

AN ACT concerning workers' compensation.

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

Section 5. The Intergovernmental Cooperation Act is amended by changing Section 6 as follows:

(5 ILCS 220/6) (from Ch. 127, par. 746)

Sec. 6. Joint self-insurance. An intergovernmental contract may, among other undertakings, authorize public agencies to jointly self-insure and authorize each public agency member of the contract to utilize its funds to pay to a joint insurance pool its costs and reserves to protect, wholly or partially, itself or any public agency member of the contract against liability or loss in the designated insurable area. A joint insurance pool shall have an annual audit performed by an independent certified public accountant and shall file an annual audited financial report with the Director of Insurance no later than 150 days after the end of the pool's immediately preceding fiscal year. The Director of Insurance shall issue rules necessary to implement this audit and report requirement. The rule shall establish the due date for filing the initial annual audited financial report. Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter, public agencies that are jointly self-insured to protect against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation ~~Industrial~~ Commission a report indicating an election to self-insure.

For purposes of this Section, "public agency member" means any public agency defined or created under this Act, any local public entity as defined in Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act, and any public agency, authority, instrumentality, council, board,

service region, district, unit, bureau, or, commission, or any municipal corporation, college, or university, whether corporate or otherwise, and any other local governmental body or similar entity that is presently existing or created after the effective date of this amendatory Act of the 92nd General Assembly, whether or not specified in this Section. Only public agency members with tax receipts, tax revenues, taxing authority, or other resources sufficient to pay costs and to service debt related to intergovernmental activities described in this Section, or public agency members created by or as part of a public agency with these powers, may enter into contracts or otherwise associate among themselves as permitted in this Section.

(Source: P.A. 92-530, eff. 2-8-02.)

Section 10. The Illinois Governmental Ethics Act is amended by changing Section 2-104 as follows:

(5 ILCS 420/2-104) (from Ch. 127, par. 602-104)

Sec. 2-104. No legislator may accept or participate in any way in any representation case, as that term is defined in Section 1-113, before (1) the Court of Claims of this State or (2) before the Illinois Workers' Compensation Industrial Commission ~~of this State~~, when the State of Illinois is the respondent.

This Section does not prohibit participation in such a representation case by a person with whom the legislator maintains a close economic association, unless the fact of that association is used to influence or attempt to influence the State agency in the rendering of its decision.

A violation of this Section is a Class A misdemeanor.

(Source: P. A. 78-695.)

Section 15. The Executive Reorganization Implementation Act is amended by changing Section 3.1 as follows:

(15 ILCS 15/3.1) (from Ch. 127, par. 1803.1)

Sec. 3.1. "Agency directly responsible to the Governor" or "agency" means any office, officer, division, or part thereof, and any other office, nonelective officer, department, division, bureau, board, or commission in the executive branch of State government, except that it does not apply to any agency whose primary function is service to the General Assembly or the Judicial Branch of State government, or to any agency administered by the Attorney General, Secretary of State, State Comptroller or State Treasurer. In addition the term does not apply to the following agencies created by law with the primary responsibility of exercising regulatory or adjudicatory functions independently of the Governor:

- (1) the State Board of Elections;
- (2) the State Board of Education;
- (3) the Illinois Commerce Commission;
- (4) the Illinois Workers' Compensation ~~Industrial~~ Commission;
- (5) the Civil Service Commission;
- (6) the Fair Employment Practices Commission;
- (7) the Pollution Control Board;
- (8) the Department of State Police Merit Board.

(Source: P.A. 84-25.)

Section 20. The Personnel Code is amended by changing Sections 4c, 4d, and 11 as follows:

(20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

Sec. 4c. General exemptions. The following positions in State service shall be exempt from jurisdictions A, B, and C, unless the jurisdictions shall be extended as provided in this Act:

- (1) All officers elected by the people.
- (2) All positions under the Lieutenant Governor, Secretary of State, State Treasurer, State Comptroller, State Board of Education, Clerk of the Supreme Court, and

Attorney General.

(3) Judges, and officers and employees of the courts, and notaries public.

(4) All officers and employees of the Illinois General Assembly, all employees of legislative commissions, all officers and employees of the Illinois Legislative Reference Bureau, the Legislative Research Unit, and the Legislative Printing Unit.

(5) All positions in the Illinois National Guard and Illinois State Guard, paid from federal funds or positions in the State Military Service filled by enlistment and paid from State funds.

(6) All employees of the Governor at the executive mansion and on his immediate personal staff.

(7) Directors of Departments, the Adjutant General, the Assistant Adjutant General, the Director of the Illinois Emergency Management Agency, members of boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate.

(8) The presidents, other principal administrative officers, and teaching, research and extension faculties of Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, and the administrative officers and scientific and technical staff of the Illinois State Museum.

(9) All other employees except the presidents, other principal administrative officers, and teaching, research and extension faculties of the universities under the jurisdiction of the Board of Regents and the colleges and universities under the jurisdiction of the Board of

Governors of State Colleges and Universities, Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, Board of Governors of State Colleges and Universities, the Board of Regents, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, so long as these are subject to the provisions of the State Universities Civil Service Act.

(10) The State Police so long as they are subject to the merit provisions of the State Police Act.

(11) The scientific staff of the State Scientific Surveys and the Waste Management and Research Center.

(12) The technical and engineering staffs of the Department of Transportation, the Department of Nuclear Safety, the Pollution Control Board, and the Illinois Commerce Commission, and the technical and engineering staff providing architectural and engineering services in the Department of Central Management Services.

(13) All employees of the Illinois State Toll Highway Authority.

(14) The Secretary of the Illinois Workers' Compensation ~~Industrial~~ Commission.

(15) All persons who are appointed or employed by the Director of Insurance under authority of Section 202 of the Illinois Insurance Code to assist the Director of Insurance in discharging his responsibilities relating to the rehabilitation, liquidation, conservation, and dissolution of companies that are subject to the jurisdiction of the Illinois Insurance Code.

(16) All employees of the St. Louis Metropolitan Area Airport Authority.

(17) All investment officers employed by the Illinois State Board of Investment.

(18) Employees of the Illinois Young Adult Conservation Corps program, administered by the Illinois Department of Natural Resources, authorized grantee under

Title VIII of the Comprehensive Employment and Training Act of 1973, 29 USC 993.

(19) Seasonal employees of the Department of Agriculture for the operation of the Illinois State Fair and the DuQuoin State Fair, no one person receiving more than 29 days of such employment in any calendar year.

(20) All "temporary" employees hired under the Department of Natural Resources' Illinois Conservation Service, a youth employment program that hires young people to work in State parks for a period of one year or less.

(21) All hearing officers of the Human Rights Commission.

(22) All employees of the Illinois Mathematics and Science Academy.

(23) All employees of the Kankakee River Valley Area Airport Authority.

(Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00; 91-357, eff. 7-29-99.)

(20 ILCS 415/4d) (from Ch. 127, par. 63b104d)

Sec. 4d. Partial exemptions. The following positions in State service are exempt from jurisdictions A, B, and C to the extent stated for each, unless those jurisdictions are extended as provided in this Act:

(1) In each department, board or commission that now maintains or may hereafter maintain a major administrative division, service or office in both Sangamon County and Cook County, 2 private secretaries for the director or chairman thereof, one located in the Cook County office and the other located in the Sangamon County office, shall be exempt from jurisdiction B; in all other departments, boards and commissions one private secretary for the director or chairman thereof shall be exempt from jurisdiction B. In all departments, boards and commissions one confidential assistant for the director or chairman thereof shall be exempt from jurisdiction B. This paragraph is subject to such modifications

or waiver of the exemptions as may be necessary to assure the continuity of federal contributions in those agencies supported in whole or in part by federal funds.

(2) The resident administrative head of each State charitable, penal and correctional institution, the chaplains thereof, and all member, patient and inmate employees are exempt from jurisdiction B.

(3) The Civil Service Commission, upon written recommendation of the Director of Central Management Services, shall exempt from jurisdiction B other positions which, in the judgment of the Commission, involve either principal administrative responsibility for the determination of policy or principal administrative responsibility for the way in which policies are carried out, except positions in agencies which receive federal funds if such exemption is inconsistent with federal requirements, and except positions in agencies supported in whole by federal funds.

(4) All beauticians and teachers of beauty culture and teachers of barbering, and all positions heretofore paid under Section 1.22 of "An Act to standardize position titles and salary rates", approved June 30, 1943, as amended, shall be exempt from jurisdiction B.

(5) Licensed attorneys in positions as legal or technical advisors, positions in the Department of Natural Resources requiring incumbents to be either a registered professional engineer or to hold a bachelor's degree in engineering from a recognized college or university, licensed physicians in positions of medical administrator or physician or physician specialist (including psychiatrists), and registered nurses (except those registered nurses employed by the Department of Public Health), except those in positions in agencies which receive federal funds if such exemption is inconsistent with federal requirements and except those in positions in agencies supported in whole by federal funds, are exempt from jurisdiction B only to the extent that the requirements of Section 8b.1, 8b.3 and 8b.5 of this Code need not be met.

(6) All positions established outside the geographical limits of the State of Illinois to which appointments of other than Illinois citizens may be made are exempt from jurisdiction B.

(7) Staff attorneys reporting directly to individual Commissioners of the Illinois Workers' Compensation ~~Industrial~~ Commission are exempt from jurisdiction B.

(Source: P.A. 89-77, eff. 6-30-95; 89-439, eff. 6-1-96; 89-626, eff. 8-9-96.)

(20 ILCS 415/11) (from Ch. 127, par. 63b111)

Sec. 11. Hearing - Disciplinary action. No officer or employee under jurisdiction B, relating to merit and fitness, who has been appointed under the rules and after examination, shall be removed discharged or demoted, or be suspended for a period of more than 30 days, in any 12 month period, except for cause, upon written charges approved by the Director of Central Management Services, and after an opportunity to be heard in his own defense if he makes written request to the Commission within 15 days after the serving of the written charges upon him. Upon the filing of such a request for a hearing, the Commission shall grant a hearing within 30 days. The time and place of the hearing shall be fixed by the Commission, and due notice thereof given the appointing officer and the employee. The hearing shall be public, and the officer or employee is entitled to call witnesses in his own defense and to have the aid of counsel. The finding and decision of the Commission, or the approval by the Commission of the finding and decision of the officer or board appointed by it to conduct such investigation, shall be rendered within 60 days after the receipt of the transcript of the proceedings. If the finding and decision is not rendered within 60 days after receipt of the transcript of the proceedings, the employee shall be considered to be reinstated and shall receive full compensation for the period for which he was suspended. The finding and decision of the Commission or officer or board appointed by it



to conduct investigation, when approved by the Commission, shall be certified to the Director, and shall be forthwith enforced by the Director. In making its finding and decision, or in approving the finding and decision of some officer or board appointed by it to conduct such investigation, the Civil Service Commission may, for disciplinary purposes, suspend an employee for a period of time not to exceed 90 days, and in no event to exceed a period of 120 days from the date of any suspension of such employee, pending investigation of such charges. If the Commission certifies a decision that an officer or employee is to be retained in his position and if it does not order a suspension for disciplinary purposes, the officer or employee shall receive full compensation for any period during which he was suspended pending the investigation of the charges.

Nothing in this Section shall limit the authority to suspend an employee for a reasonable period not exceeding 30 days, in any 12 month period.

Notwithstanding the provisions of this Section, an arbitrator of the Illinois Workers' Compensation ~~Industrial~~ Commission, appointed pursuant to Section 14 of the Workers' Compensation Act, may be removed by the Governor upon the recommendation of the Commission Review Board pursuant to Section 14.1 of such Act.

Notwithstanding the provisions of this Section, a policy making officer of a State agency, as defined in the Employee Rights Violation Act, shall be discharged from State employment as provided in the Employee Rights Violation Act, enacted by the 85th General Assembly.

(Source: P.A. 85-1436.)

Section 25. The State Finance Act is amended by changing Sections 5.454 and 8.3 as follows:

(30 ILCS 105/5.454)

Sec. 5.454. The Illinois Workers' Compensation ~~Industrial~~

Commission Operations Fund.

(Source: P.A. 90-109, eff. 1-1-98; 90-655, eff. 7-30-98.)

(30 ILCS 105/8.3) (from Ch. 127, par. 144.3)

Sec. 8.3. Money in the Road Fund shall, if and when the State of Illinois incurs any bonded indebtedness for the construction of permanent highways, be set aside and used for the purpose of paying and discharging annually the principal and interest on that bonded indebtedness then due and payable, and for no other purpose. The surplus, if any, in the Road Fund after the payment of principal and interest on that bonded indebtedness then annually due shall be used as follows:

first -- to pay the cost of administration of Chapters 2 through 10 of the Illinois Vehicle Code, except the cost of administration of Articles I and II of Chapter 3 of that Code; and

secondly -- for expenses of the Department of Transportation for construction, reconstruction, improvement, repair, maintenance, operation, and administration of highways in accordance with the provisions of laws relating thereto, or for any purpose related or incident to and connected therewith, including the separation of grades of those highways with railroads and with highways and including the payment of awards made by the Illinois Workers' Compensation ~~Industrial~~ Commission under the terms of the Workers' Compensation Act or Workers' Occupational Diseases Act for injury or death of an employee of the Division of Highways in the Department of Transportation; or for the acquisition of land and the erection of buildings for highway purposes, including the acquisition of highway right-of-way or for investigations to determine the reasonably anticipated future highway needs; or for making of surveys, plans, specifications and estimates for and in the construction and maintenance of flight strips and of highways necessary to provide access to military and naval reservations, to

defense industries and defense-industry sites, and to the sources of raw materials and for replacing existing highways and highway connections shut off from general public use at military and naval reservations and defense-industry sites, or for the purchase of right-of-way, except that the State shall be reimbursed in full for any expense incurred in building the flight strips; or for the operating and maintaining of highway garages; or for patrolling and policing the public highways and conserving the peace; or for any of those purposes or any other purpose that may be provided by law.

Appropriations for any of those purposes are payable from the Road Fund. Appropriations may also be made from the Road Fund for the administrative expenses of any State agency that are related to motor vehicles or arise from the use of motor vehicles.

Beginning with fiscal year 1980 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement;

1. Department of Public Health;

2. Department of Transportation, only with respect to subsidies for one-half fare Student Transportation and Reduced Fare for Elderly;

3. Department of Central Management Services, except for expenditures incurred for group insurance premiums of appropriate personnel;

4. Judicial Systems and Agencies.

Beginning with fiscal year 1981 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement:

1. Department of State Police, except for expenditures with respect to the Division of Operations;

2. Department of Transportation, only with respect to Intercity Rail Subsidies and Rail Freight Services.

Beginning with fiscal year 1982 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement: Department of Central Management Services, except for awards made by the Illinois Workers' Compensation Industrial Commission under the terms of the Workers' Compensation Act or Workers' Occupational Diseases Act for injury or death of an employee of the Division of Highways in the Department of Transportation.

Beginning with fiscal year 1984 and thereafter, no Road Fund monies shall be appropriated to the following Departments or agencies of State government for administration, grants, or operations; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement:

1. Department of State Police, except not more than 40% of the funds appropriated for the Division of Operations;

2. State Officers.

Beginning with fiscal year 1984 and thereafter, no Road Fund monies shall be appropriated to any Department or agency of State government for administration, grants, or operations except as provided hereafter; but this limitation is not a restriction upon appropriating for those purposes any Road Fund monies that are eligible for federal reimbursement. It shall not be lawful to circumvent the above appropriation limitations by governmental reorganization or other methods. Appropriations shall be made from the Road Fund only in accordance with the provisions of this Section.

Money in the Road Fund shall, if and when the State of Illinois incurs any bonded indebtedness for the construction of

permanent highways, be set aside and used for the purpose of paying and discharging during each fiscal year the principal and interest on that bonded indebtedness as it becomes due and payable as provided in the Transportation Bond Act, and for no other purpose. The surplus, if any, in the Road Fund after the payment of principal and interest on that bonded indebtedness then annually due shall be used as follows:

first -- to pay the cost of administration of Chapters 2 through 10 of the Illinois Vehicle Code; and

secondly -- no Road Fund monies derived from fees, excises, or license taxes relating to registration, operation and use of vehicles on public highways or to fuels used for the propulsion of those vehicles, shall be appropriated or expended other than for costs of administering the laws imposing those fees, excises, and license taxes, statutory refunds and adjustments allowed thereunder, administrative costs of the Department of Transportation, payment of debts and liabilities incurred in construction and reconstruction of public highways and bridges, acquisition of rights-of-way for and the cost of construction, reconstruction, maintenance, repair, and operation of public highways and bridges under the direction and supervision of the State, political subdivision, or municipality collecting those monies, and the costs for patrolling and policing the public highways (by State, political subdivision, or municipality collecting that money) for enforcement of traffic laws. The separation of grades of such highways with railroads and costs associated with protection of at-grade highway and railroad crossing shall also be permissible.

Appropriations for any of such purposes are payable from the Road Fund or the Grade Crossing Protection Fund as provided in Section 8 of the Motor Fuel Tax Law.

Except as provided in this paragraph, beginning with fiscal year 1991 and thereafter, no Road Fund monies shall be appropriated to the Department of State Police for the purposes

of this Section in excess of its total fiscal year 1990 Road Fund appropriations for those purposes unless otherwise provided in Section 5g of this Act. For fiscal years 2003 and 2004 only, no Road Fund monies shall be appropriated to the Department of State Police for the purposes of this Section in excess of \$97,310,000. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other methods unless otherwise provided in Section 5g of this Act.

In fiscal year 1994, no Road Fund monies shall be appropriated to the Secretary of State for the purposes of this Section in excess of the total fiscal year 1991 Road Fund appropriations to the Secretary of State for those purposes, plus \$9,800,000. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other method.

Beginning with fiscal year 1995 and thereafter, no Road Fund monies shall be appropriated to the Secretary of State for the purposes of this Section in excess of the total fiscal year 1994 Road Fund appropriations to the Secretary of State for those purposes. It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other methods.

Beginning with fiscal year 2000, total Road Fund appropriations to the Secretary of State for the purposes of this Section shall not exceed the amounts specified for the following fiscal years:

Fiscal Year 2000	\$80,500,000;
Fiscal Year 2001	\$80,500,000;
Fiscal Year 2002	\$80,500,000;
Fiscal Year 2003	\$130,500,000;
Fiscal Year 2004	\$130,500,000;
Fiscal Year 2005 and each year thereafter	\$30,500,000.

It shall not be lawful to circumvent this limitation on appropriations by governmental reorganization or other

methods.

No new program may be initiated in fiscal year 1991 and thereafter that is not consistent with the limitations imposed by this Section for fiscal year 1984 and thereafter, insofar as appropriation of Road Fund monies is concerned.

Nothing in this Section prohibits transfers from the Road Fund to the State Construction Account Fund under Section 5e of this Act; nor to the General Revenue Fund, as authorized by this amendatory Act of the 93rd General Assembly.

The additional amounts authorized for expenditure in this Section by this amendatory Act of the 92nd General Assembly shall be repaid to the Road Fund from the General Revenue Fund in the next succeeding fiscal year that the General Revenue Fund has a positive budgetary balance, as determined by generally accepted accounting principles applicable to government.

The additional amounts authorized for expenditure by the Secretary of State and the Department of State Police in this Section by this amendatory Act of the 93rd General Assembly shall be repaid to the Road Fund from the General Revenue Fund in the next succeeding fiscal year that the General Revenue Fund has a positive budgetary balance, as determined by generally accepted accounting principles applicable to government.

(Source: P.A. 92-600, eff. 6-28-02; 93-25, eff. 6-20-03.)

Section 30. The State Employee Industrial Commission Awards Act is amended by changing Sections 0.01, 3, and 4 as follows:

(30 ILCS 260/0.01) (from Ch. 127, par. 179.9)

Sec. 0.01. Short title. This Act may be cited as the State Employee Illinois Workers' Compensation ~~Industrial~~ Commission Awards Act.

(Source: P.A. 86-1324.)

(30 ILCS 260/3) (from Ch. 127, par. 180)

Sec. 3. Whenever the Illinois Workers' Compensation ~~Industrial~~ Commission or the Court of Claims makes an award under the terms of the Workers' Compensation Act or the Workers' Occupational Diseases Act for personal injuries or death of any State employee, and such award is approved by the Department of Central Management Services, such award shall be certified to the State Comptroller. Upon the approval of such award by the Department of Central Management Services, the Comptroller is directed to draw his warrant payable to the payee named, for the amount so certified, payable from the General Revenue Fund, except in cases of compensation of employees of the Division of Highways, Department of Transportation, which shall be paid from the Road Fund.

(Source: P.A. 83-316.)

(30 ILCS 260/4) (from Ch. 127, par. 181)

Sec. 4. In the event the award provides for payments in installments, the Illinois Workers' Compensation ~~Industrial~~ Commission or the clerk of the Court of Claims, as the case may be, shall furnish the State Comptroller and the Department of Central Management Services with a certified copy of such award and upon receipt thereof the Comptroller and the Department of Central Management Services shall pay such award at such intervals and in such amount as awarded.

(Source: P.A. 82-789.)

Section 35. The Illinois Income Tax Act is amended by changing Section 917 as follows:

(35 ILCS 5/917) (from Ch. 120, par. 9-917)

Sec. 917. Confidentiality and information sharing.

(a) Confidentiality. Except as provided in this Section, all information received by the Department from returns filed under this Act, or from any investigation conducted under the provisions of this Act, shall be confidential, except for



official purposes within the Department or pursuant to official procedures for collection of any State tax or pursuant to an investigation or audit by the Illinois State Scholarship Commission of a delinquent student loan or monetary award or enforcement of any civil or criminal penalty or sanction imposed by this Act or by another statute imposing a State tax, and any person who divulges any such information in any manner, except for such purposes and pursuant to order of the Director or in accordance with a proper judicial order, shall be guilty of a Class A misdemeanor. However, the provisions of this paragraph are not applicable to information furnished to a licensed attorney representing the taxpayer where an appeal or a protest has been filed on behalf of the taxpayer.

(b) Public information. Nothing contained in this Act shall prevent the Director from publishing or making available to the public the names and addresses of persons filing returns under this Act, or from publishing or making available reasonable statistics concerning the operation of the tax wherein the contents of returns are grouped into aggregates in such a way that the information contained in any individual return shall not be disclosed.

(c) Governmental agencies. The Director may make available to the Secretary of the Treasury of the United States or his delegate, or the proper officer or his delegate of any other state imposing a tax upon or measured by income, for exclusively official purposes, information received by the Department in the administration of this Act, but such permission shall be granted only if the United States or such other state, as the case may be, grants the Department substantially similar privileges. The Director may exchange information with the Illinois Department of Public Aid and the Department of Human Services (acting as successor to the Department of Public Aid under the Department of Human Services Act) for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and the Illinois Public Aid Code.

The Director may exchange information with the Director of the Department of Employment Security for the purpose of verifying sources and amounts of income and for other purposes directly connected with the administration of this Act and Acts administered by the Department of Employment Security. The Director may make available to the Illinois Workers' Compensation ~~Industrial~~ Commission information regarding employers for the purpose of verifying the insurance coverage required under the Workers' Compensation Act and Workers' Occupational Diseases Act.

