



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB1416

Introduced 2/11/2009, by Sen. Randall M. Hultgren

SYNOPSIS AS INTRODUCED:

40 ILCS 5/3-114.5	from Ch. 108 1/2, par. 3-114.5
40 ILCS 5/4-114.2	from Ch. 108 1/2, par. 4-114.2
820 ILCS 305/8	from Ch. 48, par. 138.8
30 ILCS 805/8.33 new	

Amends the Downstate Police and Downstate Firefighters Articles of the Illinois Pension Code and the Workers' Compensation Act. Provides that the receipt of disability or survivor's benefits payable under those Articles shall act as a waiver of temporary total disability benefits under specified provisions of the Workers' Compensation Act. Amends the State Mandates Act to require implementation without reimbursement. Effective immediately.

LRB096 08544 AMC 18665 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 3-114.5 and 4-114.2 as follows:

6 (40 ILCS 5/3-114.5) (from Ch. 108 1/2, par. 3-114.5)

7 Sec. 3-114.5. Waiver of Reduction of disability and
8 survivor's benefits for corresponding benefits payable under
9 Workers' Compensation and Workers' Occupational Diseases Acts.
10 ~~(a)~~ Whenever a person is entitled to a disability or survivor's
11 benefit under this Article and to benefits under the Workers'
12 Compensation Act or the Workers' Occupational Diseases Act for
13 the same injury or disease, the benefits payable under this
14 Article shall act as a waiver of temporary total disability
15 benefits under paragraph (b) of Section 8 of the Workers'
16 Compensation Act, effective as of the first date for which
17 benefits are payable under this Article. ~~be reduced by an~~
18 ~~amount computed in accordance with subsection (b) of this~~
19 ~~Section. There shall be no reduction, however, for any of the~~
20 ~~following: payments for medical, surgical and hospital~~
21 ~~services, non-medical remedial care and treatment rendered in~~
22 ~~accordance with a religious method of healing recognized by the~~
23 ~~laws of this State and for artificial appliances; payments made~~

1 ~~for scheduled losses for the loss of or permanent and complete~~
2 ~~or permanent and partial loss of the use of any bodily member~~
3 ~~or the body taken as a whole under subdivision (d)2 or~~
4 ~~subsection (c) of Section 8 of the Workers' Compensation Act or~~
5 ~~Section 7 of the Workers' Occupational Diseases Act; payments~~
6 ~~made for statutorily prescribed losses under subdivision (d)2~~
7 ~~of Section 8 of the Workers' Compensation Act or Section 7 of~~
8 ~~the Workers' Occupational Diseases Act; and that portion of the~~
9 ~~payments which is utilized to pay attorneys' fees and the costs~~
10 ~~of securing the workers' compensation benefits under either the~~
11 ~~Workers' Compensation Act or Workers' Occupational Diseases~~
12 ~~Act.~~

13 ~~(b) The reduction prescribed by this Section shall be~~
14 ~~computed as follows:~~

15 ~~(1) In the event that a person entitled to benefits under~~
16 ~~this Article incurs costs or attorneys' fees in order to~~
17 ~~establish his entitlement, the reduction prescribed by this~~
18 ~~Section shall itself be reduced by the amount of such costs and~~
19 ~~attorneys' fees.~~

20 ~~(2) If the benefits deductible under this Section are~~
21 ~~stated in a weekly amount, the monthly amount for the purpose~~
22 ~~of this Section shall be 52 times the weekly amount, divided by~~
23 ~~12.~~

24 (Source: P.A. 84-1472.)

