



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2942

Introduced 2/18/2016, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

820 ILCS 305/19
820 ILCS 310/19

from Ch. 48, par. 138.19
from Ch. 48, par. 172.54

Amends the Workers' Compensation Act and the Workers' Occupational Diseases Act. Provides that the arbitrator or the Commission may correct a clerical error or error in computation within 21 (instead of 15) days after the date of receipt of an award by the arbitrator or any decision on review of the Commission and may recall the original award on arbitration or decision on review and issue the corrected award or decision. Provides that the time within which a petition for judicial review must be filed begins to run upon receipt of a decision on motion to recall. Adds procedural provisions concerning motions to recall. Provides that judicial review is stayed pending the disposition of a motion to recall. Provides that claims against the State are not subject to judicial review. Specifies venue for court review. Establishes procedures for providing collateral or guarantee of payment of an award if court review is not successfully prosecuted. Adds provisions regarding review by the Appellate Court and the Supreme Court. Makes other changes. Effective immediately.

LRB099 19223 JLS 43615 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 by the Arbitrator and Commission with all convenient speed.

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

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

6 (ii) the approximate location of the accident;

7 (iii) a description of the accident;

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

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

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

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

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

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

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

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

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

1 reproduction thereof;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 If a reporter does not for any reason furnish a transcript
26 of the proceedings before the Arbitrator in any case for use on

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

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

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

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

11 (f) (1) General powers. The decision of the Commission
12 acting within its powers, according to the provisions of
13 paragraph (e) of this Section shall, in the absence of fraud,
14 be conclusive unless reviewed as in this paragraph hereinafter
15 provided. The decision of a majority of the members of the
16 panel of the Commission shall be considered the decision of the
17 Commission.

18 The court may confirm or set aside the decision of the
19 Commission. If the decision is set aside and the facts found in
20 the proceedings before the Commission are sufficient, the court
21 may enter such decision as is justified by law or may remand
22 the cause to the Commission for further proceedings and may
23 state the questions requiring further hearing and give such
24 other instructions as may be proper.

25 (2) Petitions to recall. However, the Arbitrator or the
26 Commission may on his or its own motion, or on the motion of

1 either party, correct any clerical error or errors in
2 computation within 21 ~~15~~ days after the date of receipt of any
3 award by such Arbitrator or any decision on review of the
4 Commission and shall have the power to recall the original
5 award on arbitration or decision on review, and issue in lieu
6 thereof such corrected award or decision.

7 (A) Where such motion correction is filed, made the
8 time for review herein specified shall begin to run from
9 the date of the receipt of the corrected award or decision.

10 (B) If a party chooses to file a motion to recall under
11 this subsection in lieu of filing a petition for review or
12 judicial review, the time for filing the judicial review
13 shall commence upon the receipt of the arbitrator's or
14 Commission's disposition of the motion to recall.

15 (C) If a Circuit Court appeal has already been filed
16 when a motion under this subsection is filed, the Circuit
17 Court case is stayed pending the Commission's ruling on the
18 motion to recall. If the motion to recall is denied by the
19 Commission, a new Circuit Court review need not be filed
20 and any grounds asserted in support of the motion to recall
21 may then be raised in the pending Circuit Court review as
22 grounds for reversal or modification of the Commission's
23 decision.

24 (D) If the Commission grants the motion to recall,
25 recalls the decision, and issues a corrected decision,
26 jurisdiction returns to the Circuit Court pursuant to the

1 pending review. In that proceeding the corrected decision
2 is subject to judicial review. In the event that the amount
3 of collateral and guarantee set by the Commission changes
4 in the corrected decision and the amount is lower than
5 previously set, the previously filed collateral and
6 guarantee need not be replaced. If the amount is higher
7 than previously set, the filing party may substitute the
8 collateral and guarantee in the correct amount in
9 compliance with any deadlines set by the reviewing Court.

10 (3) Claims against the State. Cases involving claims
11 against the State of Illinois shall not be subject to judicial
12 review.

13 (4) Venue. Venue is proper in the Circuit Court of the
14 county where any of the parties defendant reside or may be
15 found, or the Circuit Court of the county where the accident
16 occurred.

17 (A) The filing of a judicial review in an improper
18 venue shall not be cause for dismissal with prejudice, but
19 shall be transferred to an appropriate venue.

20 (B) If multiple judicial reviews are filed from the
21 Commission's decision to different Circuit Courts because
22 the parties respondent reside in different counties, these
23 proceedings, at the discretion of the Circuit Court, may be
24 consolidated into one judicial review and the employer's
25 previously filed collateral and guarantee shall be valid in
26 either case.

1 (5) Circuit Court powers. The Circuit Court shall, by
2 summons issued to the Commission, have power to review all
3 questions of law and fact presented by such record. A
4 respondent on review is not required to file a notice of cross
5 appeal from the Commission's decision to preserve an issue on
6 appeal.