The Director may make available to any State agency, including the Illinois Supreme Court, which licenses persons to engage in any occupation, information that a person licensed by such agency has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. The Director may make available to any State agency, including the Illinois Supreme Court, information regarding whether a bidder, contractor, or an affiliate of a bidder or contractor has failed to file returns under this Act or pay the tax, penalty, and interest shown therein, or has failed to pay any final assessment of tax, penalty, or interest due under this Act, for the limited purpose of enforcing bidder and contractor certifications. For purposes of this Section, the term "affiliate" means any entity that (1) directly, indirectly, or constructively controls another entity, (2) is directly, indirectly, or constructively controlled by another entity, or (3) is subject to the control of a common entity. For purposes of this subsection (a), an entity controls another entity if it owns, directly or individually, more than 10% of the voting securities of that entity. As used in this subsection (a), the term "voting security" means a security that (1) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (2) is convertible into, or entitles the holder to receive upon its exercise, a security

that confers such a right to vote. A general partnership interest is a voting security.

The Director may make available to any State agency, including the Illinois Supreme Court, units of local government, and school districts, information regarding whether a bidder or contractor is an affiliate of a person who is not collecting and remitting Illinois Use taxes, for the limited purpose of enforcing bidder and contractor certifications.

The Director may also make available to the Secretary of State information that a corporation which has been issued a certificate of incorporation by the Secretary of State has failed to file returns under this Act or pay the tax, penalty and interest shown therein, or has failed to pay any final assessment of tax, penalty or interest due under this Act. An assessment is final when all proceedings in court for review of such assessment have terminated or the time for the taking thereof has expired without such proceedings being instituted. For taxable years ending on or after December 31, 1987, the Director may make available to the Director or principal officer of any Department of the State of Illinois, information that a person employed by such Department has failed to file returns under this Act or pay the tax, penalty and interest shown therein. For purposes of this paragraph, the word "Department" shall have the same meaning as provided in Section 3 of the State Employees Group Insurance Act of 1971.

(d) The Director shall make available for public inspection in the Department's principal office and for publication, at cost, administrative decisions issued on or after January 1, 1995. These decisions are to be made available in a manner so that the following taxpayer information is not disclosed:

(1) The names, addresses, and identification numbers of the taxpayer, related entities, and employees.

(2) At the sole discretion of the Director, trade secrets or other confidential information identified as such by the taxpayer, no later than 30 days after receipt

of an administrative decision, by such means as the Department shall provide by rule.

The Director shall determine the appropriate extent of the deletions allowed in paragraph (2). In the event the taxpayer does not submit deletions, the Director shall make only the deletions specified in paragraph (1).

The Director shall make available for public inspection and publication an administrative decision within 180 days after the issuance of the administrative decision. The term "administrative decision" has the same meaning as defined in Section 3-101 of Article III of the Code of Civil Procedure. Costs collected under this Section shall be paid into the Tax Compliance and Administration Fund.

(e) Nothing contained in this Act shall prevent the Director from divulging information to any person pursuant to a request or authorization made by the taxpayer, by an authorized representative of the taxpayer, or, in the case of information related to a joint return, by the spouse filing the joint return with the taxpayer.

(Source: P.A. 93-25, eff. 6-20-03.)

Section 40. The Illinois Pension Code is amended by changing Sections 9-159, 12-141, 13-309, 14-123, 14-123.1, 14-128, 14-129, 16-149.1, and 17-117.1 as follows:

(40 ILCS 5/9-159) (from Ch. 108 1/2, par. 9-159)

Sec. 9-159. When disability benefit not payable. (a) If an employee receiving duty disability or ordinary disability benefit refuses to submit to examination by a physician appointed by the board, he shall have no further right to receive the benefit.

(b) Disability benefit shall not be paid for any time for which the employee receives any part of his salary, or while employed by any public body supported in whole or in part by taxation.

(c) If an employee who shall be disabled, or his widow or

children receive any compensation or payment from the county for specific loss, disability or death under the Workers' Compensation Act or Workers' Occupational Diseases Act, the disability benefit or any annuity for him or his widow or children payable as the result of such specific loss, disability or death shall be reduced by any amount so received or recoverable. If the amount received as such compensation or payment exceeds such disability benefit or other annuity payable as the result of such specific loss, disability or death, no payment of disability benefit or other annuity shall be made until the accumulative amounts thereof equals the amount of such compensation or payment. In such calculation no interest shall be considered. In adjusting the amount of any annuity in relation to compensation received or recoverable during any period of time, the annuity to the widow shall be first reduced.

If any employee, or widow shall be denied compensation by such county under the aforesaid Acts, or if such county shall fail to act, such denial or failure to act shall not be considered final until the claim has been adjudicated by the Illinois Workers' Compensation Industrial Commission ~~of the State of Illinois~~.

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

(40 ILCS 5/12-141) (from Ch. 108 1/2, par. 12-141)

Sec. 12-141. Workers' compensation offset. If an employee or surviving spouse and minor children receive any compensation or payment for specific loss, disability or death under or by virtue of the Workers' Compensation Act or the Workers' Occupational Diseases Act on account of disability or death resulting from the performance of an act of duty, the benefit payable to them under this Article shall be reduced by the amount of such compensation. If the amount received as compensation exceeds such benefits, no payment shall be made to the employee or surviving spouse until the expiration of the period during which the benefit payments, accumulated at the

rates herein stated, becomes equal to the sum received as compensation; provided, that the commutation of compensation to a lump sum basis as provided by the aforesaid Acts shall not increase the benefits payable by the fund but such benefits shall be adjusted to the amount of the compensation awarded under the aforesaid Acts prior to any commutation of such compensation. No interest shall be considered in these calculations.

If any employee or surviving spouse and children are denied compensation by the park or city under those Acts, or if the park or city fails to act, the denial or failure to act shall not be considered final until the claim has been adjudicated by the Illinois Workers' Compensation Industrial Commission ~~of the State of Illinois~~.

(Source: P.A. 87-1265.)

(40 ILCS 5/13-309) (from Ch. 108 1/2, par. 13-309)

Sec. 13-309. Duty disability benefit.

(a) Any employee who becomes disabled, which disability is the result of an injury or illness compensable under the Illinois Workers' Compensation Act or the Illinois Workers' Occupational Diseases Act, is entitled to a duty disability benefit during the period of disability for which the employee does not receive any part of salary, or any part of a retirement annuity under this Article; except that in the case of an employee who first enters service on or after the effective date of this amendatory Act of 1997, a duty disability benefit is not payable for the first 3 days of disability that would otherwise be payable under this Section if the disability does not continue for at least 11 additional days. This benefit shall be 75% of salary at the date disability begins. However, if the disability in any measure resulted from any physical defect or disease which existed at the time such injury was sustained or such illness commenced, the duty disability benefit shall be 50% of salary.

Unless the employer acknowledges that the disability is a

result of injury or illness compensable under the Workers' Compensation Act or the Workers' Occupational Diseases Act, the duty disability benefit shall not be payable until the issue of compensability under those Acts is finally adjudicated. The period of disability shall be as determined by the Illinois Workers' Compensation ~~Industrial~~ Commission or acknowledged by the employer.

The first payment shall be made not later than one month after the benefit is granted, and subsequent payments shall be made at least monthly. The Board shall by rule prescribe for the payment of such benefits on the basis of the amount of salary lost during the period of disability.

(b) The benefit shall be allowed only if the following requirements are met by the employee:

(1) Application is made to the Board within 90 days from the date disability begins;

(2) A medical report is submitted by at least one licensed and practicing physician as part of the employee's application; and

(3) The employee is examined by at least one licensed and practicing physician appointed by the Board and found to be in a disabled physical condition, and shall be re-examined at least annually thereafter during the continuance of disability. The employee need not be re-examined by a licensed and practicing physician if the attorney for the district certifies in writing that the employee is entitled to receive compensation under the Workers' Compensation Act or the Workers' Occupational Diseases Act.

(c) The benefit shall terminate when:

(1) The employee returns to work or receives a retirement annuity paid wholly or in part under this Article;

(2) The disability ceases;

(3) The employee attains age 65, but if the employee becomes disabled at age 60 or later, benefits may be

extended for a period of no more than 5 years after disablement;

(4) The employee (i) refuses to submit to reasonable examinations by physicians or other health professionals appointed by the Board, (ii) fails or refuses to consent to and sign an authorization allowing the Board to receive copies of or to examine the employee's medical and hospital records, or (iii) fails or refuses to provide complete information regarding any other employment for compensation he or she has received since becoming disabled; or

(5) The employee willfully and continuously refuses to follow medical advice and treatment to enable the employee to return to work. However this provision does not apply to an employee who relies in good faith on treatment by prayer through spiritual means alone in accordance with the tenets and practice of a recognized church or religious denomination, by a duly accredited practitioner thereof.

In the case of a duty disability recipient who returns to work, the employee must make application to the Retirement Board within 2 years from the date the employee last received duty disability benefits in order to become again entitled to duty disability benefits based on the injury for which a duty disability benefit was theretofore paid.

(Source: P.A. 90-12, eff. 6-13-97; 91-887, eff. 7-6-00.)

(40 ILCS 5/14-123) (from Ch. 108 1/2, par. 14-123)

Sec. 14-123. Occupational disability benefits. A member who becomes incapacitated to perform the duties of his position as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of the member's duties, shall receive an occupational disability benefit; provided:

(a) application is made within 12 months after the date that such disability results in the loss of pay, or 12 months after the date that the Illinois Workers' Compensation



~~Industrial Commission of Illinois~~ rules on the application for an occupational disability, or 12 months after the occurrence of disablement if an occupational disease; and

(b) proper proof is received from one or more physicians designated by the Board certifying that the member is mentally or physically incapacitated.

The benefit shall be 75% of the member's final average compensation at date of disability and shall be payable until the first of the following dates occurs:

(1) the date on which disability ceases;

(2) the date on which the member engages in gainful employment;

(3) the end of the month in which the member attains age 65, in the case of benefits commencing prior to attainment of age 60;

(4) the end of the month following the fifth anniversary of the effective date of the benefit, or of the temporary disability benefit if one was received, in the case of benefits commencing on or after attainment of age 60; or

(5) the end of the month in which the death of the member occurs.

At the end of the month in which the benefits cease as prescribed in paragraphs (3) or (4) above, if the member is still disabled, he shall become entitled to a retirement annuity and the minimum period of service prescribed for the receipt of such annuity shall be waived.

In the event that a temporary disability benefit has been received, the benefit paid under this Section shall be subject to adjustment by the Board under Section 14-123.1.

The Board shall prescribe rules and regulations governing the filing of claims for occupational disability benefits, and the investigation, control and supervision of such claims.

(Source: P.A. 86-272.)

(40 ILCS 5/14-123.1) (from Ch. 108 1/2, par. 14-123.1)

Sec. 14-123.1. Temporary disability benefit.

(a) A member who has at least 18 months of creditable service and who becomes physically or mentally incapacitated to perform the duties of his position shall receive a temporary disability benefit, provided that:

(1) the agency responsible for determining the liability of the State (i) has formally denied all employer-paid temporary total disability benefits under the Workers' Compensation Act or the Workers' Occupational Diseases Act and an appeal of that denial is pending before the Illinois Workers' Compensation ~~Industrial~~ Commission ~~of Illinois~~, or (ii) has granted and then terminated for any reason an employer-paid temporary total disability benefit and the member has filed a petition for emergency hearing under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers' Occupational Diseases Act; and

(2) application is made not later than (i) 12 months after the date that the disability results in loss of pay, (ii) 12 months after the date the agency responsible for determining the liability of the State under the Workers' Compensation Act or Workers' Occupational Diseases Act has formally denied or terminated the employer-paid temporary total disability benefit, or (iii) in the case of termination of an employer-paid temporary total disability benefit, 12 months after the effective date of this amendatory Act of 1995, whichever occurs last; and

(3) proper proof is received from one or more physicians designated by the Board certifying that the member is mentally or physically incapacitated.

(b) In the case of a denial of benefits, the temporary disability benefit shall begin to accrue on the 31st day of absence from work on account of disability, but the benefit shall not become actually payable to the member until the expiration of 31 days from the day upon which the member last received or had a right to receive any compensation.

In the case of termination of an employer-paid temporary

total disability benefit, the temporary disability benefit under this Section shall be calculated from the day following the date of termination of the employer-paid benefit or the 31st day of absence from work on account of disability, whichever is later, but shall not become payable to the member until (i) the member's right to an employer-paid temporary total disability benefit is denied as a result of the emergency hearing held under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers' Occupational Diseases Act or (ii) the expiration of 150 days from the date of termination of the employer-paid benefit, whichever occurs first. If a terminated employer-paid temporary total disability benefit is resumed or replaced with another employer-paid disability benefit and the resumed or replacement benefit is later terminated and the member again files a petition for emergency hearing under Section 19(b-1) of the Workers' Compensation Act or Section 19(b-1) of the Workers' Occupational Diseases Act, the member may again become eligible to receive a temporary disability benefit under this Section. The waiting period before the temporary disability benefit under this Section becomes payable applies each time that the benefit is reinstated.

The benefit shall continue to accrue until the first of the following events occurs:

- (1) the disability ceases;
- (2) the member engages in gainful employment;
- (3) the end of the month in which the member attains age 65, in the case of benefits commencing prior to attainment of age 60;
- (4) the end of the month following the fifth anniversary of the effective date of the benefit in the case of benefits commencing on or after attainment of age 60;
- (5) the end of the month in which the death of the member occurs;
- (6) the end of the month in which the aggregate period

for which temporary disability payments have been made becomes equal to 1/2 of the member's total period of creditable service, not including the time for which he has received a temporary disability benefit or nonoccupational disability benefit; for purposes of this item (6) only, in the case of a member to whom Section 14-108.2a or 14-108.2b applies and who, at the time disability commences, is performing services for the Illinois Department of Public Health or the Department of State Police relating to the transferred functions referred to in that Section and has less than 10 years of creditable service under this Article, the member's "total period of creditable service" shall be augmented by an amount equal to (i) one half of the member's period of creditable service in the Fund established under Article 8 (excluding any creditable service over 20 years), minus (ii) the amount of the member's creditable service under this Article;

(7) a payment is made on the member's claim pursuant to a determination made by the agency responsible for determining the liability of the State under the Workers' Compensation Act or the Workers' Occupational Diseases Act;

(8) a final determination is made on the member's claim by the Illinois Workers' Compensation Industrial Commission ~~of Illinois~~.

(c) The temporary disability benefit shall be 50% of the member's final average compensation at the date of disability.

If a covered employee is eligible under the Social Security Act for a disability benefit before attaining age 65, or a retirement benefit on or after attaining age 65, then the amount of the member's temporary disability benefit shall be reduced by the amount of primary benefit the member is eligible to receive under the Social Security Act, whether or not such eligibility came about as the result of service as a covered employee under this Article. The Board may make such reduction pending a determination of eligibility if it appears that the

employee may be so eligible, and shall make an appropriate adjustment if necessary after such determination has been made. The amount of temporary disability benefit payable under this Article shall not be reduced by reason of any increase in benefits payable under the Social Security Act which occurs after the reduction required by this paragraph has been applied.

(d) The temporary disability benefit provided under this Section is intended as a temporary payment of occupational or nonoccupational disability benefit, whichever is appropriate, in cases in which the occupational or nonoccupational character of the disability has not been finally determined.

When an employer-paid disability benefit is paid or resumed, the Board shall calculate the benefit that is payable under Section 14-123 and shall deduct from the benefit payable under Section 14-123 the amounts already paid under this Section; those amounts shall then be treated as if they had been paid under Section 14-123.

When a final determination of the character of the disability has been made by the Illinois Workers' Compensation Industrial Commission of Illinois, or by settlement between the parties to the disputed claim, the Board shall calculate the benefit that is payable under Section 14-123 or 14-124, whichever is applicable, and shall deduct from such benefit the amounts already paid under this Section; such amounts shall then be treated as if they had been paid under such Section 14-123 or 14-124.

(e) Any excess benefits paid under this Section shall be subject to recovery by the System from benefits payable under the Workers' Compensation Act or the Workers' Occupational Diseases Act or from third parties as provided in Section 14-129, or from any other benefits payable either to the member or on his behalf under this Article. A member who accepts benefits under this Section acknowledges and authorizes these recovery rights of the System.

(f) Service credits under the State Universities

Retirement System and the Teachers' Retirement System of the State of Illinois shall be considered for the purposes of determining temporary disability benefit eligibility under this Section, and for determining the total period of time for which such benefits are payable.

(g) The Board shall prescribe rules and regulations governing the filing of claims for temporary disability benefits, and the investigation, control and supervision of such claims.

(h) References in this Section to employer-paid benefits include benefits paid for by the State, either directly or through a program of insurance or self-insurance, whether paid through the member's own department or through some other department or entity; but the term does not include benefits paid by the System under this Article.

(Source: P.A. 88-535; 89-136, eff. 7-14-95; 89-246, eff. 8-4-95; 89-626, eff. 8-9-96.)

(40 ILCS 5/14-128) (from Ch. 108 1/2, par. 14-128)

Sec. 14-128. Occupational death benefit. An occupational death benefit is provided for a member of the System whose death, prior to retirement, is the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of the member's duties.

(a) Conditions for payment.

Exclusive of the lump sum payment provided for herein, all annuities under this Section shall accrue and be payable for complete calendar months, beginning on the first day of the month next following the month in which the initiating event occurs and ending on the last day of the month in which the terminating event occurs.

The following named survivors of the member may be eligible for an annuity under this Section:

(i) The member's spouse.

(ii) An unmarried child of the member under age 18 (under age 22 if a full-time student); an unmarried

stepchild under age 18 (under age 22 if a full-time student) who has been such for at least one year at the date of the member's death; an unmarried adopted child under age 18 (under age 22 if a full-time student) if the adoption proceedings were initiated at least one year prior to the death of the member; and an unmarried child over age 18 who is dependent by reason of a physical or mental disability, for so long as such physical or mental disability continues. For the purposes of this Section disability means inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.

(iii) If no spouse or eligible children survive: a dependent parent of the member; a dependent step-parent by a marriage contracted before the member attained age 18; or a dependent adopting parent by whom the member was adopted before he or she attained age 18.

The term "dependent" relating to an occupational death benefit means a survivor of the member who was receiving from the member at the date of the member's death at least 1/2 of the support for maintenance including board, lodging, medical care and like living costs.

Payment of the annuity shall continue until the occurrence of the following:

(1) remarriage before age 55 that occurs before the effective date of this amendatory Act of the 91st General Assembly or death, in the case of a surviving spouse;

(2) attainment of age 18 or termination of disability, death, or marriage, in the case of an eligible child;

(3) remarriage before age 55 or death, in the case of a dependent parent.

If none of the aforementioned beneficiaries is living at the date of death of the member, no occupational death benefit shall be payable, but the nonoccupational death benefit shall

be payable as provided in this Article.

The change made to this subsection by this amendatory Act of the 91st General Assembly (pertaining to remarriage prior to age 55) applies without regard to whether the deceased member was in service on or after the effective date of this amendatory Act.

(b) Amount of benefit.

The member's accumulated contributions plus credited interest shall be payable in a lump sum to such person as the member has nominated by written direction, duly acknowledged and filed with the Board, or if no such nomination to the estate of the member. When an annuitant is re-employed by a Department, the accumulated contributions plus credited interest payable on the member's account shall, if the member has not previously elected a reversionary annuity, consist of the excess, if any, of the member's total accumulated contributions plus credited interest for all creditable service over the total amount of all retirement annuity payments received by the member prior to death.

In addition to the foregoing payment, an annuity is provided for eligible survivors as follows:

(1) If the survivor is a spouse only, the annuity shall be 50% of the member's final average compensation.

(2) If the spouse has in his or her care an eligible child or children, the annuity shall be increased by an amount equal to 15% of the final average compensation on account of each such child, subject to a limitation on the combined annuities to a surviving spouse and children of 75% of final average compensation.

(3) If there is no surviving spouse, or if the surviving spouse dies or remarries while a child remains eligible, then each such child shall be entitled to an annuity of 15% of the deceased member's final average compensation, subject to a limitation of 50% of final average compensation to all such children.

(4) If there is no surviving spouse or eligible



children, then an annuity shall be payable to the member's dependent parents, equal to 25% of final average compensation to each such beneficiary.

If any annuity payable under this Section is less than the corresponding survivors annuity, the beneficiary or beneficiaries of the annuity under this Section may elect to receive the survivors annuity and the nonoccupational death benefit provided for in this Article in lieu of the annuity provided under this Section.

(c) Occupational death claims pending adjudication by the Illinois Workers' Compensation ~~Industrial~~ Commission or a ruling by the agency responsible for determining the liability of the State under the "Workers' Compensation Act" or "Workers' Occupational Diseases Act" shall be payable under Sections 14-120 and 14-121 until a ruling or adjudication occurs, if the beneficiary or beneficiaries: (1) meet all conditions for payment as prescribed in this Article; and (2) execute an assignment of benefits payable as a result of adjudication by the Illinois Workers' Compensation ~~Industrial~~ Commission or a ruling by the agency responsible for determining the liability of the State under such Acts. The assignment shall be made to the System and shall be for an amount equal to the excess of benefits paid under Sections 14-120 and 14-121 over benefits payable as a result of adjudication of the workers' compensation claim computed from the date of death of the member.

(d) Every occupational death annuity payable under this Section shall be increased on each January 1 occurring on or after (i) January 1, 1990, or (ii) the first anniversary of the commencement of the annuity, whichever occurs later, by an amount equal to 3% of the current amount of the annuity, including any previous increases under this Article, without regard to whether the deceased member was in service on the effective date of this amendatory Act of 1991.

(Source: P.A. 90-448, eff. 8-16-97; 91-887, eff. 7-6-00.)

(40 ILCS 5/14-129) (from Ch. 108 1/2, par. 14-129)

Sec. 14-129. Determination of compensability - Offset - Subrogation. Except as provided in Section 14-128 of this Act with respect to occupational death claims, and except as provided in Section 14-123.1 for temporary disability benefits, before the board takes any action on an application for an occupational disability or occupational death benefit, adjudication by the Illinois Workers' Compensation ~~Industrial Commission of Illinois~~ or a ruling by the agency responsible for determining the liability of the State under the Workers' Compensation Act or the Workers' Occupational Diseases Act shall be had on a claim to establish that the disability or death was incurred while in the performance and within the scope of the member's duties, under the terms of the Illinois Workers' Compensation Act or the Workers' Occupational Diseases Act, whichever applies. The system shall make payment of an occupational disability or occupational death benefit only if the claim is found to be compensable under one or both of those Acts.

Any amounts provided for a member or his dependents under those Acts shall be applied for the period of time prescribed by such Acts for payments thereunder as an offset to any occupational disability or occupational death benefit or to a survivors annuity or annuities provided in this Article in such manner as may be prescribed by the rules of the board.

In those cases where the injury or death for which an occupational disability or death benefit is payable under this Article was caused under circumstances creating a legal liability for damages on the part of some person other than the employer, all of the rights and privileges, including the right to notice of suit brought against such other person and the right to commence or join in such suit, as given the employer, together with the conditions or obligations imposed under paragraph (b) of Section 5 of the "Workers' Compensation Act", are also given and granted to the System, to the end that the System created by this Article may be paid or reimbursed for

the amount of temporary disability, occupational disability or death benefit paid or to be paid by the System to the injured employee, or his personal representative in the event of death, including any contribution amounts credited to the account of the member under Section 14-127, out of any judgment, settlement, or payment for such injury or death obtained by such injured employee or his personal representative from such other person, or be paid or reimbursed for such amount paid or to be paid by the System to the surviving spouse or children of such employee by virtue of the injury or the death of such employee from such injury.

