical
30 practitioner, relating to the employee's current inability
31 to return to work because of the injuries incurred as a
32 result of the accident or such other documents or
33 affidavits which show that the employee is entitled to
34 receive compensation pursuant to paragraph (b) of Section 8

1 of this Act or medical, surgical or hospital services
2 pursuant to paragraph (a) of Section 8 of this Act. Such
3 reports, documents or affidavits shall state, if possible,
4 the history of the accident given by the employee, and
5 describe the injury and medical diagnosis, the medical
6 services for such injury which the employee has received
7 and is receiving, the physical activities which the
8 employee cannot currently perform as a result of any
9 impairment or disability due to such injury, and the
10 prognosis for recovery;

11 (xi) complete copies of any reports, records,
12 documents and affidavits in the possession of the employee
13 on which the employee will rely to support his allegations,
14 provided that the employer shall pay the reasonable cost of
15 reproduction thereof;

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

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

22 Fifteen days after receipt by the employer of the petition
23 with the required information the employee may file said
24 petition and required information and shall serve notice of the
25 filing upon the employer. The employer may file a motion
26 addressed to the sufficiency of the petition. If an objection
27 has been filed to the sufficiency of the petition, the
28 arbitrator shall rule on the objection within 2 working days.
29 If such an objection is filed, the time for filing the final
30 decision of the Commission as provided in this paragraph shall
31 be tolled until the arbitrator has determined that the petition
32 is sufficient.

33 The employer shall, within 15 days after receipt of the
34 notice that such petition is filed, file with the Commission

1 and serve on the employee or his representative a written
2 response to each claim set forth in the petition, including the
3 legal and factual basis for each disputed allegation and the
4 following information: (i) complete copies of any reports,
5 records, documents and affidavits in the possession of the
6 employer on which the employer intends to rely in support of
7 his response, (ii) a list of any reports, records, documents
8 and affidavits which the employer has demanded by subpoena and
9 on which the employer intends to rely in support of his
10 response, (iii) the name and address of each witness on whom
11 the employer will rely to support his response, and (iv) the
12 names and addresses of any medical practitioners selected by
13 the employer pursuant to Section 12 of this Act and the time
14 and place of any examination scheduled to be made pursuant to
15 such Section.

16 Any employer who does not timely file and serve a written
17 response without good cause may not introduce any evidence to
18 dispute any claim of the employee but may cross examine the
19 employee or any witness brought by the employee and otherwise
20 be heard.

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

33 The Commission shall adopt rules, regulations and
34 procedures whereby the final decision of the Commission is

1 filed not later than 90 days from the date the petition for
2 review is filed but in no event later than 180 days from the
3 date the petition for an emergency hearing is filed with the
4 Industrial Commission.

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

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

27 (2) Should the Commission at any time during the hearing
28 find that compelling considerations make it advisable to have
29 an examination and report at that time, the commission may in
30 its discretion so order.

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

33 (4) Either party or the Commission may call the examining
34 physician or physicians to testify. Any physician so called

1 shall be subject to cross-examination.

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

8 (6) The fees and payment thereof of all attorneys and
9 physicians for services authorized by the Commission under this
10 Act shall, upon request of either the employer or the employee
11 or the beneficiary affected, be subject to the review and
12 decision of the Commission.

13 (d) If any employee shall persist in insanitary or
14 injurious practices which tend to either imperil or retard his
15 recovery or shall refuse to submit to such medical, surgical,
16 or hospital treatment as is reasonably essential to promote his
17 recovery, the Commission may, in its discretion, reduce or
18 suspend the compensation of any such injured employee. However,
19 when an employer and employee so agree in writing, the
20 foregoing provision shall not be construed to authorize the
21 reduction or suspension of compensation of an employee who is
22 relying in good faith, on treatment by prayer or spiritual
23 means alone, in accordance with the tenets and practice of a
24 recognized church or religious denomination, by a duly
25 accredited practitioner thereof.

26 (e) This paragraph shall apply to all hearings before the
27 Commission. Such hearings may be held in its office or
28 elsewhere as the Commission may deem advisable. The taking of
29 testimony on such hearings may be had before any member of the
30 Commission. If a petition for review and agreed statement of
31 facts or transcript of evidence is filed, as provided herein,
32 the Commission shall promptly review the decision of the
33 Arbitrator and all questions of law or fact which appear from
34 the statement of facts or transcript of evidence.

1 In all cases in which the hearing before the arbitrator is
2 held after December 18, 1989, no additional evidence shall be
3 introduced by the parties before the Commission on review of
4 the decision of the Arbitrator. In reviewing decisions of an
5 arbitrator the Commission shall award such temporary
6 compensation, permanent compensation and other payments as are
7 due under this Act. The Commission shall file in its office its
8 decision thereon, and shall immediately send to each party or
9 his attorney a copy of such decision and a notification of the
10 time when it was filed. Decisions shall be filed within 60 days
11 after the Statement of Exceptions and Supporting Brief and
12 Response thereto are required to be filed or oral argument
13 whichever is later.

14 In the event either party requests oral argument, such
15 argument shall be had before a panel of 3 members of the
16 Commission (or before all available members pursuant to the
17 determination of 5 members of the Commission that such argument
18 be held before all available members of the Commission)
19 pursuant to the rules and regulations of the Commission. A
20 panel of 3 members, which shall be comprised of not more than
21 one representative citizen of the employing class and not more
22 than one representative citizen of the employee class, shall
23 hear the argument; provided that if all the issues in dispute
24 are solely the nature and extent of the permanent partial
25 disability, if any, a majority of the panel may deny the
26 request for such argument and such argument shall not be held;
27 and provided further that 5 members of the Commission may
28 determine that the argument be held before all available
29 members of the Commission. A decision of the Commission shall
30 be approved by a majority of Commissioners present at such
31 hearing if any; provided, if no such hearing is held, a
32 decision of the Commission shall be approved by a majority of a
33 panel of 3 members of the Commission as described in this
34 Section. The Commission shall give 10 days' notice to the

1 parties or their attorneys of the time and place of such taking
2 of testimony and of such argument.