7 ~~(1) Except in cases of claims against the State of~~
8 ~~Illinois other than those claims under Section 18.1, in~~
9 ~~which case the decision of the Commission shall not be~~
10 ~~subject to judicial review, the Circuit Court of the county~~
11 ~~where any of the parties defendant may be found, or if none~~
12 ~~of the parties defendant can be found in this State then~~
13 ~~the Circuit Court of the county where the accident~~
14 ~~occurred, shall by summons to the Commission have power to~~
15 ~~review all questions of law and fact presented by such~~
16 ~~record.~~

17 (6) Commencement of the judicial review and summons. A
18 proceeding for review shall be commenced within 30 ~~20~~ days of
19 the receipt of notice of the decision of the Commission. The
20 Circuit Court is authorized to receive and timely file all
21 judicial review documents in accordance with the so-called
22 "mailbox rule" adopted by Supreme Court Rule 373.

23 (A) The summons shall be issued by the clerk of such
24 court upon written request returnable on a designated
25 return day, not less than 10 or more than 60 days from the
26 date of issuance thereof. The, ~~and the~~ written request

1 shall contain the last known address of other parties in
2 interest and their attorneys of record who are to be served
3 by summons. Service upon any member of the Commission or
4 the Secretary or the Assistant Secretary thereof shall be
5 service upon the Commission, and service upon other parties
6 in interest and their attorneys of record shall be by
7 summons, and such service shall be made upon the Commission
8 and other parties in interest by mailing notices of the
9 commencement of the proceedings and the return day of the
10 summons to the office of the Commission and to the last
11 known place of residence of other parties in interest or
12 their attorney or attorneys of record.

13 (B) The clerk of the court issuing the summons shall on
14 the day of issuance ~~issue~~ mail notice of the commencement
15 of the proceedings which shall be done by mailing a copy of
16 the summons to the office of the Commission, and a copy of
17 the summons to the other parties in interest or their
18 attorney or attorneys of record. The ~~and the~~ clerk of the
19 court shall make certificate that he has so sent said
20 notices in pursuance of this Section, which shall be
21 evidence of service on the Commission and other parties in
22 interest.

23 (C) If a case has proceeded to the Circuit Court or
24 Appellate Court and that case is remanded back to the
25 Commission for further determinations, any subsequent
26 judicial review filed from the remanded Commission

1 decision shall be filed as a new judicial review, and not
2 part of the original judicial review, and further must
3 independently comply with all requirements of this
4 subsection.

5 (7) Notice of intent to file for Circuit Court review. The
6 Commission shall not be required to certify the record of their
7 proceedings to the Circuit Court, unless the party commencing
8 the proceedings for review in the Circuit Court as above
9 provided, shall file with the Commission notice of intent to
10 file for review in Circuit Court.

11 (A) It shall be the duty of the Commission upon such
12 filing of notice of intent to file for review in the
13 Circuit Court to prepare a true and correct copy of such
14 testimony and a true and correct copy of all other matters
15 contained in such record and certified to by the Secretary
16 or Assistant Secretary thereof. The changes made to this
17 subdivision (f)(1) by this amendatory Act of the 98th
18 General Assembly apply to any Commission decision entered
19 after the effective date of this amendatory Act of the 98th
20 General Assembly.

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

1 notice of intent to file for review in the Circuit Court
2 has been given in writing to the Secretary or Assistant
3 Secretary of the Commission.

4 (8) Collateral and guarantee. If the party seeking judicial
5 review is the party against whom the Commission rendered an
6 award for payment of money, then within the timeframe for the
7 commencement of proceedings, the party shall provide to the
8 Circuit Court collateral or guarantee of payment of the award
9 if such review is not successfully prosecuted.

10 (A) Collateral or guarantee may be provided in the
11 following ways:

12 (i) filing an insurance policy pursuant to Section
13 392.1 of the Illinois Insurance Code;

14 (ii) filing a certificate of self-insurance;

15 (iii) placing sufficient funds in an escrow
16 account; or

17 (iv) filing a bond signed by the employer or any
18 duly designated representative of the employer, and in
19 the event the employer is insured, any representative
20 of the insurer.

21 (B) The amount of the bond, if necessary, shall be
22 fixed by any member of the Commission and the surety or
23 sureties of the bond shall be approved by the clerk of the
24 court.

25 (C) The acceptance by the clerk of the Circuit Court of
26 the collateral or guarantee shall constitute evidence of

1 the Circuit Court's approval of the collateral or
2 guarantee.

3 (D) If an insurance policy or certificate of
4 self-insurance is filed as collateral or guarantee, the
5 party respondent has 20 days in which to object, and if
6 said objection is sustained, the party so filing the
7 insurance policy or certificate of self-insurance shall
8 have 10 days to cure the defect or otherwise file another
9 appropriate form of collateral or guarantee. If no
10 objection is filed within the 20 days, all objections are
11 waived.

12 (E) On motion supported by good cause made within the
13 timeframe for the commencement of proceedings or within any
14 extension granted pursuant to this subsection, the time for
15 filing and approval of the collateral or guarantee may be
16 extended by the Circuit Court, but the total extensions of
17 time granted by the Circuit Court may not aggregate more
18 than 45 days from the original due date unless the parties
19 otherwise stipulate in writing. The motion must be
20 presented to the Circuit Court at the time of filing the
21 judicial review and called for hearing and ruled upon by
22 the court within 10 days thereafter.

