



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB5715

by Rep. Brandon W. Phelps

SYNOPSIS AS INTRODUCED:

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| New Act | |
| 20 ILCS 5/5-145 | was 20 ILCS 5/5.03 |
| 20 ILCS 5/5-365 | was 20 ILCS 5/9.03 |
| 745 ILCS 49/75 | |
| 820 ILCS 220/Act rep. | |
| 820 ILCS 225/Act rep. | |
| 820 ILCS 305/6 | from Ch. 48, par. 138.6 |
| 820 ILCS 305/19 | from Ch. 48, par. 138.19 |
| 820 ILCS 310/3 | from Ch. 48, par. 172.38 |
| 820 ILCS 310/6 | from Ch. 48, par. 172.41 |

Creates the Occupational Safety and Health Act, to be administered by the Department of Labor. Provides that the Act applies to public employers. Provides for occupational safety and health standards to be adopted by the Department of Labor, including emergency temporary standards, and for temporary or permanent variances from those standards. Provides for the issuance of a citation by the Director of Labor for a violation of the Act, and provides for administrative and judicial review. Provides for civil and criminal penalties. Provides for the confidentiality of trade secrets. Contains other provisions. Repeals the Safety Inspection and Education Act and the Health and Safety Act. Amends other Acts to make conforming changes.

LRB098 16082 DRJ 55661 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

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 1. Short title. This Act may be cited as the
5 Occupational Safety and Health Act.

6 Section 2. References to prior Acts. On and after the
7 effective date of this Act, a reference to the Safety
8 Inspection and Education Act or the Health and Safety Act in
9 any other Act or in any rule contained in the Illinois
10 Administrative Code shall be deemed to be a reference to this
11 Act.

12 Section 5. Definitions. In this Act:

13 "Department" means the Department of Labor.

14 "Director" means the Director of Labor.

15 "Division" means the Division of Occupational Safety and
16 Health within the Department of Labor.

17 "Employee" means a person in the service of any of the
18 following entities, regardless of whether the service is by
19 virtue of election, by appointment or contract, or by hire, and
20 regardless of whether the relationship is express or implied or
21 established orally or in writing:

22 (1) The State. For purposes of this paragraph (1), the

1 term includes a member of the General Assembly, a member of
2 the Illinois Commerce Commission, a member of the Illinois
3 Workers' Compensation Commission, and any person in the
4 service of a public university or college in Illinois.

5 (2) An Illinois county. For purposes of this paragraph
6 (2), the term includes a deputy sheriff and an assistant
7 State's Attorney.

8 (3) An Illinois township.

9 (4) An Illinois city, village, incorporated town,
10 school district, or other municipal corporation or body
11 politic.

12 "Public employer" or "employer" means the State of Illinois
13 or any political subdivision of the State.

14 Section 10. Administration of Act; Division of
15 Occupational Safety and Health.

16 (a) The Department shall administer this Act. For the
17 purpose of assisting in the administration of this Act, the
18 Director may authorize his or her representatives in the
19 Department to perform any necessary inspections or
20 investigations under this Act.

21 (b) The Department shall maintain a division within the
22 Department to be known as the Division of Occupational Safety
23 and Health.

24 Section 15. Application of Act. This Act applies to every

1 public employer in this State and its employees. Nothing in
2 this Act, however, applies to working conditions of employees
3 with respect to which federal agencies, and State agencies
4 acting under Section 274 of the Atomic Energy Act of 1954 (42
5 U.S.C. 2021), exercise statutory authority to prescribe or
6 enforce standards or regulations affecting occupational safety
7 and health. Any State regulations more strict than applicable
8 federal standards shall, before being promulgated, be the
9 subject of hearings as required by this Act.

10 Section 20. Duties of employers and employees.

11 (a) Every public employer must provide reasonable
12 protection to the lives, health, and safety of its employees
13 and must furnish to each of its employees employment and a
14 workplace which are free from recognized hazards that cause or
15 are likely to cause death or serious physical harm to its
16 employees.

17 (b) Every public employer must comply with the occupational
18 safety and health standards promulgated under this Act.

19 (c) Every public employer must keep its employees informed
20 of their protections and obligations under this Act, including
21 the provisions of applicable standards or rules adopted under
22 this Act.

23 (d) Every public employer must furnish its employees with
24 information regarding hazards in the workplace, including
25 information about suitable precautions, relevant symptoms, and

1 emergency treatment.

2 (e) Every employee must comply with the rules that are
3 promulgated from time to time by the Director under this Act
4 and that are applicable to the employee's actions and conduct.

5 Section 25. Occupational safety and health standards.

6 (a) All federal occupational safety and health standards
7 which the United States Secretary of Labor has promulgated or
8 modified in accordance with the federal Occupational Safety and
9 Health Act of 1970 and which are in effect on the effective
10 date of this Act shall be and are hereby made rules of the
11 Department unless the Director promulgates an alternate
12 standard that is at least as effective in providing safe and
13 healthful employment and places of employment as a federal
14 standard. Before developing and adopting an alternate standard
15 or modifying or revoking an existing standard, the Director
16 must consider factual information that includes:

17 (1) Expert technical knowledge.

18 (2) Input from interested persons, including
19 employers, employees, recognized standards-producing
20 organizations, and the public.

21 (b) All federal occupational safety and health standards
22 which the United States Secretary of Labor promulgates or
23 modifies in accordance with the federal Occupational Safety and
24 Health Act of 1970 on or after the effective date of this Act,
25 unless revoked by the Secretary of Labor, shall become rules of

1 the Department within 6 months after their federal promulgation
2 date, unless there has been in effect in this State at the time
3 of the promulgation or modification of the federal standard an
4 alternate State standard that is at least as effective in
5 providing safe and healthful employment and places of
6 employment as a federal standard. The alternate State standard
7 shall not become effective, however, unless the Department,
8 within 45 days after the federal promulgation date, files with
9 the office of the Secretary of State in Springfield, Illinois,
10 a certified copy of the rule as provided in the Illinois
11 Administrative Procedure Act.

12 Section 30. Standards; required features.

13 (a) A standard promulgated under this Act shall prescribe
14 the use of labels or other appropriate forms of warning as are
15 necessary to ensure that employees are apprised of all hazards
16 to which they are exposed, relevant symptoms and appropriate
17 emergency treatment, and proper conditions and precautions of
18 safe use or exposure.

19 (b) When appropriate, a standard shall also prescribe
20 suitable protective equipment and control or technological
21 procedures to be used in connection with such hazards and shall
22 provide for monitoring or measuring employee exposure at
23 locations and intervals and in a manner as necessary for the
24 protection of employees.

25 (c) In addition, when appropriate, a standard shall

1 prescribe the type and frequency of medical examinations or
2 other tests which shall be made available, by the employer or
3 at the employer's cost, to employees exposed to such hazards in
4 order to most effectively determine whether the health of the
5 employees is adversely affected by the exposure. The results of
6 the examinations or tests shall be furnished by the employer
7 only to the Department or, at the direction of the Department,
8 to authorized medical personnel and, at the request of the
9 employee, to the employee's physician.