25 (40 ILCS 5/4-114.2) (from Ch. 108 1/2, par. 4-114.2)

1 Sec. 4-114.2. Waiver of Reduction of disability and
2 ~~survivor's~~ benefits for corresponding benefits payable under
3 Workers' Compensation and Workers' Occupational Diseases Acts.
4 ~~(a)~~ Whenever a person is entitled to a disability or survivor's
5 benefit under this Article and to benefits under the Workers'
6 Compensation Act or the Workers' Occupational Diseases Act for
7 the same injury or disease, the benefits payable under this
8 Article shall act as a waiver of temporary total disability
9 benefits under paragraph (b) of Section 8 of the Workers'
10 Compensation Act, effective as of the first date for which
11 benefits are payable under this Article. ~~be reduced by an~~
12 ~~amount computed in accordance with subsection (b) of this~~
13 ~~Section. There shall be no reduction, however, for any of the~~
14 ~~following: payments for medical, surgical and hospital~~
15 ~~services, non-medical remedial care and treatment rendered in~~
16 ~~accordance with a religious method of healing recognized by the~~
17 ~~laws of this State and for artificial appliances; payments made~~
18 ~~for scheduled losses for the loss of or permanent and complete~~
19 ~~or permanent and partial loss of the use of any bodily member~~
20 ~~or the body taken as a whole under subdivision (d)2 or~~
21 ~~subsection (c) of Section 8 of the Workers' Compensation Act or~~
22 ~~Section 7 of the Workers' Occupational Diseases Act; payments~~
23 ~~made for statutorily prescribed losses under subdivision (d)2~~
24 ~~of Section 8 of the Workers' Compensation Act or Section 7 of~~
25 ~~the Workers' Occupational Diseases Act; and that portion of the~~
26 ~~payments which is utilized to pay attorneys' fees and the costs~~

1 ~~of securing the workers' compensation benefits under either the~~
2 ~~Workers' Compensation Act or Workers' Occupational Diseases~~
3 ~~Act.~~

4 ~~(b) The reduction prescribed by this Section shall be~~
5 ~~computed as follows:~~

6 ~~(1) In the event that a person entitled to benefits under~~
7 ~~this Article incurs costs or attorneys' fees in order to~~
8 ~~establish his entitlement, the reduction prescribed by this~~
9 ~~Section shall itself be reduced by the amount of such costs and~~
10 ~~attorneys' fees.~~

11 ~~(2) If the benefits deductible under this Section are~~
12 ~~stated in a weekly amount, the monthly amount for the purpose~~
13 ~~of this Section shall be 52 times the weekly amount, divided by~~
14 ~~12.~~

15 (Source: P.A. 84-1039.)

16 Section 10. The Workers' Compensation Act is amended by
17 changing Section 8 as follows:

18 (820 ILCS 305/8) (from Ch. 48, par. 138.8)

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

22 (a) The employer shall provide and pay the negotiated rate,
23 if applicable, or the lesser of the health care provider's
24 actual charges or according to a fee schedule, subject to

1 Section 8.2, in effect at the time the service was rendered for
2 all the necessary first aid, medical and surgical services, and
3 all necessary medical, surgical and hospital services
4 thereafter incurred, limited, however, to that which is
5 reasonably required to cure or relieve from the effects of the
6 accidental injury. If the employer does not dispute payment of
7 first aid, medical, surgical, and hospital services, the
8 employer shall make such payment to the provider on behalf of
9 the employee. The employer shall also pay for treatment,
10 instruction and training necessary for the physical, mental and
11 vocational rehabilitation of the employee, including all
12 maintenance costs and expenses incidental thereto. If as a
13 result of the injury the employee is unable to be
14 self-sufficient the employer shall further pay for such
15 maintenance or institutional care as shall be required.

16 The employee may at any time elect to secure his own
17 physician, surgeon and hospital services at the employer's
18 expense, or,

19 Upon agreement between the employer and the employees, or
20 the employees' exclusive representative, and subject to the
21 approval of the Illinois Workers' Compensation Commission, the
22 employer shall maintain a list of physicians, to be known as a
23 Panel of Physicians, who are accessible to the employees. The
24 employer shall post this list in a place or places easily
25 accessible to his employees. The employee shall have the right
26 to make an alternative choice of physician from such Panel if

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

1 program by the employer.

2 The maintenance benefit shall not be less than the
3 temporary total disability rate determined for the employee. In
4 addition, maintenance shall include costs and expenses
5 incidental to the vocational rehabilitation program.

