



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1676

Introduced 2/9/2011, by Sen. Wm. Sam McCann

SYNOPSIS AS INTRODUCED:

820 ILCS 305/19

from Ch. 48, par. 138.19

820 ILCS 305/25.5

Amends the Workers' Compensation Act. Provides that the Illinois Workers' Compensation Commission may recall a decision or settlement when fraud has been determined to be committed related to the case. Provides that the Commission shall implement a rule to establish a process for recalling a decision or settlement that is subject to recall due to fraud. Provides that the fraud and insurance non-compliance unit of the Department of Insurance shall employ one or more attorneys licensed to practice law in Illinois as special prosecutors who shall initiate and prosecute any necessary criminal or civil actions in any court or tribunal of competent jurisdiction in this State. Provides that the special prosecutors may also assist State's Attorneys in prosecuting violations of this Section, without charge to the county. Provides that when the Attorney General or a State's Attorney declines to prosecute a referral from the fraud and insurance non-compliance unit of an alleged violation of this Section, the Attorney General or the State's Attorney declining prosecution shall provide in writing a response to the unit within 30 days of such decision setting forth the reasons and basis for the decision. Provides that the unit shall provide the response to the employer.

LRB097 07108 AEK 47207 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

4 Section 5. The Workers' Compensation Act is amended by
5 changing Sections 19 and 25.5 as follows:

6 (820 ILCS 305/19) (from Ch. 48, par. 138.19)

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

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

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

21 2. Whenever any claimant misconceives his remedy and
22 files an application for adjustment of claim under the
23 Workers' Occupational Diseases Act and it is subsequently

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

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

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

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

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

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

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

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

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

1 days from the date that the Petition for Review is filed with
2 the Commission.

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

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

1 by the Arbitrator and Commission with all convenient speed.

2 Such petition shall contain the following information and
3 shall be served on the employer at least 15 days before it is
4 filed:

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

6 (ii) the approximate location of the accident;

7 (iii) a description of the accident;

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

9 (v) the identity of the person, if known, to whom the
10 accident was reported and the date on which it was
11 reported;

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

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

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

25 (ix) the dates of treatment related to the accident by
26 medical practitioners, and the names and addresses of such

1 practitioners, including the dates of treatment related to
2 the accident at any hospitals and the names and addresses
3 of such hospitals, and a signed authorization permitting
4 the employer to examine all medical records of all
5 practitioners and hospitals named pursuant to this
6 paragraph;

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

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

1 reproduction thereof;

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

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

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

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

1 The Commission shall adopt rules, regulations and
2 procedures whereby the final decision of the Commission is
3 filed not later than 90 days from the date the petition for
4 review is filed but in no event later than 180 days from the
5 date the petition for an emergency hearing is filed with the
6 Illinois Workers' Compensation Commission.

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

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

1 Society. The Commission shall establish procedures by which a
2 physician shall be selected from such list.

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

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

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

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

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

23 (d) If any employee shall persist in insanitary or
24 injurious practices which tend to either imperil or retard his
25 recovery or shall refuse to submit to such medical, surgical,
26 or hospital treatment as is reasonably essential to promote his

1 recovery, the Commission may, in its discretion, reduce or
2 suspend the compensation of any such injured employee. However,
3 when an employer and employee so agree in writing, the
4 foregoing provision shall not be construed to authorize the
5 reduction or suspension of compensation of an employee who is
6 relying in good faith, on treatment by prayer or spiritual
7 means alone, in accordance with the tenets and practice of a
8 recognized church or religious denomination, by a duly
9 accredited practitioner thereof.

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

19 In all cases in which the hearing before the arbitrator is
20 held after December 18, 1989, no additional evidence shall be
21 introduced by the parties before the Commission on review of
22 the decision of the Arbitrator. In reviewing decisions of an
23 arbitrator the Commission shall award such temporary
24 compensation, permanent compensation and other payments as are
25 due under this Act. The Commission shall file in its office its
26 decision thereon, and shall immediately send to each party or

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

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

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

12 At the request of either party or on its own motion, the
13 Commission shall set forth in writing the reasons for the
14 decision, including findings of fact and conclusions of law
15 separately stated. The Commission shall by rule adopt a format
16 for written decisions for the Commission and arbitrators. The
17 written decisions shall be concise and shall succinctly state
18 the facts and reasons for the decision. The Commission may
19 adopt in whole or in part, the decision of the arbitrator as
20 the decision of the Commission. When the Commission does so
21 adopt the decision of the arbitrator, it shall do so by order.
22 Whenever the Commission adopts part of the arbitrator's
23 decision, but not all, it shall include in the order the
24 reasons for not adopting all of the arbitrator's decision. When
25 a majority of a panel, after deliberation, has arrived at its
26 decision, the decision shall be filed as provided in this

1 Section without unnecessary delay, and without regard to the
2 fact that a member of the panel has expressed an intention to
3 dissent. Any member of the panel may file a dissent. Any
4 dissent shall be filed no later than 10 days after the decision
5 of the majority has been filed.