23 (F) No county, city, town, township, incorporated
24 village, school district, body politic or municipal
25 corporation against whom the Commission shall have
26 rendered an award for the payment of money shall be

1 required to provide to the Circuit Court collateral or
2 guarantee of payment of an award for commencement of
3 judicial review.

4 (G) The Treasurer's Office shall not be required to
5 post a bond when appealing on behalf of the Injured
6 Workers' Benefit Fund.

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

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

26 ~~The court may confirm or set aside the decision of the~~

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

12 (9) Clerk duties. It shall be the duty of the clerk of any
13 court rendering a decision affecting or affirming an award of
14 the Commission to promptly furnish the Commission with a copy
15 of such decision, without charge.

16 (10) Further appellate review.

17 (A) Appellate Court. Appeals shall be taken to the
18 Appellate Court, Workers' Compensation Commission
19 Division, in accordance with Supreme Court Rules 22(i) and
20 303.

21 (B) Supreme Court. Appeals shall be taken from the
22 Appellate Court to the Supreme Court in accordance with
23 Supreme Court Rule 315(a). A petition for leave to appeal
24 from a judgment of the 5-judge panel of the Appellate Court
25 designated to hear and decide cases involving review of
26 Commission orders shall not require certification by the

1 Appellate Court and shall be filed within the time allowed
2 for filing a petition for rehearing in accordance with
3 Supreme Court Rule 315(b), as with all civil appeals not
4 involving workers' compensation appeals.

5 (C) Appeals from proceedings under subsection (g). All
6 appeals from Circuit Court proceedings brought pursuant to
7 subsection (g) shall be filed with or transferred to the
8 Appellate Court, Workers' Compensation Commission
9 Division, as established by Illinois Supreme Court Rule
10 22(i).

11 The changes made to this subsection (f) by this amendatory
12 Act of the 99th General Assembly apply to appeals filed in
13 Circuit Court after the effective date of this amendatory Act
14 of the 99th General Assembly. ~~The decision of a majority of the~~
15 ~~members of the panel of the Commission, shall be considered the~~
16 ~~decision of the 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; 98-874,
16 eff. 1-1-15.)

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

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

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

22 (a) It shall be the duty of the Commission upon
23 notification that the parties have failed to reach an agreement
24 to designate an Arbitrator.

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

3 A. The approximate date of the last day of the last
4 exposure and the approximate date of the disablement.

5 B. The general nature and character of the illness
6 or disease claimed.

7 C. The name and address of the employer by whom
8 employed on the last day of the last exposure and if
9 employed by any other employer after such last exposure
10 and before disablement the name and address of such
11 other employer or employers.

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

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

21 (3) Whenever any claimant misconceives his remedy and
22 files an application for adjustment of claim under this Act
23 and it is subsequently discovered, at any time before final
24 disposition of such cause, that the claim for disability or
25 death which was the basis for such application should
26 properly have been made under the Workers' Compensation

1 Act, then the provisions of Section 19 paragraph (a-1) of
2 the Workers' Compensation Act having reference to such
3 application shall apply.

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

25 (b) The Arbitrator shall make such inquiries and
26 investigations as he shall deem necessary and may examine and

1 inspect all books, papers, records, places, or premises
2 relating to the questions in dispute and hear such proper
3 evidence as the parties may submit.

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

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

17 The decision of the Arbitrator shall be filed with the
18 Commission which Commission shall immediately send to each
19 party or his attorney a copy of such decision, together with a
20 notification of the time when it was filed. As of the effective
21 date of this amendatory Act of the 94th General Assembly, all
22 decisions of the Arbitrator shall set forth in writing findings
23 of fact and conclusions of law, separately stated, if requested
24 by either party. Unless a petition for review is filed by
25 either party within 30 days after the receipt by such party of
26 the copy of the decision and notification of time when filed,

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

22 Whether the employee is working or not, if the employee is
23 not receiving or has not received medical, surgical, or
24 hospital services or other services or compensation as provided
25 in paragraph (a) of Section 8 of the Workers' Compensation Act,
26 or compensation as provided in paragraph (b) of Section 8 of