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

18 Every hospital, physician, surgeon or other person
19 rendering treatment or services in accordance with the
20 provisions of this Section shall upon written request furnish
21 full and complete reports thereof to, and permit their records
22 to be copied by, the employer, the employee or his dependents,
23 as the case may be, or any other party to any proceeding for
24 compensation before the Commission, or their attorneys.

25 Notwithstanding the foregoing, the employer's liability to
26 pay for such medical services selected by the employee shall be

1 limited to:

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

3 (2) all medical, surgical and hospital services
4 provided by the physician, surgeon or hospital initially
5 chosen by the employee or by any other physician,
6 consultant, expert, institution or other provider of
7 services recommended by said initial service provider or
8 any subsequent provider of medical services in the chain of
9 referrals from said initial service provider; plus

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

25 When an employer and employee so agree in writing, nothing
26 in this Act prevents an employee whose injury or disability has

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

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

26 The furnishing by the employer of any such services or

1 appliances is not an admission of liability on the part of the
2 employer to pay compensation.

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

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

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

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

18 2.1. The compensation rate in all cases of serious and
19 permanent disfigurement under paragraph (c) and of
20 permanent partial disability under subparagraph (2) of
21 paragraph (d) or under paragraph (e) of this Section shall
22 be equal to 60% of the employee's average weekly wage
23 computed in accordance with the provisions of Section 10,
24 provided that it shall be not less than 66 2/3% of the sum
25 of the Federal minimum wage under the Fair Labor Standards
26 Act, or the Illinois minimum wage under the Minimum Wage

1 Law, whichever is more, multiplied by 40 hours. This
2 percentage rate shall be increased by 10% for each spouse
3 and child, not to exceed 100% of the total minimum wage
4 calculation,
5 nor exceed the employee's average weekly wage computed in
6 accordance with the provisions of Section 10, whichever is
7 less.

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

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

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

23 The maximum weekly compensation rate, for the period
24 July 1, 1984, through June 30, 1987, except as hereinafter
25 provided, shall be \$293.61. Effective July 1, 1987 and on
26 July 1 of each year thereafter the maximum weekly

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

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

26 From July 1, 1977 and thereafter such maximum weekly

1 compensation rate in death cases under Section 7, and
2 permanent total disability cases under paragraph (f) or
3 subparagraph 18 of paragraph (3) of this Section and for
4 temporary total disability under paragraph (b) of this
5 Section and for amputation of a member or enucleation of an
6 eye under paragraph (e) of this Section shall be increased
7 to 133-1/3% of the State's average weekly wage in covered
8 industries under the Unemployment Insurance Act.

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

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

22 4.2. Any provision to the contrary notwithstanding,
23 the total compensation payable under Section 7 shall not
24 exceed the greater of \$500,000 or 25 years.

25 5. For the purpose of this Section this State's average
26 weekly wage in covered industries under the Unemployment

1 Insurance Act on July 1, 1975 is hereby fixed at \$228.16
2 per week and the computation of compensation rates shall be
3 based on the aforesaid average weekly wage until modified
4 as hereinafter provided.

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

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

25 Compensation under this paragraph (b) is subject to the
26 provisions of Sections 3-114.5 and 4-114.2 of the Illinois

1 Pension Code.

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

14 No compensation is payable under this paragraph where
15 compensation is payable under paragraphs (d), (e) or (f) of
16 this Section.

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

22 (d) 1. If, after the accidental injury has been sustained,
23 the employee as a result thereof becomes partially
24 incapacitated from pursuing his usual and customary line of
25 employment, he shall, except in cases compensated under the
26 specific schedule set forth in paragraph (e) of this Section,