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

25 If a reporter does not for any reason furnish a transcript
26 of the proceedings before the Arbitrator in any case for use on
27 a hearing for review before the Commission, within the
28 limitations of time as fixed in this Section, the Commission
29 may, in its discretion, order a trial de novo before the
30 Commission in such case upon application of either party. The
31 applications for adjustment of claim and other documents in the
32 nature of pleadings filed by either party, together with the
33 decisions of the Arbitrator and of the Commission and the
34 statement of facts or transcript of evidence hereinbefore

1 provided for in paragraphs (b) and (c) shall be the record of
2 the proceedings of the Commission, and shall be subject to
3 review as hereinafter provided.

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

24 Decisions rendered by the Commission and dissents, if any,
25 shall be published together by the Commission. The conclusions
26 of law set out in such decisions shall be regarded as
27 precedents by arbitrators for the purpose of achieving a more
28 uniform administration of this Act.

29 (f) The decision of the Commission acting within its
30 powers, according to the provisions of paragraph (e) of this
31 Section shall, in the absence of fraud, be conclusive unless
32 reviewed as in this paragraph hereinafter provided. However,
33 the Arbitrator or the Commission may on his or its own motion,
34 or on the motion of either party, correct any clerical error or

1 errors in computation within 15 days after the date of receipt
2 of any award by such Arbitrator or any decision on review of
3 the Commission and shall have the power to recall the original
4 award on arbitration or decision on review, and issue in lieu
5 thereof such corrected award or decision. Where such correction
6 is made the time for review herein specified shall begin to run
7 from the date of the receipt of the corrected award or
8 decision.

9 (1) Except in cases of claims against the State of
10 Illinois, in which case the decision of the Commission
11 shall not be subject to judicial review, the Circuit Court
12 of the county where any of the parties defendant may be
13 found, or if none of the parties defendant can be found in
14 this State then the Circuit Court of the county where the
15 accident occurred, shall by summons to the Commission have
16 power to review all questions of law and fact presented by
17 such record.

18 A proceeding for review shall be commenced within 20
19 days of the receipt of notice of the decision of the
20 Commission. The summons shall be issued by the clerk of
21 such court upon written request returnable on a designated
22 return day, not less than 10 or more than 60 days from the
23 date of issuance thereof, and the written request shall
24 contain the last known address of other parties in interest
25 and their attorneys of record who are to be served by
26 summons. Service upon any member of the Commission or the
27 Secretary or the Assistant Secretary thereof shall be
28 service upon the Commission, and service upon other parties
29 in interest and their attorneys of record shall be by
30 summons, and such service shall be made upon the Commission
31 and other parties in interest by mailing notices of the
32 commencement of the proceedings and the return day of the
33 summons to the office of the Commission and to the last
34 known place of residence of other parties in interest or

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

11 The Commission shall not be required to certify the
12 record of their proceedings to the Circuit Court, unless
13 the party commencing the proceedings for review in the
14 Circuit Court as above provided, shall pay to the
15 Commission the sum of 80¢; per page of testimony taken
16 before the Commission, and 35¢; per page of all other
17 matters contained in such record, except as otherwise
18 provided by Section 20 of this Act. Payment for photostatic
19 copies of exhibit shall be extra. It shall be the duty of
20 the Commission upon such payment, or failure to pay as
21 permitted under Section 20 of this Act, to prepare a true
22 and correct typewritten copy of such testimony and a true
23 and correct copy of all other matters contained in such
24 record and certified to by the Secretary or Assistant
25 Secretary thereof.

26 In its decision on review the Commission shall
27 determine in each particular case the amount of the
28 probable cost of the record to be filed as a part of the
29 summons in that case and no request for a summons may be
30 filed and no summons shall issue unless the party seeking
31 to review the decision of the Commission shall exhibit to
32 the clerk of the Circuit Court proof of payment by filing a
33 receipt showing payment or an affidavit of the attorney
34 setting forth that payment has been made of the sums so

1 determined to the Secretary or Assistant Secretary of the
2 Commission, except as otherwise provided by Section 20 of
3 this Act.

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

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

23 The court may confirm or set aside the decision of the
24 Commission. If the decision is set aside and the facts
25 found in the proceedings before the Commission are
26 sufficient, the court may enter such decision as is
27 justified by law, or may remand the cause to the Commission
28 for further proceedings and may state the questions
29 requiring further hearing, and give such other
30 instructions as may be proper. Appeals shall be taken to
31 the Industrial Commission Division of the Appellate Court
32 in accordance with Supreme Court Rules 22(g) and 303.
33 Appeals shall be taken from the Industrial Commission
34 Division of the Appellate Court to the Supreme Court in

1 accordance with Supreme Court Rule 315.

2 It shall be the duty of the clerk of any court
3 rendering a decision affecting or affirming an award of the
4 Commission to promptly furnish the Commission with a copy
5 of such decision, without charge.

6 The decision of a majority of the members of the panel
7 of the Commission, shall be considered the decision of the
8 Commission.

9 (g) Except in the case of a claim against the State of
10 Illinois, either party may present a certified copy of the
11 award of the Arbitrator, or a certified copy of the decision of
12 the Commission when the same has become final, when no
13 proceedings for review are pending, providing for the payment
14 of compensation according to this Act, to the Circuit Court of
15 the county in which such accident occurred or either of the
16 parties are residents, whereupon the court shall enter a
17 judgment in accordance therewith. In a case where the employer
18 refuses to pay compensation according to such final award or
19 such final decision upon which such judgment is entered the
20 court shall in entering judgment thereon, tax as costs against
21 him the reasonable costs and attorney fees in the arbitration
22 proceedings and in the court entering the judgment for the
23 person in whose favor the judgment is entered, which judgment
24 and costs taxed as therein provided shall, until and unless set
25 aside, have the same effect as though duly entered in an action
26 duly tried and determined by the court, and shall with like
27 effect, be entered and docketed. The Circuit Court shall have
28 power at any time upon application to make any such judgment
29 conform to any modification required by any subsequent decision
30 of the Supreme Court upon appeal, or as the result of any
31 subsequent proceedings for review, as provided in this Act.