1 the Workers' Compensation Act, the employee may at any time
2 petition for an expedited hearing by an Arbitrator on the issue
3 of whether or not he or she is entitled to receive payment of
4 the services or compensation. Provided the employer continues
5 to pay compensation pursuant to paragraph (b) of Section 8 of
6 the Workers' Compensation Act, the employer may at any time
7 petition for an expedited hearing on the issue of whether or
8 not the employee is entitled to receive medical, surgical, or
9 hospital services or other services or compensation as provided
10 in paragraph (a) of Section 8 of the Workers' Compensation Act,
11 or compensation as provided in paragraph (b) of Section 8 of
12 the Workers' Compensation Act. When an employer has petitioned
13 for an expedited hearing, the employer shall continue to pay
14 compensation as provided in paragraph (b) of Section 8 of the
15 Workers' Compensation Act unless the arbitrator renders a
16 decision that the employee is not entitled to the benefits that
17 are the subject of the expedited hearing or unless the
18 employee's treating physician has released the employee to
19 return to work at his or her regular job with the employer or
20 the employee actually returns to work at any other job. If the
21 arbitrator renders a decision that the employee is not entitled
22 to the benefits that are the subject of the expedited hearing,
23 a petition for review filed by the employee shall receive the
24 same priority as if the employee had filed a petition for an
25 expedited hearing by an arbitrator. Neither party shall be
26 entitled to an expedited hearing when the employee has returned

1 to work and the sole issue in dispute amounts to less than 12
2 weeks of unpaid compensation pursuant to paragraph (b) of
3 Section 8 of the Workers' Compensation Act.

4 Expedited hearings shall have priority over all other
5 petitions and shall be heard by the Arbitrator and Commission
6 with all convenient speed. Any party requesting an expedited
7 hearing shall give notice of a request for an expedited hearing
8 under this paragraph. A copy of the Application for Adjustment
9 of Claim shall be attached to the notice. The Commission shall
10 adopt rules and procedures under which the final decision of
11 the Commission under this paragraph is filed not later than 180
12 days from the date that the Petition for Review is filed with
13 the Commission.

14 Where 2 or more insurance carriers, private self-insureds,
15 or a group workers' compensation pool under Article V 3/4 of
16 the Illinois Insurance Code dispute coverage for the same
17 disease, any such insurance carrier, private self-insured, or
18 group workers' compensation pool may request an expedited
19 hearing pursuant to this paragraph to determine the issue of
20 coverage, provided coverage is the only issue in dispute and
21 all other issues are stipulated and agreed to and further
22 provided that all compensation benefits including medical
23 benefits pursuant to Section 8(a) of the Workers' Compensation
24 Act continue to be paid to or on behalf of petitioner. Any
25 insurance carrier, private self-insured, or group workers'
26 compensation pool that is determined to be liable for coverage

1 for the disease in issue shall reimburse any insurance carrier,
2 private self-insured, or group workers' compensation pool that
3 has paid benefits to or on behalf of petitioner for the
4 disease.

5 (b-1) If the employee is not receiving, pursuant to Section
6 7, medical, surgical or hospital services of the type provided
7 for in paragraph (a) of Section 8 of the Workers' Compensation
8 Act or compensation of the type provided for in paragraph (b)
9 of Section 8 of the Workers' Compensation Act, the employee, in
10 accordance with Commission Rules, may file a petition for an
11 emergency hearing by an Arbitrator on the issue of whether or
12 not he is entitled to receive payment of such compensation or
13 services as provided therein. Such petition shall have priority
14 over all other petitions and shall be heard by the Arbitrator
15 and Commission with all convenient speed.

16 Such petition shall contain the following information and
17 shall be served on the employer at least 15 days before it is
18 filed:

- 19 (i) the date and approximate time of the last exposure;
20 (ii) the approximate location of the last exposure;
21 (iii) a description of the last exposure;
22 (iv) the nature of the disability incurred by the
23 employee;
24 (v) the identity of the person, if known, to whom the
25 disability was reported and the date on which it was
26 reported;

1 (vi) the name and title of the person, if known,
2 representing the employer with whom the employee conferred
3 in any effort to obtain pursuant to Section 7 compensation
4 of the type provided for in paragraph (b) of Section 8 of
5 the Workers' Compensation Act or medical, surgical or
6 hospital services of the type provided for in paragraph (a)
7 of Section 8 of the Workers' Compensation Act and the date
8 of such conference;

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

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

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

26 (x) a copy of a signed report by a medical

1 practitioner, relating to the employee's current inability
2 to return to work because of the disability incurred as a
3 result of the exposure or such other documents or
4 affidavits which show that the employee is entitled to
5 receive pursuant to Section 7 compensation of the type
6 provided for in paragraph (b) of Section 8 of the Workers'
7 Compensation Act or medical, surgical or hospital services
8 of the type provided for in paragraph (a) of Section 8 of
9 the Workers' Compensation Act. Such reports, documents or
10 affidavits shall state, if possible, the history of the
11 exposure given by the employee, and describe the disability
12 and medical diagnosis, the medical services for such
13 disability which the employee has received and is
14 receiving, the physical activities which the employee
15 cannot currently perform as a result of such disability,
16 and the prognosis for recovery;

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

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

25 (xiii) a certification signed by the employee or his
26 representative that the employer has received the petition

1 with the required information 15 days before filing.

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

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

1 the employer pursuant to Section 12 of this Act and the time
2 and place of any examination scheduled to be made pursuant to
3 such Section.

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

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

21 The Commission shall adopt rules, regulations and
22 procedures whereby the final decision of the Commission is
23 filed not later than 90 days from the date the petition for
24 review is filed but in no event later than 180 days from the
25 date the petition for an emergency hearing is filed with the
26 Illinois Workers' Compensation Commission.