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

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

1 for that percentage of 500 weeks that the partial disability
2 resulting from the injuries covered by this paragraph bears to
3 total disability. If the employee shall have sustained a
4 fracture of one or more vertebra or fracture of the skull, the
5 amount of compensation allowed under this Section shall be not
6 less than 6 weeks for a fractured skull and 6 weeks for each
7 fractured vertebra, and in the event the employee shall have
8 sustained a fracture of any of the following facial bones:
9 nasal, lachrymal, vomer, zygoma, maxilla, palatine or
10 mandible, the amount of compensation allowed under this Section
11 shall be not less than 2 weeks for each such fractured bone,
12 and for a fracture of each transverse process not less than 3
13 weeks. In the event such injuries shall result in the loss of a
14 kidney, spleen or lung, the amount of compensation allowed
15 under this Section shall be not less than 10 weeks for each
16 such organ. Compensation awarded under this subparagraph 2
17 shall not take into consideration injuries covered under
18 paragraphs (c) and (e) of this Section and the compensation
19 provided in this paragraph shall not affect the employee's
20 right to compensation payable under paragraphs (b), (c) and (e)
21 of this Section for the disabilities therein covered.

22 (e) For accidental injuries in the following schedule, the
23 employee shall receive compensation for the period of temporary
24 total incapacity for work resulting from such accidental
25 injury, under subparagraph 1 of paragraph (b) of this Section,
26 and shall receive in addition thereto compensation for a

1 further period for the specific loss herein mentioned, but
2 shall not receive any compensation under any other provisions
3 of this Act. The following listed amounts apply to either the
4 loss of or the permanent and complete loss of use of the member
5 specified, such compensation for the length of time as follows:

6 1. Thumb-

7 70 weeks if the accidental injury occurs on or
8 after the effective date of this amendatory Act of the
9 94th General Assembly but before February 1, 2006.

10 76 weeks if the accidental injury occurs on or
11 after February 1, 2006.

12 2. First, or index finger-

13 40 weeks if the accidental injury occurs on or
14 after the effective date of this amendatory Act of the
15 94th General Assembly but before February 1, 2006.

16 43 weeks if the accidental injury occurs on or
17 after February 1, 2006.

18 3. Second, or middle finger-

19 35 weeks if the accidental injury occurs on or
20 after the effective date of this amendatory Act of the
21 94th General Assembly but before February 1, 2006.

22 38 weeks if the accidental injury occurs on or
23 after February 1, 2006.

24 4. Third, or ring finger-

25 25 weeks if the accidental injury occurs on or
26 after the effective date of this amendatory Act of the

1 94th General Assembly but before February 1, 2006.

2 27 weeks if the accidental injury occurs on or
3 after February 1, 2006.

4 5. Fourth, or little finger-

5 20 weeks if the accidental injury occurs on or
6 after the effective date of this amendatory Act of the
7 94th General Assembly but before February 1, 2006.

8 22 weeks if the accidental injury occurs on or
9 after February 1, 2006.

10 6. Great toe-

11 35 weeks if the accidental injury occurs on or
12 after the effective date of this amendatory Act of the
13 94th General Assembly but before February 1, 2006.

14 38 weeks if the accidental injury occurs on or
15 after February 1, 2006.

16 7. Each toe other than great toe-

17 12 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 13 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 8. The loss of the first or distal phalanx of the thumb
23 or of any finger or toe shall be considered to be equal to
24 the loss of one-half of such thumb, finger or toe and the
25 compensation payable shall be one-half of the amount above
26 specified. The loss of more than one phalanx shall be

1 considered as the loss of the entire thumb, finger or toe.
2 In no case shall the amount received for more than one
3 finger exceed the amount provided in this schedule for the
4 loss of a hand.

5 9. Hand-

6 190 weeks if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the
8 94th General Assembly but before February 1, 2006.

9 205 weeks if the accidental injury occurs on or
10 after February 1, 2006.

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

17 10. Arm-

18 235 weeks if the accidental injury occurs on or
19 after the effective date of this amendatory Act of the
20 94th General Assembly but before February 1, 2006.

21 253 weeks if the accidental injury occurs on or
22 after February 1, 2006.