32 Judgment shall not be entered until 15 days' notice of the
33 time and place of the application for the entry of judgment
34 shall be served upon the employer by filing such notice with

1 the Commission, which Commission shall, in case it has on file
2 the address of the employer or the name and address of its
3 agent upon whom notices may be served, immediately send a copy
4 of the notice to the employer or such designated agent.

5 (h) An agreement or award under this Act providing for
6 compensation in installments, may at any time within 18 months
7 after such agreement or award be reviewed by the Commission at
8 the request of either the employer or the employee, on the
9 ground that the disability of the employee has subsequently
10 recurred, increased, diminished or ended.

11 However, as to accidents occurring subsequent to July 1,
12 1955, which are covered by any agreement or award under this
13 Act providing for compensation in installments made as a result
14 of such accident, such agreement or award may at any time
15 within 30 months after such agreement or award be reviewed by
16 the Commission at the request of either the employer or the
17 employee on the ground that the disability of the employee has
18 subsequently recurred, increased, diminished or ended.

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

32 When compensation which is payable in accordance with an
33 award or settlement contract approved by the Commission, is
34 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
27 a real controversy, but are merely frivolous or for delay, then
28 the Commission may award compensation additional to that
29 otherwise payable under this Act equal to 50% of the amount
30 payable at the time of such award. Failure to pay compensation
31 in accordance with the provisions of Section 8, paragraph (b)
32 of this Act, shall be considered unreasonable delay. When
33 determining whether this subsection (k) shall apply, the
34 Commission shall consider whether an arbitrator has determined

1 that the claim is not compensable or whether the employer has
2 made payments under Section 8(j).

3 (l) If the employee has made demand for payment of benefits
4 under Section 8(a) or 8(b), the employer shall have 14 days
5 after receipt of the demand to set forth, in writing, the
6 reason for the delay. Failure by the employer to respond shall
7 give rise to a rebuttable presumption of delay. If the employer
8 or its insurance carrier has failed, neglected, refused, or
9 delayed the payment of benefits under Section 8(a) or Section
10 8(b) and the Arbitrator or Commission awards benefits under
11 Section 8(a) or 8(b), the employee shall receive additional
12 compensation in the sum of \$30 per day for each day that the
13 benefits have been so withheld, refused, or delayed, up to
14 \$16,425, as well as the costs of litigation, including
15 attorney's fees. ~~In case the employer or his insurance carrier~~
16 ~~shall without good and just cause fail, neglect, refuse or~~
17 ~~unreasonably delay the payment of weekly compensation benefits~~
18 ~~due to an injured employee during the period of temporary total~~
19 ~~disability the arbitrator or the Commission shall allow to the~~
20 ~~employee additional compensation in the sum of \$10 per day for~~
21 ~~each day that a weekly compensation payment has been so~~
22 ~~withheld or refused, provided that such additional~~
23 ~~compensation shall not exceed the sum of \$2,500. A delay in~~
24 ~~payment of 14 days or more shall create a rebuttable~~
25 ~~presumption of unreasonable delay.~~

26 (m) If the commission finds that an accidental injury was
27 directly and proximately caused by the employer's wilful
28 violation of a health and safety standard under the Health and
29 Safety Act in force at the time of the accident, the arbitrator
30 or the Commission shall allow to the injured employee or his
31 dependents, as the case may be, additional compensation equal
32 to 25% of the amount which otherwise would be payable under the
33 provisions of this Act exclusive of this paragraph. The
34 additional compensation herein provided shall be allowed by an

1 appropriate increase in the applicable weekly compensation
2 rate.

3 (n) After June 30, 1984, decisions of the Industrial
4 Commission reviewing an award of an arbitrator of the
5 Commission shall draw interest at a rate equal to the yield on
6 indebtedness issued by the United States Government with a
7 26-week maturity next previously auctioned on the day on which
8 the decision is filed. Said rate of interest shall be set forth
9 in the Arbitrator's Decision. Interest shall be drawn from the
10 date of the arbitrator's award on all accrued compensation due
11 the employee through the day prior to the date of payments.
12 However, when an employee appeals an award of an Arbitrator or
13 the Commission, and the appeal results in no change or a
14 decrease in the award, interest shall not further accrue from
15 the date of such appeal.

16 The employer or his insurance carrier may tender the
17 payments due under the award to stop the further accrual of
18 interest on such award notwithstanding the prosecution by
19 either party of review, certiorari, appeal to the Supreme Court
20 or other steps to reverse, vacate or modify the award.

21 (o) By the 15th day of each month each insurer providing
22 coverage for losses under this Act shall notify each insured
23 employer of any compensable claim incurred during the preceding
24 month and the amounts paid or reserved on the claim including a
25 summary of the claim and a brief statement of the reasons for
26 compensability. A cumulative report of all claims incurred
27 during a calendar year or continued from the previous year
28 shall be furnished to the insured employer by the insurer
29 within 30 days after the end of that calendar year.

30 The insured employer may challenge, in proceeding before
31 the Commission, payments made by the insurer without
32 arbitration and payments made after a case is determined to be
33 noncompensable. If the Commission finds that the case was not
34 compensable, the insurer shall purge its records as to that

1 employer of any loss or expense associated with the claim,
2 reimburse the employer for attorneys' fees arising from the
3 challenge and for any payment required of the employer to the
4 Rate Adjustment Fund or the Second Injury Fund, and may not
5 reflect the loss or expense for rate making purposes. The
6 employee shall not be required to refund the challenged
7 payment. The decision of the Commission may be reviewed in the
8 same manner as in arbitrated cases. No challenge may be
9 initiated under this paragraph more than 3 years after the
10 payment is made. An employer may waive the right of challenge
11 under this paragraph on a case by case basis.

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

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

17 (Source: P.A. 86-998; 87-435; 87-799.)

18 Section 10. The Workers' Occupational Diseases Act is
19 amended by changing Sections 1 and 19 as follows:

20 (820 ILCS 310/1) (from Ch. 48, par. 172.36)

21 Sec. 1. This Act shall be known and may be cited as the
22 "Workers' Occupational Diseases Act".

23 (a) The term "employer" as used in this Act shall be
24 construed to be:

25 1. The State and each county, city, town, township,
26 incorporated village, school district, body politic, or
27 municipal corporation therein.

