

1 AN ACT concerning workers' compensation.

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

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

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

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

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

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

22 2. Whenever any claimant misconceives his remedy
23 and files an application for adjustment of claim under
24 the Workers' Occupational Diseases Act and it is
25 subsequently discovered, at any time before final
26 disposition of such cause that the claim for injury or
27 death which was the basis for such application should
28 properly have been made under this Act, then the
29 application so filed under the Workers' Occupational
30 Diseases Act may be amended in form, substance or both to
31 assert claim for such disability or death under this Act

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

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

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

21 The Arbitrator may find that the disabling condition is
22 temporary and has not yet reached a permanent condition and
23 may order the payment of compensation up to the date of the
24 hearing, which award shall be reviewable and enforceable in
25 the same manner as other awards, and in no instance be a bar
26 to a further hearing and determination of a further amount of
27 temporary total compensation or of compensation for permanent
28 disability, but shall be conclusive as to all other questions
29 except the nature and extent of said disability.

30 The decision of the Arbitrator shall be filed with the
31 Commission which Commission shall immediately send to each
32 party or his attorney a copy of such decision, together with
33 a notification of the time when it was filed. Beginning
34 January 1, 1981, all decisions of the Arbitrator shall set

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

27 (b-1) If the employee is not receiving medical, surgical
28 or hospital services as provided in paragraph (a) of Section
29 8 or compensation as provided in paragraph (b) of Section 8,
30 the employee, in accordance with Commission Rules, may file a
31 petition for an emergency hearing by an Arbitrator on the
32 issue of whether or not he is entitled to receive payment of
33 such compensation or services as provided therein. Such
34 petition shall have priority over all other petitions and

1 shall be heard by the Arbitrator and Commission with all
2 convenient speed.

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

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

7 (ii) the approximate location of the accident;

8 (iii) a description of the accident;

9 (iv) the nature of the injury incurred by the
10 employee;

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

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

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

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

27 (ix) the dates of treatment related to the accident
28 by medical practitioners, and the names and addresses of
29 such practitioners, including the dates of treatment
30 related to the accident at any hospitals and the names
31 and addresses of such hospitals, and a signed
32 authorization permitting the employer to examine all
33 medical records of all practitioners and hospitals named
34 pursuant to this paragraph;

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

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

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

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

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

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

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

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

29 No document or other evidence not previously identified
30 by either party with the petition or written response, or by
31 any other means before the hearing, may be introduced into
32 evidence without good cause. If, at the hearing, material
33 information is discovered which was not previously disclosed,
34 the Arbitrator may extend the time for closing proof on the

1 motion of a party for a reasonable period of time which may
2 be more than 30 days. No evidence may be introduced pursuant
3 to this paragraph as to permanent disability. No award may
4 be entered for permanent disability pursuant to this
5 paragraph. Either party may introduce into evidence the
6 testimony taken by deposition of any medical practitioner.

7 The Commission shall adopt rules, regulations and
8 procedures whereby the final decision of the Commission is
9 filed not later than 90 days from the date the petition for
10 review is filed but in no event later than 180 days from the
11 date the petition for an emergency hearing is filed with the
12 Industrial Commission.

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

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

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

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

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

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

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

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

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

1 a duly accredited practitioner thereof.

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

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

24 In the event either party requests oral argument, such
25 argument shall be had before a panel of 3 members of the
26 Commission (or before all available members pursuant to the
27 determination of 5 members of the Commission that such
28 argument be held before all available members of the
29 Commission) pursuant to the rules and regulations of the
30 Commission. A panel of 3 members, which shall be comprised
31 of not more than one representative citizen of the employing
32 class and not more than one representative citizen of the
33 employee class, shall hear the argument; provided that if all
34 the issues in dispute are solely the nature and extent of the

1 permanent partial disability, if any, a majority of the panel
2 may deny the request for such argument and such argument
3 shall not be held; and provided further that 5 members of the
4 Commission may determine that the argument be held before all
5 available members of the Commission. A decision of the
6 Commission shall be approved by a majority of Commissioners
7 present at such hearing if any; provided, if no such hearing
8 is held, a decision of the Commission shall be approved by a
9 majority of a panel of 3 members of the Commission as
10 described in this Section. The Commission shall give 10
11 days' notice to the parties or their attorneys of the time
12 and place of such taking of testimony and of such argument.

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

1 signature of any member of the Commission.

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

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

1 been filed.

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

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

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

30 A proceeding for review shall be commenced within 35
31 20 days of the receipt of notice of the decision of the
32 Commission. The summons shall be issued by the clerk of
33 such court upon written request returnable on a
34 designated return day, not less than 10 or more than 60

1 days from the date of issuance thereof, and the written
2 request shall contain the last known address of other
3 parties in interest and their attorneys of record who are
4 to be served by summons. Service upon any member of the
5 Commission or the Secretary or the Assistant Secretary
6 thereof shall be service upon the Commission, and service
7 upon other parties in interest and their attorneys of
8 record shall be by summons, and such service shall be
9 made upon the Commission and other parties in interest by
10 mailing notices of the commencement of the proceedings
11 and the return day of the summons to the office of the
12 Commission and to the last known place of residence of
13 other parties in interest or their attorney or attorneys
14 of record. The clerk of the court issuing the summons
15 shall on the day of issue mail notice of the commencement
16 of the proceedings which shall be done by mailing a copy
17 of the summons to the office of the Commission, and a
18 copy of the summons to the other parties in interest or
19 their attorney or attorneys of record and the clerk of
20 the court shall make certificate that he has so sent said
21 notices in pursuance of this Section, which shall be
22 evidence of service on the Commission and other parties
23 in interest.