23 Where an accidental injury results in the amputation of
24 an arm below the elbow, such injury shall be compensated as
25 a loss of an arm. Where an accidental injury results in the
26 amputation of an arm above the elbow, compensation for an

1 additional 15 weeks (if the accidental injury occurs on or
2 after the effective date of this amendatory Act of the 94th
3 General Assembly but before February 1, 2006) or an
4 additional 17 weeks (if the accidental injury occurs on or
5 after February 1, 2006) shall be paid, except where the
6 accidental injury results in the amputation of an arm at
7 the shoulder joint, or so close to shoulder joint that an
8 artificial arm cannot be used, or results in the
9 disarticulation of an arm at the shoulder joint, in which
10 case compensation for an additional 65 weeks (if the
11 accidental injury occurs on or after the effective date of
12 this amendatory Act of the 94th General Assembly but before
13 February 1, 2006) or an additional 70 weeks (if the
14 accidental injury occurs on or after February 1, 2006)
15 shall be paid.

16 11. Foot-

17 155 weeks if the accidental injury occurs on or
18 after the effective date of this amendatory Act of the
19 94th General Assembly but before February 1, 2006.

20 167 weeks if the accidental injury occurs on or
21 after February 1, 2006.

22 12. Leg-

23 200 weeks if the accidental injury occurs on or
24 after the effective date of this amendatory Act of the
25 94th General Assembly but before February 1, 2006.

26 215 weeks if the accidental injury occurs on or

1 after February 1, 2006.

2 Where an accidental injury results in the amputation of
3 a leg below the knee, such injury shall be compensated as
4 loss of a leg. Where an accidental injury results in the
5 amputation of a leg above the knee, compensation for an
6 additional 25 weeks (if the accidental injury occurs on or
7 after the effective date of this amendatory Act of the 94th
8 General Assembly but before February 1, 2006) or an
9 additional 27 weeks (if the accidental injury occurs on or
10 after February 1, 2006) shall be paid, except where the
11 accidental injury results in the amputation of a leg at the
12 hip joint, or so close to the hip joint that an artificial
13 leg cannot be used, or results in the disarticulation of a
14 leg at the hip joint, in which case compensation for an
15 additional 75 weeks (if the accidental injury occurs on or
16 after the effective date of this amendatory Act of the 94th
17 General Assembly but before February 1, 2006) or an
18 additional 81 weeks (if the accidental injury occurs on or
19 after February 1, 2006) shall be paid.

20 13. Eye-

21 150 weeks if the accidental injury occurs on or
22 after the effective date of this amendatory Act of the
23 94th General Assembly but before February 1, 2006.

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

26 Where an accidental injury results in the enucleation

1 of an eye, compensation for an additional 10 weeks (if the
2 accidental injury occurs on or after the effective date of
3 this amendatory Act of the 94th General Assembly but before
4 February 1, 2006) or an additional 11 weeks (if the
5 accidental injury occurs on or after February 1, 2006)
6 shall be paid.

7 14. Loss of hearing of one ear-

8 50 weeks if the accidental injury occurs on or
9 after the effective date of this amendatory Act of the
10 94th General Assembly but before February 1, 2006.

11 54 weeks if the accidental injury occurs on or
12 after February 1, 2006.

13 Total and permanent loss of hearing of both ears-

14 200 weeks if the accidental injury occurs on or
15 after the effective date of this amendatory Act of the
16 94th General Assembly but before February 1, 2006.

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

19 15. Testicle-

20 50 weeks if the accidental injury occurs on or
21 after the effective date of this amendatory Act of the
22 94th General Assembly but before February 1, 2006.

23 54 weeks if the accidental injury occurs on or
24 after February 1, 2006.

25 Both testicles-

26 150 weeks if the accidental injury occurs on or

1 after the effective date of this amendatory Act of the
2 94th General Assembly but before February 1, 2006.

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

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

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

18 (b) The percent of hearing loss, for purposes of
19 the determination of compensation claims for
20 occupational deafness, shall be calculated as the
21 average in decibels for the thresholds of hearing for
22 the frequencies of 1,000, 2,000 and 3,000 cycles per
23 second. Pure tone air conduction audiometric
24 instruments, approved by nationally recognized
25 authorities in this field, shall be used for measuring
26 hearing loss. If the losses of hearing average 30

1 decibels or less in the 3 frequencies, such losses of
2 hearing shall not then constitute any compensable
3 hearing disability. If the losses of hearing average 85
4 decibels or more in the 3 frequencies, then the same
5 shall constitute and be total or 100% compensable
6 hearing loss.