(Source: P.A. 84-1028.)

(40 ILCS 5/16-149.1) (from Ch. 108 1/2, par. 16-149.1)

Sec. 16-149.1. Occupational disability benefit.

(a) A member who becomes totally and immediately incapacitated for duty as the proximate result of bodily injuries sustained or a hazard undergone while in the performance and within the scope of his or her duties, if such injuries or hazard were not the consequence of the member's willful negligence, shall receive an occupational disability benefit upon making proper application. If application is made more than 90 days subsequent to the later of the commencement of disability or the date eligibility for salary ceases, benefits shall begin to accrue from the date of application, but service credit and credit for contributions will be earned from the date of disability. The benefit is not payable to, and credit for service and contributions may not be earned under this Section by, a member who is receiving a benefit under Section 16-133, 16-149, or 16-149.2, or who is receiving salary as a teacher, or is employed in any capacity as a teacher by the employers included under this System or in an equivalent capacity in any other public or private school, college or university.

Proper proof of disability shall consist of: (1) a written certificate by at least 2 licensed and practicing physicians

designated by the System, certifying that member is disabled and unable to perform assigned duties; (2) a written statement from the employer certifying that the member is disabled and not receiving a salary, and related information as to the cause and commencement of disability; and (3) a written statement from the member certifying that the member is not and has not been engaged in gainful employment.

Occupational disability benefits under this Section shall be payable only if (1) on the basis of a claim filed by the applicant with the Illinois Workers' Compensation ~~Industrial Commission of Illinois~~, it is determined by the Commission that the disability was incurred while in the performance and within the scope of assigned duties, under the terms of the Illinois Workers' Compensation or Occupational Diseases Act, whichever applies, and the claim is adjudicated as compensable by the Commission under either of the aforesaid Acts; or (2) on the basis of a claim filed by the applicant with an insurance carrier with which the employer of the applicant has a workers' compensation insurance policy, it is determined under the terms of the aforesaid policy that the disability was incurred while in the performance and within the scope of the member's assigned duties and the claim is approved as compensable.

(b) The occupational disability benefit shall be the greater of 60% of the member's contract salary rate at the time the disability benefit becomes payable or the member's annual contract rate on the date the disability commenced, and shall be payable monthly in equal installments. For part-time and substitute teachers after June 30, 1990, the benefit shall be the greater of the member's most recent annualized salary rate at the time the disability benefit becomes payable or the annualized salary rate or annual contract rate at the time the disability commenced.

Any amounts provided for a member or a member's dependents under the Illinois Workers' Compensation Act, the Illinois Occupational Diseases Act or a workers' compensation insurance policy provided by the employer shall be applied as an offset

to any occupational benefit provided under this Section in such manner as may be prescribed by the board.

In addition to the above benefit, the member shall receive creditable service and credit for contributions that the member would have made in active employment during the period of disability. Creditable service and credit for contributions shall be calculated on the basis of the annual salary rate used in computing the benefit; however, such credit shall not be used in the determination of the period for which disability benefits are payable. A member who remains disabled after the termination of benefits due to age or the expiration of the maximum period for which benefits are payable shall be entitled to the retirement annuity provided under Section 16-133, notwithstanding that the member may not have the required minimum period of creditable service prescribed for such annuity.

(c) Effective January 1, 1988, the occupational disability benefit shall continue until the time one of the following first occurs: (1) disability ceases; (2) the member requests termination of the benefit; or (3) the member is engaged or found to be able to engage in gainful employment. If the disability benefit is discontinued under item (3) but the member is subsequently found to be unable to be gainfully employed due to the disability which was the cause for his or her most recent incapacity to perform the duties of a teacher, the disability benefit will be resumed, upon notification of the System, as soon as the member is not eligible to receive salary.

(d) The board shall prescribe rules governing the filing, investigation, control, and supervision of disability claims. Costs incurred by a claimant in connection with completing a claim for disability benefits shall be paid by the claimant.

(Source: P.A. 86-272; 86-273; 86-1488; 87-794; 87-1265.)

(40 ILCS 5/17-117.1) (from Ch. 108 1/2, par. 17-117.1)

Sec. 17-117.1. Duty disability. A teacher who becomes

wholly and presumably permanently incapacitated for duty while under age 65 as the proximate result of injuries sustained or a hazardous condition encountered in the performance and within the scope of his duties, if such injury or hazard was not the result of his own negligence, shall be entitled to a duty disability benefit, provided:

(1) application for the benefit is made to the Board not more than 6 months after a final settlement or an award from the Illinois Workers' Compensation ~~Industrial~~ Commission or within 6 months of the manifestation of an injury or illness that can be traced directly to an injury or illness for which a claim was filed with the Illinois Workers' Compensation ~~Industrial~~ Commission;

(2) certification is received from 2 or more physicians designated by the Board that the teacher is physically incapacitated for teaching service; and

(3) the teacher provides the Board with a copy of the notice of the occurrence that was filed with the Employer within the time provided by law.

The benefit shall be payable during disability and shall be 75% of the salary in effect at date of disability, payable until the teacher's attainment of age 65. At such time if disability still exists, the teacher shall become entitled to a service retirement pension. Creditable service shall accrue during the period the disability benefit is payable.

Before any action is taken by the Board on an application for a duty disability benefit, the teacher shall file a claim with the Illinois Workers' Compensation ~~Industrial~~ Commission to establish that the disability was incurred while the teacher was acting within the scope of and in the course of his duties under the terms of the Workers' Compensation or Occupational Diseases Acts, whichever may be applicable. The benefit shall be payable after a finding by the Commission that the claim was compensable under either of the aforesaid Acts; but if such finding is appealed the benefit shall be payable only upon affirmance of the Commission's finding. After the teacher has

made timely application for a duty disability benefit supported by the certificate of two or more physicians, he shall be entitled to a disability retirement pension provided in Section 17-117 of this Act until such time as the Illinois Workers' Compensation Industrial Commission award finding that his disability is duty-connected as provided in this Section becomes final.

Any amounts provided for the teacher under such Acts shall be applied as an offset to the duty disability benefit payable hereunder in such manner as may be prescribed by the rules of the Board.

(Source: P.A. 90-32, eff. 6-27-97; 90-566, eff. 1-2-98.)

Section 45. The Nursing Education Scholarship Law is amended by changing Section 3 as follows:

(110 ILCS 975/3) (from Ch. 144, par. 2753)

Sec. 3. Definitions.

The following terms, whenever used or referred to, have the following meanings except where the context clearly indicates otherwise:

(1) "Board" means the Board of Higher Education created by the Board of Higher Education Act.

(2) "Department" means the Illinois Department of Public Health.

(3) "Approved institution" means a public community college, private junior college, hospital-based diploma in nursing program, or public or private college or university located in this State that has approval by the Department of Professional Regulation for an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, or certificate in practical nursing program.

(4) "Baccalaureate degree in nursing program" means a program offered by an approved institution and leading to a

bachelor of science degree in nursing.

(5) "Enrollment" means the establishment and maintenance of an individual's status as a student in an approved institution, regardless of the terms used at the institution to describe such status.

(6) "Academic year" means the period of time from September 1 of one year through August 31 of the next year or as otherwise defined by the academic institution.

(7) "Associate degree in nursing program or hospital-based diploma in nursing program" means a program offered by an approved institution and leading to an associate degree in nursing, associate degree in applied sciences in nursing, or hospital-based diploma in nursing.

(8) "Director" means the Director of the Illinois Department of Public Health.

(9) "Accepted for admission" means a student has completed the requirements for entry into an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, or certificate in practical nursing program at an approved institution, as documented by the institution.

(10) "Fees" means those mandatory charges, in addition to tuition, that all enrolled students must pay, including required course or lab fees.

(11) "Full-time student" means a student enrolled for at least 12 hours per term or as otherwise determined by the academic institution.

(12) "Law" means the Nursing Education Scholarship Law.

(13) "Nursing employment obligation" means employment in this State as a registered professional nurse or licensed practical nurse in direct patient care for at least one year for each year of scholarship assistance received through the Nursing Education Scholarship Program.

(14) "Part-time student" means a person who is enrolled for at least one-third of the number of hours required per term by



a school for its full-time students.

(15) "Practical nursing program" means a program offered by an approved institution leading to a certificate in practical nursing.

(16) "Registered professional nurse" means a person who is currently licensed as a registered professional nurse by the Department of Professional Regulation under the Nursing and Advanced Practice Nursing Act.

(17) "Licensed practical nurse" means a person who is currently licensed as a licensed practical nurse by the Department of Professional Regulation under the Nursing and Advanced Practice Nursing Act.

(18) "School term" means an academic term, such as a semester, quarter, trimester, or number of clock hours, as defined by an approved institution.

(19) "Student in good standing" means a student maintaining a cumulative grade point average equivalent to at least the academic grade of a "C".

(20) "Total and permanent disability" means a physical or mental impairment, disease, or loss of a permanent nature that prevents nursing employment with or without reasonable accommodation. Proof of disability shall be a declaration from the social security administration, Illinois Workers' Compensation ~~Industrial~~ Commission, Department of Defense, or an insurer authorized to transact business in Illinois who is providing disability insurance coverage to a contractor.

(21) "Tuition" means the established charges of an institution of higher learning for instruction at that institution.

(Source: P.A. 92-43, eff. 1-1-02.)

Section 50. The Illinois Insurance Code is amended by changing Section 416 as follows:

(215 ILCS 5/416)

Sec. 416. Illinois Workers' Compensation ~~Industrial~~

Commission Operations Fund Surcharge.

(a) As of the effective date of this amendatory Act of the 93rd General Assembly, every company licensed or authorized by the Illinois Department of Insurance and insuring employers' liabilities arising under the Workers' Compensation Act or the Workers' Occupational Diseases Act shall remit to the Director a surcharge based upon the annual direct written premium, as reported under Section 136 of this Act, of the company in the manner provided in this Section. Such proceeds shall be deposited into the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund as established in the Workers' Compensation Act. If a company survives or was formed by a merger, consolidation, reorganization, or reincorporation, the direct written premiums of all companies party to the merger, consolidation, reorganization, or reincorporation shall, for purposes of determining the amount of the fee imposed by this Section, be regarded as those of the surviving or new company.

(b)(1) Except as provided in subsection (b)(2) of this Section, beginning on July 1, 2004 and each year thereafter, the Director shall charge an annual Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Surcharge from every company subject to subsection (a) of this Section equal to 1.5% of its direct written premium for insuring employers' liabilities arising under the Workers' Compensation Act or Workers' Occupational Diseases Act as reported in each company's annual statement filed for the previous year as required by Section 136. The Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Surcharge shall be collected by companies subject to subsection (a) of this Section as a separately stated surcharge on insured employers at the rate of 1.5% of direct written premium. All sums collected by the Department of Insurance under the provisions of this Section shall be paid promptly after the receipt of the same, accompanied by a detailed statement thereof, into the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund in the State treasury.

(b) (2) Prior to July 1, 2004, the Director shall charge and collect the surcharge set forth in subparagraph (b) (1) of this Section on or before September 1, 2003, December 1, 2003, March 1, 2004 and June 1, 2004. For purposes of this subsection (b) (2), the company shall remit the amounts to the Director based on estimated direct premium for each quarter beginning on July 1, 2003, together with a sworn statement attesting to the reasonableness of the estimate, and the estimated amount of direct premium written forming the bases of the remittance.

(c) In addition to the authority specifically granted under Article XXV of this Code, the Director shall have such authority to adopt rules or establish forms as may be reasonably necessary for purposes of enforcing this Section. The Director shall also have authority to defer, waive, or abate the surcharge or any penalties imposed by this Section if in the Director's opinion the company's solvency and ability to meet its insured obligations would be immediately threatened by payment of the surcharge due.

(d) When a company fails to pay the full amount of any annual Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Surcharge of \$100 or more due under this Section, there shall be added to the amount due as a penalty the greater of \$1,000 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid.

(e) The Department of Insurance may enforce the collection of any delinquent payment, penalty, or portion thereof by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State.

(f) Whenever it appears to the satisfaction of the Director that a company has paid pursuant to this Act an Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Surcharge in an amount in excess of the amount legally collectable from the company, the Director shall issue a credit memorandum for an amount equal to the amount of such

overpayment. A credit memorandum may be applied for the 2-year period from the date of issuance, against the payment of any amount due during that period under the surcharge imposed by this Section or, subject to reasonable rule of the Department of Insurance including requirement of notification, may be assigned to any other company subject to regulation under this Act. Any application of credit memoranda after the period provided for in this Section is void.

(g) Annually, the Governor may direct a transfer of up to 2% of all moneys collected under this Section to the Insurance Financial Regulation Fund.

(Source: P.A. 93-32, eff. 6-20-03.)

Section 55. The Local Governmental and Governmental Employees Tort Immunity Act is amended by changing Section 9-103 as follows:

(745 ILCS 10/9-103) (from Ch. 85, par. 9-103)

Sec. 9-103. (a) A local public entity may protect itself against any property damage or against any liability or loss which may be imposed upon it or one of its employees for a tortious act under Federal or State common or statutory law, or imposed upon it under the Workers' Compensation Act, the Workers' Occupational Diseases Act, or the Unemployment Insurance Act by means including, but not limited to, insurance, individual or joint self-insurance, including all operating and administrative costs and expenses directly associated therewith, claims services and risk management directly attributable to loss prevention and loss reduction, legal services directly attributable to the insurance, self-insurance, or joint self-insurance program, educational, inspectional, and supervisory services directly relating to loss prevention and loss reduction, or participation in a reciprocal insurer as provided in Sections 72, 76 and 81 of the Illinois Insurance Code. Insurance shall be carried with a company authorized by the Department of Insurance to write such

insurance coverage in Illinois.

(a-5) A local public entity may individually or jointly self-insure provided it complies with any other statutory requirements specifically related to individual or joint self-insurance by local public entities. Whenever the terms "self-insure" or "self-insurance" are utilized within this Act, such term shall apply to both individual and joint self-insurance. The expenditure of funds of a local public entity to protect itself or its employees against liability is proper for any local public entity. A local public entity that has individually self-insured may establish reserves for expected losses for any liability or loss for which the local public entity is authorized to purchase insurance under this Act. The decision of the local public entity to establish a reserve and the amount of the reserve shall be based on reasonable actuarial or insurance underwriting evidence. Property taxes shall not be levied or extended if the effect is to increase the reserve beyond 125% of the actuary's or insurance underwriter's estimated ultimate losses at the 95% confidence level. Certification of the amount of the reserve shall be made by the independent auditor, actuary, or insurance underwriter and included in an annual report. The annual report shall also list all expenditures from the reserve or from property taxes levied or extended for tort immunity purposes. Total claims payments and total reserves must be listed in aggregate amounts. All other expenditures must be identified individually. A local public entity that maintains a self-insurance reserve or that levies and extends a property tax for tort immunity purposes must include in its audit or annual report any expenditures made from the property tax levy or self-insurance reserve within the scope of the audit or annual report.

(b) A local public entity may contract for or purchase any of the guaranteed fund certificates or shares of guaranteed capital as provided for in Section 56 of the Illinois Insurance Code. The expenditure of funds of the local public entity for

said contract or purchase is proper for any local public entity.

(c) Any insurance company that provides insurance coverage to a local public entity shall utilize any immunities or may assert any defenses to which the insured local public entity or its employees are entitled. Public entities which are individually or jointly self-insured shall be entitled to assert all of the immunities provided by this Act or by common law or statute on behalf of themselves or their employees unless the local public entities shall elect by action of their corporate authorities or specifically contract to waive in whole or in part such immunities.

(d) Within 30 days after January 1, 1991, and within 30 days after each January 1 thereafter, local public entities that are individually or jointly self-insured to protect against liability under the Workers' Compensation Act and the Workers' Occupational Diseases Act shall file with the Illinois Workers' Compensation ~~Industrial~~ Commission a report indicating an election to self-insure.

(Source: P.A. 91-628, eff. 1-1-00.)

Section 60. The Child Labor Law is amended by changing Section 17.6 as follows:

(820 ILCS 205/17.6)

Sec. 17.6. Reports of work related death, injury, or illness. If an employer is required to file a report with the Illinois Workers' Compensation ~~Industrial~~ Commission under Section 6 of the Workers' Compensation Act or Section 6 of the Workers' Occupational Diseases Act, and the report relates to the work related death, injury, or illness of a minor, the employer shall file a copy of the report with the Department of Labor. The Department may, by rule, require other employers to submit reports of work related deaths, injuries and illnesses of minors to the Department.

(Source: P.A. 88-365.)

Section 70. The Workers' Compensation Act is amended by changing Sections 1, 4, 4a-2, 4a-3, 4a-7, 4d, 6, 7, 8, 13, 14, 14.1, 16a, 17, 19, 23, and 26 as follows:

(820 ILCS 305/1) (from Ch. 48, par. 138.1)

Sec. 1. This Act may be cited as the Workers' Compensation Act.

(a) The term "employer" as used in this Act means:

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

2. Every person, firm, public or private corporation, including hospitals, public service, eleemosynary, religious or charitable corporations or associations who has any person in service or under any contract for hire, express or implied, oral or written, and who is engaged in any of the enterprises or businesses enumerated in Section 3 of this Act, or who at or prior to the time of the accident to the employee for which compensation under this Act may be claimed, has in the manner provided in this Act elected to become subject to the provisions of this Act, and who has not, prior to such accident, effected a withdrawal of such election in the manner provided in this Act.

3. Any one engaging in any business or enterprise referred to in subsections 1 and 2 of Section 3 of this Act who undertakes to do any work enumerated therein, is liable to pay compensation to his own immediate employees in accordance with the provisions of this Act, and in addition thereto if he directly or indirectly engages any contractor whether principal or sub-contractor to do any such work, he is liable to pay compensation to the employees of any such contractor or sub-contractor unless such contractor or sub-contractor has insured, in any company or association authorized under the laws of this State to insure the liability to pay compensation under this Act, or guaranteed his liability to pay such

compensation. With respect to any time limitation on the filing of claims provided by this Act, the timely filing of a claim against a contractor or subcontractor, as the case may be, shall be deemed to be a timely filing with respect to all persons upon whom liability is imposed by this paragraph.

In the event any such person pays compensation under this subsection he may recover the amount thereof from the contractor or sub-contractor, if any, and in the event the contractor pays compensation under this subsection he may recover the amount thereof from the sub-contractor, if any.

This subsection does not apply in any case where the accident occurs elsewhere than on, in or about the immediate premises on which the principal has contracted that the work be done.

4. Where an employer operating under and subject to the provisions of this Act loans an employee to another such employer and such loaned employee sustains a compensable accidental injury in the employment of such borrowing employer and where such borrowing employer does not provide or pay the benefits or payments due such injured employee, such loaning employer is liable to provide or pay all benefits or payments due such employee under this Act and as to such employee the liability of such loaning and borrowing employers is joint and several, provided that such loaning employer is in the absence of agreement to the contrary entitled to receive from such borrowing employer full reimbursement for all sums paid or incurred pursuant to this paragraph together with reasonable attorneys' fees and expenses in any hearings before the Illinois Workers' Compensation ~~Industrial~~ Commission or in any action to secure such reimbursement. Where any benefit is provided or paid by such loaning employer the employee has the duty of rendering reasonable cooperation in any hearings, trials or proceedings in the case, including such proceedings for reimbursement.

Where an employee files an Application for Adjustment of Claim with the Illinois Workers' Compensation ~~Industrial~~



Commission alleging that his claim is covered by the provisions of the preceding paragraph, and joining both the alleged loaning and borrowing employers, they and each of them, upon written demand by the employee and within 7 days after receipt of such demand, shall have the duty of filing with the Illinois Workers' Compensation ~~Industrial~~ Commission a written admission or denial of the allegation that the claim is covered by the provisions of the preceding paragraph and in default of such filing or if any such denial be ultimately determined not to have been bona fide then the provisions of Paragraph K of Section 19 of this Act shall apply.

An employer whose business or enterprise or a substantial part thereof consists of hiring, procuring or furnishing employees to or for other employers operating under and subject to the provisions of this Act for the performance of the work of such other employers and who pays such employees their salary or wages notwithstanding that they are doing the work of such other employers shall be deemed a loaning employer within the meaning and provisions of this Section.

(b) The term "employee" as used in this Act means:

1. Every person in the service of the State, including members of the General Assembly, members of the Commerce Commission, members of the Illinois Workers' Compensation ~~Industrial~~ Commission, and all persons in the service of the University of Illinois, county, including deputy sheriffs and assistant state's attorneys, city, town, township, incorporated village or school district, body politic, or municipal corporation therein, whether by election, under appointment or contract of hire, express or implied, oral or written, including all members of the Illinois National Guard while on active duty in the service of the State, and all probation personnel of the Juvenile Court appointed pursuant to Article VI of the Juvenile Court Act of 1987, and including any official of the State, any county, city, town, township, incorporated village, school district, body politic or municipal corporation therein except any duly appointed member

of a police department in any city whose population exceeds 200,000 according to the last Federal or State census, and except any member of a fire insurance patrol maintained by a board of underwriters in this State. A duly appointed member of a fire department in any city, the population of which exceeds 200,000 according to the last federal or State census, is an employee under this Act only with respect to claims brought under paragraph (c) of Section 8.

One employed by a contractor who has contracted with the State, or a county, city, town, township, incorporated village, school district, body politic or municipal corporation therein, through its representatives, is not considered as an employee of the State, county, city, town, township, incorporated village, school district, body politic or municipal corporation which made the contract.

2. Every person in the service of another under any contract of hire, express or implied, oral or written, including persons whose employment is outside of the State of Illinois where the contract of hire is made within the State of Illinois, persons whose employment results in fatal or non-fatal injuries within the State of Illinois where the contract of hire is made outside of the State of Illinois, and persons whose employment is principally localized within the State of Illinois, regardless of the place of the accident or the place where the contract of hire was made, and including aliens, and minors who, for the purpose of this Act are considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees.

3. Every sole proprietor and every partner of a business may elect to be covered by this Act.

An employee or his dependents under this Act who shall have a cause of action by reason of any injury, disablement or death arising out of and in the course of his employment may elect to pursue his remedy in the State where injured or disabled, or in the State where the contract of hire is made, or in the State

where the employment is principally localized.

However, any employer may elect to provide and pay compensation to any employee other than those engaged in the usual course of the trade, business, profession or occupation of the employer by complying with Sections 2 and 4 of this Act. Employees are not included within the provisions of this Act when excluded by the laws of the United States relating to liability of employers to their employees for personal injuries where such laws are held to be exclusive.

The term "employee" does not include persons performing services as real estate broker, broker-salesman, or salesman when such persons are paid by commission only.

(c) "Commission" means the Industrial Commission created by Section 5 of "The Civil Administrative Code of Illinois", approved March 7, 1917, as amended, or the Illinois Workers' Compensation ~~Industrial~~ Commission created by Section 13 of this Act.

(Source: P.A. 85-1209.)

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

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

(1) File with the Commission annually an application for approval as a self-insurer which shall include a current financial statement, and annually, thereafter, an application for renewal of self-insurance, which shall include a current financial statement. Said application and financial statement shall be signed and sworn to by the president or vice president and secretary or assistant secretary of the employer if it be a corporation, or by all of the partners, if it be a copartnership, or by the owner if it be neither a copartnership nor a corporation. All initial applications and all applications for renewal of

self-insurance must be submitted at least 60 days prior to the requested effective date of self-insurance. An employer may elect to provide and pay compensation as provided for in this Act as a member of a group workers' compensation pool under Article V 3/4 of the Illinois Insurance Code. If an employer becomes a member of a group workers' compensation pool, the employer shall not be relieved of any obligations imposed by this Act.