28 2. Every person, firm, public or private corporation,
29 including hospitals, public service, eleemosynary, religious
30 or charitable corporations or associations, who has any person
31 in service or under any contract for hire, express or implied,
32 oral or written.

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

21 Where an employee files an Application for Adjustment of
22 Claim with the Industrial Commission alleging that his or her
23 claim is covered by the provisions of the preceding paragraph,
24 and joining both the alleged loaning and borrowing employers,
25 they and each of them, upon written demand by the employee and
26 within 7 days after receipt of such demand, shall have the duty
27 of filing with the Industrial Commission a written admission or
28 denial of the allegation that the claim is covered by the
29 provisions of the preceding paragraph and in default of such
30 filing or if any such denial be ultimately determined not to
31 have been bona fide then the provisions of Paragraph K of
32 Section 19 of this Act shall apply.

33 An employer whose business or enterprise or a substantial
34 part thereof consists of hiring, procuring or furnishing

1 employees to or for other employers operating under and subject
2 to the provisions of this Act for the performance of the work
3 of such other employers and who pays such employees their
4 salary or wage notwithstanding that they are doing the work of
5 such other employers shall be deemed a loaning employer within
6 the meaning and provisions of this Section.

7 (b) The term "employee" as used in this Act, shall be
8 construed to mean:

9 1. Every person in the service of the State, county, city,
10 town, township, incorporated village or school district, body
11 politic or municipal corporation therein, whether by election,
12 appointment or contract of hire, express or implied, oral or
13 written, including any official of the State, or of any county,
14 city, town, township, incorporated village, school district,
15 body politic or municipal corporation therein and except any
16 duly appointed member of the fire department in any city whose
17 population exceeds 500,000 according to the last Federal or
18 State census, and except any member of a fire insurance patrol
19 maintained by a board of underwriters in this State. One
20 employed by a contractor who has contracted with the State, or
21 a county, city, town, township, incorporated village, school
22 district, body politic or municipal corporation therein,
23 through its representatives, shall not be considered as an
24 employee of the State, county, city, town, township,
25 incorporated village, school district, body politic or
26 municipal corporation which made the contract.

27 2. Every person in the service of another under any
28 contract of hire, express or implied, oral or written, who
29 contracts an occupational disease while working in the State of
30 Illinois, or who contracts an occupational disease while
31 working outside of the State of Illinois but where the contract
32 of hire is made within the State of Illinois, and any person
33 whose employment is principally localized within the State of
34 Illinois, regardless of the place where the disease was

1 contracted or place where the contract of hire was made,
2 including aliens, and minors who, for the purpose of this Act,
3 except Section 3 hereof, shall be considered the same and have
4 the same power to contract, receive payments and give
5 quittances therefor, as adult employees. An employee or his or
6 her dependents under this Act who shall have a cause of action
7 by reason of an occupational disease, disablement or death
8 arising out of and in the course of his or her employment may
9 elect or pursue his or her remedy in the State where the
10 disease was contracted, or in the State where the contract of
11 hire is made, or in the State where the employment is
12 principally localized.

13 (c) "Commission" means the Industrial Commission created
14 by the Workers' Compensation Act, approved July 9, 1951, as
15 amended.

16 (d) In this Act the term "Occupational Disease" means a
17 disease arising out of and in the course of the employment or
18 which has become aggravated and rendered disabling as a result
19 of the exposure of the employment. Such aggravation shall arise
20 out of a risk peculiar to or increased by the employment and
21 not common to the general public. For purposes of this Act, a
22 disease arises out of the employment if the disease occurred as
23 a result of a terrorist act. For purposes of this Section,
24 "terrorist act" means a violent act committed by one or more
25 individuals as part of an effort to coerce the civilian
26 population of the United States or to influence the policy or
27 affect the conduct of the United States Government.

28 A disease shall be deemed to arise out of the employment if
29 there is apparent to the rational mind, upon consideration of
30 all the circumstances, a causal connection between the
31 conditions under which the work is performed and the
32 occupational disease. The disease need not to have been
33 foreseen or expected but after its contraction it must appear
34 to have had its origin or aggravation in a risk connected with

1 the employment and to have flowed from that source as a
2 rational consequence.

3 An employee shall be conclusively deemed to have been
4 exposed to the hazards of an occupational disease when, for any
5 length of time however short, he or she is employed in an
6 occupation or process in which the hazard of the disease
7 exists; provided however, that in a claim of exposure to atomic
8 radiation, the fact of such exposure must be verified by the
9 records of the central registry of radiation exposure
10 maintained by the Department of Public Health or by some other
11 recognized governmental agency maintaining records of such
12 exposures whenever and to the extent that the records are on
13 file with the Department of Public Health or the agency.

14 The employer liable for the compensation in this Act
15 provided shall be the employer in whose employment the employee
16 was last exposed to the hazard of the occupational disease
17 claimed upon regardless of the length of time of such last
18 exposure, except, in cases of silicosis or asbestosis, the only
19 employer liable shall be the last employer in whose employment
20 the employee was last exposed during a period of 60 days or
21 more after the effective date of this Act, to the hazard of
22 such occupational disease, and, in such cases, an exposure
23 during a period of less than 60 days, after the effective date
24 of this Act, shall not be deemed a last exposure. If a miner
25 who is suffering or suffered from pneumoconiosis was employed
26 for 10 years or more in one or more coal mines there shall,
27 effective July 1, 1973 be a rebuttable presumption that his or
28 her pneumoconiosis arose out of such employment.

29 If a deceased miner was employed for 10 years or more in
30 one or more coal mines and died from a respirable disease there
31 shall, effective July 1, 1973, be a rebuttable presumption that
32 his or her death was due to pneumoconiosis.

33 The insurance carrier liable shall be the carrier whose
34 policy was in effect covering the employer liable on the last

1 day of the exposure rendering such employer liable in
2 accordance with the provisions of this Act.