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

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

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

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

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

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

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

17 (d) If any employee shall persist in insanitary or
18 injurious practices which tend to either imperil or retard his
19 recovery or shall refuse to submit to such medical, surgical,
20 or hospital treatment as is reasonably essential to promote his
21 recovery, the Commission may, in its discretion, reduce or
22 suspend the compensation of any such employee; provided, that
23 when an employer and employee so agree in writing, the
24 foregoing provision shall not be construed to authorize the
25 reduction or suspension of compensation of an employee who is
26 relying in good faith, on treatment by prayer or spiritual

1 means alone, in accordance with the tenets and practice of a
2 recognized church or religious denomination, by a duly
3 accredited practitioner thereof.

4 (e) This paragraph shall apply to all hearings before the
5 Commission. Such hearings may be held in its office or
6 elsewhere as the Commission may deem advisable. The taking of
7 testimony on such hearings may be had before any member of the
8 Commission. If a petition for review and agreed statement of
9 facts or transcript of evidence is filed, as provided herein,
10 the Commission shall promptly review the decision of the
11 Arbitrator and all questions of law or fact which appear from
12 the statement of facts or transcripts of evidence. In all cases
13 in which the hearing before the arbitrator is held after the
14 effective date of this amendatory Act of 1989, no additional
15 evidence shall be introduced by the parties before the
16 Commission on review of the decision of the Arbitrator. The
17 Commission shall file in its office its decision thereon, and
18 shall immediately send to each party or his attorney a copy of
19 such decision and a notification of the time when it was filed.
20 Decisions shall be filed within 60 days after the Statement of
21 Exceptions and Supporting Brief and Response thereto are
22 required to be filed or oral argument whichever is later.

23 In the event either party requests oral argument, such
24 argument shall be had before a panel of 3 members of the
25 Commission (or before all available members pursuant to the
26 determination of 7 members of the Commission that such argument

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

20 In any case the Commission in its decision may in its
21 discretion find specially upon any question or questions of law
22 or facts which shall be submitted in writing by either party
23 whether ultimate or otherwise; provided that on issues other
24 than nature and extent of the disablement, if any, the
25 Commission in its decision shall find specially upon any
26 question or questions of law or fact, whether ultimate or

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

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

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

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

24 Decisions rendered by the Commission after the effective
25 date of this amendatory Act of 1980 and dissents, if any, shall
26 be published together by the Commission. The conclusions of law

1 set out in such decisions shall be regarded as precedents by
2 arbitrators, for the purpose of achieving a more uniform
3 administration of this Act.

4 (f) (1) General powers. The decision of the Commission
5 acting within its powers, according to the provisions of
6 paragraph (e) of this Section shall, in the absence of fraud,
7 be conclusive unless reviewed as in this paragraph hereinafter
8 provided. The decision of a majority of the members of the
9 panel of the Commission shall be considered the decision of the
10 Commission.

11 The court may confirm or set aside the decision of the
12 Commission. If the decision is set aside and the facts found in
13 the proceedings before the Commission are sufficient, the court
14 may enter such decision as is justified by law or may remand
15 the cause to the Commission for further proceedings and may
16 state the questions requiring further hearing and give such
17 other instructions as may be proper.

18 (2) Petitions to recall. However, the Arbitrator or the
19 Commission may on his or its own motion, or on the motion of
20 either party, correct any clerical error or errors in
21 computation within 21 ~~15~~ days after the date of receipt of any
22 award by such Arbitrator or any decision on review of the
23 Commission, and shall have the power to recall the original
24 award on arbitration or decision on review, and issue in lieu
25 thereof such corrected award or decision.

26 (A) Where such motion correction is filed, made the

1 time for review herein specified shall begin to run from
2 the date of the receipt of the corrected award or decision.

3 (B) If a party chooses to file a motion to recall under
4 this subsection in lieu of filing a petition for review or
5 judicial review, the time for filing the judicial review
6 shall commence upon the receipt of the arbitrator's or
7 Commission's disposition of the motion to recall.

8 (C) If a Circuit Court appeal has already been filed
9 when a motion under this subsection is filed, the Circuit
10 Court case is stayed pending the Commission's ruling on the
11 motion to recall. If the motion to recall is denied by the
12 Commission, a new Circuit Court review need not be filed
13 and any grounds asserted in support of the motion to recall
14 may then be raised in the pending Circuit Court review as
15 grounds for reversal or modification of the Commission's
16 decision.

17 (D) If the Commission grants the motion to recall,
18 recalls the decision, and issues a corrected decision,
19 jurisdiction returns to the Circuit Court pursuant to the
20 pending review. In that proceeding the corrected decision
21 is subject to judicial review. In the event that the amount
22 of collateral and guarantee set by the Commission changes
23 in the corrected decision and the amount is lower than
24 previously set, the previously filed collateral and
25 guarantee need not be replaced. If the amount is higher
26 than previously set, the filing party may substitute the

1 collateral and guarantee in the correct amount in
2 compliance with any deadlines set by the reviewing Court.