10 (d) The Director, in promulgating standards dealing with
11 toxic materials or harmful physical agents under this Section,
12 shall set the standard which most adequately ensures, to the
13 extent feasible, on the basis of the best available evidence,
14 that no employee will suffer material impairment of health or
15 functional capacity even if the employee has regular exposure
16 to the hazard dealt with by the standard for the period of the
17 employee's working life.

18 (e) Development of standards under this Section shall be
19 based on research, demonstrations, experiments, and other
20 information as appropriate. In addition to the attainment of
21 the highest degree of health and safety protection for the
22 employee, other considerations shall be the latest available
23 scientific data in the field, the feasibility of the standards,
24 and experience gained under this and other health and safety
25 laws. Whenever practicable, a standard shall be expressed in
26 terms of objective criteria and of the performance desired.

1 Section 35. Emergency temporary standards.

2 (a) The Director may promulgate emergency temporary
3 standards or rules, or both, to take effect immediately by
4 filing the proposed standard with the Secretary of State,
5 provided that the Director first expressly determines the
6 following:

7 (1) Employees are exposed to grave danger from exposure
8 to substances or agents determined to be toxic or
9 physically harmful or from new hazards.

10 (2) The emergency temporary standard is necessary to
11 protect the employees from the danger described in
12 paragraph (1).

13 (b) The Director shall adopt emergency temporary standards
14 promulgated by the federal Occupational Safety and Health
15 Administration within 30 days of the federal notice of proposed
16 emergency rulemaking. An emergency temporary standard shall be
17 effective until superseded by a permanent standard but in no
18 event for more than 6 months from the date of publication of
19 the emergency temporary standard. The publication of emergency
20 temporary standards shall be deemed to be a petition to the
21 Director for the promulgation of a permanent standard and shall
22 be deemed to be filed with the Director on the date of
23 publication. The proceeding for promulgation of the permanent
24 standard shall be pursued in accordance with this Act.

1 Section 40. Variance from standards. The Director may grant
2 a temporary or permanent variance from a State occupational
3 safety and health standard upon application by a public
4 employer to the Director. The Director may grant a variance
5 from a standard or portion of a standard if the Director
6 determines that the variance is necessary to permit an employer
7 to participate in an experiment approved by the Director
8 designed to demonstrate or validate new and improved techniques
9 to safeguard the health or safety of workers. A variance from a
10 State occupational safety and health standard may only have
11 future effect.

12 Section 45. Temporary variance.

13 (a) A public employer may apply to the Director for a
14 temporary variance from an occupational safety and health
15 standard promulgated under this Act. The Director shall issue a
16 temporary variance only if the employer first files with the
17 Director an application which meets the requirements of this
18 Section.

19 (b) An application for a temporary variance under this
20 Section shall contain all of the following:

21 (1) A specification of the standard or portion thereof
22 from which the employer seeks a variance.

23 (2) A representation by the employer, supported by
24 representations from qualified persons having first-hand
25 knowledge of the facts represented, that the employer is

1 unable to comply with the standard or portion thereof, and
2 a detailed statement of the reasons therefor.

3 (3) A statement of the steps the employer has taken and
4 will take to protect employees against a hazard covered by
5 the standard, including specific dates on which or by which
6 the employer has taken or will take those steps.

7 (4) A statement specifying the date by which the
8 employer expects to be able to comply with the standard.

9 (5) A certification that the employer has informed its
10 employees of the application by giving a copy of the
11 application to the employees' authorized representative,
12 by posting a statement at the place or places where notices
13 to employees are normally posted that summarizes the
14 application and specifies where a copy may be examined, and
15 by other appropriate means as determined by the employer.
16 The information provided to employees shall also inform
17 them of their right to petition the Director for a hearing
18 on the application.

19 (c) An application for a temporary variance under this
20 Section shall establish all of the following:

21 (1) The employer is unable to comply with a standard by
22 its effective date because professional or technical
23 personnel or materials and equipment needed to comply with
24 the standard are unavailable or because necessary
25 construction or alteration of facilities cannot be
26 completed by the effective date of the standard.

1 (2) The employer is taking all available steps to
2 safeguard its employees against the hazards covered by the
3 standard.

4 (3) The employer has an effective program for complying
5 with the standard as quickly as practicable.

6 (d) The Director may issue a temporary variance only after
7 the Department provides notice to the employer's employees and
8 an opportunity for a hearing. However, in a case involving only
9 documentary evidence in support of the application for a
10 temporary variance and in which no objection is made or hearing
11 requested by the employees or their representative, the
12 Director may issue a temporary variance in accordance with this
13 Act without a hearing.

14 (e) If a hearing is requested on an application for a
15 temporary variance, the application shall be heard and
16 determined by the Director.

17 (f) A temporary variance issued under this Section shall
18 prescribe the practices, means, methods, operations, and
19 processes which the employer must adopt and use while the
20 temporary variance is in effect and shall state in detail the
21 employer's program for achieving compliance with the standard.

22 Section 50. Permanent variance.

23 (a) A public employer affected by an occupational safety
24 and health standard promulgated under this Act may apply to the
25 Director for a permanent variance from that standard. The form

1 and manner of the application shall be as provided in rules.

2 (b) Employees affected by a standard from which their
3 employer has applied for a variance under this Section shall be
4 given notice of the employer's application and an opportunity
5 to participate in a hearing on the application.

6 (c) The Director shall issue a permanent variance if he or
7 she determines on the record, after opportunity for an
8 inspection where appropriate as determined by the Department
9 and a hearing, that the employer has demonstrated by a
10 preponderance of the evidence that the conditions, practices,
11 means, methods, operations, or processes used or proposed to be
12 used by the employer will provide employment and places of
13 employment to its employees which are as safe and healthful as
14 those which would prevail if the employer complied with the
15 standard. The variance shall prescribe the conditions the
16 employer must maintain, and the practices, means, methods,
17 operations, and processes which the employer must adopt and
18 utilize, to the extent they differ from the standard in
19 question.

20 (d) A variance issued under this Section may be modified or
21 revoked upon application by the employer, by the employees, or
22 by the Director on his or her own motion, in the manner
23 prescribed for the issuance of a variance under this Section at
24 any time after 6 months from the issuance of the variance.

25 Section 55. Rules generally.

1 (a) The Director, from time to time, shall promulgate rules
2 that clearly describe the persons to whom those rules apply and
3 that clearly describe the conduct that is required of those
4 persons. Each such rule shall, by its terms, be uniform and
5 general in its application wherever the subject matter of the
6 rule exists in any workplace having employees in the service of
7 a public employer. The rules may include rules that, when
8 applicable to products which are distributed or used in
9 interstate commerce, are required by compelling local
10 conditions and do not unduly burden interstate commerce.

11 (b) Any standards or rules promulgated by the Director
12 under the Safety Inspection and Education Act or the Health and
13 Safety Act that are in full force on the effective date of this
14 Act shall become the rules of the Department under this Act.
15 This Act does not affect the legality of any such rules in the
16 Illinois Administrative Code.

17 (c) Any proposed standards or rules filed with the
18 Secretary of State by the Director under the Safety Inspection
19 and Education Act or the Health and Safety Act that are pending
20 in the rulemaking process on the effective date of this Act
21 shall be deemed to have been filed by the Director under this
22 Act.