24 The Commission shall not be required to certify the
25 record of their proceedings to the Circuit Court, unless
26 the party commencing the proceedings for review in the
27 Circuit Court as above provided, shall pay to the
28 Commission the sum of 80¢ per page of testimony taken
29 before the Commission, and 35¢ per page of all other
30 matters contained in such record, except as otherwise
31 provided by Section 20 of this Act. Payment for
32 photostatic copies of exhibit shall be extra. It shall
33 be the duty of the Commission upon such payment, or
34 failure to pay as permitted under Section 20 of this Act,

1 to prepare a true and correct typewritten copy of such
2 testimony and a true and correct copy of all other
3 matters contained in such record and certified to by the
4 Secretary or Assistant Secretary thereof.

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

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

29 Every county, city, town, township, incorporated
30 village, school district, body politic or municipal
31 corporation against whom the Commission shall have
32 rendered an award for the payment of money shall not be
33 required to file a bond to secure the payment of the
34 award and the costs of the proceedings in the court to

1 authorize the court to issue such summons.

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

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

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

22 (g) Except in the case of a claim against the State of
23 Illinois, either party may present a certified copy of the
24 award of the Arbitrator, or a certified copy of the decision
25 of the Commission when the same has become final, when no
26 proceedings for review are pending, providing for the payment
27 of compensation according to this Act, to the Circuit Court
28 of the county in which such accident occurred or either of
29 the parties are residents, whereupon the court shall enter a
30 judgment in accordance therewith. In a case where the
31 employer refuses to pay compensation according to such final
32 award or such final decision upon which such judgment is
33 entered the court shall in entering judgment thereon, tax as
34 costs against him the reasonable costs and attorney fees in

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

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

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

26 However, as to accidents occurring subsequent to July 1,
27 1955, which are covered by any agreement or award under this
28 Act providing for compensation in installments made as a
29 result of such accident, such agreement or award may at any
30 time within 30 months after such agreement or award be
31 reviewed by the Commission at the request of either the
32 employer or the employee on the ground that the disability of
33 the employee has subsequently recurred, increased, diminished
34 or ended.

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

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

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

28 (j) Whenever in any proceeding testimony has been taken
29 or a final decision has been rendered and after the taking of
30 such testimony or after such decision has become final, the
31 injured employee dies, then in any subsequent proceedings
32 brought by the personal representative or beneficiaries of
33 the deceased employee, such testimony in the former
34 proceeding may be introduced with the same force and effect

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

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

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

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

1 paragraph. The additional compensation herein provided shall
2 be allowed by an appropriate increase in the applicable
3 weekly compensation rate.

4 (n) After June 30, 1984, decisions of the Industrial
5 Commission reviewing an award of an arbitrator of the
6 Commission shall draw interest at a rate equal to the yield
7 on indebtedness issued by the United States Government with a
8 26-week maturity next previously auctioned on the day on
9 which the decision is filed. Said rate of interest shall be
10 set forth in the Arbitrator's Decision. Interest shall be
11 drawn from the date of the arbitrator's award on all accrued
12 compensation due the employee through the day prior to the
13 date of payments. However, when an employee appeals an award
14 of an Arbitrator or the Commission, and the appeal results in
15 no change or a decrease in the award, interest shall not
16 further accrue from the date of such appeal.

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

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

32 The insured employer may challenge, in proceeding before
33 the Commission, payments made by the insurer without
34 arbitration and payments made after a case is determined to

1 be noncompensable. If the Commission finds that the case was
2 not compensable, the insurer shall purge its records as to
3 that employer of any loss or expense associated with the
4 claim, reimburse the employer for attorneys' fees arising
5 from the challenge and for any payment required of the
6 employer to the Rate Adjustment Fund or the Second Injury
7 Fund, and may not reflect the loss or expense for rate making
8 purposes. The employee shall not be required to refund the
9 challenged payment. The decision of the Commission may be
10 reviewed in the same manner as in arbitrated cases. No
11 challenge may be initiated under this paragraph more than 3
12 years after the payment is made. An employer may waive the
13 right of challenge under this paragraph on a case by case
14 basis.

15 (p) After filing an application for adjustment of claim
16 but prior to the hearing on arbitration the parties may
17 voluntarily agree to submit such application for adjustment
18 of claim for decision by an arbitrator under this subsection
19 (p) where such application for adjustment of claim raises
20 only a dispute over temporary total disability, permanent
21 partial disability or medical expenses. Such agreement shall
22 be in writing in such form as provided by the Commission.
23 Applications for adjustment of claim submitted for decision
24 by an arbitrator under this subsection (p) shall proceed
25 according to rule as established by the Commission. The
26 Commission shall promulgate rules including, but not limited
27 to, rules to ensure that the parties are adequately informed
28 of their rights under this subsection (p) and of the
29 voluntary nature of proceedings under this subsection (p).
30 The findings of fact made by an arbitrator acting within his
31 or her powers under this subsection (p) in the absence of
32 fraud shall be conclusive. However, the arbitrator may on
33 his own motion, or the motion of either party, correct any
34 clerical errors or errors in computation within 15 days after

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

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