3 (3) Claims against the State. Cases involving claims
4 against the State of Illinois shall not be subject to judicial
5 review.

6 (4) Venue. Venue is proper in the Circuit Court of the
7 county where any of the parties defendant reside or may be
8 found, or the Circuit Court of the county where the accident
9 occurred.

10 (A) The filing of a judicial review in an improper
11 venue shall not be cause for dismissal with prejudice, but
12 shall be transferred to an appropriate venue.

13 (B) If multiple judicial reviews are filed from the
14 Commission's decision to different Circuit Courts because
15 the parties respondent reside in different counties, these
16 proceedings, at the discretion of the Circuit Court, may be
17 consolidated into one judicial review and the employer's
18 previously filed collateral and guarantee shall be valid in
19 either case.

20 (5) Circuit Court powers. The Circuit Court shall, by
21 summons issued to the Commission, have power to review all
22 questions of law and fact presented by such record. A
23 respondent on review is not required to file a notice of cross
24 appeal from the Commission's decision to preserve an issue on
25 appeal.

26 ~~(1) Except in cases of claims against the State of~~

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

9 (6) Commencement of the judicial review and summons. A
10 proceeding for review shall be commenced within 30 ~~20~~ days of
11 the receipt of notice of the decision of the Commission. The
12 Circuit Court is authorized to receive and timely file all
13 judicial review documents in accordance with the so-called
14 "mailbox rule" adopted by Supreme Court Rule 373.

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

1 commencement of the proceedings and the return day of the
2 summons to the office of the Commission and to the last
3 known place of residence of other parties in interest or
4 their attorney or attorneys of record.

5 (B) The clerk of the court issuing the summons shall on
6 the day of issuance ~~issue~~ mail notice of the commencement
7 of the proceedings which shall be done by mailing a copy of
8 the summons to the office of the Commission, and a copy of
9 the summons to the other parties in interest or their
10 attorney or attorneys of record. ~~The and the~~ clerk of the
11 court shall make certificate that he has so sent such
12 notices in pursuance of this Section, which shall be
13 evidence of service on the Commission and other parties in
14 interest.

15 (C) If a case has proceeded to the Circuit Court or
16 Appellate Court and that case is remanded back to the
17 Commission for further determinations, any subsequent
18 judicial review filed from the remanded Commission
19 decision shall be filed as a new judicial review, and not
20 part of the original judicial review, and further must
21 independently comply with all requirements of this
22 subsection.

23 (7) Notice of intent to file for Circuit Court review. The
24 Commission shall not be required to certify the record of their
25 proceedings in the Circuit Court unless the party commencing
26 the proceedings for review in the Circuit Court as above

1 provided, shall file with the Commission notice of intent to
2 file for review in Circuit Court.

3 (A) It shall be the duty of the Commission upon such
4 filing of notice of intent to file for review in Circuit
5 Court to prepare a true and correct copy of such testimony
6 and a true and correct copy of all other matters contained
7 in such record and certified to by the Secretary or
8 Assistant Secretary thereof. The changes made to this
9 subdivision (f)(1) by this amendatory Act of the 98th
10 General Assembly apply to any Commission decision entered
11 after the effective date of this amendatory Act of the 98th
12 General Assembly.

13 (B) No request for a summons may be filed and no
14 summons shall issue unless the party seeking to review the
15 decision of the Commission shall exhibit to the clerk of
16 the Circuit Court proof of filing with the Commission of
17 the notice of the intent to file for review in the Circuit
18 Court or an affidavit of the attorney setting forth that
19 notice of intent to file for review in Circuit Court has
20 been given in writing to the Secretary or Assistant
21 Secretary of the Commission.

22 (8) Collateral and guarantee. If the party seeking judicial
23 review is the party against whom the Commission rendered an
24 award for payment of money, then within the timeframe for the
25 commencement of proceedings, the party shall provide to the
26 Circuit Court collateral or guarantee of payment of the award

1 if such review is not successfully prosecuted.

2 (A) Collateral or guarantee may be provided in the
3 following ways:

4 (i) filing an insurance policy pursuant to Section
5 392.1 of the Illinois Insurance Code;

6 (ii) filing a certificate of self-insurance;

7 (iii) placing sufficient funds in an escrow
8 account; or

9 (iv) filing a bond signed by the employer or any
10 duly designated representative of the employer, and in
11 the event the employer is insured, any representative
12 of the insurer.

13 (B) The amount of the bond, if necessary, shall be
14 fixed by any member of the Commission and the surety or
15 sureties of the bond shall be approved by the clerk of the
16 court.

17 (C) The acceptance by the clerk of the Circuit Court of
18 the collateral or guarantee shall constitute evidence of
19 the Circuit Court's approval of the collateral or
20 guarantee.

21 (D) If an insurance policy or certificate of
22 self-insurance is filed as collateral or guarantee, the
23 party respondent has 20 days in which to object, and if
24 said objection is sustained, the party so filing the
25 insurance policy or certificate of self-insurance shall
26 have 10 days to cure the defect or otherwise file another

1 appropriate form of collateral or guarantee. If no
2 objection is filed within the 20 days, all objections are
3 waived.