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

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

(3) Insure his entire liability to pay such compensation in some insurance carrier authorized, licensed, or permitted to do such insurance business in this State. Every policy of an insurance carrier, insuring the payment of compensation under this Act shall cover all the employees and the entire compensation liability of the insured: Provided, however, that any employer may insure his or her compensation liability with 2 or more insurance carriers or may insure a part and qualify under subsection 1, 2, or 4 for the remainder of his or her liability to pay such compensation, subject to the following two provisions:

Firstly, the entire compensation liability of the employer to employees working at or from one location

shall be insured in one such insurance carrier or shall be self-insured, and

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

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

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

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

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

(A) the employer is engaged primarily in the building and construction industry; and

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

The Illinois Workers' Compensation ~~Industrial~~ Commission shall impose a penalty upon an employer for violation of this subsection (a-1) if:

(i) the employer is given an opportunity at a hearing to present evidence of its compliance with this subsection

(a-1); and

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

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

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

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

Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or National Bank or Trust Company having trust authority in the State of Illinois.

Upon the approval of the sworn application and financial statement, security, indemnity or bond or amount of insurance, filed, furnished or carried, as the case may be, the Commission shall send to the employer written notice of its approval thereof. The certificate of compliance by the employer with the provisions of subparagraphs (2) and (3) of paragraph (a) of this Section shall be delivered by the insurance carrier to the

Illinois Workers' Compensation ~~Industrial~~ Commission within five days after the effective date of the policy so certified. The insurance so certified shall cover all compensation liability occurring during the time that the insurance is in effect and no further certificate need be filed in case such insurance is renewed, extended or otherwise continued by such carrier. The insurance so certified shall not be cancelled or in the event that such insurance is not renewed, extended or otherwise continued, such insurance shall not be terminated until at least 10 days after receipt by the Illinois Workers' Compensation ~~Industrial~~ Commission of notice of the cancellation or termination of said insurance; provided, however, that if the employer has secured insurance from another insurance carrier, or has otherwise secured the payment of compensation in accordance with this Section, and such insurance or other security becomes effective prior to the expiration of the 10 days, cancellation or termination may, at the option of the insurance carrier indicated in such notice, be effective as of the effective date of such other insurance or security.

(c) Whenever the Commission shall find that any corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or other insurer effecting workers' compensation insurance in this State shall be insolvent, financially unsound, or unable to fully meet all payments and liabilities assumed or to be assumed for compensation insurance in this State, or shall practice a policy of delay or unfairness toward employees in the adjustment, settlement, or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer, shall from and after a date fixed in such order discontinue the writing of any such workers' compensation insurance in this State. Subject to such modification of the order as the Commission may later make on

review of the order, as herein provided, it shall thereupon be unlawful for any such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer to effect any workers' compensation insurance in this State. A copy of the order shall be served upon the Director of Insurance by registered mail. Whenever the Commission finds that any service or adjustment company used or employed by a self-insured employer or by an insurance carrier to process, adjust, investigate, compromise or otherwise handle claims under this Act, has practiced or is practicing a policy of delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such service or adjustment company shall from and after a date fixed in such order be prohibited from processing, adjusting, investigating, compromising or otherwise handling claims under this Act.

Whenever the Commission finds that any self-insured employer has practiced or is practicing delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may, after reasonable notice and hearing, order and direct that after a date fixed in the order such self-insured employer shall be disqualified to operate as a self-insurer and shall be required to insure his entire liability to pay compensation in some insurance carrier authorized, licensed and permitted to do such insurance business in this State, as provided in subparagraph 3 of paragraph (a) of this Section.

All orders made by the Commission under this Section shall be subject to review by the courts, said review to be taken in the same manner and within the same time as provided by Section 19 of this Act for review of awards and decisions of the Commission, upon the party seeking the review filing with the clerk of the court to which said review is taken a bond in an amount to be fixed and approved by the court to which the review is taken, conditioned upon the payment of all



compensation awarded against the person taking said review pending a decision thereof and further conditioned upon such other obligations as the court may impose. Upon the review the Circuit Court shall have power to review all questions of fact as well as of law. The penalty hereinafter provided for in this paragraph shall not attach and shall not begin to run until the final determination of the order of the Commission.

(d) Upon a finding by the Commission, after reasonable notice and hearing, of the knowing and wilful failure or refusal of an employer to comply with any of the provisions of paragraph (a) of this Section or the failure or refusal of an employer, service or adjustment company, or an insurance carrier to comply with any order of the Illinois Workers' Compensation ~~Industrial~~ Commission pursuant to paragraph (c) of this Section disqualifying him or her to operate as a self insurer and requiring him or her to insure his or her liability, the Commission may assess a civil penalty of up to \$500 per day for each day of such failure or refusal after the effective date of this amendatory Act of 1989. The minimum penalty under this Section shall be the sum of \$10,000. Each day of such failure or refusal shall constitute a separate offense. The Commission may assess the civil penalty personally and individually against the corporate officers and directors of a corporate employer, the partners of an employer partnership, and the members of an employer limited liability company, after a finding of a knowing and willful refusal or failure of each such named corporate officer, director, partner, or member to comply with this Section. The liability for the assessed penalty shall be against the named employer first, and if the named employer fails or refuses to pay the penalty to the Commission within 30 days after the final order of the Commission, then the named corporate officers, directors, partners, or members who have been found to have knowingly and willfully refused or failed to comply with this Section shall be liable for the unpaid penalty or any unpaid portion of the penalty. All penalties collected under this

Section shall be deposited in the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund.

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

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

(f) No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein

contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

(g) Any contract, oral, written or implied, of employment providing for relief benefit, or insurance or any other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this Act shall be null and void. Any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a Class B misdemeanor.

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

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

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

(i) If an employer elects to obtain a life insurance policy

on his employees, he may also elect to apply such benefits in satisfaction of all or a portion of the death benefits payable under this Act, in which case, the employer's compensation premium shall be reduced accordingly.

(j) Within 45 days of receipt of an initial application or application to renew self-insurance privileges the Self-Insurers Advisory Board shall review and submit for approval by the Chairman of the Commission recommendations of disposition of all initial applications to self-insure and all applications to renew self-insurance privileges filed by private self-insurers pursuant to the provisions of this Section and Section 4a-9 of this Act. Each private self-insurer shall submit with its initial and renewal applications the application fee required by Section 4a-4 of this Act.

The Chairman of the Commission shall promptly act upon all initial applications and applications for renewal in full accordance with the recommendations of the Board or, should the Chairman disagree with any recommendation of disposition of the Self-Insurer's Advisory Board, he shall within 30 days of receipt of such recommendation provide to the Board in writing the reasons supporting his decision. The Chairman shall also promptly notify the employer of his decision within 15 days of receipt of the recommendation of the Board.

If an employer is denied a renewal of self-insurance privileges pursuant to application it shall retain said privilege for 120 days after receipt of a notice of cancellation of the privilege from the Chairman of the Commission.

All orders made by the Chairman under this Section shall be subject to review by the courts, such review to be taken in the same manner and within the same time as provided by subsection (f) of Section 19 of this Act for review of awards and decisions of the Commission, upon the party seeking the review filing with the clerk of the court to which such review is taken a bond in an amount to be fixed and approved by the court to which the review is taken, conditioned upon the payment of

all compensation awarded against the person taking such review pending a decision thereof and further conditioned upon such other obligations as the court may impose. Upon the review the Circuit Court shall have power to review all questions of fact as well as of law.

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

(820 ILCS 305/4a-2) (from Ch. 48, par. 138.4a-2)

Sec. 4a-2. As used in Sections 4a-1 through 4a-9:

(a) "Board" means the Self-Insurers Advisory Board created by Section 4a-1.

(b) "Chairman" means the Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission.

(c) "Private self-insurer" means a private employer that has been authorized to self-insure its payment of workers' compensation benefits pursuant to subsection (a) of Section 4 of this Act or to self-insure its payment of occupational disease benefits pursuant to subsection (a) of Section 4 of the Workers' Occupational Diseases Act but does not include group self-insured employers under Section 4a of this Act or Section 4a of the Workers' Occupational Diseases Act or the State of Illinois, any political subdivision of the State, unit of local government or school district, or any other public authorities or quasi-governmental bodies including any subunits of the foregoing entities.

(d) "Insolvent self-insurer" means a private self-insurer financially unable to pay compensation due under this Act, which (i) has filed either prior to or after the effective date of this Section or (ii) is the subject party in any proceeding under the Federal Bankruptcy Reform Act of 1978, or is the subject party in any proceeding in which a receiver, custodian, liquidator, rehabilitator, sequestrator, trustee or similar officer has been appointed by any Court to act in lieu of or on behalf of that self-insurer.

(e) "Fund" means the Self-Insurers Security Fund

established by Section 4a-5.

(f) "Trustee" means a member of the Self-Insurers Advisory Board.

(g) "Self-Insurers Administration Fund" means the Fund established by Section 4a-6.1.

(h) "Application fee" means the application fee provided for in Section 4a-4.

(Source: P.A. 85-1385.)

(820 ILCS 305/4a-3) (from Ch. 48, par. 138.4a-3)

Sec. 4a-3. (a) The Board shall consist of the Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission, as Chairman of the Board, and six other members appointed by the Chairman who shall be expert in matters of self-insurance for workers' compensation liability. One such member shall represent the general public. The Trustees shall initially be appointed by the Chairman within 30 days of the effective date of this amendatory Act of 1985. Three of the Trustees initially appointed by the Chairman shall serve for a two-year term ending January 1, 1988, and three shall serve for a four-year term ending January 1, 1990. Thereafter, each Trustee shall be appointed to a four-year term and shall continue to serve until his successor is appointed.

(b) A vacancy in the office of any appointed member shall occur upon his resignation, death, or conviction of a felony. The Chairman may remove any member from office on a formal finding of incompetence, neglect of duty or malfeasance in office. Within 30 days after the office of any appointed member becomes vacant for any reason, the Chairman shall fill that vacancy for the unexpired term in the same manner as that in which appointments are made.

(Source: P.A. 84-1097.)

(820 ILCS 305/4a-7) (from Ch. 48, par. 138.4a-7)

Sec. 4a-7. (a) The Commission may upon direction of the Board from time to time assess each of the private

self-insurers a pro rata share of the funding reasonably necessary to carry out its activities under this Section. The prorations shall be made on the basis of each self-insured's most recent payment into the rate adjustment fund under Section 7(f) of this Act. In no event shall a private self-insurer be assessed at one time in excess of .6% of the compensation paid by that private self-insurer during the previous calendar year for claims incurred as a self-insurer. Total assessments against it in any calendar year shall not exceed 1.2% of the compensation it has paid during the previous calendar year as a self-insurer for claims incurred. Funds obtained by such assessments shall be used only for the purposes set forth in this Section, and shall be deposited upon receipt by the Commission into the Self-Insurers Security Fund. If payment of any assessment made under this subsection is not made within 30 days of the sending of the notice to the private self-insurer, the Commission at the direction of the Board shall proceed in circuit court for judgment against that private self-insurer which judgment shall include the amount of the assessment, the costs of suit, interest and reasonable attorneys' fees.

(b) A private self-insurer which ceases to be a self-insurer shall be liable for any and all assessments made pursuant to this Section during the period following the date its certificate of authority to self-insure is withdrawn, revoked or surrendered until such time as it has discharged all obligations to pay compensation which arose during the period of time said former self-insurer was self-insured. Assessments of such a former private self-insurer shall be based on the compensation paid by the former private self-insurer during the preceding calendar year on claims that arose during the period of time said former private self-insurer was self-insured.

(c) The Board on behalf of the Commission shall annually contract for an independent certified audit of the financial activities of the Fund, and an annual report as of June 30 shall be submitted promptly by the Board to the Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission and to

each Trustee. Written reports of all activities shall be submitted to the Commission by the Board on a monthly basis.

(d) If there are monies remaining in the Fund after all outstanding obligations of all insolvent self-insurers have been satisfied and the costs of administration and defense have been paid, such amounts shall be returned by the Commission from the Fund as directed by the Board to the then private self-insurers in that proportion which each said private self-insurer has contributed to the Fund one year thereafter, provided no outstanding liabilities remain against the Fund.

(e) Each private self-insurer shall be subject to the direction of the Commission as provided in this Section as a condition of obtaining and maintaining its certificate of authority to self-insure.

(Source: P.A. 85-1385.)

(820 ILCS 305/4d)

Sec. 4d. Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Fee.

(a) As of the effective date of this amendatory Act of the 93rd General Assembly, each employer that self-insures its liabilities arising under this Act or Workers' Occupational Diseases Act shall pay a fee measured by the annual actual wages paid in this State of such an employer in the manner provided in this Section. Such proceeds shall be deposited in the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund. If an employer survives or was formed by a merger, consolidation, reorganization, or reincorporation, the actual wages paid in this State of all employers party to the merger, consolidation, reorganization, or reincorporation shall, for purposes of determining the amount of the fee imposed by this Section, be regarded as those of the surviving or new employer.

(b) Beginning on the effective date of this amendatory Act of the 93rd General Assembly and on July 1 of each year thereafter, the Chairman shall charge and collect an annual



Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Fee from every employer subject to subsection (a) of this Section equal to 0.045% of its annual actual wages paid in this State as reported in each employer's annual self-insurance renewal filed for the previous year as required by Section 4 of this Act and Section 4 of the Workers' Occupational Diseases Act. All sums collected by the Commission under the provisions of this Section shall be paid promptly after the receipt of the same, accompanied by a detailed statement thereof, into the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund.

(c) In addition to the authority specifically granted under Section 16, the Chairman shall have such authority to adopt rules or establish forms as may be reasonably necessary for purposes of enforcing this Section. The Commission shall have authority to defer, waive, or abate the fee or any penalties imposed by this Section if in the Commission's opinion the employer's solvency and ability to meet its obligations to pay workers' compensation benefits would be immediately threatened by payment of the fee due.

(d) When an employer fails to pay the full amount of any annual Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Fee of \$100 or more due under this Section, there shall be added to the amount due as a penalty the greater of \$1,000 or an amount equal to 5% of the deficiency for each month or part of a month that the deficiency remains unpaid.

(e) The Commission may enforce the collection of any delinquent payment, penalty or portion thereof by legal action or in any other manner by which the collection of debts due the State of Illinois may be enforced under the laws of this State.

(f) Whenever it appears to the satisfaction of the Chairman that an employer has paid pursuant to this Act an Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund Fee in an amount in excess of the amount legally collectable from the employer, the Chairman shall issue a credit memorandum for an amount equal to the amount of such overpayment. A credit

memorandum may be applied for the 2-year period from the date of issuance against the payment of any amount due during that period under the fee imposed by this Section or, subject to reasonable rule of the Commission including requirement of notification, may be assigned to any other employer subject to regulation under this Act. Any application of credit memoranda after the period provided for in this Section is void.

(Source: P.A. 93-32, eff. 6-20-03.)

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

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

In addition thereto, the employer shall post in a conspicuous place on the place of the employment a printed or typewritten notice stating whether he is insured or whether he has qualified and is operating as a self-insured employer. In the event the employer is insured, the notice shall state the name and address of his insurance carrier, the number of the insurance policy, its effective date and the date of termination. In the event of the termination of the policy for any reason prior to the termination date stated, the posted notice shall promptly be corrected accordingly. In the event the employer is operating as a self-insured employer the notice shall state the name and address of the company, if any, servicing the compensation payments of the employer, and the name and address of the person in charge of making compensation payments.

(b) Every employer subject to this Act shall maintain accurate records of work-related deaths, injuries and illness other than minor injuries requiring only first aid treatment

and which do not involve medical treatment, loss of consciousness, restriction of work or motion, or transfer to another job and file with the Commission, in writing, a report of all accidental deaths, injuries and illnesses arising out of and in the course of the employment resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the accidental death. In all other cases such report shall be made between the 15th and 25th of each month unless required to be made sooner by rule of the Commission. In case the injury results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result from the injury. All reports shall state the date of the injury, including the time of day or night, the nature of the employer's business, the name, address, age, sex, conjugal condition of the injured person, the specific occupation of the injured person, the direct cause of the injury and the nature of the accident, the character of the injury, the length of disability, and in case of death the length of disability before death, the wages of the injured person, whether compensation has been paid to the injured person, or to his or her legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses if known. The reports shall be made on forms and in the manner as prescribed by the Commission and shall contain such further information as the Commission shall deem necessary and require. The making of these reports releases the employer from making such reports to any other officer of the State and shall satisfy the reporting provisions as contained in the "Health and Safety Act" and "An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named", approved July 18, 1955, as now or hereafter amended. The reports filed with the Commission pursuant to this Section shall be made available by the

Commission to the Director of Labor or his representatives and to all other departments of the State of Illinois which shall require such information for the proper discharge of their official duties. Failure to file with the Commission any of the reports required in this Section is a petty offense.

Except as provided in this paragraph, all reports filed hereunder shall be confidential and any person having access to such records filed with the Illinois Workers' Compensation Industrial Commission as herein required, who shall release any information therein contained including the names or otherwise identify any persons sustaining injuries or disabilities, or give access to such information to any unauthorized person, shall be subject to discipline or discharge, and in addition shall be guilty of a Class B misdemeanor. The Commission shall compile and distribute to interested persons aggregate statistics, taken from the reports filed hereunder. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

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

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

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

No defect or inaccuracy of such notice shall be a bar to the maintenance of proceedings on arbitration or otherwise by the employee unless the employer proves that he is unduly

prejudiced in such proceedings by such defect or inaccuracy.

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

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

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

In any case of injury caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 25 years after the last day that the employee was employed in an environment of hazardous radiological activity or asbestos, the right to file such application shall be barred.

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

If an accidental injury caused by exposure to radiological material or equipment or asbestos results in death within 25 years after the last day that the employee was so exposed application for compensation for death may be filed with the

Commission within 3 years after the date of death, where no compensation has been paid, or within 2 years after the date of the last payment of compensation where any has been paid, whichever shall be later, but not thereafter.

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

(Source: P.A. 84-981.)

(820 ILCS 305/7) (from Ch. 48, par. 138.7)

Sec. 7. The amount of compensation which shall be paid for an accidental injury to the employee resulting in death is:

(a) If the employee leaves surviving a widow, widower, child or children, the applicable weekly compensation rate computed in accordance with subparagraph 2 of paragraph (b) of Section 8, shall be payable during the life of the widow or widower and if any surviving child or children shall not be physically or mentally incapacitated then until the death of the widow or widower or until the youngest child shall reach the age of 18, whichever shall come later; provided that if such child or children shall be enrolled as a full time student in any accredited educational institution, the payments shall continue until such child has attained the age of 25. In the event any surviving child or children shall be physically or mentally incapacitated, the payments shall continue for the duration of such incapacity.

The term "child" means a child whom the deceased employee left surviving, including a posthumous child, a child legally adopted, a child whom the deceased employee was legally obligated to support or a child to whom the deceased employee stood in loco parentis. The term "children" means the plural of "child".

The term "physically or mentally incapacitated child or children" means a child or children incapable of engaging in regular and substantial gainful employment.

In the event of the remarriage of a widow or widower, where the decedent did not leave surviving any child or children who, at the time of such remarriage, are entitled to compensation benefits under this Act, the surviving spouse shall be paid a lump sum equal to 2 years compensation benefits and all further rights of such widow or widower shall be extinguished.

If the employee leaves surviving any child or children under 18 years of age who at the time of death shall be entitled to compensation under this paragraph (a) of this Section, the weekly compensation payments herein provided for such child or children shall in any event continue for a period of not less than 6 years.

Any beneficiary entitled to compensation under this paragraph (a) of this Section shall receive from the special fund provided in paragraph (f) of this Section, in addition to the compensation herein provided, supplemental benefits in accordance with paragraph (g) of Section 8.

(b) If no compensation is payable under paragraph (a) of this Section and the employee leaves surviving a parent or parents who at the time of the accident were totally dependent upon the earnings of the employee then weekly payments equal to the compensation rate payable in the case where the employee leaves surviving a widow or widower, shall be paid to such parent or parents for the duration of their lives, and in the event of the death of either, for the life of the survivor.

(c) If no compensation is payable under paragraphs (a) or (b) of this Section and the employee leaves surviving any child or children who are not entitled to compensation under the foregoing paragraph (a) but who at the time of the accident were nevertheless in any manner dependent upon the earnings of the employee, or leaves surviving a parent or parents who at the time of the accident were partially dependent upon the earnings of the employee, then there shall be paid to such dependent or dependents for a period of 8 years weekly compensation payments at such proportion of the applicable rate if the employee had left surviving a widow or widower as such

dependency bears to total dependency. In the event of the death of any such beneficiary the share of such beneficiary shall be divided equally among the surviving beneficiaries and in the event of the death of the last such beneficiary all the rights under this paragraph shall be extinguished.

(d) If no compensation is payable under paragraphs (a), (b) or (c) of this Section and the employee leaves surviving any grandparent, grandparents, grandchild or grandchildren or collateral heirs dependent upon the employee's earnings to the extent of 50% or more of total dependency, then there shall be paid to such dependent or dependents for a period of 5 years weekly compensation payments at such proportion of the applicable rate if the employee had left surviving a widow or widower as such dependency bears to total dependency. In the event of the death of any such beneficiary the share of such beneficiary shall be divided equally among the surviving beneficiaries and in the event of the death of the last such beneficiary all rights hereunder shall be extinguished.

(e) The compensation to be paid for accidental injury which results in death, as provided in this Section, shall be paid to the persons who form the basis for determining the amount of compensation to be paid by the employer, the respective shares to be in the proportion of their respective dependency at the time of the accident on the earnings of the deceased. The Commission or an Arbitrator thereof may, in its or his discretion, order or award the payment to the parent or grandparent of a child for the latter's support the amount of compensation which but for such order or award would have been paid to such child as its share of the compensation payable, which order or award may be modified from time to time by the Commission in its discretion with respect to the person to whom shall be paid the amount of the order or award remaining unpaid at the time of the modification.

The payments of compensation by the employer in accordance with the order or award of the Commission discharges such employer from all further obligation as to such compensation.



(f) The sum of \$4200 for burial expenses shall be paid by the employer to the widow or widower, other dependent, next of kin or to the person or persons incurring the expense of burial.

In the event the employer failed to provide necessary first aid, medical, surgical or hospital service, he shall pay the cost thereof to the person or persons entitled to compensation under paragraphs (a), (b), (c) or (d) of this Section, or to the person or persons incurring the obligation therefore, or providing the same.

On January 15 and July 15, 1981, and on January 15 and July 15 of each year thereafter the employer shall within 60 days pay a sum equal to  $\frac{1}{8}$  of 1% of all compensation payments made by him after July 1, 1980, either under this Act or the Workers' Occupational Diseases Act, whether by lump sum settlement or weekly compensation payments, but not including hospital, surgical or rehabilitation payments, made during the first 6 months and during the second 6 months respectively of the fiscal year next preceding the date of the payments, into a special fund which shall be designated the "Second Injury Fund", of which the State Treasurer is ex-officio custodian, such special fund to be held and disbursed for the purposes hereinafter stated in paragraphs (f) and (g) of Section 8, either upon the order of the Commission or of a competent court. Said special fund shall be deposited the same as are State funds and any interest accruing thereon shall be added thereto every 6 months. It is subject to audit the same as State funds and accounts and is protected by the General bond given by the State Treasurer. It is considered always appropriated for the purposes of disbursements as provided in Section 8, paragraph (f), of this Act, and shall be paid out and disbursed as therein provided and shall not at any time be appropriated or diverted to any other use or purpose.