23 (d) As soon as practicable after the effective date of this
24 Act, the Director shall revise and clarify the standards or
25 rules described in subsections (b) and (c) as necessary to
26 reflect the provisions of this Act.

1 Section 60. Employers' records.

2 (a) The Director shall adopt rules requiring public
3 employers to maintain accurate records of, and to make reports
4 on, work-related deaths, injuries, and illnesses, other than
5 minor injuries requiring only first aid treatment which do not
6 involve medical treatment, loss of consciousness, restriction
7 of work or motion, or transfer to another job. The rules shall
8 specifically include all of the reporting provisions of Section
9 6 of the Workers' Compensation Act and Section 6 of the
10 Workers' Occupational Diseases Act. The records shall be
11 available to any State agency requiring such information.

12 (b) The Director shall adopt rules requiring public
13 employers to maintain accurate records of employee exposures to
14 potentially toxic materials or harmful physical agents which
15 are required to be monitored or measured under this Act. The
16 rules shall provide employees or their authorized
17 representative with an opportunity to observe the monitoring or
18 measuring, and to have access to the records of the monitoring
19 or measuring. The rules shall provide appropriate means by
20 which each employee or former employee may have access to such
21 records as will indicate his or her exposure to toxic materials
22 or harmful physical agents.

23 (c) A public employer shall promptly notify any employee
24 who has been or is being exposed to toxic materials or harmful
25 physical agents in concentrations or at levels which exceed

1 those prescribed by an occupational safety and health standard
2 and shall inform the employee who is being thus exposed of the
3 action being taken by the employer to correct such exposure.

4 Section 65. Periodic inspection of workplaces.

5 (a) The Director shall enforce the occupational safety and
6 health standards and rules promulgated under this Act and any
7 occupational health and safety regulations relating to
8 inspection of places of employment, and shall visit and
9 inspect, as often as practicable, the places of employment
10 covered by this Act.

11 (b) The Director or his or her authorized representative,
12 upon presenting appropriate credentials to a public employer's
13 agent in charge, has the right to enter and inspect all places
14 of employment covered by this Act as follows:

15 (1) An inspector may enter without delay and at
16 reasonable times any establishment, construction site, or
17 other area, workplace, or environment where work is
18 performed by an employee of a public employer, in order to
19 enforce the occupational safety and health standards
20 adopted under this Act.

21 (2) If a public employer refuses entry to an inspector
22 upon being presented with proper credentials or allows
23 entry but then refuses to permit or hinders the inspection
24 in any way, the inspector shall leave the premises and
25 immediately report the refusal to authorized management

1 within the Division. Authorized management shall notify
2 the Director to initiate the compulsory legal process to
3 obtain entry or obtain a warrant for entry, or both.

4 (3) An inspector may inspect and investigate during
5 regular working hours and at other reasonable times, and
6 within reasonable limits and in a reasonable manner, any
7 workplace described in paragraph (1) and all pertinent
8 conditions, structures, machines, apparatus, devices,
9 equipment, and materials therein, and to question
10 privately the employer or any agent or employee of the
11 employer.

12 (4) The owner, operator, manager, or lessee of any
13 workplace covered by this Act, and his or her agent or
14 employee, and any employer affected by this Act shall, when
15 requested by the Division of Occupational Safety and Health
16 or any duly authorized agent of that Division: (i) furnish
17 any information in his or her possession or under his or
18 her control which the Department is authorized to require,
19 (ii) answer truthfully all questions required to be put to
20 him or her, and (iii) cooperate in the making of a proper
21 inspection.

22 Section 70. Inspection of workplace upon complaint.

23 (a) An employee or representative of employees who believes
24 that a violation of an occupational safety and health standard
25 exists in a workplace covered by this Act or that an imminent

1 danger exists in such a place may request an inspection by
2 submitting a written complaint to the Director or his or her
3 authorized representative setting forth with reasonable
4 particularity the grounds for the complaint. The complaint
5 shall be signed by the employee or representative.

6 (b) If the Director or the Director's authorized
7 representative determines there are no reasonable grounds to
8 believe that a violation or imminent danger exists, he or she
9 shall notify the employee or representative of employees of
10 that determination in writing.

11 (c) If, upon receipt of the complaint, the Director or his
12 or her authorized representative determines there are
13 reasonable grounds to believe that a violation or imminent
14 danger exists, he or she shall make a special inspection of the
15 workplace in accordance with this Act as soon as practicable,
16 to determine whether a violation or imminent danger exists.

17 (d) A copy of the complaint shall be provided to the public
18 employer or its agent by the Director or his or her authorized
19 representative at the time of the inspection, except that, upon
20 the request of the person making the complaint, that person's
21 name and the names of individual employees referred to in the
22 complaint shall not appear in the copy or on any record
23 published, released, or made available by the Director or his
24 or her authorized representative.

25 (e) Nonformal safety and health complaints shall be handled
26 by an authorized representative of the Director. Based on the

1 severity and legitimacy of the complaint as determined by the
2 Division, the Director's authorized representative shall
3 either schedule an inspection of the workplace or issue a
4 letter to the employer stating the allegations set forth in the
5 complaint.

6 Section 75. Opportunity to accompany inspection. Subject
7 to rules adopted by the Director, a representative of the
8 employer and a representative authorized by the employer's
9 employees shall be given an opportunity to accompany the
10 Director or his or her authorized representative during the
11 physical inspection of any workplace under this Act for the
12 purpose of aiding the inspection. If there is no authorized
13 employee representative, the Director or his or her authorized
14 representative shall consult with a reasonable number of
15 employees concerning matters of occupational safety and health
16 in the workplace.

17 Section 80. Violation of Act or standard; citation.

18 (a) Upon inspection or investigation of a workplace, if the
19 Director or his or her authorized representative believes that
20 a public employer has violated a requirement of this Act or a
21 standard, rule, or regulation promulgated under this Act, he or
22 she shall with reasonable promptness issue a citation to the
23 employer. A citation shall: (i) be in writing, (ii) describe
24 with particularity the nature of the violation and include a

1 reference to the provision of the Act, standard, rule, or
2 regulation alleged to have been violated, and (iii) fix a
3 reasonable time for the abatement of the violation.

4 (b) Each citation issued under this Section, or a copy or
5 copies thereof, shall be prominently posted at or near the
6 place at which the violation occurred as prescribed in rules
7 adopted by the Director.

8 (c) A citation shall be served on the employer or the
9 employer's agent by delivering a copy to the person upon whom
10 the service is to be had, or by leaving a copy at his or her
11 usual place of business or abode, or by sending a copy by
12 certified mail to his or her place of business.

13 (d) A citation may not be issued under this Section after
14 the expiration of 6 months following the occurrence of any
15 violation.

16 Section 85. Civil penalties.

17 (a) After an inspection of a workplace under this Act, if
18 the Director issues a citation, he or she shall within 5 days
19 after issuing the citation notify the employer by certified
20 mail of any civil penalty proposed to be assessed for the
21 violation set forth in the citation.

22 (b) If the Director has reason to believe that an employer
23 has failed to correct a violation for which a citation has been
24 issued within the period permitted for its correction, the
25 Director shall notify the employer by certified mail of that

1 failure and of the civil penalty proposed to be assessed for
2 that failure.