4 (E) On motion supported by good cause made within the
5 timeframe for the commencement of proceedings or within any
6 extension granted pursuant to this subsection, the time for
7 filing and approval of the collateral or guarantee may be
8 extended by the Circuit Court, but the total extensions of
9 time granted by the Circuit Court may not aggregate more
10 than 45 days from the original due date unless the parties
11 otherwise stipulate in writing. The motion must be
12 presented to the Circuit Court at the time of filing the
13 judicial review and called for hearing and ruled upon by
14 the court within 10 days thereafter.

15 (F) No county, city, town, township, incorporated
16 village, school district, body politic or municipal
17 corporation against whom the Commission shall have
18 rendered an award for the payment of money shall be
19 required to provide to the Circuit Court collateral or
20 guarantee of payment of an award for commencement of
21 judicial review.

22 (G) The Treasurer's Office shall not be required to
23 post a bond when appealing on behalf of the Injured
24 Workers' Benefit Fund.

25 ~~(2) No such summons shall issue unless the one against~~
26 ~~whom the Commission shall have rendered an award for the~~

1 ~~payment of money shall upon the filing of his written~~
2 ~~request for such summons file with the clerk of the court a~~
3 ~~bond conditioned that if he shall not successfully~~
4 ~~prosecute the review, he will pay the award and the costs~~
5 ~~of the proceedings in the court. The amount of the bond~~
6 ~~shall be fixed by any member of the Commission and the~~
7 ~~surety or sureties of the bond shall be approved by the~~
8 ~~clerk of the court. The acceptance of the bond by the clerk~~
9 ~~of the court shall constitute evidence of his approval of~~
10 ~~the bond.~~

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

19 ~~The court may confirm or set aside the decision of the~~
20 ~~Commission. If the decision is set aside and the facts~~
21 ~~found in the proceedings before the Commission are~~
22 ~~sufficient, the court may enter such decision as is~~
23 ~~justified by law, or may remand the cause to the Commission~~
24 ~~for further proceedings and may state the questions~~
25 ~~requiring further hearing, and give such other~~
26 ~~instructions as may be proper. Appeals shall be taken to~~

1 ~~the Appellate Court in accordance with Supreme Court Rules~~
2 ~~22(g) and 303. Appeals shall be taken from the Appellate~~
3 ~~Court to the Supreme Court in accordance with Supreme Court~~
4 ~~Rule 315.~~

5 (9) Clerk duties. It shall be the duty of the clerk of any
6 court rendering a decision affecting or affirming an award of
7 the Commission to promptly furnish the Commission with a copy
8 of such decision, without charge.

9 (10) Further appellate review.

10 (A) Appellate Court. Appeals shall be taken to the
11 Appellate Court, Workers' Compensation Commission
12 Division, in accordance with Supreme Court Rules 22(i) and
13 303.

14 (B) Supreme Court. Appeals shall be taken from the
15 Appellate Court to the Supreme Court in accordance with
16 Supreme Court Rule 315(a). A petition for leave to appeal
17 from a judgment of the 5-judge panel of the Appellate Court
18 designated to hear and decide cases involving review of
19 Commission orders shall not require certification by the
20 Appellate Court and shall be filed within the time allowed
21 for filing a petition for rehearing in accordance with
22 Supreme Court Rule 315(b), as with all civil appeals not
23 involving workers' compensation appeals.

24 (C) Appeals from proceedings under subsection (g). All
25 appeals from Circuit Court proceedings brought pursuant to
26 subsection (g) shall be filed with or transferred to the

1 Appellate Court, Workers' Compensation Commission
2 Division, as established by Illinois Supreme Court Rule
3 22(i).

4 The changes made to this subsection (f) by this amendatory
5 Act of the 99th General Assembly apply to appeals filed in
6 Circuit Court after the effective date of this amendatory Act
7 of the 99th General Assembly. ~~The decision of a majority of the~~
8 ~~members of the panel of the Commission, shall be considered the~~
9 ~~decision of the Commission.~~

10 (g) Except in the case of a claim against the State of
11 Illinois, either party may present a certified copy of the
12 award of the Arbitrator, or a certified copy of the decision of
13 the Commission when the same has become final, when no
14 proceedings for review are pending, providing for the payment
15 of compensation according to this Act, to the Circuit Court of
16 the county in which such exposure occurred or either of the
17 parties are residents, whereupon the court shall enter a
18 judgment in accordance therewith. In case where the employer
19 refuses to pay compensation according to such final award or
20 such final decision upon which such judgment is entered, the
21 court shall in entering judgment thereon, tax as costs against
22 him the reasonable costs and attorney fees in the arbitration
23 proceedings and in the court entering the judgment for the
24 person in whose favor the judgment is entered, which judgment
25 and costs taxed as herein provided shall, until and unless set
26 aside, have the same effect as though duly entered in an action

1 duly tried and determined by the court, and shall with like
2 effect, be entered and docketed. The Circuit Court shall have
3 power at any time upon application to make any such judgment
4 conform to any modification required by any subsequent decision
5 of the Supreme Court upon appeal, or as the result of any
6 subsequent proceedings for review, as provided in this Act.