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

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

25 The Commission may recall a decision or settlement when
26 fraud has been determined to be committed related to the case.

1 The Commission shall implement a rule to establish a process
2 for recalling a decision or settlement that is subject to
3 recall due to fraud.

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

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

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

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

1 record and certified to by the Secretary or Assistant
2 Secretary thereof.

3 In its decision on review the Commission shall
4 determine in each particular case the amount of the
5 probable cost of the record to be filed as a part of the
6 summons in that case and no request for a summons may be
7 filed and no summons shall issue unless the party seeking
8 to review the decision of the Commission shall exhibit to
9 the clerk of the Circuit Court proof of payment by filing a
10 receipt showing payment or an affidavit of the attorney
11 setting forth that payment has been made of the sums so
12 determined to the Secretary or Assistant Secretary of the
13 Commission, except as otherwise provided by Section 20 of
14 this Act.

15 (2) No such summons shall issue unless the one against
16 whom the Commission shall have rendered an award for the
17 payment of money shall upon the filing of his written
18 request for such summons file with the clerk of the court a
19 bond conditioned that if he shall not successfully
20 prosecute the review, he will pay the award and the costs
21 of the proceedings in the courts. The amount of the bond
22 shall be fixed by any member of the Commission and the
23 surety or sureties of the bond shall be approved by the
24 clerk of the court. The acceptance of the bond by the clerk
25 of the court shall constitute evidence of his approval of
26 the bond.

1 Every county, city, town, township, incorporated
2 village, school district, body politic or municipal
3 corporation against whom the Commission shall have
4 rendered an award for the payment of money shall not be
5 required to file a bond to secure the payment of the award
6 and the costs of the proceedings in the court to authorize
7 the court to issue such summons.

8 The court may confirm or set aside the decision of the
9 Commission. If the decision is set aside and the facts
10 found in the proceedings before the Commission are
11 sufficient, the court may enter such decision as is
12 justified by law, or may remand the cause to the Commission
13 for further proceedings and may state the questions
14 requiring further hearing, and give such other
15 instructions as may be proper. Appeals shall be taken to
16 the Appellate Court in accordance with Supreme Court Rules
17 22(g) and 303. Appeals shall be taken from the Appellate
18 Court to the Supreme Court in accordance with Supreme Court
19 Rule 315.

20 It shall be the duty of the clerk of any court
21 rendering a decision affecting or affirming an award of the
22 Commission to promptly furnish the Commission with a copy
23 of such decision, without charge.

24 The decision of a majority of the members of the panel
25 of the Commission, shall be considered the decision of the
26 Commission.

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

24 Judgment shall not be entered until 15 days' notice of the
25 time and place of the application for the entry of judgment
26 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, or 60 months in the case of an award under
16 Section 8(d)1, after such agreement or award be reviewed by the
17 Commission at the request of either the employer or the
18 employee on the ground that the disability of the employee has
19 subsequently recurred, increased, diminished or ended.

20 On such review, compensation payments may be
21 re-established, increased, diminished or ended. The Commission
22 shall give 15 days' notice to the parties of the hearing for
23 review. Any employee, upon any petition for such review being
24 filed by the employer, shall be entitled to one day's notice
25 for each 100 miles necessary to be traveled by him in attending
26 the hearing of the Commission upon the petition, and 3 days in

1 addition thereto. Such employee shall, at the discretion of the
2 Commission, also be entitled to 5 cents per mile necessarily
3 traveled by him within the State of Illinois in attending such
4 hearing, not to exceed a distance of 300 miles, to be taxed by
5 the Commission as costs and deposited with the petition of the
6 employer.

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

11 (i) Each party, upon taking any proceedings or steps
12 whatsoever before any Arbitrator, Commission or court, shall
13 file with the Commission his address, or the name and address
14 of any agent upon whom all notices to be given to such party
15 shall be served, either personally or by registered mail,
16 addressed to such party or agent at the last address so filed
17 with the Commission. In the event such party has not filed his
18 address, or the name and address of an agent as above provided,
19 service of any notice may be had by filing such notice with the
20 Commission.