On January 15, 1991, the employer shall further pay a sum equal to one half of 1% of all compensation payments made by him from January 1, 1990 through June 30, 1990 either under

this Act or under the Workers' Occupational Diseases Act, whether by lump sum settlement or weekly compensation payments, but not including hospital, surgical or rehabilitation payments, into an additional Special Fund which shall be designated as the "Rate Adjustment Fund". On March 15, 1991, the employer shall pay into the Rate Adjustment Fund a sum equal to one half of 1% of all such compensation payments made from July 1, 1990 through December 31, 1990. Within 60 days after July 15, 1991, the employer shall pay into the Rate Adjustment Fund a sum equal to one half of 1% of all such compensation payments made from January 1, 1991 through June 30, 1991. Within 60 days after January 15 of 1992 and each subsequent year through 1996, the employer shall pay into the Rate Adjustment Fund a sum equal to one half of 1% of all such compensation payments made in the last 6 months of the preceding calendar year. Within 60 days after July 15 of 1992 and each subsequent year through 1995, the employer shall pay into the Rate Adjustment Fund a sum equal to one half of 1% of all such compensation payments made in the first 6 months of the same calendar year. Within 60 days after January 15 of 1997 and each subsequent year, the employer shall pay into the Rate Adjustment Fund a sum equal to three-fourths of 1% of all such compensation payments made in the last 6 months of the preceding calendar year. Within 60 days after July 15 of 1996 and each subsequent year, the employer shall pay into the Rate Adjustment Fund a sum equal to three-fourths of 1% of all such compensation payments made in the first 6 months of the same calendar year. The administrative costs of collecting assessments from employers for the Rate Adjustment Fund shall be paid from the Rate Adjustment Fund. The cost of an actuarial audit of the Fund shall be paid from the Rate Adjustment Fund and the audit shall be completed no later than July 1, 1997. The State Treasurer is ex officio custodian of such Special Fund and the same shall be held and disbursed for the purposes hereinafter stated in paragraphs (f) and (g) of Section 8 upon the order of the Commission or of a competent court. The Rate

Adjustment Fund shall be deposited the same as are State funds and any interest accruing thereon shall be added thereto every 6 months. It shall be subject to audit the same as State funds and accounts and shall be protected by the general bond given by the State Treasurer. It is considered always appropriated for the purposes of disbursements as provided in paragraphs (f) and (g) of Section 8 of this Act and shall be paid out and disbursed as therein provided and shall not at any time be appropriated or diverted to any other use or purpose. Within 5 days after the effective date of this amendatory Act of 1990, the Comptroller and the State Treasurer shall transfer \$1,000,000 from the General Revenue Fund to the Rate Adjustment Fund. By February 15, 1991, the Comptroller and the State Treasurer shall transfer \$1,000,000 from the Rate Adjustment Fund to the General Revenue Fund. The Comptroller and Treasurer are authorized to make transfers at the request of the Chairman up to a total of \$15,000,000 from the Second Injury Fund, the General Revenue Fund, and the Workers' Compensation Benefit Trust Fund to the Rate Adjustment Fund to the extent that there is insufficient money in the Rate Adjustment Fund to pay claims and obligations. Amounts may be transferred from the General Revenue Fund only if the funds in the Second Injury Fund or the Workers' Compensation Benefit Trust Fund are insufficient to pay claims and obligations of the Rate Adjustment Fund. All amounts transferred from the Second Injury Fund, the General Revenue Fund, and the Workers' Compensation Benefit Trust Fund shall be repaid from the Rate Adjustment Fund within 270 days of a transfer, together with interest at the rate earned by moneys on deposit in the Fund or Funds from which the moneys were transferred.

Upon a finding by the Commission, after reasonable notice and hearing, that any employer has willfully and knowingly failed to pay the proper amounts into the Second Injury Fund or the Rate Adjustment Fund required by this Section or if such payments are not made within the time periods prescribed by this Section, the employer shall, in addition to such payments,

pay a penalty of 20% of the amount required to be paid or \$2,500, whichever is greater, for each year or part thereof of such failure to pay. This penalty shall only apply to obligations of an employer to the Second Injury Fund or the Rate Adjustment Fund accruing after the effective date of this amendatory Act of 1989. All or part of such a penalty may be waived by the Commission for good cause shown.

Any obligations of an employer to the Second Injury Fund and Rate Adjustment Fund accruing prior to the effective date of this amendatory Act of 1989 shall be paid in full by such employer within 5 years of the effective date of this amendatory Act of 1989, with at least one-fifth of such obligation to be paid during each year following the effective date of this amendatory Act of 1989. If the Commission finds, following reasonable notice and hearing, that an employer has failed to make timely payment of any obligation accruing under the preceding sentence, the employer shall, in addition to all other payments required by this Section, be liable for a penalty equal to 20% of the overdue obligation or \$2,500, whichever is greater, for each year or part thereof that obligation is overdue. All or part of such a penalty may be waived by the Commission for good cause shown.

The Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission shall, annually, furnish to the Director of the Department of Insurance a list of the amounts paid into the Second Injury Fund and the Rate Adjustment Fund by each insurance company on behalf of their insured employers. The Director shall verify to the Chairman that the amounts paid by each insurance company are accurate as best as the Director can determine from the records available to the Director. The Chairman shall verify that the amounts paid by each self-insurer are accurate as best as the Chairman can determine from records available to the Chairman. The Chairman may require each self-insurer to provide information concerning the total compensation payments made upon which contributions to the Second Injury Fund and the Rate Adjustment Fund are

predicated and any additional information establishing that such payments have been made into these funds. Any deficiencies in payments noted by the Director or Chairman shall be subject to the penalty provisions of this Act.

The State Treasurer, or his duly authorized representative, shall be named as a party to all proceedings in all cases involving claim for the loss of, or the permanent and complete loss of the use of one eye, one foot, one leg, one arm or one hand.

The State Treasurer or his duly authorized agent shall have the same rights as any other party to the proceeding, including the right to petition for review of any award. The reasonable expenses of litigation, such as medical examinations, testimony, and transcript of evidence, incurred by the State Treasurer or his duly authorized representative, shall be borne by the Second Injury Fund.

If the award is not paid within 30 days after the date the award has become final, the Commission shall proceed to take judgment thereon in its own name as is provided for other awards by paragraph (g) of Section 19 of this Act and take the necessary steps to collect the award.

Any person, corporation or organization who has paid or become liable for the payment of burial expenses of the deceased employee may in his or its own name institute proceedings before the Commission for the collection thereof.

For the purpose of administration, receipts and disbursements, the Special Fund provided for in paragraph (f) of this Section shall be administered jointly with the Special Fund provided for in Section 7, paragraph (f) of the Workers' Occupational Diseases Act.

(g) All compensation, except for burial expenses provided in this Section to be paid in case accident results in death, shall be paid in installments equal to the percentage of the average earnings as provided for in Section 8, paragraph (b) of this Act, at the same intervals at which the wages or earnings of the employees were paid. If this is not feasible, then the

installments shall be paid weekly. Such compensation may be paid in a lump sum upon petition as provided in Section 9 of this Act. However, in addition to the benefits provided by Section 9 of this Act where compensation for death is payable to the deceased's widow, widower or to the deceased's widow, widower and one or more children, and where a partial lump sum is applied for by such beneficiary or beneficiaries within 18 months after the deceased's death, the Commission may, in its discretion, grant a partial lump sum of not to exceed 100 weeks of the compensation capitalized at their present value upon the basis of interest calculated at 3% per annum with annual rests, upon a showing that such partial lump sum is for the best interest of such beneficiary or beneficiaries.

(h) In case the injured employee is under 16 years of age at the time of the accident and is illegally employed, the amount of compensation payable under paragraphs (a), (b), (c), (d) and (f) of this Section shall be increased 50%.

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

However, where an employer has on file an employment certificate issued pursuant to the Child Labor Law or work permit issued pursuant to the Federal Fair Labor Standards Act, as amended, or a birth certificate properly and duly issued, such certificate, permit or birth certificate is conclusive evidence as to the age of the injured minor employee for the purposes of this Section only.

(i) Whenever the dependents of a deceased employee are aliens not residing in the United States, Mexico or Canada, the amount of compensation payable is limited to the beneficiaries described in paragraphs (a), (b) and (c) of this Section and is 50% of the compensation provided in paragraphs (a), (b) and (c) of this Section, except as otherwise provided by treaty.

In a case where any of the persons who would be entitled to compensation is living at any place outside of the United States, then payment shall be made to the personal

representative of the deceased employee. The distribution by such personal representative to the persons entitled shall be made to such persons and in such manner as the Commission orders.

(Source: P.A. 92-714, eff. 1-1-03.)

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

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

(a) The employer shall provide and pay for all the necessary first aid, medical and surgical services, and all necessary medical, surgical and hospital services thereafter incurred, limited, however, to that which is reasonably required to cure or relieve from the effects of the accidental injury. The employer shall also pay for treatment, instruction and training necessary for the physical, mental and vocational rehabilitation of the employee, including all maintenance costs and expenses incidental thereto. If as a result of the injury the employee is unable to be self-sufficient the employer shall further pay for such maintenance or institutional care as shall be required.

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

Upon agreement between the employer and the employees, or the employees' exclusive representative, and subject to the approval of the Illinois Workers' Compensation ~~Industrial~~ Commission, the employer shall maintain a list of physicians, to be known as a Panel of Physicians, who are accessible to the employees. The employer shall post this list in a place or places easily accessible to his employees. The employee shall have the right to make an alternative choice of physician from such Panel if he is not satisfied with the physician first selected. If, due to the nature of the injury or its occurrence away from the employer's place of business, the employee is

unable to make a selection from the Panel, the selection process from the Panel shall not apply. The physician selected from the Panel may arrange for any consultation, referral or other specialized medical services outside the Panel at the employer's expense. Provided that, in the event the Commission shall find that a doctor selected by the employee is rendering improper or inadequate care, the Commission may order the employee to select another doctor certified or qualified in the medical field for which treatment is required. If the employee refuses to make such change the Commission may relieve the employer of his obligation to pay the doctor's charges from the date of refusal to the date of compliance.

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

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

- (1) all first aid and emergency treatment; plus
- (2) all medical, surgical and hospital services provided by the physician, surgeon or hospital initially chosen by the employee or by any other physician, consultant, expert, institution or other provider of services recommended by said initial service provider or any subsequent provider of medical services in the chain of referrals from said initial service provider; plus
- (3) all medical, surgical and hospital services provided by any second physician, surgeon or hospital subsequently chosen by the employee or by any other physician, consultant, expert, institution or other provider of services recommended by said second service provider or any subsequent provider of medical services in



the chain of referrals from said second service provider. Thereafter the employer shall select and pay for all necessary medical, surgical and hospital treatment and the employee may not select a provider of medical services at the employer's expense unless the employer agrees to such selection. At any time the employee may obtain any medical treatment he desires at his own expense. This paragraph shall not affect the duty to pay for rehabilitation referred to above.

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

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

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

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

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

1. The compensation rate for temporary total incapacity under this paragraph (b) of this Section shall be equal to 66 2/3% of the employee's average weekly wage computed in accordance with Section 10, provided that it shall be not less than the following amounts in the following cases:

\$100.90 in case of a single person;

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

\$108.30 in case of one child;

\$113.40 in case of 2 children;

\$117.40 in case of 3 children;

\$124.30 in case of 4 or more children;

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

2. The compensation rate in all cases other than for temporary total disability under this paragraph (b), and other than for serious and permanent disfigurement under paragraph (c) and other than for permanent partial disability under subparagraph (2) of paragraph (d) or under paragraph (e), of this Section shall be equal to 66 2/3% of

the employee's average weekly wage computed in accordance with the provisions of Section 10, provided that it shall be not less than the following amounts in the following cases:

\$80.90 in case of a single person;

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

\$86.10 in case of one child;

\$88.90 in case of 2 children;

\$91.80 in case of 3 children;

\$96.90 in case of 4 or more children;

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

2.1. The compensation rate in all cases of serious and permanent disfigurement under paragraph (c) and of permanent partial disability under subparagraph (2) of paragraph (d) or under paragraph (e) of this Section shall be equal to 60% of the employee's average weekly wage computed in accordance with the provisions of Section 10, provided that it shall be not less than the following amounts in the following cases:

\$80.90 in case of a single person;

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

\$86.10 in case of one child;

\$88.90 in case of 2 children;

\$91.80 in case of 3 children;

\$96.90 in case of 4 or more children;

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

3. As used in this Section the term "child" means a child of the employee including any child legally adopted before the accident or whom at the time of the accident the employee was under legal obligation to support or to whom

the employee stood in loco parentis, and who at the time of the accident was under 18 years of age and not emancipated. The term "children" means the plural of "child".

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

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

The maximum weekly compensation rate, for the period July 1, 1984, through June 30, 1987, except as hereinafter provided, shall be \$293.61. Effective July 1, 1987 and on July 1 of each year thereafter the maximum weekly compensation rate, except as hereinafter provided, shall be determined as follows: if during the preceding 12 month period there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly compensation rate shall be proportionately increased by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act during such period.

The maximum weekly compensation rate, for the period January 1, 1981 through December 31, 1983, except as hereinafter provided, shall be 100% of the State's average weekly wage in covered industries under the Unemployment Insurance Act in effect on January 1, 1981. Effective January 1, 1984 and on January 1, of each year thereafter the maximum weekly compensation rate, except as hereinafter provided, shall be determined as follows: if during the preceding 12 month period there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly compensation rate shall be proportionately

increased by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act during such period.

From July 1, 1977 and thereafter such maximum weekly compensation rate in death cases under Section 7, and permanent total disability cases under paragraph (f) or subparagraph 18 of paragraph (3) of this Section and for temporary total disability under paragraph (b) of this Section and for amputation of a member or enucleation of an eye under paragraph (e) of this Section shall be increased to 133-1/3% of the State's average weekly wage in covered industries under the Unemployment Insurance Act.

4.1. Any provision herein to the contrary notwithstanding, the weekly compensation rate for compensation payments under subparagraph 18 of paragraph (e) of this Section and under paragraph (f) of this Section and under paragraph (a) of Section 7, shall in no event be less than 50% of the State's average weekly wage in covered industries under the Unemployment Insurance Act.

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

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

6. The Department of Employment Security of the State shall on or before the first day of December, 1977, and on or before the first day of June, 1978, and on the first day of each December and June of each year thereafter, publish the State's average weekly wage in covered industries under the Unemployment Insurance Act and the Illinois Workers' Compensation Industrial Commission shall on the 15th day of

January, 1978 and on the 15th day of July, 1978 and on the 15th day of each January and July of each year thereafter, post and publish the State's average weekly wage in covered industries under the Unemployment Insurance Act as last determined and published by the Department of Employment Security. The amount when so posted and published shall be conclusive and shall be applicable as the basis of computation of compensation rates until the next posting and publication as aforesaid.

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

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

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

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

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

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

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

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

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

1. Thumb-70 weeks.
2. First, or index finger-40 weeks.
3. Second, or middle finger-35 weeks.
4. Third, or ring finger-25 weeks.
5. Fourth, or little finger-20 weeks.
6. Great toe-35 weeks.
7. Each toe other than great toe-12 weeks.

8. The loss of the first or distal phalanx of the thumb or of any finger or toe shall be considered to be equal to the loss of one-half of such thumb, finger or toe and the compensation payable shall be one-half of the amount above specified. The loss of more than one phalanx shall be considered as the loss of the entire thumb, finger or toe. In no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand.



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

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

11. Foot-155 weeks.

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

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

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

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

16. For the permanent partial loss of use of a member or sight of an eye, or hearing of an ear, compensation

during that proportion of the number of weeks in the foregoing schedule provided for the loss of such member or sight of an eye, or hearing of an ear, which the partial loss of use thereof bears to the total loss of use of such member, or sight of eye, or hearing of an ear.

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

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

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

(d) If a hearing loss is established to have existed on July 1, 1975 by audiometric testing the employer shall not be liable for the previous loss so

established nor shall he be liable for any loss for which compensation has been paid or awarded.

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

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

Sound Level DBA

Slow Response	Hours Per Day
90	8
92	6
95	4
97	3
100	2
102	1-1/2
105	1
110	1/2
115	1/4

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

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

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

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

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

Beginning July 1, 1980, and every 6 months thereafter, the Commission shall examine the Second Injury Fund and when, after deducting all advances or loans made to such Fund, the amount therein is \$500,000 then the amount required to be paid by employers pursuant to paragraph (f) of Section 7 shall be reduced by one-half. When the Second Injury Fund reaches the sum of \$600,000 then the payments shall cease entirely. However, when the Second Injury Fund has been reduced to \$400,000, payment of one-half of the amounts required by paragraph (f) of Section 7 shall be resumed, in the manner herein provided, and when the Second Injury Fund has been reduced to \$300,000, payment of the full amounts required by

paragraph (f) of Section 7 shall be resumed, in the manner herein provided. The Commission shall make the changes in payment effective by general order, and the changes in payment become immediately effective for all cases coming before the Commission thereafter either by settlement agreement or final order, irrespective of the date of the accidental injury.

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

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

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

If any employee who receives an award under this paragraph afterwards returns to work or is able to do so, and earns or is able to earn as much as before the accident, payments under such award shall cease. If such employee returns to work, or is able to do so, and earns or is able to earn part but not as much as before the accident, such award shall be modified so as to conform to an award under paragraph (d) of this Section. If such award is terminated or reduced under the provisions of

this paragraph, such employees have the right at any time within 30 months after the date of such termination or reduction to file petition with the Commission for the purpose of determining whether any disability exists as a result of the original accidental injury and the extent thereof.

Disability as enumerated in subdivision 18, paragraph (e) of this Section is considered complete disability.

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

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

In its award the Commission or the Arbitrator shall specifically find the amount the injured employee shall be weekly paid, the number of weeks compensation which shall be paid by the employer, the date upon which payments begin out of the Second Injury Fund provided for in paragraph (f) of Section 7 of this Act, the length of time the weekly payments continue, the date upon which the pension payments commence and the monthly amount of the payments. The Commission shall 30 days after the date upon which payments out of the Second Injury

Fund have begun as provided in the award, and every month thereafter, prepare and submit to the State Comptroller a voucher for payment for all compensation accrued to that date at the rate fixed by the Commission. The State Comptroller shall draw a warrant to the injured employee along with a receipt to be executed by the injured employee and returned to the Commission. The endorsed warrant and receipt is a full and complete acquittance to the Commission for the payment out of the Second Injury Fund. No other appropriation or warrant is necessary for payment out of the Second Injury Fund. The Second Injury Fund is appropriated for the purpose of making payments according to the terms of the awards.

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

(g) Every award for permanent total disability entered by the Commission on and after July 1, 1965 under which compensation payments shall become due and payable after the effective date of this amendatory Act, and every award for death benefits or permanent total disability entered by the Commission on and after the effective date of this amendatory Act shall be subject to annual adjustments as to the amount of the compensation rate therein provided. Such adjustments shall first be made on July 15, 1977, and all awards made and entered prior to July 1, 1975 and on July 15 of each year thereafter. In all other cases such adjustment shall be made on July 15 of the second year next following the date of the entry of the award and shall further be made on July 15 annually thereafter. If during the intervening period from the date of the entry of the award, or the last periodic adjustment, there shall have been an increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act, the weekly

compensation rate shall be proportionately increased by the same percentage as the percentage of increase in the State's average weekly wage in covered industries under the Unemployment Insurance Act. The increase in the compensation rate under this paragraph shall in no event bring the total compensation rate to an amount greater than the prevailing maximum rate. Such increase shall be paid in the same manner as herein provided for payments under the Second Injury Fund to the injured employee, or his dependents, as the case may be, out of the Rate Adjustment Fund provided in paragraph (f) of Section 7 of this Act. Payments shall be made at the same intervals as provided in the award or, at the option of the Commission, may be made in quarterly payment on the 15th day of January, April, July and October of each year. In the event of a decrease in such average weekly wage there shall be no change in the then existing compensation rate. The within paragraph shall not apply to cases where there is disputed liability and in which a compromise lump sum settlement between the employer and the injured employee, or his dependents, as the case may be, has been duly approved by the Illinois Workers' Compensation Industrial Commission.

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

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



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

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

However, where an employer has on file an employment certificate issued pursuant to the Child Labor Law or work permit issued pursuant to the Federal Fair Labor Standards Act, as amended, or a birth certificate properly and duly issued, such certificate, permit or birth certificate is conclusive evidence as to the age of the injured minor employee for the purposes of this Section.

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

(j) 1. In the event the injured employee receives benefits, including medical, surgical or hospital benefits under any group plan covering non-occupational disabilities contributed to wholly or partially by the employer, which benefits should not have been payable if any rights of recovery existed under this Act, then such amounts so paid to the employee from any such group plan as shall be consistent with, and limited to, the provisions of paragraph 2 hereof, shall be credited to or against any compensation payment for temporary total incapacity for work or any medical, surgical or hospital benefits made or to be made under this Act. In such event, the period of time for giving notice of accidental injury and filing application for adjustment of claim does not commence to

run until the termination of such payments. This paragraph does not apply to payments made under any group plan which would have been payable irrespective of an accidental injury under this Act. Any employer receiving such credit shall keep such employee safe and harmless from any and all claims or liabilities that may be made against him by reason of having received such payments only to the extent of such credit.

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

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

3. The extension of time for the filing of an Application for Adjustment of Claim as provided in paragraph 1 above shall not apply to those cases where the time for such filing had expired prior to the date on which payments or benefits enumerated herein have been initiated or resumed. Provided however that this paragraph 3 shall apply only to cases wherein the payments or benefits hereinabove enumerated shall be received after July 1, 1969.

(Source: P.A. 89-470, eff. 6-13-96.)

(820 ILCS 305/13) (from Ch. 48, par. 138.13)

Sec. 13. There is created an Illinois Workers' Compensation ~~Industrial~~ Commission consisting of 7 members to be appointed by the Governor, by and with the consent of the Senate, 2 of whom shall be representative citizens of the employing class operating under this Act and 2 of whom shall be representative citizens of the class of employees covered under this Act, and 3 of whom shall be representative citizens not identified with either the employing or employee classes. Not more than 4 members of the Commission shall be of the same political party.

One of the 3 members not identified with either the employing or employee classes shall be designated by the Governor as Chairman. The Chairman shall be the chief administrative and executive officer of the Commission; and he or she shall have general supervisory authority over all personnel of the Commission, including arbitrators and Commissioners, and the final authority in all administrative matters relating to the Commissioners, including but not limited to the assignment and distribution of cases and assignment of Commissioners to the panels, except in the promulgation of procedural rules and orders under Section 16 and in the determination of cases under this Act.

Notwithstanding the general supervisory authority of the Chairman, each Commissioner, except those assigned to the temporary panel, shall have the authority to hire and supervise 2 staff attorneys each. Such staff attorneys shall report directly to the individual Commissioner.