7 Judgment shall not be entered until 15 days' notice of the
8 time and place of the application for the entry of judgment
9 shall be served upon the employer by filing such notice with
10 the Commission, which Commission shall, in case it has on file
11 the address of the employer or the name and address of its
12 agent upon whom notices may be served, immediately send a copy
13 of the notice to the employer or such designated agent.

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

20 However, as to disablements occurring subsequently to July
21 1, 1955, which are covered by any agreement or award under this
22 Act providing for compensation in installments made as a result
23 of such disablement, such agreement or award may at any time
24 within 30 months after such agreement or award be reviewed by
25 the Commission at the request of either the employer or the
26 employee on the ground that the disability of the employee has

1 subsequently recurred, increased, diminished or ended.

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

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

19 (i) Each party, upon taking any proceedings or steps
20 whatsoever before any Arbitrator, Commission or court, shall
21 file with the Commission his address, or the name and address
22 of any agent upon whom all notices to be given to such party
23 shall be served, either personally or by registered mail,
24 addressed to such party or agent at the last address so filed
25 with the Commission. In the event such party has not filed his
26 address, or the name and address of an agent as above provided,

1 service of any notice may be had by filing such notice with the
2 Commission.

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

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

24 When determining whether this subsection (k) shall apply,
25 the Commission shall consider whether an arbitrator has
26 determined that the claim is not compensable or whether the

1 employer has made payments under Section 8(j) of the Workers'
2 Compensation Act.

3 (k-1) If the employee has made written demand for payment
4 of benefits under Section 8(a) or Section 8(b) of the Workers'
5 Compensation Act, the employer shall have 14 days after receipt
6 of the demand to set forth in writing the reason for the delay.
7 In the case of demand for payment of medical benefits under
8 Section 8(a) of the Workers' Compensation Act, the time for the
9 employer to respond shall not commence until the expiration of
10 the allotted 60 days specified under Section 8.2(d) of the
11 Workers' Compensation Act. In case the employer or his or her
12 insurance carrier shall without good and just cause fail,
13 neglect, refuse, or unreasonably delay the payment of benefits
14 under Section 8(a) or Section 8(b) of the Workers' Compensation
15 Act, the Arbitrator or the Commission shall allow to the
16 employee additional compensation in the sum of \$30 per day for
17 each day that the benefits under Section 8(a) or Section 8(b)
18 of the Workers' Compensation Act have been so withheld or
19 refused, not to exceed \$10,000. A delay in payment of 14 days
20 or more shall create a rebuttable presumption of unreasonable
21 delay.

22 (l) By the 15th day of each month each insurer providing
23 coverage for losses under this Act shall notify each insured
24 employer of any compensable claim incurred during the preceding
25 month and the amounts paid or reserved on the claim including a
26 summary of the claim and a brief statement of the reasons for

1 compensability. A cumulative report of all claims incurred
2 during a calendar year or continued from the previous year
3 shall be furnished to the insured employer by the insurer
4 within 30 days after the end of that calendar year.

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

21 (m) After filing an application for adjustment of claim but
22 prior to the hearing on arbitration the parties may voluntarily
23 agree to submit such application for adjustment of claim for
24 decision by an arbitrator under this subsection (m) where such
25 application for adjustment of claim raises only a dispute over
26 temporary total disability, permanent partial disability or

1 medical expenses. Such agreement shall be in writing in such
2 form as provided by the Commission. Applications for adjustment
3 of claim submitted for decision by an arbitrator under this
4 subsection (m) shall proceed according to rule as established
5 by the Commission. The Commission shall promulgate rules
6 including, but not limited to, rules to ensure that the parties
7 are adequately informed of their rights under this subsection
8 (m) and of the voluntary nature of proceedings under this
9 subsection (m). The findings of fact made by an arbitrator
10 acting within his or her powers under this subsection (m) in
11 the absence of fraud shall be conclusive. However, the
12 arbitrator may on his own motion, or the motion of either
13 party, correct any clerical errors or errors in computation
14 within 15 days after the date of receipt of such award of the
15 arbitrator and shall have the power to recall the original
16 award on arbitration, and issue in lieu thereof such corrected
17 award. The decision of the arbitrator under this subsection (m)
18 shall be considered the decision of the Commission and
19 proceedings for review of questions of law arising from the
20 decision may be commenced by either party pursuant to
21 subsection (f) of Section 19. The Advisory Board established
22 under Section 13.1 of the Workers' Compensation Act shall
23 compile a list of certified Commission arbitrators, each of
24 whom shall be approved by at least 7 members of the Advisory
25 Board. The chairman shall select 5 persons from such list to
26 serve as arbitrators under this subsection (m). By agreement,

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

8 (Source: P.A. 98-40, eff. 6-28-13.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.