21 (j) Whenever in any proceeding testimony has been taken or
22 a final decision has been rendered and after the taking of such
23 testimony or after such decision has become final, the injured
24 employee dies, then in any subsequent proceedings brought by
25 the personal representative or beneficiaries of the deceased
26 employee, such testimony in the former proceeding may be

1 introduced with the same force and effect as though the witness
2 having so testified were present in person in such subsequent
3 proceedings and such final decision, if any, shall be taken as
4 final adjudication of any of the issues which are the same in
5 both proceedings.

6 (k) In case where there has been any unreasonable or
7 vexatious delay of payment or intentional underpayment of
8 compensation, or proceedings have been instituted or carried on
9 by the one liable to pay the compensation, which do not present
10 a real controversy, but are merely frivolous or for delay, then
11 the Commission may award compensation additional to that
12 otherwise payable under this Act equal to 50% of the amount
13 payable at the time of such award. Failure to pay compensation
14 in accordance with the provisions of Section 8, paragraph (b)
15 of this Act, shall be considered unreasonable delay.

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

20 (l) If the employee has made written demand for payment of
21 benefits under Section 8(a) or Section 8(b), the employer shall
22 have 14 days after receipt of the demand to set forth in
23 writing the reason for the delay. In the case of demand for
24 payment of medical benefits under Section 8(a), the time for
25 the employer to respond shall not commence until the expiration
26 of the allotted 60 days specified under Section 8.2(d). In case

1 the employer or his or her insurance carrier shall without good
2 and just cause fail, neglect, refuse, or unreasonably delay the
3 payment of benefits under Section 8(a) or Section 8(b), the
4 Arbitrator or the Commission shall allow to the employee
5 additional compensation in the sum of \$30 per day for each day
6 that the benefits under Section 8(a) or Section 8(b) have been
7 so withheld or refused, not to exceed \$10,000. A delay in
8 payment of 14 days or more shall create a rebuttable
9 presumption of unreasonable delay.

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

21 (n) After June 30, 1984, decisions of the Illinois Workers'
22 Compensation Commission reviewing an award of an arbitrator of
23 the Commission shall draw interest at a rate equal to the yield
24 on indebtedness issued by the United States Government with a
25 26-week maturity next previously auctioned on the day on which
26 the decision is filed. Said rate of interest shall be set forth

1 in the Arbitrator's Decision. Interest shall be drawn from the
2 date of the arbitrator's award on all accrued compensation due
3 the employee through the day prior to the date of payments.
4 However, when an employee appeals an award of an Arbitrator or
5 the Commission, and the appeal results in no change or a
6 decrease in the award, interest shall not further accrue from
7 the date of such appeal.

8 The employer or his insurance carrier may tender the
9 payments due under the award to stop the further accrual of
10 interest on such award notwithstanding the prosecution by
11 either party of review, certiorari, appeal to the Supreme Court
12 or other steps to reverse, vacate or modify the award.

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

22 The insured employer may challenge, in proceeding before
23 the Commission, payments made by the insurer without
24 arbitration and payments made after a case is determined to be
25 noncompensable. If the Commission finds that the case was not
26 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

1 acting within his or her powers under this subsection (p) in
2 the absence of fraud shall be conclusive. However, the
3 arbitrator may on his own motion, or the motion of either
4 party, correct any clerical errors or errors in computation
5 within 15 days after the date of receipt of such award of the
6 arbitrator and shall have the power to recall the original
7 award on arbitration, and issue in lieu thereof such corrected
8 award. The decision of the arbitrator under this subsection (p)
9 shall be considered the decision of the Commission and
10 proceedings for review of questions of law arising from the
11 decision may be commenced by either party pursuant to
12 subsection (f) of Section 19. The Advisory Board established
13 under Section 13.1 shall compile a list of certified Commission
14 arbitrators, each of whom shall be approved by at least 7
15 members of the Advisory Board. The chairman shall select 5
16 persons from such list to serve as arbitrators under this
17 subsection (p). By agreement, the parties shall select one
18 arbitrator from among the 5 persons selected by the chairman
19 except that if the parties do not agree on an arbitrator from
20 among the 5 persons, the parties may, by agreement, select an
21 arbitrator of the American Arbitration Association, whose fee
22 shall be paid by the State in accordance with rules promulgated
23 by the Commission. Arbitration under this subsection (p) shall
24 be voluntary.

25 (Source: P.A. 93-721, eff. 1-1-05; 94-277, eff. 7-20-05.)

1 (820 ILCS 305/25.5)

2 Sec. 25.5. Unlawful acts; penalties.

3 (a) It is unlawful for any person, company, corporation,
4 insurance carrier, healthcare provider, or other entity to:

5 (1) Intentionally present or cause to be presented any
6 false or fraudulent claim for the payment of any workers'
7 compensation benefit.