A formal training program for newly-appointed Commissioners shall be implemented. The training program shall include the following:

- (a) substantive and procedural aspects of the office of Commissioner;
- (b) current issues in workers' compensation law and practice;
- (c) medical lectures by specialists in areas such as

orthopedics, ophthalmology, psychiatry, rehabilitation counseling;

(d) orientation to each operational unit of the Illinois Workers' Compensation ~~Industrial~~ Commission;

(e) observation of experienced arbitrators and Commissioners conducting hearings of cases, combined with the opportunity to discuss evidence presented and rulings made;

(f) the use of hypothetical cases requiring the newly-appointed Commissioner to issue judgments as a means to evaluating knowledge and writing ability;

(g) writing skills.

A formal and ongoing professional development program including, but not limited to, the above-noted areas shall be implemented to keep Commissioners informed of recent developments and issues and to assist them in maintaining and enhancing their professional competence.

The Commissioner candidates, other than the Chairman, must meet one of the following qualifications: (a) licensed to practice law in the State of Illinois; or (b) served as an arbitrator at the Illinois Workers' Compensation ~~Industrial~~ Commission for at least 3 years; or (c) has at least 4 years of professional labor relations experience. The Chairman candidate must have public or private sector management and budget experience, as determined by the Governor.

Each Commissioner shall devote full time to his duties and any Commissioner who is an attorney-at-law shall not engage in the practice of law, nor shall any Commissioner hold any other office or position of profit under the United States or this State or any municipal corporation or political subdivision of this State, nor engage in any other business, employment, or vocation.

The term of office of each member of the Commission holding office on the effective date of this amendatory Act of 1989 is abolished, but the incumbents shall continue to exercise all of the powers and be subject to all of the duties of Commissioners

until their respective successors are appointed and qualified.

The Illinois Workers' Compensation ~~Industrial~~ Commission shall administer this Act.

The members shall be appointed by the Governor, with the advice and consent of the Senate, as follows:

(a) After the effective date of this amendatory Act of 1989, 3 members, at least one of each political party, and one of whom shall be a representative citizen of the employing class operating under this Act, one of whom shall be a representative citizen of the class of employees covered under this Act, and one of whom shall be a representative citizen not identified with either the employing or employee classes, shall be appointed to hold office until the third Monday in January of 1993, and until their successors are appointed and qualified, and 4 members, one of whom shall be a representative citizen of the employing class operating under this Act, one of whom shall be a representative citizen of the class of employees covered in this Act, and two of whom shall be representative citizens not identified with either the employing or employee classes, one of whom shall be designated by the Governor as Chairman (at least one of each of the two major political parties) shall be appointed to hold office until the third Monday of January in 1991, and until their successors are appointed and qualified.

(a-5) Notwithstanding any other provision of this Section, the term of each member of the Commission who was appointed by the Governor and is in office on June 30, 2003 shall terminate at the close of business on that date or when all of the successor members to be appointed pursuant to this amendatory Act of the 93rd General Assembly have been appointed by the Governor, whichever occurs later. As soon as possible, the Governor shall appoint persons to fill the vacancies created by this amendatory Act. Of the initial commissioners appointed pursuant to this amendatory Act of the 93rd General Assembly, 3 shall be

appointed for terms ending on the third Monday in January, 2005, and 4 shall be appointed for terms ending on the third Monday in January, 2007.

(b) Members shall thereafter be appointed to hold office for terms of 4 years from the third Monday in January of the year of their appointment, and until their successors are appointed and qualified. All such appointments shall be made so that the composition of the Commission is in accordance with the provisions of the first paragraph of this Section.

The Chairman shall receive an annual salary of \$42,500, or a salary set by the Compensation Review Board, whichever is greater, and each other member shall receive an annual salary of \$38,000, or a salary set by the Compensation Review Board, whichever is greater.

In case of a vacancy in the office of a Commissioner during the recess of the Senate, the Governor shall make a temporary appointment until the next meeting of the Senate, when he shall nominate some person to fill such office. Any person so nominated who is confirmed by the Senate shall hold office during the remainder of the term and until his successor is appointed and qualified.

The Illinois Workers' Compensation ~~Industrial~~ Commission created by this amendatory Act of 1989 shall succeed to all the rights, powers, duties, obligations, records and other property and employees of the Industrial Commission which it replaces as modified by this amendatory Act of 1989 and all applications and reports to actions and proceedings of such prior Industrial Commission shall be considered as applications and reports to actions and proceedings of the Illinois Workers' Compensation ~~Industrial~~ Commission created by this amendatory Act of 1989.

Notwithstanding any other provision of this Act, in the event the Chairman shall make a finding that a member is or will be unavailable to fulfill the responsibilities of his or her office, the Chairman shall advise the Governor and the

member in writing and shall designate a certified arbitrator to serve as acting Commissioner. The certified arbitrator shall act as a Commissioner until the member resumes the duties of his or her office or until a new member is appointed by the Governor, by and with the consent of the Senate, if a vacancy occurs in the office of the Commissioner, but in no event shall a certified arbitrator serve in the capacity of Commissioner for more than 6 months from the date of appointment by the Chairman. A finding by the Chairman that a member is or will be unavailable to fulfill the responsibilities of his or her office shall be based upon notice to the Chairman by a member that he or she will be unavailable or facts and circumstances made known to the Chairman which lead him to reasonably find that a member is unavailable to fulfill the responsibilities of his or her office. The designation of a certified arbitrator to act as a Commissioner shall be considered representative of citizens not identified with either the employing or employee classes and the arbitrator shall serve regardless of his or her political affiliation. A certified arbitrator who serves as an acting Commissioner shall have all the rights and powers of a Commissioner, including salary.

Notwithstanding any other provision of this Act, the Governor shall appoint a special panel of Commissioners comprised of 3 members who shall be chosen by the Governor, by and with the consent of the Senate, from among the current ranks of certified arbitrators. Three members shall hold office until the Commission in consultation with the Governor determines that the caseload on review has been reduced sufficiently to allow cases to proceed in a timely manner or for a term of 18 months from the effective date of their appointment by the Governor, whichever shall be earlier. The 3 members shall be considered representative of citizens not identified with either the employing or employee classes and shall serve regardless of political affiliation. Each of the 3 members shall have only such rights and powers of a Commissioner necessary to dispose of those cases assigned to

the special panel. Each of the 3 members appointed to the special panel shall receive the same salary as other Commissioners for the duration of the panel.

The Commission may have an Executive Director; if so, the Executive Director shall be appointed by the Governor with the advice and consent of the Senate. The salary and duties of the Executive Director shall be fixed by the Commission.

On the effective date of this amendatory Act of the 93rd General Assembly, the name of the Industrial Commission is changed to the Illinois Workers' Compensation Commission. References in any law, appropriation, rule, form, or other document: (i) to the Industrial Commission are deemed, in appropriate contexts, to be references to the Illinois Workers' Compensation Commission for all purposes; (ii) to the Industrial Commission Operations Fund are deemed, in appropriate contexts, to be references to the Illinois Workers' Compensation Commission Operations Fund for all purposes; (iii) to the Industrial Commission Operations Fund Fee are deemed, in appropriate contexts, to be references to the Illinois Workers' Compensation Commission Operations Fund Fee for all purposes; and (iv) to the Industrial Commission Operations Fund Surcharge are deemed, in appropriate contexts, to be references to the Illinois Workers' Compensation Commission Operations Fund Surcharge for all purposes.

(Source: P.A. 93-509, eff. 8-11-03.)

(820 ILCS 305/14) (from Ch. 48, par. 138.14)

Sec. 14. The Commission shall appoint a secretary, an assistant secretary, and arbitrators and shall employ such assistants and clerical help as may be necessary.

Each arbitrator appointed after November 22, 1977 shall be required to demonstrate in writing and in accordance with the rules and regulations of the Illinois Department of Central Management Services his or her knowledge of and expertise in the law of and judicial processes of the Workers' Compensation Act and the Occupational Diseases Act.



A formal training program for newly-hired arbitrators shall be implemented. The training program shall include the following:

(a) substantive and procedural aspects of the arbitrator position;

(b) current issues in workers' compensation law and practice;

(c) medical lectures by specialists in areas such as orthopedics, ophthalmology, psychiatry, rehabilitation counseling;

(d) orientation to each operational unit of the Illinois Workers' Compensation ~~Industrial~~ Commission;

(e) observation of experienced arbitrators conducting hearings of cases, combined with the opportunity to discuss evidence presented and rulings made;

(f) the use of hypothetical cases requiring the trainee to issue judgments as a means to evaluating knowledge and writing ability;

(g) writing skills.

A formal and ongoing professional development program including, but not limited to, the above-noted areas shall be implemented to keep arbitrators informed of recent developments and issues and to assist them in maintaining and enhancing their professional competence.

Each arbitrator shall devote full time to his or her duties and shall serve when assigned as an acting Commissioner when a Commissioner is unavailable in accordance with the provisions of Section 13 of this Act. Any arbitrator who is an attorney-at-law shall not engage in the practice of law, nor shall any arbitrator hold any other office or position of profit under the United States or this State or any municipal corporation or political subdivision of this State. Notwithstanding any other provision of this Act to the contrary, an arbitrator who serves as an acting Commissioner in accordance with the provisions of Section 13 of this Act shall continue to serve in the capacity of Commissioner until a

decision is reached in every case heard by that arbitrator while serving as an acting Commissioner.

Each arbitrator appointed after the effective date of this amendatory Act of 1989 shall be appointed for a term of 6 years. Each arbitrator shall be appointed for a subsequent term unless the Chairman makes a recommendation to the Commission, no later than 60 days prior to the expiration of the term, not to reappoint the arbitrator. Notice of such a recommendation shall also be given to the arbitrator no later than 60 days prior to the expiration of the term. Upon such recommendation by the Chairman, the arbitrator shall be appointed for a subsequent term unless 5 of 7 members of the Commission, including the Chairman, vote not to reappoint the arbitrator.

All arbitrators shall be subject to the provisions of the Personnel Code, and the performance of all arbitrators shall be reviewed by the Chairman on an annual basis. The Chairman shall allow input from the Commissioners in all such reviews.

The Secretary and each arbitrator shall receive a per annum salary of \$4,000 less than the per annum salary of members of The Illinois Workers' Compensation ~~Industrial~~ Commission as provided in Section 13 of this Act, payable in equal monthly installments.

The members of the Commission, Arbitrators and other employees whose duties require them to travel, shall have reimbursed to them their actual traveling expenses and disbursements made or incurred by them in the discharge of their official duties while away from their place of residence in the performance of their duties.

The Commission shall provide itself with a seal for the authentication of its orders, awards and proceedings upon which shall be inscribed the name of the Commission and the words "Illinois--Seal".

The Secretary or Assistant Secretary, under the direction of the Commission, shall have charge and custody of the seal of the Commission and also have charge and custody of all records, files, orders, proceedings, decisions, awards and other

documents on file with the Commission. He shall furnish certified copies, under the seal of the Commission, of any such records, files, orders, proceedings, decisions, awards and other documents on file with the Commission as may be required. Certified copies so furnished by the Secretary or Assistant Secretary shall be received in evidence before the Commission or any Arbitrator thereof, and in all courts, provided that the original of such certified copy is otherwise competent and admissible in evidence. The Secretary or Assistant Secretary shall perform such other duties as may be prescribed from time to time by the Commission.

(Source: P.A. 86-998.)

(820 ILCS 305/14.1) (from Ch. 48, par. 138.14-1)

Sec. 14.1. There is created a Commission Review Board consisting of the Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission, the Commissioner with the most seniority who is a representative citizen of the class of employees covered under this Act, the Commissioner with the most seniority who is a representative citizen of the employing class operating under this Act, two Arbitrators, one assigned to hear cases filed in counties with a population of 3,000,000 or more and one assigned to hear cases in any other county, both selected by a vote of a majority of the appointed Arbitrators pursuant to an election conducted by the Chairman, and 2 members designated by the Governor who are not commissioners, Arbitrators or employees of the Illinois Workers' Compensation ~~Industrial~~ Commission. Members of the Board shall serve without compensation, but shall be reimbursed for actual expenses incurred. All appointments for the initial terms shall be made and elections concluded by October 1, 1984, with each initial term commencing on October 1, 1984 and extending through February 28, 1987, until the office holder's successor is appointed or elected and qualified. Thereafter each term shall commence on March 1 of each odd-numbered year and extend through March 1 of the next succeeding odd-numbered

year, until the office holder's successor is appointed or elected and qualified. The Governor shall certify his appointments, and the Chairman shall certify the results of the elections by the Arbitrators, to the Secretary of the Illinois Workers' Compensation ~~Industrial~~ Commission. A vacancy in the office of a member of the Commission Review Board shall be filled for the remainder of the vacating member's term in the same manner as that in which the member was appointed or elected.

The Chairman of the Illinois Workers' Compensation ~~Industrial~~ Commission shall serve as the Chairman of the Commission Review Board. It shall be the duty of the Chairman to compile, audit, and retain complaints registered against Commissioners and Arbitrators. The Chairman shall immediately advise a Commissioner or Arbitrator in writing of the nature of any and all complaints filed against him, preserving the identity of the complainant.

At a proceeding before the Commission Review Board, it shall then become the duty of any complainant to testify regarding his or her previously filed complaint, or said complaint shall be considered null and void.

The Commission Review Board shall advise any Commissioner or Arbitrator in writing of necessary remedial action to correct any deficiency and shall afford said individual the opportunity to report or respond to a complaint within a prescribed period of time.

In matters of serious concern to the State, the Commission Review Board may recommend that the Governor: 1) dismiss any Arbitrator who is found unfit to serve; or 2) not reappoint a Commissioner who it finds unfit to serve. This action shall require a record vote of at least 5 members of the Board. The Governor, in his discretion, may act on the recommendation of the Commission Review Board.

(Source: P.A. 83-1125.)

Sec. 16a. (A) In the establishment or approval of attorney's fees in relation to claims brought under this Act, the Commission shall be guided by the provisions of this Section and by the legislative intent, hereby declared, to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under this Act.

(B) With respect to any and all proceedings in connection with any initial or original claim under this Act, no claim of any attorney for services rendered in connection with the securing of compensation for an employee or his dependents, whether secured by agreement, order, award or a judgment in any court shall exceed 20% of the amount of compensation recovered and paid, unless further fees shall be allowed to the attorney upon a hearing by the Commission fixing fees, and subject to the other provisions of this Section. However, except as hereinafter provided in this Section, in death cases, total disability cases and partial disability cases, the amount of an attorney's fees shall not exceed 20% of the sum which would be due under this Act for 364 weeks of permanent total disability based upon the employee's average gross weekly wage prior to the date of the accident and subject to the maximum weekly benefits provided in this Act unless further fees shall be allowed to the attorney upon a hearing by the Commission fixing fees.

(C) All attorneys' fees in connection with the initial or original claim for compensation shall be fixed pursuant to a written contract on forms prescribed by the Commission between the attorney and the employee or his dependents, and every attorney, whether the disposition of the original claim is by agreement, settlement, award, judgment or otherwise, shall file his contract with the Chairman of the Commission who shall approve the contract only if it is in accordance with all provisions of this Section.

(D) No attorneys' fees shall be charged with respect to compensation for undisputed medical expenses.

(E) No attorneys' fees shall be charged in connection with any temporary total disability compensation unless the payment of such compensation in a timely manner or in the proper amount is refused, or unless such compensation is terminated by the employer and the payment of such compensation is obtained or reinstated by the efforts of the attorney, whether by agreement, settlement, award or judgment.

(F) In the following cases in which there is no dispute between the parties as to the liability of the respondent to pay compensation in a timely manner or in the proper amount and there is no dispute that the accident has resulted in:

- (1) the death of the employee; or
- (2) a statutory permanent disability; or
- (3) the amputation of a finger, toe, or member; or
- (4) the removal of a testicle; or
- (5) the enucleation of or 100% loss of vision of an eye;

the legal fees, if any, for services rendered are to be fixed by the Illinois Workers' Compensation ~~Industrial~~ Commission at a nominal amount, not exceeding \$100.

(G) In the following cases in which there is no dispute between the parties as to the liability of the respondent to pay compensation and there is no dispute that the accident has resulted in:

- (1) a fracture of one or more vertebrae; or
- (2) a skull fracture; or
- (3) a fracture of one or more spinous or transverse processes; or
- (4) a fracture of one or more facial bones; or
- (5) the removal of a kidney, spleen or lung;

the legal fees, if any, for services rendered are to be fixed by the Illinois Workers' Compensation ~~Industrial~~ Commission at a nominal amount, not exceeding \$100, provided that the employee is awarded the minimum amount for the above injuries as specified in Section 8(d)2.

(H) With regard to any claim where the amount to be paid for compensation does not exceed the written offer made to the

claimant or claimants by the employer or his agent prior to representation by an attorney, no fees shall be paid to any such attorney.

(I) All attorneys' fees for representation of an employee or his dependents shall be only recoverable from compensation actually paid to such employee or dependents.

(J) Any and all disputes regarding attorneys' fees, whether such disputes relate to which one or more attorneys represents the claimant or claimants or is entitled to the attorneys' fees, or a division of attorneys' fees where the claimant or claimants are or have been represented by more than one attorney, or any other disputes concerning attorneys' fees or contracts for attorneys' fees, shall be heard and determined by the Commission after reasonable notice to all interested parties and attorneys.

(K) After reasonable notice and hearing before the Commission, any attorney found to be in violation of any provision of this Section shall be required to make restitution of any excess fees charged plus interest at a reasonable rate as determined by the Commission.

(Source: P.A. 84-1438.)

(820 ILCS 305/17) (from Ch. 48, par. 138.17)

Sec. 17. The Commission shall cause to be printed and furnish free of charge upon request by any employer or employee such blank forms as may facilitate or promote efficient administration and the performance of the duties of the Commission. It shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of declination or withdrawal under this Act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file such notice of declination or withdrawal, and the date of the filing thereof; and such other notices as may be required by this Act; and records in which shall be recorded all proceedings, orders and awards had or made by the Commission or

by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the Commission.

The Commission may destroy all papers and documents which have been on file for more than 5 years where there is no claim for compensation pending or where more than 2 years have elapsed since the termination of the compensation period.

The Commission shall compile and distribute to interested persons aggregate statistics, taken from any records and reports in the possession of the Commission. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

The Commission is authorized to establish reasonable fees and methods of payment limited to covering only the costs to the Commission for processing, maintaining and generating records or data necessary for the computerized production of documents, records and other materials except to the extent of any salaries or compensation of Commission officers or employees.

All fees collected by the Commission under this Section shall be deposited in the Statistical Services Revolving Fund and credited to the account of the Illinois Workers' Compensation ~~Industrial~~ Commission.

(Source: P.A. 83-489.)

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

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

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

1. Whenever any claimant misconceives his remedy and files an application for adjustment of claim under this Act and it is subsequently discovered, at any time before final disposition of such cause, that the claim for disability or



death which was the basis for such application should properly have been made under the Workers' Occupational Diseases Act, then the provisions of Section 19, paragraph (a-1) of the Workers' Occupational Diseases Act having reference to such application shall apply.

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

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

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

The Arbitrator may find that the disabling condition is temporary and has not yet reached a permanent condition and may

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

The decision of the Arbitrator shall be filed with the Commission which Commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed. Beginning January 1, 1981, all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated. Unless a petition for review is filed by either party within 30 days after the receipt by such party of the copy of the decision and notification of time when filed, and unless such party petitioning for a review shall within 35 days after the receipt by him of the copy of the decision, file with the Commission either an agreed statement of the facts appearing upon the hearing before the Arbitrator, or if such party shall so elect a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the Commission and in the absence of fraud shall be conclusive. The Petition for Review shall contain a statement of the petitioning party's specific exceptions to the decision of the arbitrator. The jurisdiction of the Commission to review the decision of the arbitrator shall not be limited to the exceptions stated in the Petition for Review. The Commission, or any member thereof, may grant further time not exceeding 30 days, in which to file such agreed statement or transcript of evidence. Such agreed statement of facts or correct transcript of evidence, as the case may be, shall be authenticated by the signatures of the parties or their attorneys, and in the event they do not agree as to the correctness of the transcript of evidence it shall be authenticated by the signature of the Arbitrator designated by the Commission.

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

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

- (i) the date and approximate time of accident;
- (ii) the approximate location of the accident;
- (iii) a description of the accident;
- (iv) the nature of the injury incurred by the employee;
- (v) the identity of the person, if known, to whom the accident was reported and the date on which it was reported;
- (vi) the name and title of the person, if known, representing the employer with whom the employee conferred in any effort to obtain compensation pursuant to paragraph (b) of Section 8 of this Act or medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act and the date of such conference;
- (vii) a statement that the employer has refused to pay compensation pursuant to paragraph (b) of Section 8 of this Act or for medical, surgical or hospital services pursuant to paragraph (a) of Section 8 of this Act;
- (viii) the name and address, if known, of each witness to the accident and of each other person upon whom the employee will rely to support his allegations;
- (ix) the dates of treatment related to the accident by medical practitioners, and the names and addresses of such practitioners, including the dates of treatment related to the accident at any hospitals and the names and addresses

of such hospitals, and a signed authorization permitting the employer to examine all medical records of all practitioners and hospitals named pursuant to this paragraph;

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

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

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

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

Fifteen days after receipt by the employer of the petition with the required information the employee may file said petition and required information and shall serve notice of the filing upon the employer. The employer may file a motion addressed to the sufficiency of the petition. If an objection

has been filed to the sufficiency of the petition, the arbitrator shall rule on the objection within 2 working days. If such an objection is filed, the time for filing the final decision of the Commission as provided in this paragraph shall be tolled until the arbitrator has determined that the petition is sufficient.

The employer shall, within 15 days after receipt of the notice that such petition is filed, file with the Commission and serve on the employee or his representative a written response to each claim set forth in the petition, including the legal and factual basis for each disputed allegation and the following information: (i) complete copies of any reports, records, documents and affidavits in the possession of the employer on which the employer intends to rely in support of his response, (ii) a list of any reports, records, documents and affidavits which the employer has demanded by subpoena and on which the employer intends to rely in support of his response, (iii) the name and address of each witness on whom the employer will rely to support his response, and (iv) the names and addresses of any medical practitioners selected by the employer pursuant to Section 12 of this Act and the time and place of any examination scheduled to be made pursuant to such Section.

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

No document or other evidence not previously identified by either party with the petition or written response, or by any other means before the hearing, may be introduced into evidence without good cause. If, at the hearing, material information is discovered which was not previously disclosed, the Arbitrator may extend the time for closing proof on the motion of a party for a reasonable period of time which may be more than 30 days. No evidence may be introduced pursuant to this paragraph as to

permanent disability. No award may be entered for permanent disability pursuant to this paragraph. Either party may introduce into evidence the testimony taken by deposition of any medical practitioner.

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

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

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

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

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

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

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

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

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

(e) This paragraph shall apply to all hearings before the Commission. Such hearings may be held in its office or elsewhere as the Commission may deem advisable. The taking of testimony on such hearings may be had before any member of the Commission. If a petition for review and agreed statement of facts or transcript of evidence is filed, as provided herein, the Commission shall promptly review the decision of the

Arbitrator and all questions of law or fact which appear from the statement of facts or transcript of evidence.

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

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



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

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

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

review as hereinafter provided.