3 (c) Civil penalties authorized under this Section are as
4 follows:

5 (1) A public employer that repeatedly violates this
6 Act, the Safety Inspection and Education Act, or the Health
7 and Safety Act, or any combination of those Acts, or any
8 standard, rule, regulation, or order under any of those
9 Acts, may be assessed a civil penalty of not more than
10 \$10,000 per violation.

11 (2) A public employer that intentionally violates this
12 Act, the Safety Inspection and Education Act, or the Health
13 and Safety Act, or any standard, rule, regulation, or order
14 under any of those Acts, or who demonstrates plain
15 indifference to any provision of any of those Acts or any
16 such standard, rule, regulation, or order, may be assessed
17 a civil penalty of not more than \$10,000.

18 (3) A public employer that has received a citation for
19 a serious violation of this Act, the Safety Inspection and
20 Education Act, or the Health and Safety Act, or any
21 standard, rule, regulation, or order under any of those
22 Acts, may be assessed a civil penalty up to \$1,000 for each
23 such violation.

24 (4) A public employer that has received a citation for
25 a violation of this Act, the Safety Inspection and
26 Education Act, or the Health and Safety Act, or any

1 standard, rule, regulation, or order under any of those
2 Acts, which is not a serious violation, may be assessed a
3 civil penalty of up to \$1,000 for each such violation.

4 (5) A public employer that violates a posting
5 requirement is subject to the following citations and
6 proposed penalty structure:

7 (A) Job Safety and Health Poster: an other than
8 serious citation and a proposed penalty of \$1,000.

9 (B) Annual Summary of Work-Related Injuries and
10 Illnesses (OSHA Form 300A): an other than serious
11 citation and a proposed penalty of \$1,000, even if
12 there are no recordable injuries or illnesses.

13 (C) Citation: an other than serious citation and a
14 proposed penalty of \$1,000.

15 (6) A public employer that fails to correct a violation
16 for which a citation has been issued within the period
17 permitted may be assessed a civil penalty of up to \$1,000
18 for each day the violation continues.

19 (d) For purposes of this Section, a "serious violation"
20 shall be deemed to exist in a workplace if there is a
21 substantial probability that death or serious physical harm
22 could result from (i) a condition which exists or (ii) one or
23 more practices, means, methods, operations, or processes which
24 have been adopted or are in use in the workplace, unless the
25 employer did not know and could not, with the exercise of
26 reasonable diligence, have known of the presence of the

1 violation.

2 (e) The Director may assess civil penalties as provided in
3 this Section, giving due consideration to the appropriateness
4 of the penalty. A penalty may be reduced by the Director or the
5 Director's authorized representative based on the public
6 employer's good faith, size of business, and history of
7 previous violations.

8 (f) The Attorney General may bring an action in the circuit
9 court to enforce the collection of any civil penalty assessed
10 under this Act.

11 (g) All civil penalties collected under this Act shall be
12 deposited into the General Revenue Fund of the State of
13 Illinois.

14 Section 90. Informal review.

15 (a) A public employer may submit in writing data relating
16 to the abatement of a hazard to be considered by an authorized
17 representative of the Director. The authorized representative
18 shall notify the interested parties if such data will be used
19 to modify an abatement order.

20 (b) Within 15 working days after receiving a citation,
21 proposed assessment of a civil penalty, or notice of failure to
22 correct a violation, a public employer or the employer's agent
23 may request that an authorized representative of the Director
24 review abatement dates, reclassify violations (such as willful
25 to serious, serious to other than serious), or modify or

1 withdraw a penalty, a citation, or a citation item, or any
2 combination of those, if the employer presents evidence during
3 the informal conference which convinces the authorized
4 representative that the changes are justified.

5 Section 95. Request for hearing.

6 (a) Within 15 working days after receiving a citation,
7 proposed assessment of a civil penalty, or notice of failure to
8 correct a violation, a public employer or the employer's agent,
9 manager, or superintendent may request in writing a hearing
10 before the Director to contest the citation, assessment of a
11 civil penalty, or notice of failure to correct a violation.

12 (b) If, within 15 working days after receiving a citation
13 and notice of penalty or notice of failure to correct a
14 violation issued by the Director, the employer fails to notify
15 the Director that it intends to contest the citation,
16 assessment of a civil penalty, or notice of failure to correct
17 a violation, and if no notice requesting a hearing is filed by
18 an employee or employee representative under subsection (c)
19 within that time, the citation, assessment of a civil penalty,
20 or notice of failure to correct a violation shall be deemed a
21 final order and not subject to review by any court or agency.

22 (c) Within 15 working days after the issuance of a citation
23 under Section 80, an employee or representative of an employee
24 may file a request in writing for a hearing before the Director
25 to contest the citation on the ground that the period of time

1 fixed in the citation for the abatement of the violation
2 identified in the citation is unreasonable.

3 Section 100. Hearing.

4 (a) If a public employer or the employer's representative
5 notifies the Director that the employer intends to contest a
6 citation and notice of penalty or if, within 15 working days
7 after the issuance of the citation, an employee or
8 representative of employees files a notice with the Director
9 alleging that the period of time fixed in the citation for the
10 abatement of the violation is unreasonable, the Director shall
11 afford an opportunity for a hearing before an Administrative
12 Law Judge designated by the Director.

13 (b) At the hearing, the employer or employee shall state
14 his or her objections to the citation and provide evidence why
15 the citation should not stand as issued. The Director or his or
16 her representative shall be given the opportunity to state his
17 or her reasons for issuing the citation. Affected employees
18 shall be provided an opportunity to participate as parties to
19 hearings under the rules of procedure prescribed by the
20 Director (56 Ill. Admin. Code, Part 120).

21 (c) The Director, or the Administrative Law Judge on behalf
22 of the Director, has the power to do the following:

23 (1) Issue subpoenas for and compel the attendance of
24 witnesses.

25 (2) Hear testimony and receive evidence.

1 (3) Order testimony of a witness residing within or
2 without this State to be taken by deposition in the manner
3 prescribed by law for depositions in civil cases in the
4 circuit court in any proceeding pending before him or her
5 at any stage of such proceeding.

6 (d) Subpoenas and commissions to take testimony shall be
7 under seal of the Director. Service of subpoenas may be made by
8 a sheriff or any other person.

9 (e) The circuit court for the county where any hearing is
10 pending may compel the attendance of witnesses, the production
11 of pertinent books, papers, records, or documents, and the
12 giving of testimony before the Director or an Administrative
13 Law Judge by an attachment proceeding, as for contempt, in the
14 same manner as the production of evidence may be compelled
15 before the court.

16 (f) The Administrative Law Judge on behalf of the Director,
17 after considering the evidence presented at the formal hearing,
18 in accordance with the Director's rules, shall enter a final
19 decision and order within a reasonable time affirming,
20 modifying, or vacating the citation or proposed assessment of a
21 civil penalty, or directing other appropriate relief.

22 Section 105. Judicial review.

23 (a) Any party adversely affected by a final order or
24 determination of the Administrative Law Judge on behalf of the
25 Director may obtain judicial review of that order or

1 determination by filing a complaint for review within 35 days
2 after the entry of the order or other final action complained
3 of, pursuant to the Administrative Review Law. If no appeal is
4 taken within 35 days after the order or determination is
5 issued, the order shall become final.