3 (e) "Disablement" means an impairment or partial
4 impairment, temporary or permanent, in the function of the body
5 or any of the members of the body, or the event of becoming
6 disabled from earning full wages at the work in which the
7 employee was engaged when last exposed to the hazards of the
8 occupational disease by the employer from whom he or she claims
9 compensation, or equal wages in other suitable employment; and
10 "disability" means the state of being so incapacitated.

11 (f) No compensation shall be payable for or on account of
12 any occupational disease unless disablement, as herein
13 defined, occurs within two years after the last day of the last
14 exposure to the hazards of the disease, except in cases of
15 occupational disease caused by berylliosis or by the inhalation
16 of silica dust or asbestos dust and, in such cases, within 3
17 years after the last day of the last exposure to the hazards of
18 such disease and except in the case of occupational disease
19 caused by exposure to radiological materials or equipment, and
20 in such case, within 25 years after the last day of last
21 exposure to the hazards of such disease.

22 (Source: P.A. 81-992.)

23 (820 ILCS 310/19) (from Ch. 48, par. 172.54)

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

26 (a) It shall be the duty of the Commission upon
27 notification that the parties have failed to reach an agreement
28 to designate an Arbitrator.

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

31 A. The approximate date of the last day of the last
32 exposure and the approximate date of the disablement.

33 B. The general nature and character of the illness

1 or disease claimed.

2 C. The name and address of the employer by whom
3 employed on the last day of the last exposure and if
4 employed by any other employer after such last exposure
5 and before disablement the name and address of such
6 other employer or employers.

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

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

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

25 Whenever any claimant misconceives his remedy and
26 files an application for adjustment of claim under the
27 Workers' Compensation Act and it is subsequently
28 discovered, at any time before final disposition of such
29 cause that the claim for injury or death which was the
30 basis for such application should properly have been made
31 under this Act, then the application so filed under the
32 Workers' Compensation Act may be amended in form, substance
33 or both to assert claim for such disability or death under
34 this Act and it shall be deemed to have been so filed as

1 amended on the date of the original filing thereof, and
2 such compensation may be awarded as is warranted by the
3 whole evidence pursuant to the provisions of this Act. When
4 such amendment is submitted, further or additional
5 evidence may be heard by the Arbitrator or Commission when
6 deemed necessary; provided, that nothing in this Section
7 contained shall be construed to be or permit a waiver of
8 any provisions of this Act with reference to notice, but
9 notice if given shall be deemed to be a notice under the
10 provisions of this Act if given within the time required
11 herein.

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

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

21 The Arbitrator may find that the disabling condition is
22 temporary and has not yet reached a permanent condition and may
23 order the payment of compensation up to the date of the
24 hearing, which award shall be reviewable and enforceable in the
25 same manner as other awards, and in no instance be a bar to a
26 further hearing and determination of a further amount of
27 temporary total compensation or of compensation for permanent
28 disability, but shall be conclusive as to all other questions
29 except the nature and extent of such disability.

30 The decision of the Arbitrator shall be filed with the
31 Commission which Commission shall immediately send to each
32 party or his attorney a copy of such decision, together with a
33 notification of the time when it was filed. Beginning January
34 1, 2005 ~~1981~~, all decisions of the Arbitrator shall set forth

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

26 Whether the employee is working or not, if the employee is
27 not receiving or has not received medical, surgical, or
28 hospital services or other services or compensation as provided
29 in paragraph (a) of Section 8 of the Workers' Compensation Act,
30 or compensation as provided in paragraph (b) of Section 8 of
31 the Workers' Compensation Act, the employee may at any time
32 petition for an expedited hearing by an Arbitrator on the issue
33 of whether or not he or she is entitled to receive payment of
34 the services or compensation. The hearing shall have priority

1 over all other petitions and shall be heard by the Arbitrator
2 and Commission with all convenient speed. The employee shall
3 give notice of a request for an expedited hearing under this
4 paragraph. A copy of the application for adjustment of claim
5 shall be attached to the notice. The Commission shall adopt
6 rules and procedures under which the final decision under this
7 paragraph is filed not later than 180 days from the date of the
8 first hearing.

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

20 Such petition shall contain the following information and
21 shall be served on the employer at least 15 days before it is
22 filed:

23 (i) the date and approximate time of the last exposure;

24 (ii) the approximate location of the last exposure;

25 (iii) a description of the last exposure;

26 (iv) the nature of the disability incurred by the
27 employee;

28 (v) the identity of the person, if known, to whom the
29 disability was reported and the date on which it was
30 reported;

31 (vi) the name and title of the person, if known,
32 representing the employer with whom the employee conferred
33 in any effort to obtain pursuant to Section 7 compensation
34 of the type provided for in paragraph (b) of Section 8 of

1 the Workers' Compensation Act or medical, surgical or
2 hospital services of the type provided for in paragraph (a)
3 of Section 8 of the Workers' Compensation Act and the date
4 of such conference;

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

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

14 (ix) the dates of treatment related to the disability
15 by medical practitioners, and the names and addresses of
16 such practitioners, including the dates of treatment
17 related to the disability at any hospitals and the names
18 and addresses of such hospitals, and a signed authorization
19 permitting the employer to examine all medical records of
20 all practitioners and hospitals named pursuant to this
21 paragraph;

22 (x) a copy of a signed report by a medical
23 practitioner, relating to the employee's current inability
24 to return to work because of the disability incurred as a
25 result of the exposure or such other documents or
26 affidavits which show that the employee is entitled to
27 receive pursuant to Section 7 compensation of the type
28 provided for in paragraph (b) of Section 8 of the Workers'
29 Compensation Act or medical, surgical or hospital services
30 of the type provided for in paragraph (a) of Section 8 of
31 the Workers' Compensation Act. Such reports, documents or
32 affidavits shall state, if possible, the history of the
33 exposure given by the employee, and describe the disability
34 and medical diagnosis, the medical services for such

1 disability which the employee has received and is
2 receiving, the physical activities which the employee
3 cannot currently perform as a result of such disability,
4 and the prognosis for recovery;

5 (xi) complete copies of any reports, records,
6 documents and affidavits in the possession of the employee
7 on which the employee will rely to support his allegations,
8 provided that the employer shall pay the reasonable cost of
9 reproduction thereof;

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

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

16 Fifteen days after receipt by the employer of the petition
17 with the required information the employee may file said
18 petition and required information and shall serve notice of the
19 filing upon the employer. The employer may file a motion
20 addressed to the sufficiency of the petition. If an objection
21 has been filed to the sufficiency of the petition, the
22 arbitrator shall rule on the objection within 2 working days.
23 If such an objection is filed, the time for filing the final
24 decision of the Commission as provided in this paragraph shall
25 be tolled until the arbitrator has determined that the petition
26 is sufficient.