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

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

(f) The decision of the Commission acting within its powers, according to the provisions of paragraph (e) of this Section shall, in the absence of fraud, be conclusive unless reviewed as in this paragraph hereinafter provided. However, the Arbitrator or the Commission may on his or its own motion, or on the motion of either party, correct any clerical error or errors in computation within 15 days after the date of receipt of any award by such Arbitrator or any decision on review of the Commission and shall have the power to recall the original award on arbitration or decision on review, and issue in lieu

thereof such corrected award or decision. Where such correction is made the time for review herein specified shall begin to run from the date of the receipt of the corrected award or decision.

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

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

record and the clerk of the court shall make certificate that he has so sent said notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.

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

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

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

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

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

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

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

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

(g) Except in the case of a claim against the State of Illinois, either party may present a certified copy of the

award of the Arbitrator, or a certified copy of the decision of the Commission when the same has become final, when no proceedings for review are pending, providing for the payment of compensation according to this Act, to the Circuit Court of the county in which such accident occurred or either of the parties are residents, whereupon the court shall enter a judgment in accordance therewith. In a case where the employer refuses to pay compensation according to such final award or such final decision upon which such judgment is entered the court shall in entering judgment thereon, tax as costs against him the reasonable costs and attorney fees in the arbitration proceedings and in the court entering the judgment for the person in whose favor the judgment is entered, which judgment and costs taxed as therein provided shall, until and unless set aside, have the same effect as though duly entered in an action duly tried and determined by the court, and shall with like effect, be entered and docketed. The Circuit Court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

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

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

However, as to accidents occurring subsequent to July 1, 1955, which are covered by any agreement or award under this

Act providing for compensation in installments made as a result of such accident, such agreement or award may at any time within 30 months after such agreement or award be reviewed by the Commission at the request of either the employer or the employee on the ground that the disability of the employee has subsequently recurred, increased, diminished or ended.

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

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

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

(j) Whenever in any proceeding testimony has been taken or a final decision has been rendered and after the taking of such testimony or after such decision has become final, the injured

employee dies, then in any subsequent proceedings brought by the personal representative or beneficiaries of the deceased employee, such testimony in the former proceeding may be introduced with the same force and effect as though the witness having so testified were present in person in such subsequent proceedings and such final decision, if any, shall be taken as final adjudication of any of the issues which are the same in both proceedings.

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

(l) In case the employer or his insurance carrier shall without good and just cause fail, neglect, refuse or unreasonably delay the payment of weekly compensation benefits due to an injured employee during the period of temporary total disability the arbitrator or the Commission shall allow to the employee additional compensation in the sum of \$10 per day for each day that a weekly compensation payment has been so withheld or refused, provided that such additional compensation shall not exceed the sum of \$2,500. A delay in payment of 14 days or more shall create a rebuttable presumption of unreasonable delay.

(m) If the commission finds that an accidental injury was directly and proximately caused by the employer's wilful violation of a health and safety standard under the Health and Safety Act in force at the time of the accident, the arbitrator or the Commission shall allow to the injured employee or his dependents, as the case may be, additional compensation equal to 25% of the amount which otherwise would be payable under the



provisions of this Act exclusive of this paragraph. The additional compensation herein provided shall be allowed by an appropriate increase in the applicable weekly compensation rate.

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

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

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

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

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

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

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

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

(820 ILCS 305/23) (from Ch. 48, par. 138.23)

Sec. 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this Act in regard to the amount of compensation which may be payable to such employee, personal representative or beneficiary hereunder except after approval by the Commission and any employer, individually or by his agent, service company or insurance carrier who shall enter into any payment purporting to compromise or settle the compensation rights of an employee, personal representative or beneficiary without first obtaining the approval of the Illinois Workers' Compensation ~~Industrial~~ Commission as aforesaid shall be barred from raising the defense of limitation in any proceedings subsequently brought by such employee, personal representative or beneficiary.

A minor death beneficiary, by parent or grandparent as next friend, may compromise disputes and may enter into and submit a settlement contract or lump sum petition, and upon approval by the Commission such settlement contract or lump sum order shall have the same force and effect as though such minor had been an

adult.

(Source: P.A. 79-79.)

(820 ILCS 305/26) (from Ch. 48, par. 138.26)

Sec. 26. Any wilful neglect, refusal or failure to do the things required to be done by any section, clause or provision of this Act, on the part of the persons herein required to do them, or any violation of any of the provisions or requirements hereof, or any attempt to obstruct or interfere with any court officer, or any other person charged with the duty of administering or enforcing this Act, is a petty offense.

The Attorney General and the State's Attorney of each county, upon the request of the Illinois Workers' Compensation ~~Industrial~~ Commission, shall enforce any penalties set forth in this Act.

(Source: P. A. 78-255.)

Section 75. The Workers' Occupational Diseases Act is amended by changing Sections 1, 2, 3, 4, 6, 13, 17, 19, 23, and 26 as follows:

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

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

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

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

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

3. Where an employer operating under and subject to the provisions of this Act loans an employee to another such

employer and such loaned employee sustains a compensable occupational disease in the employment of such borrowing employer and where such borrowing employer does not provide or pay the benefits or payments due such employee, such loaning employer shall be liable to provide or pay all benefits or payments due such employee under this Act and as to such employee the liability of such loaning and borrowing employers shall be joint and several, provided that such loaning employer shall in the absence of agreement to the contrary be entitled to receive from such borrowing employer full reimbursement for all sums paid or incurred pursuant to this paragraph together with reasonable attorneys' fees and expenses in any hearings before the Illinois Workers' Compensation ~~Industrial~~ Commission or in any action to secure such reimbursement. Where any benefit is provided or paid by such loaning employer, the employee shall have the duty of rendering reasonable co-operation in any hearings, trials or proceedings in the case, including such proceedings for reimbursement.

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

An employer whose business or enterprise or a substantial part thereof consists of hiring, procuring or furnishing employees to or for other employers operating under and subject to the provisions of this Act for the performance of the work of such other employers and who pays such employees their

salary or wage notwithstanding that they are doing the work of such other employers shall be deemed a loaning employer within the meaning and provisions of this Section.

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

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

2. Every person in the service of another under any contract of hire, express or implied, oral or written, who contracts an occupational disease while working in the State of Illinois, or who contracts an occupational disease while working outside of the State of Illinois but where the contract of hire is made within the State of Illinois, and any person whose employment is principally localized within the State of Illinois, regardless of the place where the disease was contracted or place where the contract of hire was made, including aliens, and minors who, for the purpose of this Act, except Section 3 hereof, shall be considered the same and have the same power to contract, receive payments and give quittances therefor, as adult employees. An employee or his or

her dependents under this Act who shall have a cause of action by reason of an occupational disease, disablement or death arising out of and in the course of his or her employment may elect or pursue his or her remedy in the State where the disease was contracted, or in the State where the contract of hire is made, or in the State where the employment is principally localized.

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

(d) In this Act the term "Occupational Disease" means a disease arising out of and in the course of the employment or which has become aggravated and rendered disabling as a result of the exposure of the employment. Such aggravation shall arise out of a risk peculiar to or increased by the employment and not common to the general public.

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

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

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

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

The insurance carrier liable shall be the carrier whose policy was in effect covering the employer liable on the last day of the exposure rendering such employer liable in accordance with the provisions of this Act.

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

(f) No compensation shall be payable for or on account of any occupational disease unless disablement, as herein defined, occurs within two years after the last day of the last exposure to the hazards of the disease, except in cases of occupational disease caused by berylliosis or by the inhalation



of silica dust or asbestos dust and, in such cases, within 3 years after the last day of the last exposure to the hazards of such disease and except in the case of occupational disease caused by exposure to radiological materials or equipment, and in such case, within 25 years after the last day of last exposure to the hazards of such disease.

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

(820 ILCS 310/2) (from Ch. 48, par. 172.37)

Sec. 2. (a) Where any employer in this State is automatically and without election subject to and bound by the provisions of the Workers' Compensation Act by reason of the provisions of Section 3 thereof, as heretofore or hereafter amended, then such employer and all of his employees working within this State shall be automatically and without election subject to and bound by the compensation provisions of this Act with respect to all cases in which the last day of the last exposure to the hazards of the disease claimed upon shall have been on or after July 1, 1957. However, nothing contained in this Act shall be construed to apply to any business, enterprise, household or residence which is exempt from the compensation provisions of the Workers' Compensation Act under paragraphs 17, 18 and 19 of Section 3 of that Act.

(b) Any employer in this State who does not come within the classes enumerated by Section 2 (a) of this Act may elect to provide and pay compensation according to the provisions of this Act, for disability or death resulting from occupational diseases, and such election, when effective, shall apply to all cases in which the last day of the last exposure as defined in this Act to the hazards of the occupational disease claimed upon shall have occurred on or after the effective date of such election, and shall relieve such employer of all liability under Section 3 of this Act and all other liability with respect to injury to health or death therefrom by reason of any disease contracted or sustained in the course of the employment. The State of Illinois hereby elects to provide and

pay compensation according to the provisions of this Act.

(c) Election by any employer, pursuant to paragraph (b) of this Section shall be made by filing notice of such election with the Illinois Workers' Compensation ~~Industrial~~ Commission or by insuring his liability to pay compensation under this Act in some insurance carrier authorized, licensed or permitted to do such insurance business in this State. Such employer shall either furnish to his employees personally or post in a conspicuous place in the place of employment notice of his election.

(d) Every employer who has elected pursuant to paragraphs (b) and (c) of this section to provide and pay compensation shall, from and after the effective date of such election be and operate under all provisions of this Act except Section 3 hereof, with respect to all his employees except those who have rejected in due time as provided in paragraph (e). Any employer having elected, prior to October 1, 1941, not to provide and pay compensation may at any time thereafter again elect pursuant to paragraphs (b) and (c) to provide and pay compensation, but having thus elected for the second time to provide and pay compensation such employer shall, from and after the effective date of such last said election, be and operate under all provisions of this Act, except Section 3 hereof, with respect to all employees except those who have rejected in due time as provided in paragraph (e) of this section.

(e) If any employer elects, pursuant to paragraph (b) and (c) of this section, then every employee of such employer, who may be employed at the time of such election by such employer, shall be deemed to have accepted all the compensation provisions of this Act and shall be bound thereby unless within 30 days after such election he shall file a notice to the contrary with the Commission whose duty it shall be immediately to notify the employer, and until such notice is given to the employer, the measure of liability of such employer shall be determined according to the compensation provisions of this

Act; and every employee of such employer, hired after such employer's election, as a part of his contract of hiring shall be deemed to have accepted all of the compensation provisions of this Act, and shall have no right of rejection.

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

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

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

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

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

Sec. 3. Where an employee in this State sustains injury to health or death by reason of a disease contracted or sustained in the course of the employment and proximately caused by the negligence of the employer, unless such employer shall be subject to this Act under the provisions of paragraph (a) of

Section 2 of this Act or shall have elected to provide and pay compensation as provided in Section 2 of this Act, a right of action shall accrue to the employee whose health has been so injured for any damages sustained thereby; and in case of death, a right of action shall accrue to the widow or widower of such deceased person, his or her lineal heirs or adopted children, or to any person or persons who were, before such loss of life, dependent for support upon such deceased person, for a like recovery of damages for the injury sustained by reason of such death not to exceed the sum of \$10,000. Violation by any employer of any effective rule or rules made by the Illinois Workers' Compensation ~~Industrial~~ Commission pursuant to the "Health and Safety Act", approved March 16, 1936, as amended, or violation by the employer of any statute of this State, intended for the protection of the health of employees shall be and constitute negligence of the employer within the meaning of this Section. Every such action for damage for injury to the health shall be commenced within 3 years after the last day of the last exposure to the hazards of the disease and every such action for damages in case of death shall be commenced within one year after the death of such employee and within 5 years after the last day of the last exposure to the hazards of the disease except where the disease is caused by atomic radiation, in which case, every action for damages for injury to health shall be commenced within 15 years after the last day of last exposure to the hazard of such disease and every action for damages in case of death shall be commenced within one year after the death of such employee and within 15 years after last exposure to the hazards of the disease. In any action to recover damages under this Section, it shall not be a defense that the employee either expressly or impliedly assumed the risk of the employment, or that the contraction or sustaining of the disease or death was caused in whole or in part by the negligence of a fellow servant or fellow servants, or that the contraction or sustaining of the disease or death resulting was caused in whole or in part by

the contributory negligence of the employee, where such contributory negligence was not wilful.

(Source: P.A. 80-328.)

(820 ILCS 310/4) (from Ch. 48, par. 172.39)

Sec. 4. (a) Any employer, including but not limited to general contractors and their subcontractors, required by the terms of this Act or by election to pay the compensation provided for in this Act shall:

(1) File with the Commission an application for approval as a self-insurer which shall include a current financial statement. The application and financial statement shall be signed and sworn to by the president or vice-president and secretary or assistant secretary of the employer if it be a corporation, or by all of the partners if it be a copartnership, or by the owner if it be neither a copartnership nor a corporation. An employer may elect to provide and pay compensation as provided for in this Act as a member of a group workers' compensation pool under Article V 3/4 of the Illinois Insurance Code. If an employer becomes a member of a group workers' compensation pool, the employer shall not be relieved of any obligations imposed by this Act.

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

(2) Furnish security, indemnity or a bond guaranteeing the payment by the employer of the compensation provided for in this Act, provided that any such employer who shall have secured his or her liability in part by excess liability coverage shall be required to furnish to the Commission security, indemnity or bond guaranteeing his or her payment up to the amount of the effective limits of the excess coverage in accordance with the provisions of this paragraph, or

(3) Insure his or her entire liability to pay such compensation in some insurance carrier authorized, licensed or permitted to do such insurance business in this State. All policies of such insurance carriers insuring the payment of compensation under this Act shall cover all the employees and all such employer's compensation liability in all cases in which the last day of the last exposure to the occupational disease involved is within the effective period of the policy, anything to the contrary in the policy notwithstanding. Provided, however, that any employer may insure his or her compensation liability under this Act with 2 or more insurance carriers or may insure a part and qualify under Subsection 1, 2, or 4 for the remainder of his liability to pay such compensation, subject to the following two provisions:

Firstly, the entire liability of the employer to employees working at or from one location shall be insured in one such insurance carrier or shall be self-insured.

Secondly, the employer shall submit evidence satisfactory to the Commission that his or her entire liability for the compensation provided for in this Act will be secured.

Any provision in a policy or in any endorsement attached thereto attempting to limit or modify in any way the liability of the insurance carrier issuing the same, except as otherwise provided herein, shall be wholly void.

The insurance or security in force to cover compensation liability under this Act shall be separate and distinct from the insurance or security under the "Workers' Compensation Act" and any insurance contract covering liability under either Act need not cover any liability under the other. Nothing herein contained shall apply to policies of excess liability carriage secured by employers who have been approved by the Commission as self-insurers, or

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

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

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

(A) the employer is engaged primarily in the building and construction industry; and

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

The Illinois Workers' Compensation ~~Industrial~~ Commission shall impose a penalty upon an employer for violation of this subsection (a-1) if:

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

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

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

Any penalty under this subsection (a-1) must be imposed not later than one year after the expiration of the applicable limitation period specified in subsection (c) of Section 6 of

this Act. Penalties imposed under this subsection (a-1) shall be deposited into the Illinois Workers' Compensation ~~Industrial~~ Commission Operations Fund created under Section 4 of the Workers' Compensation Act.

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

Deposits under escrow agreements shall be cash, negotiable United States government bonds or negotiable general obligation bonds of the State of Illinois. Such cash or bonds shall be deposited in escrow with any State or National Bank or Trust Company having trust authority in the State of Illinois.

Upon the approval of the sworn application and financial statement, security, indemnity or bond or amount of insurance, filed, furnished, or carried, as the case may be, the Commission shall send to the employer written notice of its approval thereof. Said certificate of compliance by the employer with the provisions of subparagraphs (2) and (3) of paragraph (a) of this Section shall be delivered by the insurance carrier to the Illinois Workers' Compensation ~~Industrial~~ Commission within 5 days after the effective date of the policy so certified. The insurance so certified shall cover all compensation liability occurring during the time that the insurance is in effect and no further certificate need be filed in case such insurance is renewed, extended or otherwise continued by such carrier. The insurance so certified shall not be cancelled or in the event that such insurance is not renewed, extended or otherwise continued, such insurance shall not be terminated until at least 10 days after receipt by the Illinois Workers' Compensation ~~Industrial~~ Commission of notice of the cancellation or termination of said insurance; provided, however, that if the employer has secured insurance from another insurance carrier, or has otherwise secured the payment of compensation in accordance with this Section, and such



insurance or other security becomes effective prior to the expiration of said 10 days, cancellation or termination may, at the option of the insurance carrier indicated in such notice, be effective as of the effective date of such other insurance or security.

(c) Whenever the Commission shall find that any corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or other insurer effecting workers' occupational disease compensation insurance in this State shall be insolvent, financially unsound, or unable to fully meet all payments and liabilities assumed or to be assumed for compensation insurance in this State, or shall practice a policy of delay or unfairness toward employees in the adjustment, settlement, or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer, shall from and after a date fixed in such order discontinue the writing of any such workers' occupational disease compensation insurance in this State. It shall thereupon be unlawful for any such corporation, company, association, aggregation of individuals, reciprocal or interinsurers exchange, or insurer to effect any workers' occupational disease compensation insurance in this State. A copy of the order shall be served upon the Director of Insurance by registered mail. Whenever the Commission finds that any service or adjustment company used or employed by a self-insured employer or by an insurance carrier to process, adjust, investigate, compromise or otherwise handle claims under this Act, has practiced or is practicing a policy of delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that such service or adjustment company shall from and after a date fixed in such order be prohibited from processing, adjusting, investigating, compromising or otherwise handling

claims under this Act.

Whenever the Commission finds that any self-insured employer has practiced or is practicing delay or unfairness toward employees in the adjustment, settlement or payment of benefits due such employees, the Commission may after reasonable notice and hearing order and direct that after a date fixed in the order such self-insured employer shall be disqualified to operate as a self-insurer and shall be required to insure his entire liability to pay compensation in some insurance carrier authorized, licensed and permitted to do such insurance business in this State as provided in subparagraph (3) of paragraph (a) of this Section.

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

(d) Upon a finding by the Commission, after reasonable notice and hearing, of the knowing and wilful failure of an employer to comply with any of the provisions of paragraph (a) of this Section or the failure or refusal of an employer, service or adjustment company, or insurance carrier to comply with any order of the Illinois Workers' Compensation ~~Industrial~~ Commission pursuant to paragraph (c) of this Section the Commission may assess a civil penalty of up to \$500 per day for each day of such failure or refusal after the effective date of

this amendatory Act of 1989. Each day of such failure or refusal shall constitute a separate offense.

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

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

(f) No existing insurance, mutual aid, benefit or relief association or department shall, by reason of anything herein

contained, be authorized to discontinue its operation without first discharging its obligations to any and all persons carrying insurance in the same or entitled to relief or benefits therein.

(g) Any contract, oral, written or implied, of employment providing for relief benefit, or insurance or any other device whereby the employee is required to pay any premium or premiums for insurance against the compensation provided for in this Act shall be null and void. Any employer withholding from the wages of any employee any amount for the purpose of paying any such premium shall be guilty of a Class B misdemeanor.

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

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

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

(i) If an employer elects to obtain a life insurance policy

on his employees, he may also elect to apply such benefits in satisfaction of all or a portion of the death benefits payable under this Act, in which case, the employer's premium for coverage for benefits under this Act shall be reduced accordingly.

(Source: P.A. 90-109, eff. 1-1-98; 91-375, eff. 1-1-00; 91-757, eff. 1-1-01.)

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

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

In addition thereto, the employer shall post in a conspicuous place on the premises of the employment a printed or typewritten notice stating whether he is insured or whether he has qualified and is operating as a self-insured employer. In the event the employer is insured, the notice shall state the name and address of his or her insurance carrier, the number of the insurance policy, its effective date and the date of termination. In the event of the termination of the policy for any reason prior to the termination date stated, the posted notice shall promptly be corrected accordingly. In the event the employer is operating as a self-insured employer the notice shall state the name and address of the company, if any, servicing the compensation payments of the employer, and the name and address of the person in charge of making compensation payments.

(b) Every employer subject to this Act shall maintain accurate records of work-related deaths, injuries and illnesses other than minor injuries requiring only first aid treatment and which do not involve medical treatment, loss of consciousness, restriction of work or motion or transfer to

another job and file with the Illinois Workers' Compensation ~~Industrial~~ Commission, in writing, a report of all occupational diseases arising out of and in the course of the employment and resulting in death, or disablement or illness resulting in the loss of more than 3 scheduled work days. In the case of death such report shall be made no later than 2 working days following the occupational death. In all other cases such report shall be made between the 15th and 25th of each month unless required to be made sooner by rule of the Illinois Workers' Compensation ~~Industrial~~ Commission. In case the occupational disease results in permanent disability, a further report shall be made as soon as it is determined that such permanent disability has resulted or will result therefrom. All reports shall state the date of the disablement, the nature of the employer's business, the name, address, the age, sex, conjugal condition of the disabled person, the specific occupation of the person, the nature and character of the occupational disease, the length of disability, and, in case of death, the length of disability before death, the wages of the employee, whether compensation has been paid to the employee, or to his legal representative or his heirs or next of kin, the amount of compensation paid, the amount paid for physicians', surgeons' and hospital bills, and by whom paid, and the amount paid for funeral or burial expenses, if known. The reports shall be made on forms and in the manner as prescribed by the Illinois Workers' Compensation ~~Industrial~~ Commission and shall contain such further information as the Commission shall deem necessary and require. The making of such reports releases the employer from making such reports to any other officer of the State and shall satisfy the reporting provisions as contained in the "Health And Safety Act" and "An Act in relation to safety inspections and education in industrial and commercial establishments and to repeal an Act therein named", approved July 18, 1955, as amended. The report filed with the Illinois Workers' Compensation ~~Industrial~~ Commission pursuant to the provisions of this Section shall be

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

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

(c) There shall be given notice to the employer of disablement arising from an occupational disease as soon as practicable after the date of the disablement. If the Commission shall find that the failure to give such notice substantially prejudices the rights of the employer the Commission in its discretion may order that the right of the employee to proceed under this Act shall be barred.

In case of legal disability of the employee or any dependent of a deceased employee who may be entitled to compensation, under the provisions of this Act, the limitations of time in this Section of this Act provided shall not begin to run against such person who is under legal disability until a conservator or guardian has been appointed. No defect or inaccuracy of such notice shall be a bar to the maintenance of

proceedings on arbitration or otherwise by the employee unless the employer proves that he or she is unduly prejudiced in such proceedings by such defect or inaccuracy. Notice of the disabling disease may be given orally or in writing. In any case, other than injury or death caused by exposure to radiological materials or equipment or asbestos, unless application for compensation is filed with the Commission within 3 years after the date of the disablement, where no compensation has been paid, or within 2 years after the date of the last payment of compensation, where any has been paid, whichever shall be later, the right to file such application shall be barred. If the occupational disease results in death, application for compensation for death may be filed with the Commission within 3 years after the date of death where no compensation has been paid, or within 3 years after the last payment of compensation, where any has been paid, whichever is later, but not thereafter.

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

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

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

(d) Any contract or agreement made by any employer or his agent or attorney with any employee or any other beneficiary of



any claim under the provisions of this Act within 7 days after the disablement shall be presumed to be fraudulent.

(Source: P.A. 84-981.)