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

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

19 (e) No consideration shall be given to the question
20 of whether or not the ability of an employee to
21 understand speech is improved by the use of a hearing
22 aid.

23 (f) No claim for loss of hearing due to industrial
24 noise shall be brought against an employer or allowed
25 unless the employee has been exposed for a period of
26 time sufficient to cause permanent impairment to noise

1 levels in excess of the following:

2 Sound Level DBA

3	Slow Response	Hours Per Day
4	90	8
5	92	6
6	95	4
7	97	3
8	100	2
9	102	1-1/2
10	105	1
11	110	1/2
12	115	1/4

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

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

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

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

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

25 Beginning July 1, 1980, and every 6 months thereafter, the
26 Commission shall examine the Second Injury Fund and when, after

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

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

1 shall be resumed in the manner herein provided.

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

8 An employee entitled to benefits under paragraph (f) of
9 this Section shall also be entitled to receive from the Rate
10 Adjustment Fund provided in paragraph (f) of Section 7 of the
11 supplementary benefits provided in paragraph (g) of this
12 Section 8.

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

26 Disability as enumerated in subdivision 18, paragraph (e)

1 of this Section is considered complete disability.

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

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

22 In its award the Commission or the Arbitrator shall
23 specifically find the amount the injured employee shall be
24 weekly paid, the number of weeks compensation which shall be
25 paid by the employer, the date upon which payments begin out of
26 the Second Injury Fund provided for in paragraph (f) of Section

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

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

24 (g) Every award for permanent total disability entered by
25 the Commission on and after July 1, 1965 under which
26 compensation payments shall become due and payable after the

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

1 provided in the award or, at the option of the Commission, may
2 be made in quarterly payment on the 15th day of January, April,
3 July and October of each year. In the event of a decrease in
4 such average weekly wage there shall be no change in the then
5 existing compensation rate. The within paragraph shall not
6 apply to cases where there is disputed liability and in which a
7 compromise lump sum settlement between the employer and the
8 injured employee, or his dependents, as the case may be, has
9 been duly approved by the Illinois Workers' Compensation
10 Commission.

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

17 For every accident occurring on or after July 20, 2005 but
18 before the effective date of this amendatory Act of the 94th
19 General Assembly (Senate Bill 1283 of the 94th General
20 Assembly), the annual adjustments to the compensation rate in
21 awards for death benefits or permanent total disability, as
22 provided in this Act, shall be paid by the employer. The
23 adjustment shall be made by the employer on July 15 of the
24 second year next following the date of the entry of the award
25 and shall further be made on July 15 annually thereafter. If
26 during the intervening period from the date of the entry of the

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

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

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

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

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

23 However, where an employer has on file an employment
24 certificate issued pursuant to the Child Labor Law or work
25 permit issued pursuant to the Federal Fair Labor Standards Act,
26 as amended, or a birth certificate properly and duly issued,

1 such certificate, permit or birth certificate is conclusive
2 evidence as to the age of the injured minor employee for the
3 purposes of this Section.

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

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

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

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

21 3. The extension of time for the filing of an Application
22 for Adjustment of Claim as provided in paragraph 1 above shall
23 not apply to those cases where the time for such filing had
24 expired prior to the date on which payments or benefits
25 enumerated herein have been initiated or resumed. Provided
26 however that this paragraph 3 shall apply only to cases wherein

1 the payments or benefits hereinabove enumerated shall be
2 received after July 1, 1969.

3 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05;
4 94-695, eff. 11-16-05.)

5 Section 90. The State Mandates Act is amended by adding
6 Section 8.33 as follows:

7 (30 ILCS 805/8.33 new)

8 Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8
9 of this Act, no reimbursement by the State is required for the
10 implementation of any mandate created by this amendatory Act of
11 the 96th General Assembly.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law.