6 (b) A request for judicial review filed under this Section
7 shall be heard expeditiously.

8 Section 110. Discrimination against employee prohibited.

9 (a) A person may not discharge or in any way discriminate
10 against an employee because the employee has: (i) filed a
11 complaint or instituted or caused to be instituted any
12 proceeding under this Act, (ii) testified or is about to
13 testify in any such proceeding, or (iii) exercised, on his or
14 her own behalf or on behalf of another person, any right
15 afforded by this Act.

16 (b) An employee who believes that he or she has been
17 discharged or otherwise discriminated against by an employer in
18 violation of this Section may, within 30 calendar days after
19 the violation occurs, file a complaint with the Director
20 alleging the discrimination.

21 (c) Upon receipt of the complaint, the Director shall cause
22 an investigation to be made as the Director deems appropriate.
23 After the investigation, if the Director determines that the
24 employer has violated this Section, the Director shall bring an
25 action in the circuit court for appropriate relief, including

1 rehiring or reinstatement of the employee to his or her former
2 position with back pay, after taking into account any interim
3 earnings of the employee.

4 Section 115. Abatement of imminent danger.

5 (a) Whenever the Director determines that an imminent
6 danger exists in the working conditions of any public employee
7 in this State, and that the danger may reasonably be expected
8 to cause death or serious physical harm immediately or before
9 the imminence of the danger can be eliminated through the
10 enforcement procedures otherwise provided by this Act, the
11 Director may file a complaint in the circuit court for
12 appropriate relief, including an order that may require steps
13 to be taken as necessary to abate, avoid, correct, or remove
14 the imminent danger and prohibit the employment or presence of
15 any individual in locations or under conditions where the
16 imminent danger exists, except those individuals whose
17 presence is necessary to abate, avoid, correct, or remove the
18 imminent danger or to maintain the capacity of a continuous
19 process operation to assume normal operations without a
20 complete cessation of operations, or, if a cessation of
21 operations is necessary, to permit the cessation to be
22 accomplished in a safe and orderly manner.

23 (b) If an inspector concludes that an imminent danger
24 exists in any workplace, the inspector shall promptly inform
25 the affected employees or their authorized representative and

1 the employer of the danger and that the inspector will
2 recommend to the Director that relief be sought as provided in
3 subsection (a).

4 (c) If the Director arbitrarily or capriciously fails to
5 seek relief under subsection (a) after receiving an inspector's
6 recommendation under subsection (b), an employee who is injured
7 by reason of such failure, or the representative of the
8 employee, may bring an action against the Director in the
9 circuit court for the county in which the imminent danger is
10 alleged to exist or in which the employer has his or her
11 principal office, for relief by mandamus to compel the Director
12 to seek relief under subsection (a) and for such further relief
13 as may be appropriate.

14 Section 120. Criminal penalties.

15 (a) Willful violation. A public employer that willfully
16 violates any provision of this Act or any standard, rule,
17 regulation, or order under this Act commits a Class 4 felony if
18 that violation causes the death of any employee.

19 (b) Advance notice of inspection. A person who gives
20 advance notice to a public employer of any inspection to be
21 conducted under this Act, without authority from the Director
22 or the Director's authorized representative, commits a Class B
23 misdemeanor.

24 (c) False statement. A person who knowingly makes a false
25 statement, representation, or certification in any

1 application, record, report, plan, or other document required
2 under this Act, or any standard, rule, regulation, or order
3 adopted or issued under this Act, commits a Class 4 felony.

4 Section 125. Confidentiality of trade secrets.

5 (a) All information reported to or otherwise obtained by
6 the Director or the Director's authorized representative in
7 connection with any inspection or proceeding under this Act or
8 any standard, rule, regulation, or order adopted or issued
9 under this Act which contains or might reveal a trade secret
10 shall be considered confidential, except that such information
11 may be disclosed confidentially to other officers or employees
12 concerned with carrying out this Act or when relevant to any
13 proceeding under this Act. In any such proceeding, the Director
14 or the court shall issue such orders as may be appropriate,
15 including an order for the impoundment of files or portions of
16 files, to protect the confidentiality of trade secrets.

17 (b) A person who discloses a trade secret in violation of
18 this Section commits a Class B misdemeanor.

19 Section 130. Prosecution by Attorney General or State's
20 Attorney. The Attorney General or a State's Attorney, upon
21 request of the Department, shall prosecute any violation of
22 this Act or a standard, rule, regulation, or order adopted or
23 issued under this Act.

1 Section 135. Safety education and other programs.

2 (a) The Department shall encourage public employers as well
3 as organizations and groups of employees to institute and
4 maintain safety education programs for employees and promote
5 the observation of safety practices.

6 (b) The Department shall provide and conduct educational
7 programs specifically designed to meet the regulatory
8 requirements set forth in the occupational safety and health
9 standards and to meet the needs of public employers.

10 (c) The Department shall conduct regular public
11 information programs to inform public employers of changes or
12 updates to the standards and rules adopted under this Act as
13 necessary.

14 (d) The Department shall provide support services for any
15 public employer that needs assistance with the public
16 employer's self-inspection programs.

17 Section 140. Director's reports.

18 (a) In the annual report to the Governor required by the
19 Civil Administrative Code of Illinois, the Director shall
20 report the result of inspections and investigations made of
21 establishments under this Act, together with such other
22 information and recommendations as he or she deems proper.

23 (b) The Director shall make an annual report of his or her
24 work under this Act to the Governor on or before the first day
25 of February of each year. The Director shall make a biennial

1 report to the General Assembly on or before the first day of
2 February of each odd numbered year.

3 Section 145. Transition provisions. This Act does not
4 affect any act done, ratified, or canceled, or any right
5 occurring or established, or any action or proceeding had or
6 commenced in an administrative, civil, or criminal cause, under
7 the Safety Inspection and Education Act or the Health and
8 Safety Act, or any standard or rule adopted under either of
9 those Acts, before the effective date of this Act. An employee
10 or public employer may enforce any such right under this Act.
11 The Department, or the Attorney General or a State's Attorney,
12 may prosecute or continue any such action or proceeding under
13 this Act.

14 Section 900. The Civil Administrative Code of Illinois is
15 amended by changing Sections 5-145 and 5-365 as follows:

16 (20 ILCS 5/5-145) (was 20 ILCS 5/5.03)

17 Sec. 5-145. In the Department of Labor. Assistant Director
18 of Labor; Chief Safety ~~Factory~~ Inspector; and Superintendent of
19 Occupational Safety and Health ~~Inspection and Education~~.

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

21 (20 ILCS 5/5-365) (was 20 ILCS 5/9.03)

22 Sec. 5-365. In the Department of Labor. The Director of

1 Labor shall receive an annual salary as set by the Compensation
2 Review Board.

3 The Assistant Director of Labor shall receive an annual
4 salary as set by the Compensation Review Board.

5 The Chief Safety ~~Factory~~ Inspector shall receive \$24,700
6 from the third Monday in January, 1979 to the third Monday in
7 January, 1980, and \$25,000 thereafter, or as set by the
8 Compensation Review Board, whichever is greater.