(820 ILCS 310/13) (from Ch. 48, par. 172.48)

Sec. 13. The Illinois Workers' Compensation ~~Industrial~~ Commission shall have jurisdiction over the operation and administration of this Act and it shall have, exercise, perform and discharge the same rights, powers and duties with reference to this Act as it shall have, exercise, perform and discharge with reference to the Workers' Compensation Act or any amendment thereto or modification thereof.

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

(820 ILCS 310/17) (from Ch. 48, par. 172.52)

Sec. 17. The Commission shall cause to be printed and shall furnish free of charge upon request by any employer or employee such blank forms as it shall deem requisite to facilitate or promote the efficient administration of this Act, and the performance of the duties of the Commission. It shall provide a proper record in which shall be entered and indexed the name of any employer who shall file a notice of election under this Act, and the date of the filing thereof; and a proper record in which shall be entered and indexed the name of any employee who shall file a notice of election, and the date of the filing thereof; and such other notices as may be required by this Act; and records in which shall be recorded all proceedings, orders and awards had or made by the Commission, or by the arbitration committees, and such other books or records as it shall deem necessary, all such records to be kept in the office of the Commission. The Commission, in its discretion, may destroy all papers and documents except notices of election and waivers which have been on file for more than five years where there is no claim for compensation pending, or where more than two years have elapsed since the termination of the compensation period.

The Commission shall compile and distribute to interested

persons aggregate statistics, taken from any records and reports in the possession of the Commission. The aggregate statistics shall not give the names or otherwise identify persons sustaining injuries or disabilities or the employer of any injured or disabled person.

The Commission is authorized to establish reasonable fees and methods of payment limited to covering only the costs to the Commission for processing, maintaining and generating records or data necessary for the computerized production of documents, records and other materials except to the extent of any salaries or compensation of Commission officers or employees.

All fees collected by the Commission under this Section shall be deposited in the Statistical Services Revolving Fund and credited to the account of the Illinois Workers' Compensation Industrial Commission.

(Source: P.A. 83-489.)

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

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

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

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

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

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

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

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

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

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

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

provisions of this Act if given within the time required herein.

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

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

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

The decision of the Arbitrator shall be filed with the Commission which Commission shall immediately send to each party or his attorney a copy of such decision, together with a notification of the time when it was filed. Beginning January 1, 1981, all decisions of the Arbitrator shall set forth in writing findings of fact and conclusions of law, separately stated. Unless a petition for review is filed by either party within 30 days after the receipt by such party of the copy of the decision and notification of time when filed, and unless such party petitioning for a review shall within 35 days after the receipt by him of the copy of the decision, file with the Commission either an agreed statement of the facts appearing upon the hearing before the Arbitrator, or if such party shall so elect a correct transcript of evidence of the proceedings at such hearings, then the decision shall become the decision of the Commission and in the absence of fraud shall be conclusive.

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

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

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

- (i) the date and approximate time of the last exposure;
- (ii) the approximate location of the last exposure;
- (iii) a description of the last exposure;
- (iv) the nature of the disability incurred by the employee;
- (v) the identity of the person, if known, to whom the disability was reported and the date on which it was reported;
- (vi) the name and title of the person, if known,

representing the employer with whom the employee conferred in any effort to obtain pursuant to Section 7 compensation of the type provided for in paragraph (b) of Section 8 of the Workers' Compensation Act or medical, surgical or hospital services of the type provided for in paragraph (a) of Section 8 of the Workers' Compensation Act and the date of such conference;

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

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

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

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

and medical diagnosis, the medical services for such disability which the employee has received and is receiving, the physical activities which the employee cannot currently perform as a result of such disability, and the prognosis for recovery;

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

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

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

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

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

and affidavits which the employer has demanded by subpoena and on which the employer intends to rely in support of his response, (iii) the name and address of each witness on whom the employer will rely to support his response, and (iv) the names and addresses of any medical practitioners selected by the employer pursuant to Section 12 of this Act and the time and place of any examination scheduled to be made pursuant to such Section.

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

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

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

All service required pursuant to this paragraph (b-1) must be by personal service or by certified mail and with evidence of receipt. In addition, for the purposes of this paragraph, all service on the employer must be at the premises where the accident occurred if the premises are owned or operated by the



employer. Otherwise service must be at the employee's principal place of employment by the employer. If service on the employer is not possible at either of the above, then service shall be at the employer's principal place of business. After initial service in each case, service shall be made on the employer's attorney or designated representative.

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

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

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

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

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

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

decision of the Commission.

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

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

In the event either party requests oral argument, such argument shall be had before a panel of 3 members of the Commission (or before all available members pursuant to the

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

In any case the Commission in its decision may in its discretion find specially upon any question or questions of law or facts which shall be submitted in writing by either party whether ultimate or otherwise; provided that on issues other than nature and extent of the disablement, if any, the Commission in its decision shall find specially upon any question or questions of law or fact, whether ultimate or otherwise, which are submitted in writing by either party; provided further that not more than 5 such questions may be submitted by either party. Any party may, within 20 days after receipt of notice of the Commission's decision, or within such further time, not exceeding 30 days, as the Commission may grant, file with the Commission either an agreed statement of the facts appearing upon the hearing, or, if such party shall so elect, a correct transcript of evidence of the additional proceedings presented before the Commission in which report the

party may embody a correct statement of such other proceedings in the case as such party may desire to have reviewed, such statement of facts or transcript of evidence to be authenticated by the signature of the parties or their attorneys, and in the event that they do not agree, then the authentication of such transcript of evidence shall be by the signature of any member of the Commission.

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

At the request of either party or on its own motion, the Commission shall set forth in writing the reasons for the decision, including findings of fact and conclusions of law, separately stated. The Commission shall by rule adopt a format for written decisions for the Commission and arbitrators. The written decisions shall be concise and shall succinctly state the facts and reasons for the decision. The Commission may adopt in whole or in part, the decision of the arbitrator as the decision of the Commission. When the Commission does so adopt the decision of the arbitrator, it shall do so by order. Whenever the Commission adopts part of the arbitrator's decision, but not all, it shall include in the order the reasons for not adopting all of the arbitrator's decision. When a majority of a panel, after deliberation, has arrived at its decision, the decision shall be filed as provided in this Section without unnecessary delay, and without regard to the

fact that a member of the panel has expressed an intention to dissent. Any member of the panel may file a dissent. Any dissent shall be filed no later than 10 days after the decision of the majority has been filed.

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

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

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

A proceeding for review shall be commenced within 20 days of the receipt of notice of the decision of the Commission. The summons shall be issued by the clerk of

such court upon written request returnable on a designated return day, not less than 10 or more than 60 days from the date of issuance thereof, and the written request shall contain the last known address of other parties in interest and their attorneys of record who are to be served by summons. Service upon any member of the Commission or the Secretary or the Assistant Secretary thereof shall be service upon the Commission, and service upon other parties in interest and their attorneys of record shall be by summons, and such service shall be made upon the Commission and other parties in interest by mailing notices of the commencement of the proceedings and the return day of the summons to the office of the Commission and to the last known place of residence of other parties in interest or their attorney or attorneys of record. The clerk of the court issuing the summons shall on the day of issue mail notice of the commencement of the proceedings which shall be done by mailing a copy of the summons to the office of the Commission, and a copy of the summons to the other parties in interest or their attorney or attorneys of record and the clerk of the court shall make certificate that he has so sent such notices in pursuance of this Section, which shall be evidence of service on the Commission and other parties in interest.

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

and correct copy of all other matters contained in such record and certified to by the Secretary or Assistant Secretary thereof.

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

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

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

The court may confirm or set aside the decision of the Commission. If the decision is set aside and the facts

found in the proceedings before the Commission are sufficient, the court may enter such decision as is justified by law, or may remand the cause to the Commission for further proceedings and may state the questions requiring further hearing, and give such other instructions as may be proper. Appeals shall be taken to the ~~Industrial Commission Division of the~~ Appellate Court in accordance with Supreme Court Rules 22(g) and 303. Appeals shall be taken from the ~~Industrial Commission Division of the~~ Appellate Court to the Supreme Court in accordance with Supreme Court Rule 315.

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

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

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



effect, be entered and docketed. The Circuit Court shall have power at any time upon application to make any such judgment conform to any modification required by any subsequent decision of the Supreme Court upon appeal, or as the result of any subsequent proceedings for review, as provided in this Act.

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

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

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

On such review compensation payments may be re-established, increased, diminished or ended. The Commission shall give 15 days' notice to the parties of the hearing for review. Any employee, upon any petition for such review being filed by the employer, shall be entitled to one day's notice for each 100 miles necessary to be traveled by him in attending the hearing of the Commission upon the petition, and 3 days in addition thereto. Such employee shall, at the discretion of the Commission, also be entitled to 5 cents per mile necessarily traveled by him within the State of Illinois in attending such

hearing, not to exceed a distance of 300 miles, to be taxed by the Commission as costs and deposited with the petition of the employer.

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

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

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

(k) In any case where there has been any unreasonable or vexatious delay of payment or intentional underpayment of compensation, or proceedings have been instituted or carried on by one liable to pay the compensation, which do not present a real controversy, but are merely frivolous or for delay, then the Commission may award compensation additional to that otherwise payable under this Act equal to 50% of the amount payable at the time of such award. Failure to pay compensation

in accordance with the provisions of Section 8, paragraph (b) of this Act, shall be considered unreasonable delay.

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

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

(m) After filing an application for adjustment of claim but prior to the hearing on arbitration the parties may voluntarily agree to submit such application for adjustment of claim for decision by an arbitrator under this subsection (m) where such application for adjustment of claim raises only a dispute over temporary total disability, permanent partial disability or medical expenses. Such agreement shall be in writing in such form as provided by the Commission. Applications for adjustment of claim submitted for decision by an arbitrator under this

subsection (m) shall proceed according to rule as established by the Commission. The Commission shall promulgate rules including, but not limited to, rules to ensure that the parties are adequately informed of their rights under this subsection (m) and of the voluntary nature of proceedings under this subsection (m). The findings of fact made by an arbitrator acting within his or her powers under this subsection (m) in the absence of fraud shall be conclusive. However, the arbitrator may on his own motion, or the motion of either party, correct any clerical errors or errors in computation within 15 days after the date of receipt of such award of the arbitrator and shall have the power to recall the original award on arbitration, and issue in lieu thereof such corrected award. The decision of the arbitrator under this subsection (m) shall be considered the decision of the Commission and proceedings for review of questions of law arising from the decision may be commenced by either party pursuant to subsection (f) of Section 19. The Advisory Board established under Section 13.1 of the Workers' Compensation Act shall compile a list of certified Commission arbitrators, each of whom shall be approved by at least 7 members of the Advisory Board. The chairman shall select 5 persons from such list to serve as arbitrators under this subsection (m). By agreement, the parties shall select one arbitrator from among the 5 persons selected by the chairman except, that if the parties do not agree on an arbitrator from among the 5 persons, the parties may, by agreement, select an arbitrator of the American Arbitration Association, whose fee shall be paid by the State in accordance with rules promulgated by the Commission. Arbitration under this subsection (m) shall be voluntary.

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

(820 ILCS 310/23) (from Ch. 48, par. 172.58)

Sec. 23. No employee, personal representative, or beneficiary shall have power to waive any of the provisions of this Act in regard to the amount of compensation which may be

payable to such employee, personal representative or beneficiary hereunder except after approval by the Commission, and any employer, individually, or by his agent, service company, or insurance carrier who shall enter into an agreement purporting to compromise or settle the compensation rights of an employee, personal representative or beneficiary without first obtaining the approval of the Illinois Workers' Compensation ~~Industrial~~ Commission as aforesaid shall be barred from raising the defense of limitation in any proceedings subsequently brought by such employee, personal representative or beneficiary.

A minor death beneficiary, by parent or grandparent as next friend, may compromise disputes and may enter into and submit a settlement contract or lump sum petition, and upon approval by the Illinois Workers' Compensation ~~Industrial~~ Commission such settlement contract or lump sum order shall have the same force and effect as though such minor had been an adult.

(Source: P.A. 79-78.)

(820 ILCS 310/26) (from Ch. 48, par. 172.61)

Sec. 26. No repeal of any Act or part thereof herein contained shall extinguish or in any way affect any right of action thereunder, existing at the time this Act takes effect. No employer shall be liable for compensation or damages under this Act in any case in which the disablement on which claim is predicated shall have occurred prior to the date this Act becomes effective. Any claims, disagreement or controversy existing or arising under "An Act to promote the general welfare of the people of this state by providing remedies for injuries suffered or death resulting from occupational diseases incurred in the course of employment; providing for enforcement and administration thereof, and to repeal an Act and a part of a certain Act herein named", approved March 16, 1936, as amended, shall be adjusted in accordance with the provisions of said Act, notwithstanding the repeal thereof, or may by agreement of the parties be adjusted in accordance with

the method of procedure provided in this Act for the adjustment of differences, jurisdiction to adjust such differences so submitted by the parties being hereby conferred upon the Commission. Nothing in this section shall affect any case in which exposure as defined in this Act shall have taken place after the effective date of this Act.

The Attorney General and the State's Attorney of each county, upon request of the Illinois Workers' Compensation Industrial Commission, shall enforce any penalties set forth in this Act.

(Source: P.A. 83-1125.)

Section 80. The Unemployment Insurance Act is amended by changing Section 1900 as follows:

(820 ILCS 405/1900) (from Ch. 48, par. 640)

Sec. 1900. Disclosure of information.

A. Except as provided in this Section, information obtained from any individual or employing unit during the administration of this Act shall:

1. be confidential,
2. not be published or open to public inspection,
3. not be used in any court in any pending action or proceeding,
4. not be admissible in evidence in any action or proceeding other than one arising out of this Act.

B. No finding, determination, decision, ruling or order (including any finding of fact, statement or conclusion made therein) issued pursuant to this Act shall be admissible or used in evidence in any action other than one arising out of this Act, nor shall it be binding or conclusive except as provided in this Act, nor shall it constitute res judicata, regardless of whether the actions were between the same or related parties or involved the same facts.

C. Any officer or employee of this State, any officer or employee of any entity authorized to obtain information

pursuant to this Section, and any agent of this State or of such entity who, except with authority of the Director under this Section, shall disclose information shall be guilty of a Class B misdemeanor and shall be disqualified from holding any appointment or employment by the State.

D. An individual or his duly authorized agent may be supplied with information from records only to the extent necessary for the proper presentation of his claim for benefits or with his existing or prospective rights to benefits. Discretion to disclose this information belongs solely to the Director and is not subject to a release or waiver by the individual. Notwithstanding any other provision to the contrary, an individual or his or her duly authorized agent may be supplied with a statement of the amount of benefits paid to the individual during the 18 months preceding the date of his or her request.

E. An employing unit may be furnished with information, only if deemed by the Director as necessary to enable it to fully discharge its obligations or safeguard its rights under the Act. Discretion to disclose this information belongs solely to the Director and is not subject to a release or waiver by the employing unit.

F. The Director may furnish any information that he may deem proper to any public officer or public agency of this or any other State or of the federal government dealing with:

1. the administration of relief,
2. public assistance,
3. unemployment compensation,
4. a system of public employment offices,
5. wages and hours of employment, or
6. a public works program.

The Director may make available to the Illinois Workers' Compensation ~~Industrial~~ Commission information regarding employers for the purpose of verifying the insurance coverage required under the Workers' Compensation Act and Workers' Occupational Diseases Act.

G. The Director may disclose information submitted by the State or any of its political subdivisions, municipal corporations, instrumentalities, or school or community college districts, except for information which specifically identifies an individual claimant.

H. The Director shall disclose only that information required to be disclosed under Section 303 of the Social Security Act, as amended, including:

1. any information required to be given the United States Department of Labor under Section 303(a)(6); and

2. the making available upon request to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation and employment status of each recipient of unemployment compensation, and a statement of such recipient's right to further compensation under such law as required by Section 303(a)(7); and

3. records to make available to the Railroad Retirement Board as required by Section 303(c)(1); and

4. information that will assure reasonable cooperation with every agency of the United States charged with the administration of any unemployment compensation law as required by Section 303(c)(2); and

5. information upon request and on a reimbursable basis to the United States Department of Agriculture and to any State food stamp agency concerning any information required to be furnished by Section 303(d); and

6. any wage information upon request and on a reimbursable basis to any State or local child support enforcement agency required by Section 303(e); and

7. any information required under the income eligibility and verification system as required by Section 303(f); and

8. information that might be useful in locating an absent parent or that parent's employer, establishing paternity or establishing, modifying, or enforcing child



support orders for the purpose of a child support enforcement program under Title IV of the Social Security Act upon the request of and on a reimbursable basis to the public agency administering the Federal Parent Locator Service as required by Section 303(h); and

9. information, upon request, to representatives of any federal, State or local governmental public housing agency with respect to individuals who have signed the appropriate consent form approved by the Secretary of Housing and Urban Development and who are applying for or participating in any housing assistance program administered by the United States Department of Housing and Urban Development as required by Section 303(i).

I. The Director, upon the request of a public agency of Illinois, of the federal government or of any other state charged with the investigation or enforcement of Section 10-5 of the Criminal Code of 1961 (or a similar federal law or similar law of another State), may furnish the public agency information regarding the individual specified in the request as to:

1. the current or most recent home address of the individual, and
2. the names and addresses of the individual's employers.

J. Nothing in this Section shall be deemed to interfere with the disclosure of certain records as provided for in Section 1706 or with the right to make available to the Internal Revenue Service of the United States Department of the Treasury, or the Department of Revenue of the State of Illinois, information obtained under this Act.

K. The Department shall make available to the Illinois Student Assistance Commission, upon request, information in the possession of the Department that may be necessary or useful to the Commission in the collection of defaulted or delinquent student loans which the Commission administers.

L. The Department shall make available to the State

Employees' Retirement System, the State Universities Retirement System, and the Teachers' Retirement System of the State of Illinois, upon request, information in the possession of the Department that may be necessary or useful to the System for the purpose of determining whether any recipient of a disability benefit from the System is gainfully employed.

M. This Section shall be applicable to the information obtained in the administration of the State employment service, except that the Director may publish or release general labor market information and may furnish information that he may deem proper to an individual, public officer or public agency of this or any other State or the federal government (in addition to those public officers or public agencies specified in this Section) as he prescribes by Rule.

N. The Director may require such safeguards as he deems proper to insure that information disclosed pursuant to this Section is used only for the purposes set forth in this Section.

O. (Blank).

P. Within 30 days after the effective date of this amendatory Act of 1993 and annually thereafter, the Department shall provide to the Department of Financial Institutions a list of individuals or entities that, for the most recently completed calendar year, report to the Department as paying wages to workers. The lists shall be deemed confidential and may not be disclosed to any other person.

Q. The Director shall make available to an elected federal official the name and address of an individual or entity that is located within the jurisdiction from which the official was elected and that, for the most recently completed calendar year, has reported to the Department as paying wages to workers, where the information will be used in connection with the official duties of the official and the official requests the information in writing, specifying the purposes for which it will be used. For purposes of this subsection, the use of information in connection with the official duties of an

official does not include use of the information in connection with the solicitation of contributions or expenditures, in money or in kind, to or on behalf of a candidate for public or political office or a political party or with respect to a public question, as defined in Section 1-3 of the Election Code, or in connection with any commercial solicitation. Any elected federal official who, in submitting a request for information covered by this subsection, knowingly makes a false statement or fails to disclose a material fact, with the intent to obtain the information for a purpose not authorized by this subsection, shall be guilty of a Class B misdemeanor.

R. The Director may provide to any State or local child support agency, upon request and on a reimbursable basis, information that might be useful in locating an absent parent or that parent's employer, establishing paternity, or establishing, modifying, or enforcing child support orders.

S. The Department shall make available to a State's Attorney of this State or a State's Attorney's investigator, upon request, the current address or, if the current address is unavailable, current employer information, if available, of a victim of a felony or a witness to a felony or a person against whom an arrest warrant is outstanding.

(Source: P.A. 93-311, eff. 1-1-04.)

INDEX

Statutes amended in order of appearance

5 ILCS 220/6	from Ch. 127, par. 746
5 ILCS 420/2-104	from Ch. 127, par. 602-104
15 ILCS 15/3.1	from Ch. 127, par. 1803.1
20 ILCS 415/4c	from Ch. 127, par. 63b104c
20 ILCS 415/4d	from Ch. 127, par. 63b104d
20 ILCS 415/11	from Ch. 127, par. 63b111
30 ILCS 105/5.454	
30 ILCS 105/8.3	from Ch. 127, par. 144.3
30 ILCS 260/0.01	from Ch. 127, par. 179.9
30 ILCS 260/3	from Ch. 127, par. 180
30 ILCS 260/4	from Ch. 127, par. 181
35 ILCS 5/917	from Ch. 120, par. 9-917
40 ILCS 5/9-159	from Ch. 108 1/2, par. 9-159
40 ILCS 5/12-141	from Ch. 108 1/2, par. 12-141
40 ILCS 5/13-309	from Ch. 108 1/2, par. 13-309
40 ILCS 5/14-123	from Ch. 108 1/2, par. 14-123
40 ILCS 5/14-123.1	from Ch. 108 1/2, par. 14-123.1
40 ILCS 5/14-128	from Ch. 108 1/2, par. 14-128
40 ILCS 5/14-129	from Ch. 108 1/2, par. 14-129
40 ILCS 5/16-149.1	from Ch. 108 1/2, par. 16-149.1
40 ILCS 5/17-117.1	from Ch. 108 1/2, par. 17-117.1
110 ILCS 975/3	from Ch. 144, par. 2753
215 ILCS 5/416	
745 ILCS 10/9-103	from Ch. 85, par. 9-103
820 ILCS 205/17.6	
820 ILCS 305/1	from Ch. 48, par. 138.1
820 ILCS 305/4	from Ch. 48, par. 138.4
820 ILCS 305/4a-2	from Ch. 48, par. 138.4a-2
820 ILCS 305/4a-3	from Ch. 48, par. 138.4a-3
820 ILCS 305/4a-7	from Ch. 48, par. 138.4a-7
820 ILCS 305/4d	
820 ILCS 305/6	from Ch. 48, par. 138.6
820 ILCS 305/7	from Ch. 48, par. 138.7

820 ILCS 305/8	from Ch. 48, par. 138.8
820 ILCS 305/13	from Ch. 48, par. 138.13
820 ILCS 305/14	from Ch. 48, par. 138.14
820 ILCS 305/14.1	from Ch. 48, par. 138.14-1
820 ILCS 305/16a	from Ch. 48, par. 138.16a
820 ILCS 305/17	from Ch. 48, par. 138.17
820 ILCS 305/19	from Ch. 48, par. 138.19
820 ILCS 305/23	from Ch. 48, par. 138.23
820 ILCS 305/26	from Ch. 48, par. 138.26
820 ILCS 310/1	from Ch. 48, par. 172.36
820 ILCS 310/2	from Ch. 48, par. 172.37
820 ILCS 310/3	from Ch. 48, par. 172.38
820 ILCS 310/4	from Ch. 48, par. 172.39
820 ILCS 310/6	from Ch. 48, par. 172.41
820 ILCS 310/13	from Ch. 48, par. 172.48
820 ILCS 310/17	from Ch. 48, par. 172.52
820 ILCS 310/19	from Ch. 48, par. 172.54
820 ILCS 310/23	from Ch. 48, par. 172.58
820 ILCS 310/26	from Ch. 48, par. 172.61
820 ILCS 405/1900	from Ch. 48, par. 640