8 (2) Intentionally make or cause to be made any false or
9 fraudulent material statement or material representation
10 for the purpose of obtaining or denying any workers'
11 compensation benefit.

12 (3) Intentionally make or cause to be made any false or
13 fraudulent statements with regard to entitlement to
14 workers' compensation benefits with the intent to prevent
15 an injured worker from making a legitimate claim for any
16 workers' compensation benefits.

17 (4) Intentionally prepare or provide an invalid,
18 false, or counterfeit certificate of insurance as proof of
19 workers' compensation insurance.

20 (5) Intentionally make or cause to be made any false or
21 fraudulent material statement or material representation
22 for the purpose of obtaining workers' compensation
23 insurance at less than the proper rate for that insurance.

24 (6) Intentionally make or cause to be made any false or
25 fraudulent material statement or material representation
26 on an initial or renewal self-insurance application or

1 accompanying financial statement for the purpose of
2 obtaining self-insurance status or reducing the amount of
3 security that may be required to be furnished pursuant to
4 Section 4 of this Act.

5 (7) Intentionally make or cause to be made any false or
6 fraudulent material statement to the Department ~~Division~~
7 of Insurance's fraud and insurance non-compliance unit in
8 the course of an investigation of fraud or insurance
9 non-compliance.

10 (8) Intentionally assist, abet, solicit, or conspire
11 with any person, company, or other entity to commit any of
12 the acts in paragraph (1), (2), (3), (4), (5), (6), or (7)
13 of this subsection (a).

14 For the purposes of paragraphs (2), (3), (5), (6), and (7),
15 the term "statement" includes any writing, notice, proof of
16 injury, bill for services, hospital or doctor records and
17 reports, or X-ray and test results.

18 (b) Any person violating subsection (a) is guilty of a
19 Class 4 felony. Any person or entity convicted of any violation
20 of this Section shall be ordered to pay complete restitution to
21 any person or entity so defrauded in addition to any fine or
22 sentence imposed as a result of the conviction.

23 (c) The Department ~~Division~~ of Insurance ~~of the Department~~
24 ~~of Financial and Professional Regulation~~ shall establish a
25 fraud and insurance non-compliance unit responsible for
26 investigating incidences of fraud and insurance non-compliance

1 pursuant to this Section. The size of the staff of the unit
2 shall be subject to appropriation by the General Assembly. It
3 shall be the duty of the fraud and insurance non-compliance
4 unit to determine the identity of insurance carriers,
5 employers, employees, or other persons or entities who have
6 violated the fraud and insurance non-compliance provisions of
7 this Section and any prosecution thereof. The fraud and
8 insurance non-compliance unit shall report violations of the
9 fraud and insurance non-compliance provisions of this Section
10 to the Attorney General or to the State's Attorney of the
11 county in which the offense allegedly occurred, either of whom
12 has the authority to prosecute violations under this Section.

13 The fraud and insurance non-compliance unit shall employ
14 one or more attorneys licensed to practice law in Illinois as
15 special prosecutors who shall initiate and prosecute any
16 necessary criminal or civil actions in any court or tribunal of
17 competent jurisdiction in this State. The special prosecutors
18 may also assist State's Attorneys in prosecuting violations of
19 this Section, without charge to the county.

20 With respect to the subject of any investigation being
21 conducted, the fraud and insurance non-compliance unit shall
22 have the general power of subpoena of the Department ~~Division~~
23 of Insurance.

24 (d) Any person may report allegations of insurance
25 non-compliance and fraud pursuant to this Section to the
26 Department ~~Division~~ of Insurance's fraud and insurance

1 non-compliance unit whose duty it shall be to investigate the
2 report. The unit shall notify the Commission of reports of
3 insurance non-compliance. Any person reporting an allegation
4 of insurance non-compliance or fraud against either an employee
5 or employer under this Section must identify himself. Except as
6 provided in this subsection and in subsection (e), all reports
7 shall remain confidential except to refer an investigation to
8 the Attorney General or State's Attorney for prosecution or if
9 the fraud and insurance non-compliance unit's investigation
10 reveals that the conduct reported may be in violation of other
11 laws or regulations of the State of Illinois, the unit may
12 report such conduct to the appropriate governmental agency
13 charged with administering such laws and regulations. Any
14 person who intentionally makes a false report under this
15 Section to the fraud and insurance non-compliance unit is
16 guilty of a Class A misdemeanor.