9 The Superintendent of Occupational Safety and Health
10 ~~Inspection and Education~~ shall receive \$27,500, or as set by
11 the Compensation Review Board, whichever is greater.

12 The Superintendent of Women's and Children's Employment
13 shall receive \$22,000 from the third Monday in January, 1979 to
14 the third Monday in January, 1980, and \$22,500 thereafter, or
15 as set by the Compensation Review Board, whichever is greater.

16 (Source: P.A. 96-800, eff. 10-30-09.)

17 Section 905. The Good Samaritan Act is amended by changing
18 Section 75 as follows:

19 (745 ILCS 49/75)

20 Sec. 75. Employers and employees under the Health and
21 Safety Act or the Occupational Safety and Health Act; exemption
22 from civil liability for emergency care. Any employer, who in
23 good faith provides emergency medical or first aid care without
24 fee to any employee or any other person employed on the same

1 project shall not, as a result of his or her acts or omissions,
2 except willful and wanton misconduct on the part of the
3 employer, in providing the care, be liable to such employee or
4 such other person to whom such care is provided for civil
5 damages.

6 Any employee who in good faith provides emergency medical
7 or first aid care without fee to any other employee or any
8 other person employed on the same project shall not, as a
9 result of his or her acts or omissions, except for willful and
10 wanton misconduct on the part of the employee in providing the
11 care, be liable to the employee or other person to whom the
12 care is provided for civil damages.

13 Excluded from the operation of this Section are any
14 employees who are licensed physicians, nurses, dentists, or
15 other licensed health services personnel.

16 The provisions of this Section do not affect or in any way
17 diminish or change an employer's liability under the Workers'
18 Compensation Act, or the Workers' Occupational Diseases Act.

19 This Section applies only to employers and employees under
20 the Health and Safety Act or the Occupational Safety and Health
21 Act.

22 (Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

23 (820 ILCS 220/Act rep.)

24 Section 910. The Safety Inspection and Education Act is
25 repealed.

1 (820 ILCS 225/Act rep.)

2 Section 915. The Health and Safety Act is repealed.

3 Section 920. The Workers' Compensation Act is amended by
4 changing Sections 6 and 19 as follows:

5 (820 ILCS 305/6) (from Ch. 48, par. 138.6)

6 Sec. 6. (a) Every employer within the provisions of this
7 Act, shall, under the rules and regulations prescribed by the
8 Commission, post printed notices in their respective places of
9 employment in such number and at such places as may be
10 determined by the Commission, containing such information
11 relative to this Act as in the judgment of the Commission may
12 be necessary to aid employees to safeguard their rights under
13 this Act in event of injury.

14 In addition thereto, the employer shall post in a
15 conspicuous place on the place of the employment a printed or
16 typewritten notice stating whether he is insured or whether he
17 has qualified and is operating as a self-insured employer. In
18 the event the employer is insured, the notice shall state the
19 name and address of his insurance carrier, the number of the
20 insurance policy, its effective date and the date of
21 termination. In the event of the termination of the policy for
22 any reason prior to the termination date stated, the posted
23 notice shall promptly be corrected accordingly. In the event

1 the employer is operating as a self-insured employer the notice
2 shall state the name and address of the company, if any,
3 servicing the compensation payments of the employer, and the
4 name and address of the person in charge of making compensation
5 payments.

6 (b) Every employer subject to this Act shall maintain
7 accurate records of work-related deaths, injuries and illness
8 other than minor injuries requiring only first aid treatment
9 and which do not involve medical treatment, loss of
10 consciousness, restriction of work or motion, or transfer to
11 another job and file with the Commission, in writing, a report
12 of all accidental deaths, injuries and illnesses arising out of
13 and in the course of the employment resulting in the loss of
14 more than 3 scheduled work days. In the case of death such
15 report shall be made no later than 2 working days following the
16 accidental death. In all other cases such report shall be made
17 between the 15th and 25th of each month unless required to be
18 made sooner by rule of the Commission. In case the injury
19 results in permanent disability, a further report shall be made
20 as soon as it is determined that such permanent disability has
21 resulted or will result from the injury. All reports shall
22 state the date of the injury, including the time of day or
23 night, the nature of the employer's business, the name,
24 address, age, sex, conjugal condition of the injured person,
25 the specific occupation of the injured person, the direct cause
26 of the injury and the nature of the accident, the character of

1 the injury, the length of disability, and in case of death the
2 length of disability before death, the wages of the injured
3 person, whether compensation has been paid to the injured
4 person, or to his or her legal representative or his heirs or
5 next of kin, the amount of compensation paid, the amount paid
6 for physicians', surgeons' and hospital bills, and by whom
7 paid, and the amount paid for funeral or burial expenses if
8 known. The reports shall be made on forms and in the manner as
9 prescribed by the Commission and shall contain such further
10 information as the Commission shall deem necessary and require.
11 The making of these reports releases the employer from making
12 such reports to any other officer of the State and shall
13 satisfy the reporting provisions as contained in the Safety
14 Inspection and Education Act, the "Health and Safety Act," and
15 the Occupational Safety and Health Act ~~"An Act in relation to~~
16 ~~safety inspections and education in industrial and commercial~~
17 ~~establishments and to repeal an Act therein named", approved~~
18 ~~July 18, 1955, as now or hereafter amended.~~ The reports filed
19 with the Commission pursuant to this Section shall be made
20 available by the Commission to the Director of Labor or his
21 representatives and to all other departments of the State of
22 Illinois which shall require such information for the proper
23 discharge of their official duties. Failure to file with the
24 Commission any of the reports required in this Section is a
25 petty offense.

26 Except as provided in this paragraph, all reports filed

1 hereunder shall be confidential and any person having access to
2 such records filed with the Illinois Workers' Compensation
3 Commission as herein required, who shall release any
4 information therein contained including the names or otherwise
5 identify any persons sustaining injuries or disabilities, or
6 give access to such information to any unauthorized person,
7 shall be subject to discipline or discharge, and in addition
8 shall be guilty of a Class B misdemeanor. The Commission shall
9 compile and distribute to interested persons aggregate
10 statistics, taken from the reports filed hereunder. The
11 aggregate statistics shall not give the names or otherwise
12 identify persons sustaining injuries or disabilities or the
13 employer of any injured or disabled person.

14 (c) Notice of the accident shall be given to the employer
15 as soon as practicable, but not later than 45 days after the
16 accident. Provided:

17 (1) In case of the legal disability of the employee or any
18 dependent of a deceased employee who may be entitled to
19 compensation under the provisions of this Act, the limitations
20 of time by this Act provided do not begin to run against such
21 person under legal disability until a guardian has been
22 appointed.

23 (2) In cases of injuries sustained by exposure to
24 radiological materials or equipment, notice shall be given to
25 the employer within 90 days subsequent to the time that the
26 employee knows or suspects that he has received an excessive

1 dose of radiation.

2 No defect or inaccuracy of such notice shall be a bar to
3 the maintenance of proceedings on arbitration or otherwise by
4 the employee unless the employer proves that he is unduly
5 prejudiced in such proceedings by such defect or inaccuracy.

6 Notice of the accident shall give the approximate date and
7 place of the accident, if known, and may be given orally or in
8 writing.