27 The employer shall, within 15 days after receipt of the
28 notice that such petition is filed, file with the Commission
29 and serve on the employee or his representative a written
30 response to each claim set forth in the petition, including the
31 legal and factual basis for each disputed allegation and the
32 following information: (i) complete copies of any reports,
33 records, documents and affidavits in the possession of the
34 employer on which the employer intends to rely in support of

1 his response, (ii) a list of any reports, records, documents
2 and affidavits which the employer has demanded by subpoena and
3 on which the employer intends to rely in support of his
4 response, (iii) the name and address of each witness on whom
5 the employer will rely to support his response, and (iv) the
6 names and addresses of any medical practitioners selected by
7 the employer pursuant to Section 12 of this Act and the time
8 and place of any examination scheduled to be made pursuant to
9 such Section.

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

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

27 The Commission shall adopt rules, regulations and
28 procedures whereby the final decision of the Commission is
29 filed not later than 90 days from the date the petition for
30 review is filed but in no event later than 180 days from the
31 date the petition for an emergency hearing is filed with the
32 Industrial Commission.

33 All service required pursuant to this paragraph (b-1) must
34 be by personal service or by certified mail and with evidence

1 of receipt. In addition, for the purposes of this paragraph,
2 all service on the employer must be at the premises where the
3 accident occurred if the premises are owned or operated by the
4 employer. Otherwise service must be at the employee's principal
5 place of employment by the employer. If service on the employer
6 is not possible at either of the above, then service shall be
7 at the employer's principal place of business. After initial
8 service in each case, service shall be made on the employer's
9 attorney or designated representative.

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

21 (2) Should the Commission at any time during the hearing
22 find that compelling considerations make it advisable to have
23 an examination and report at that time, the Commission may in
24 its discretion so order.

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

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

30 (5) The examination shall be made, and the physician or
31 physicians, if called, shall testify, without cost to the
32 parties. The Commission shall determine the compensation and
33 the pay of the physician or physicians. The compensation for
34 this service shall not exceed the usual and customary amount

1 for such service.

2 The fees and payment thereof of all attorneys and
3 physicians for services authorized by the Commission under this
4 Act shall, upon request of either the employer or the employee
5 or the beneficiary affected, be subject to the review and
6 decision of the Commission.

7 (d) If any employee shall persist in insanitary or
8 injurious practices which tend to either imperil or retard his
9 recovery or shall refuse to submit to such medical, surgical,
10 or hospital treatment as is reasonably essential to promote his
11 recovery, the Commission may, in its discretion, reduce or
12 suspend the compensation of any such employee; provided, that
13 when an employer and employee so agree in writing, the
14 foregoing provision shall not be construed to authorize the
15 reduction or suspension of compensation of an employee who is
16 relying in good faith, on treatment by prayer or spiritual
17 means alone, in accordance with the tenets and practice of a
18 recognized church or religious denomination, by a duly
19 accredited practitioner thereof.

20 (e) This paragraph shall apply to all hearings before the
21 Commission. Such hearings may be held in its office or
22 elsewhere as the Commission may deem advisable. The taking of
23 testimony on such hearings may be had before any member of the
24 Commission. If a petition for review and agreed statement of
25 facts or transcript of evidence is filed, as provided herein,
26 the Commission shall promptly review the decision of the
27 Arbitrator and all questions of law or fact which appear from
28 the statement of facts or transcripts of evidence. In all cases
29 in which the hearing before the arbitrator is held after the
30 effective date of this amendatory Act of 1989, no additional
31 evidence shall be introduced by the parties before the
32 Commission on review of the decision of the Arbitrator. The
33 Commission shall file in its office its decision thereon, and
34 shall immediately send to each party or his attorney a copy of

1 such decision and a notification of the time when it was filed.
2 Decisions shall be filed within 60 days after the Statement of
3 Exceptions and Supporting Brief and Response thereto are
4 required to be filed or oral argument whichever is later.

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

28 In any case the Commission in its decision may in its
29 discretion find specially upon any question or questions of law
30 or facts which shall be submitted in writing by either party
31 whether ultimate or otherwise; provided that on issues other
32 than nature and extent of the disablement, if any, the
33 Commission in its decision shall find specially upon any
34 question or questions of law or fact, whether ultimate or

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

17 If a reporter does not for any reason furnish a transcript
18 of the proceedings before the Arbitrator in any case for use on
19 a hearing for review before the Commission, within the
20 limitations of time as fixed in this Section, the Commission
21 may, in its discretion, order a trial de novo before the
22 Commission in such case upon application of either party. The
23 applications for adjustment of claim and other documents in the
24 nature of pleadings filed by either party, together with the
25 decisions of the Arbitrator and of the Commission and the
26 statement of facts or transcript of evidence hereinbefore
27 provided for in paragraphs (b) and (c) shall be the record of
28 the proceedings of the Commission, and shall be subject to
29 review as hereinafter provided.