17 (e) In order for the fraud and insurance non-compliance
18 unit to investigate a report of fraud by an employee, (i) the
19 employee must have filed with the Commission an Application for
20 Adjustment of Claim and the employee must have either received
21 or attempted to receive benefits under this Act that are
22 related to the reported fraud or (ii) the employee must have
23 made a written demand for the payment of benefits that are
24 related to the reported fraud. Upon receipt of a report of
25 fraud, the employee or employer shall receive immediate notice
26 of the reported conduct, ~~including the verified name and~~

1 ~~address of the complainant if that complainant is connected to~~
2 ~~the case and the nature of the reported conduct.~~ The fraud and
3 insurance non-compliance unit shall resolve all reports of
4 fraud against employees or employers within 120 days of receipt
5 of the report. There shall be no immunity, under this Act or
6 otherwise, for any person who files a false report or who files
7 a report without good and just cause. Confidentiality of
8 medical information shall be strictly maintained.
9 Investigations that are not referred for prosecution shall be
10 immediately expunged and shall not be disclosed except that the
11 employee or employer who was the subject of the report and the
12 person making the report shall be notified that the
13 investigation is being closed, at which time the name of any
14 complainant not connected to the case shall be disclosed to the
15 employee or the employer. When an investigation is referred for
16 prosecution the employee or employer who was the subject of the
17 report and the person making the report shall immediately be
18 notified that the investigation has been referred for
19 prosecution. It is unlawful for any employer, insurance
20 carrier, or service adjustment company to file or threaten to
21 file a report of fraud against an employee because of the
22 exercise by the employee of the rights and remedies granted to
23 the employee by this Act.

24 When the Attorney General or a State's Attorney declines to
25 prosecute a referral from the fraud and insurance
26 non-compliance unit of an alleged violation of this Section,

1 the Attorney General or the State's Attorney declining
2 prosecution shall provide in writing a response to the unit
3 within 30 days of such decision setting forth the reasons and
4 basis for the decision. The unit shall provide the response to
5 the employer.

6 For purposes of this subsection (e), "employer" means any
7 employer, insurance carrier, third party administrator,
8 self-insured, or similar entity.

9 For purposes of this subsection (e), "complainant" refers
10 to the person contacting the fraud and insurance non-compliance
11 unit to initiate the complaint.

12 (f) Any person convicted of fraud related to workers'
13 compensation pursuant to this Section shall be subject to the
14 penalties prescribed in the Criminal Code of 1961 and shall be
15 ineligible to receive or retain any compensation, disability,
16 or medical benefits as defined in this Act if the compensation,
17 disability, or medical benefits were owed or received as a
18 result of fraud for which the recipient of the compensation,
19 disability, or medical benefit was convicted. This subsection
20 applies to accidental injuries or diseases that occur on or
21 after the effective date of this amendatory Act of the 94th
22 General Assembly.

23 (f-1) The Department of Insurance shall post all of the
24 following information on its Internet Web site for each person
25 convicted of a violation of the unlawful actions provided in
26 this Section:

1 (1) The name, case number, county or court, and other
2 identifying information with respect to the case.

3 (2) The full name of the defendant.

4 (3) The city and county of the defendant's last known
5 residence or business address.

6 (4) The date of conviction.

7 (5) A description of the offense.

8 (6) The amount of money alleged to have been defrauded.

9 (7) A description of the punishment imposed, including
10 the length of any sentence of imprisonment and the amount
11 of any fine imposed.

12 The information required to be posted under this subsection
13 shall be maintained on the Department's Web site for a period
14 of 5 years from the date of conviction or until the Department
15 is notified in writing by the person that the conviction has
16 been reversed or expunged.

17 (g) Civil liability. Any person convicted of fraud who
18 knowingly obtains, attempts to obtain, or causes to be obtained
19 any benefits under this Act by the making of a false claim or
20 who knowingly misrepresents any material fact shall be civilly
21 liable to the payor of benefits or the insurer or the payor's
22 or insurer's subrogee or assignee in an amount equal to 3 times
23 the value of the benefits or insurance coverage wrongfully
24 obtained or twice the value of the benefits or insurance
25 coverage attempted to be obtained, plus reasonable attorney's
26 fees and expenses incurred by the payor or the payor's subrogee

1 or assignee who successfully brings a claim under this
2 subsection. This subsection applies to accidental injuries or
3 diseases that occur on or after the effective date of this
4 amendatory Act of the 94th General Assembly. This subsection
5 shall not bar any plaintiff from attempting to secure civil
6 remedies provided under this Section or any other law.

7 (h) All proceedings under this Section shall be reported by
8 the fraud and insurance non-compliance unit on an annual basis
9 to the Workers' Compensation Advisory Board.

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