9 (d) Every employer shall notify each injured employee who
10 has been granted compensation under the provisions of Section 8
11 of this Act of his rights to rehabilitation services and advise
12 him of the locations of available public rehabilitation centers
13 and any other such services of which the employer has
14 knowledge.

15 In any case, other than one where the injury was caused by
16 exposure to radiological materials or equipment or asbestos
17 unless the application for compensation is filed with the
18 Commission within 3 years after the date of the accident, where
19 no compensation has been paid, or within 2 years after the date
20 of the last payment of compensation, where any has been paid,
21 whichever shall be later, the right to file such application
22 shall be barred.

23 In any case of injury caused by exposure to radiological
24 materials or equipment or asbestos, unless application for
25 compensation is filed with the Commission within 25 years after
26 the last day that the employee was employed in an environment

1 of hazardous radiological activity or asbestos, the right to
2 file such application shall be barred.

3 If in any case except one where the injury was caused by
4 exposure to radiological materials or equipment or asbestos,
5 the accidental injury results in death application for
6 compensation for death may be filed with the Commission within
7 3 years after the date of death where no compensation has been
8 paid or within 2 years after the date of the last payment of
9 compensation where any has been paid, whichever shall be later,
10 but not thereafter.

11 If an accidental injury caused by exposure to radiological
12 material or equipment or asbestos results in death within 25
13 years after the last day that the employee was so exposed
14 application for compensation for death may be filed with the
15 Commission within 3 years after the date of death, where no
16 compensation has been paid, or within 2 years after the date of
17 the last payment of compensation where any has been paid,
18 whichever shall be later, but not thereafter.

19 (e) Any contract or agreement made by any employer or his
20 agent or attorney with any employee or any other beneficiary of
21 any claim under the provisions of this Act within 7 days after
22 the injury shall be presumed to be fraudulent.

23 (f) Any condition or impairment of health of an employee
24 employed as a firefighter, emergency medical technician (EMT),
25 or paramedic which results directly or indirectly from any
26 bloodborne pathogen, lung or respiratory disease or condition,

1 heart or vascular disease or condition, hypertension,
2 tuberculosis, or cancer resulting in any disability
3 (temporary, permanent, total, or partial) to the employee shall
4 be rebuttably presumed to arise out of and in the course of the
5 employee's firefighting, EMT, or paramedic employment and,
6 further, shall be rebuttably presumed to be causally connected
7 to the hazards or exposures of the employment. This presumption
8 shall also apply to any hernia or hearing loss suffered by an
9 employee employed as a firefighter, EMT, or paramedic. However,
10 this presumption shall not apply to any employee who has been
11 employed as a firefighter, EMT, or paramedic for less than 5
12 years at the time he or she files an Application for Adjustment
13 of Claim concerning this condition or impairment with the
14 Illinois Workers' Compensation Commission. The rebuttable
15 presumption established under this subsection, however, does
16 not apply to an emergency medical technician (EMT) or paramedic
17 employed by a private employer if the employee spends the
18 preponderance of his or her work time for that employer engaged
19 in medical transfers between medical care facilities or
20 non-emergency medical transfers to or from medical care
21 facilities. The changes made to this subsection by this
22 amendatory Act of the 98th General Assembly shall be narrowly
23 construed. The Finding and Decision of the Illinois Workers'
24 Compensation Commission under only the rebuttable presumption
25 provision of this subsection shall not be admissible or be
26 deemed res judicata in any disability claim under the Illinois

1 Pension Code arising out of the same medical condition;
2 however, this sentence makes no change to the law set forth in
3 Krohe v. City of Bloomington, 204 Ill.2d 392.
4 (Source: P.A. 98-291, eff. 1-1-14.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 filed:

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

3 (ii) the approximate location of the accident;

4 (iii) a description of the accident;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 In any case the Commission in its decision may find

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

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

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

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

1 dissent shall be filed no later than 10 days after the decision
2 of the majority has been filed.

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

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

22 (1) Except in cases of claims against the State of
23 Illinois other than those claims under Section 18.1, in
24 which case the decision of the Commission shall not be
25 subject to judicial review, the Circuit Court of the county
26 where any of the parties defendant may be found, or if none

1 of the parties defendant can be found in this State then
2 the Circuit Court of the county where the accident
3 occurred, shall by summons to the Commission have power to
4 review all questions of law and fact presented by such
5 record.

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

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

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

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

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

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

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

24 The court may confirm or set aside the decision of the
25 Commission. If the decision is set aside and the facts
26 found in the proceedings before the Commission are

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

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

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

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

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

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

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

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

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

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

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

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

22 (k) In case where there has been any unreasonable or
23 vexatious delay of payment or intentional underpayment of
24 compensation, or proceedings have been instituted or carried on
25 by the one liable to pay the compensation, which do not present
26 a real controversy, but are merely frivolous or for delay, then

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

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

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

26 (m) If the commission finds that an accidental injury was

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

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

24 The employer or his insurance carrier may tender the
25 payments due under the award to stop the further accrual of
26 interest on such award notwithstanding the prosecution by

1 either party of review, certiorari, appeal to the Supreme Court
2 or other steps to reverse, vacate or modify the award.

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

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

1 under this paragraph on a case by case basis.

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

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

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

16 Section 925. The Workers' Occupational Diseases Act is
17 amended by changing Sections 3 and 6 as follows:

18 (820 ILCS 310/3) (from Ch. 48, par. 172.38)

19 Sec. 3. Where an employee in this State sustains injury to
20 health or death by reason of a disease contracted or sustained
21 in the course of the employment and proximately caused by the
22 negligence of the employer, unless such employer shall be
23 subject to this Act under the provisions of paragraph (a) of
24 Section 2 of this Act or shall have elected to provide and pay

1 compensation as provided in Section 2 of this Act, a right of
2 action shall accrue to the employee whose health has been so
3 injured for any damages sustained thereby; and in case of
4 death, a right of action shall accrue to the widow or widower
5 of such deceased person, his or her lineal heirs or adopted
6 children, or to any person or persons who were, before such
7 loss of life, dependent for support upon such deceased person,
8 for a like recovery of damages for the injury sustained by
9 reason of such death not to exceed the sum of \$10,000.
10 Violation by any employer of any effective rule or rules made
11 ~~by the Illinois Workers' Compensation Commission~~ pursuant to
12 the "Health and Safety Act or the Occupational Safety and
13 Health Act", ~~approved March 16, 1936, as amended~~, or violation
14 by the employer of any statute of this State, intended for the
15 protection of the health of employees shall be and constitute
16 negligence of the employer within the meaning of this Section.
17 Every such action for damage for injury to the health shall be
18 commenced within 3 years after the last day of the last
19 exposure to the hazards of the disease and every such action
20 for damages in case of death shall be commenced within one year
21 after the death of such employee and within 5 years after the
22 last day of the last exposure to the hazards of the disease
23 except where the disease is caused by atomic radiation, in
24 which case, every action for damages for injury to health shall
25 be commenced within 15 years after the last day of last
26 exposure to the hazard of such disease and every action for

1 damages in case of death shall be commenced within one year
2 after the death of such employee and within 15 years after last
3 exposure to the hazards of the disease. In any action to
4 recover damages under this Section, it shall not be a defense
5 that the employee either expressly or impliedly assumed the
6 risk of the employment, or that the contraction or sustaining
7 of the disease or death was caused in whole or in part by the
8 negligence of a fellow servant or fellow servants, or that the
9 contraction or sustaining of the disease or death resulting was
10 caused in whole or in part by the contributory negligence of
11 the employee, where such contributory negligence was not
12 wilful.