30 At the request of either party or on its own motion, the
31 Commission shall set forth in writing the reasons for the
32 decision, including findings of fact and conclusions of law,
33 separately stated. The Commission shall by rule adopt a format
34 for written decisions for the Commission and arbitrators. The

1 written decisions shall be concise and shall succinctly state
2 the facts and reasons for the decision. The Commission may
3 adopt in whole or in part, the decision of the arbitrator as
4 the decision of the Commission. When the Commission does so
5 adopt the decision of the arbitrator, it shall do so by order.
6 Whenever the Commission adopts part of the arbitrator's
7 decision, but not all, it shall include in the order the
8 reasons for not adopting all of the arbitrator's decision. When
9 a majority of a panel, after deliberation, has arrived at its
10 decision, the decision shall be filed as provided in this
11 Section without unnecessary delay, and without regard to the
12 fact that a member of the panel has expressed an intention to
13 dissent. Any member of the panel may file a dissent. Any
14 dissent shall be filed no later than 10 days after the decision
15 of the majority has been filed.

16 Decisions rendered by the Commission after the effective
17 date of this amendatory Act of 1980 and dissents, if any, shall
18 be published together by the Commission. The conclusions of law
19 set out in such decisions shall be regarded as precedents by
20 arbitrators, for the purpose of achieving a more uniform
21 administration of this Act.

22 (f) The decision of the Commission acting within its
23 powers, according to the provisions of paragraph (e) of this
24 Section shall, in the absence of fraud, be conclusive unless
25 reviewed as in this paragraph hereinafter provided. However,
26 the Arbitrator or the Commission may on his or its own motion,
27 or on the motion of either party, correct any clerical error or
28 errors in computation within 15 days after the date of receipt
29 of any award by such Arbitrator or any decision on review of
30 the Commission, and shall have the power to recall the original
31 award on arbitration or decision on review, and issue in lieu
32 thereof such corrected award or decision. Where such correction
33 is made the time for review herein specified shall begin to run
34 from the date of the receipt of the corrected award or

1 decision.

2 (1) Except in cases of claims against the State of
3 Illinois, in which case the decision of the Commission
4 shall not be subject to judicial review, the Circuit Court
5 of the county where any of the parties defendant may be
6 found, or if none of the parties defendant be found in this
7 State then the Circuit Court of the county where any of the
8 exposure occurred, shall by summons to the Commission have
9 power to review all questions of law and fact presented by
10 such record.

11 A proceeding for review shall be commenced within 20
12 days of the receipt of notice of the decision of the
13 Commission. The summons shall be issued by the clerk of
14 such court upon written request returnable on a designated
15 return day, not less than 10 or more than 60 days from the
16 date of issuance thereof, and the written request shall
17 contain the last known address of other parties in interest
18 and their attorneys of record who are to be served by
19 summons. Service upon any member of the Commission or the
20 Secretary or the Assistant Secretary thereof shall be
21 service upon the Commission, and service upon other parties
22 in interest and their attorneys of record shall be by
23 summons, and such service shall be made upon the Commission
24 and other parties in interest by mailing notices of the
25 commencement of the proceedings and the return day of the
26 summons to the office of the Commission and to the last
27 known place of residence of other parties in interest or
28 their attorney or attorneys of record. The clerk of the
29 court issuing the summons shall on the day of issue mail
30 notice of the commencement of the proceedings which shall
31 be done by mailing a copy of the summons to the office of
32 the Commission, and a copy of the summons to the other
33 parties in interest or their attorney or attorneys of
34 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 pay to the Commission the
8 sum of 80 cents per page of testimony taken before the
9 Commission, and 35 cents per page of all other matters
10 contained in such record, except as otherwise provided by
11 Section 20 of this Act. Payment for photostatic copies of
12 exhibit shall be extra. It shall be the duty of the
13 Commission upon such payment, or failure to pay as
14 permitted under Section 20 of this Act, to prepare a true
15 and correct typewritten copy of such testimony and a true
16 and correct copy of all other matters contained in such
17 record and certified to by the Secretary or Assistant
18 Secretary thereof.

19 In its decision on review the Commission shall
20 determine in each particular case the amount of the
21 probable cost of the record to be filed as a return to the
22 summons in that case and no request for a summons may be
23 filed and no summons shall issue unless the party seeking
24 to review the decision of the Commission shall exhibit to
25 the clerk of the Circuit Court proof of payment by filing a
26 receipt showing payment or an affidavit of the attorney
27 setting forth that payment has been made of the sums so
28 determined to the Secretary or Assistant Secretary of the
29 Commission.

30 (2) No such summons shall issue unless the one against
31 whom the Commission shall have rendered an award for the
32 payment of money shall upon the filing of his written
33 request for such summons file with the clerk of the court a
34 bond conditioned that if he shall not successfully

1 prosecute the review, he will pay the award and the costs
2 of the proceedings in the court. The amount of the bond
3 shall be fixed by any member of the Commission and the
4 surety or sureties of the bond shall be approved by the
5 clerk of the court. The acceptance of the bond by the clerk
6 of the court shall constitute evidence of his approval of
7 the bond.

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

16 The court may confirm or set aside the decision of the
17 Commission. If the decision is set aside and the facts
18 found in the proceedings before the Commission are
19 sufficient, the court may enter such decision as is
20 justified by law, or may remand the cause to the Commission
21 for further proceedings and may state the questions
22 requiring further hearing, and give such other
23 instructions as may be proper. Appeals shall be taken to
24 the Industrial Commission Division of the Appellate Court
25 in accordance with Supreme Court Rules 22(g) and 303.
26 Appeals shall be taken from the Industrial Commission
27 Division of the Appellate Court to the Supreme Court in
28 accordance with Supreme Court Rule 315.

29 It shall be the duty of the clerk of any court
30 rendering a decision affecting or affirming an award of the
31 Commission to promptly furnish the Commission with a copy
32 of such decision, without charge.

33 The decision of a majority of the members of the panel
34 of the Commission, shall be considered the decision of the

1 Commission.

2 (g) Except in the case of a claim against the State of
3 Illinois, either party may present a certified copy of the
4 award of the Arbitrator, or a certified copy of the decision of
5 the Commission when the same has become final, when no
6 proceedings for review are pending, providing for the payment
7 of compensation according to this Act, to the Circuit Court of
8 the county in which such exposure occurred or either of the
9 parties are residents, whereupon the court shall enter a
10 judgment in accordance therewith. In case where the employer
11 refuses to pay compensation according to such final award or
12 such final decision upon which such judgment is entered, the
13 court shall in entering judgment thereon, tax as costs against
14 him the reasonable costs and attorney fees in the arbitration
15 proceedings and in the court entering the judgment for the
16 person in whose favor the judgment is entered, which judgment
17 and costs taxed as herein provided shall, until and unless set
18 aside, have the same effect as though duly entered in an action
19 duly tried and determined by the court, and shall with like
20 effect, be entered and docketed. The Circuit Court shall have
21 power at any time upon application to make any such judgment
22 conform to any modification required by any subsequent decision
23 of the Supreme Court upon appeal, or as the result of any
24 subsequent proceedings for review, as provided in this Act.

25 Judgment shall not be entered until 15 days' notice of the
26 time and place of the application for the entry of judgment
27 shall be served upon the employer by filing such notice with
28 the Commission, which Commission shall, in case it has on file
29 the address of the employer or the name and address of its
30 agent upon whom notices may be served, immediately send a copy
31 of the notice to the employer or such designated agent.

32 (h) An agreement or award under this Act providing for
33 compensation in installments, may at any time within 18 months
34 after such agreement or award be reviewed by the Commission at

1 the request of either the employer or the employee on the
2 ground that the disability of the employee has subsequently
3 recurred, increased, diminished or ended.

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

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

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

29 (i) Each party, upon taking any proceedings or steps
30 whatsoever before any Arbitrator, Commission or court, shall
31 file with the Commission his address, or the name and address
32 of any agent upon whom all notices to be given to such party
33 shall be served, either personally or by registered mail,
34 addressed to such party or agent at the last address so filed

1 with the Commission. In the event such party has not filed his
2 address, or the name and address of an agent as above provided,
3 service of any notice may be had by filing such notice with the
4 Commission.

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

16 (k) In any case where there has been any unreasonable or
17 vexatious delay of payment or intentional underpayment of
18 compensation, or proceedings have been instituted or carried on
19 by one liable to pay the compensation, which do not present a
20 real controversy, but are merely frivolous or for delay, then
21 the Commission may award compensation additional to that
22 otherwise payable under this Act equal to 50% of the amount
23 payable at the time of such award. Failure to pay compensation
24 in accordance with the provisions of Section 8, paragraph (b)
25 of this Act, shall be considered unreasonable delay. When
26 determining whether this subsection (k) shall apply, the
27 Commission shall consider whether an arbitrator has determined
28 that the claim is not compensable or whether the employer has
29 made payments under Section 8(j) of the Workers' Compensation
30 Act.

31 (k-1) If the employee has made demand for payment of
32 benefits under Section 8(a) or 8(b) of the Workers'
33 Compensation Act, the employer shall have 14 days after receipt
34 of the demand to set forth, in writing, the reason for the

1 delay. Failure by the employer to respond shall give rise to a
2 rebuttable presumption of delay. If the employer or its
3 insurance carrier has failed, neglected, refused, or delayed
4 the payment of benefits under Section 8(a) or Section 8(b) of
5 the Workers' Compensation Act and the Arbitrator or Commission
6 awards benefits under Section 8(a) or 8(b) of the Workers'
7 Compensation Act, the employee shall receive additional
8 compensation in the sum of \$30 per day for each day that the
9 benefits have been so withheld, refused, or delayed, up to
10 \$16,425, as well as the costs of litigation, including
11 attorney's fees.

12 (1) By the 15th day of each month each insurer providing
13 coverage for losses under this Act shall notify each insured
14 employer of any compensable claim incurred during the preceding
15 month and the amounts paid or reserved on the claim including a
16 summary of the claim and a brief statement of the reasons for
17 compensability. A cumulative report of all claims incurred
18 during a calendar year or continued from the previous year
19 shall be furnished to the insured employer by the insurer
20 within 30 days after the end of that calendar year.

21 The insured employer may challenge, in proceeding before
22 the Commission, payments made by the insurer without
23 arbitration and payments made after a case is determined to be
24 noncompensable. If the Commission finds that the case was not
25 compensable, the insurer shall purge its records as to that
26 employer of any loss or expense associated with the claim,
27 reimburse the employer for attorneys fee arising from the
28 challenge and for any payment required of the employer to the
29 Rate Adjustment Fund or the Second Injury Fund, and may not
30 effect the loss or expense for rate making purposes. The
31 employee shall not be required to refund the challenged
32 payment. The decision of the Commission may be reviewed in the
33 same manner as in arbitrated cases. No challenge may be
34 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 (m) 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 (m) 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 (m) 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 (m) and of the voluntary nature of proceedings under this
17 subsection (m). The findings of fact made by an arbitrator
18 acting within his or her powers under this subsection (m) 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 (m)
26 shall be considered the decision of the Commission and
27 proceedings for review of questions of law arising from the
28 decision may be commenced by either party pursuant to
29 subsection (f) of Section 19. The Advisory Board established
30 under Section 13.1 of the Workers' Compensation Act shall
31 compile a list of certified Commission arbitrators, each of
32 whom shall be approved by at least 7 members of the Advisory
33 Board. The chairman shall select 5 persons from such list to
34 serve as arbitrators under this subsection (m). By agreement,

1 the parties shall select one arbitrator from among the 5
2 persons selected by the chairman except, that if the parties do
3 not agree on an arbitrator from among the 5 persons, the
4 parties may, by agreement, select an arbitrator of the American
5 Arbitration Association, whose fee shall be paid by the State
6 in accordance with rules promulgated by the Commission.
7 Arbitration under this subsection (m) shall be voluntary.

8 (Source: P.A. 86-998; 87-435.)

9 Section 95. Applicability. The amendatory changes to
10 subsections (a) and (b) of Section 8, Section 10, and
11 subsection (l) of Section 19 of the Workers' Compensation Act
12 and subsection (k-1) of Section 19 of the Workers' Occupational
13 Diseases Act apply to accidental injuries or diseases that
14 occur on or after January 1, 2005.

15 Section 98. Inseverability. The provisions of this Act are
16 mutually dependent and inseverable. If any provision or its
17 application to any person or circumstance is held invalid, then
18 this entire Act is invalid.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law."