13 (Source: P.A. 93-721, eff. 1-1-05.)

14 (820 ILCS 310/6) (from Ch. 48, par. 172.41)

15 Sec. 6. (a) Every employer operating under the compensation
16 provisions of this Act, shall post printed notices in their
17 respective places of employment in conspicuous places and in
18 such number and at such places as may be determined by the
19 Commission, containing such information relative to this Act as
20 in the judgment of the Commission may be necessary to aid
21 employees to safeguard their rights under this Act.

22 In addition thereto, the employer shall post in a
23 conspicuous place on the premises of the employment a printed
24 or typewritten notice stating whether he is insured or whether
25 he has qualified and is operating as a self-insured employer.

1 In the event the employer is insured, the notice shall state
2 the name and address of his or her insurance carrier, the
3 number of the insurance policy, its effective date and the date
4 of termination. In the event of the termination of the policy
5 for any reason prior to the termination date stated, the posted
6 notice shall promptly be corrected accordingly. In the event
7 the employer is operating as a self-insured employer the notice
8 shall state the name and address of the company, if any,
9 servicing the compensation payments of the employer, and the
10 name and address of the person in charge of making compensation
11 payments.

12 (b) Every employer subject to this Act shall maintain
13 accurate records of work-related deaths, injuries and
14 illnesses other than minor injuries requiring only first aid
15 treatment and which do not involve medical treatment, loss of
16 consciousness, restriction of work or motion or transfer to
17 another job and file with the Illinois Workers' Compensation
18 Commission, in writing, a report of all occupational diseases
19 arising out of and in the course of the employment and
20 resulting in death, or disablement or illness resulting in the
21 loss of more than 3 scheduled work days. In the case of death
22 such report shall be made no later than 2 working days
23 following the occupational death. In all other cases such
24 report shall be made between the 15th and 25th of each month
25 unless required to be made sooner by rule of the Illinois
26 Workers' Compensation Commission. In case the occupational

1 disease results in permanent disability, a further report shall
2 be made as soon as it is determined that such permanent
3 disability has resulted or will result therefrom. All reports
4 shall state the date of the disablement, the nature of the
5 employer's business, the name, address, the age, sex, conjugal
6 condition of the disabled person, the specific occupation of
7 the person, the nature and character of the occupational
8 disease, the length of disability, and, in case of death, the
9 length of disability before death, the wages of the employee,
10 whether compensation has been paid to the employee, or to his
11 legal representative or his heirs or next of kin, the amount of
12 compensation paid, the amount paid for physicians', surgeons'
13 and hospital bills, and by whom paid, and the amount paid for
14 funeral or burial expenses, if known. The reports shall be made
15 on forms and in the manner as prescribed by the Illinois
16 Workers' Compensation Commission and shall contain such
17 further information as the Commission shall deem necessary and
18 require. The making of such reports releases the employer from
19 making such reports to any other officer of the State and shall
20 satisfy the reporting provisions as contained in the Safety
21 Inspection and Education Act, the "Health And Safety Act," and
22 the Occupational Safety and Health Act ~~"An Act in relation to~~
23 ~~safety inspections and education in industrial and commercial~~
24 ~~establishments and to repeal an Act therein named", approved~~
25 ~~July 18, 1955, as amended~~. The report filed with the Illinois
26 Workers' Compensation Commission pursuant to the provisions of

1 this Section shall be made available by the Illinois Workers'
2 Compensation Commission to the Director of Labor or his
3 representatives, to the Department of Public Health pursuant to
4 the Illinois Health and Hazardous Substances Registry Act, and
5 to all other departments of the State of Illinois which shall
6 require such information for the proper discharge of their
7 official duties. Failure to file with the Commission any of the
8 reports required in this Section is a petty offense.

9 Except as provided in this paragraph, all reports filed
10 hereunder shall be confidential and any person having access to
11 such records filed with the Illinois Workers' Compensation
12 Commission as herein required, who shall release the names or
13 otherwise identify any persons sustaining injuries or
14 disabilities, or gives access to such information to any
15 unauthorized person, shall be subject to discipline or
16 discharge, and in addition shall be guilty of a Class B
17 misdemeanor. The Commission shall compile and distribute to
18 interested persons aggregate statistics, taken from the
19 reports filed hereunder. The aggregate statistics shall not
20 give the names or otherwise identify persons sustaining
21 injuries or disabilities or the employer of any injured or
22 disabled person.

23 (c) There shall be given notice to the employer of
24 disablement arising from an occupational disease as soon as
25 practicable after the date of the disablement. If the
26 Commission shall find that the failure to give such notice

1 substantially prejudices the rights of the employer the
2 Commission in its discretion may order that the right of the
3 employee to proceed under this Act shall be barred.

4 In case of legal disability of the employee or any
5 dependent of a deceased employee who may be entitled to
6 compensation, under the provisions of this Act, the limitations
7 of time in this Section of this Act provided shall not begin to
8 run against such person who is under legal disability until a
9 conservator or guardian has been appointed. No defect or
10 inaccuracy of such notice shall be a bar to the maintenance of
11 proceedings on arbitration or otherwise by the employee unless
12 the employer proves that he or she is unduly prejudiced in such
13 proceedings by such defect or inaccuracy. Notice of the
14 disabling disease may be given orally or in writing. In any
15 case, other than injury or death caused by exposure to
16 radiological materials or equipment or asbestos, unless
17 application for compensation is filed with the Commission
18 within 3 years after the date of the disablement, where no
19 compensation has been paid, or within 2 years after the date of
20 the last payment of compensation, where any has been paid,
21 whichever shall be later, the right to file such application
22 shall be barred. If the occupational disease results in death,
23 application for compensation for death may be filed with the
24 Commission within 3 years after the date of death where no
25 compensation has been paid, or within 3 years after the last
26 payment of compensation, where any has been paid, whichever is

1 later, but not thereafter.

2 Effective July 1, 1973 in cases of disability caused by
3 coal miners pneumoconiosis unless application for compensation
4 is filed with the Commission within 5 years after the employee
5 was last exposed where no compensation has been paid, or within
6 5 years after the last payment of compensation where any has
7 been paid, the right to file such application shall be barred.

8 In cases of disability caused by exposure to radiological
9 materials or equipment or asbestos, unless application for
10 compensation is filed with the Commission within 25 years after
11 the employee was so exposed, the right to file such application
12 shall be barred.

13 In cases of death occurring within 25 years from the last
14 exposure to radiological material or equipment or asbestos,
15 application for compensation must be filed within 3 years of
16 death where no compensation has been paid, or within 3 years,
17 after the date of the last payment where any has been paid, but
18 not thereafter.

19 (d) Any contract or agreement made by any employer or his
20 agent or attorney with any employee or any other beneficiary of
21 any claim under the provisions of this Act within 7 days after
22 the disablement shall be presumed to be fraudulent.

23 (Source: P.A. 93-721, eff. 1-1-05.)