

ILLINOIS WORKERS' COMPENSATION COMMISSION
FY2005 ANNUAL REPORT



ROD R. BLAGOJEVICH, GOVERNOR

DENNIS R. RUTH, CHAIRMAN

TABLE OF CONTENTS

LETTER	1
HIGHLIGHTS	2
MISSION STATEMENT	2
BOARD MEMBERS	3
OVERVIEW OF WORKERS' COMPENSATION	4
OVERVIEW OF DISPUTE RESOLUTION PROCESS	5
FINANCES	6
INSURANCE	8
ADMINISTRATION	10
STATISTICS	13
INTERSTATE COMPARISONS	22

COMMISSION OFFICES

100 W. Randolph #8-200
Chicago, IL 60601
312/814-6611

202 N.E. Madison Ave. #201
Peoria, IL 61602
309/671-3019

701 S. Second St.
Springfield, IL 62704
217/785-7087

1014 Eastport Plaza Drive
Collinsville, IL 62234
618/346-3450

200 S. Wyman
Rockford, IL 61101
815/987-7292

Toll-free: 866/352-3033
TDD: 312/814-2959
Web site: www.iwcc.il.gov
E-Mail: infoquestions.wcc@illinois.gov



ILLINOIS WORKERS' COMPENSATION COMMISSION

100 W. RANDOLPH ST. #8-200
CHICAGO, IL 60601-3227
312/814-6611
WWW.IWCC.IL.GOV

ROD R. BLAGOJEVICH
GOVERNOR

DENNIS R. RUTH
CHAIRMAN

Dear Governor Blagojevich,
Members of the General Assembly,
and Citizens of Illinois:

During FY05, we hired seven additional arbitrators, which reduced the average caseload to 3,000 cases per arbitrator, allowing them to give cases more attention.

Throughout FY05, workers' compensation was negotiated intensely. On July 20, 2005, Governor Blagojevich signed a major bipartisan reform bill into law. Also, to better reflect the agency's mission, on January 1, 2005, the Industrial Commission was renamed the Illinois Workers' Compensation Commission.

We are committed to work together to serve the employers and employees of Illinois. We ask for your support and participation in this effort.

Mario Basurto, Commissioner

Paul W. Rink, Commissioner

James F. DeMunno, Commissioner

Barbara A. Sherman, Commissioner

Susan O. Pigott, Commissioner

Ilonka Munoz Ulrich, Commissioner

Dennis R. Ruth, Chairman

Amy Masters, Chief of Staff/Assistant Secretary

Carolyn L. Parks, Executive Director

ARBITRATORS

Peter Akemann
George Andros
Milton Black
Kurt Carlson
Brian Cronin
Charles DeVriendt
John Dibble

Gregory Dollison
Tony Erbacci
Robert Falcioni
Joann Fratianni
Gilberto Galicia
James Giordano

Paula Gomora
Kathleen Hagan
Leo Hennessy
Douglas Holland
Gerald Jutila
David Kane
Jacqueline Kinnaman

Robert Lammie
Edward Lee
Stephen Mathis
Andrew Nalefski
Neva Neal
Peter O'Malley

Richard Peterson
Joseph Prieto
Maureen Pulia
Jennifer Teague
Jeffery Tobin
Ruth White
Robert Williams

HIGHLIGHTS

- During FY05, a series of negotiations were conducted to draft the most comprehensive changes to the Workers' Compensation Act in 30 years. This bill, agreed to by business and labor leaders through negotiations sponsored by the governor, will reduce medical costs through a medical fee schedule and utilization review of medical treatment; increase benefits for widows, orphans, and the lowest-paid workers; create a workers' compensation fraud law and investigatory unit; and improve procedures for cases litigated before the Commission.
- On January 1, 2005, to better reflect the agency's mission and eliminate confusion regarding our services, the Industrial Commission was renamed the Illinois Workers' Compensation Commission.
- The Commission hired seven additional arbitrators, gave all arbitrators training by the National Judicial College, reduced their caseloads, made them accessible by e-mail, and shortened the interval between status checks of cases.
- Even though Illinois is a high-wage state, it is ranked much lower in various measures of workers' compensation than its wages would suggest. Among the 50 states and the District of Columbia, Illinois is ranked:
 - 9th highest in wages;
 - 19th highest in w.c. indemnity costs per claim;
 - 23rd highest in w.c. insurance premium rates;
 - 26th highest in w.c. medical costs per claim;
 - 30th highest in w.c. benefit cost rates (w.c. benefits divided by payroll); and
 - 37th highest in w.c. injury rate.
- Accident rates have fallen dramatically. Illinois' 2002 workers' compensation total injury rate was 49% lower than in 1991. Everyone wins when injuries are avoided.
- Workers' compensation insurance rates peaked in the mid-1990s and have been declining since then. After adjusting for inflation, the 2006 advisory rate for workers' compensation insurance in Illinois represents a 34% decrease since 1990.
- In Illinois, the workers' compensation insurance business is highly competitive. More carriers write workers' compensation policies in Illinois than in any other state.

MISSION STATEMENT

The Illinois Workers' Compensation Commission resolves disputes that occur between injured workers and their employers regarding workers' compensation. The Commission strives to assure financial protection to injured workers and their dependents at a reasonable cost to employers.

The Commission performs four main functions:

- 1) *Resolve disputes.* The Commission strives to provide a fair, timely process by which disputed claims may be resolved.
- 2) *Ensure compliance with the law.* The Commission protects the rights of employees and employers under the Illinois Workers' Compensation and Occupational Diseases Acts.
- 3) *Administer self-insurance.* The Commission evaluates and approves eligible employers that wish to insure themselves for their workers' compensation liabilities.
- 4) *Collect statistics.* The Commission compiles information on work-related injuries and diseases.

The Commission intends to accomplish these goals while looking constantly for ways to improve the quality of service and treating the public and co-workers with respect. The success of this organization depends on the commitment and full participation of every member.

BOARD MEMBERS

We are grateful to the individuals who serve on our boards. All serve without compensation. The chairman of the Illinois Workers' Compensation Commission (IWCC) also serves as chairman of each board.

COMMISSION REVIEW BOARD

The board investigates complaints made against arbitrators and commissioners. The governor appoints two public members, the senior labor and business commissioners serve by statute, and the arbitrators elect one Chicago and one Downstate arbitrator.

Mario Basurto
Senior Business Commissioner, IWCC

Robert Hanaford
Attorney, Robert H. Hanaford, Ltd.

Barbara A. Sherman
Senior Labor Commissioner, IWCC

Joseph Reichart
Chicago Arbitrator, IWCC

Ann Marie Walsh
Attorney, Lord, Bissell & Brook

Ruth White
Downstate Arbitrator, IWCC

SELF-INSURERS ADVISORY BOARD

The board reviews applications from private companies for the self-insurance privilege and makes recommendations to the chairman. The board also ensures the continued payment of benefits to workers of bankrupt self-insurers.

Alex G. Alexandrou
Director of Risk Management, City of Aurora

Curtis C. Beam
Claims Manager, Archer Daniels Midland Co.

Margaret Blackshere (Public member)
President, Illinois State AFL-CIO

Gerald F. Cooper
Attorney, Scopelitis, Garvin, Light & Hanson

Paul M. McCloskey
Senior Vice-President, Amalgamated Bank of Chicago

David Taylor
Mgr. of W.C. and Disability, Intl. Truck & Engine Corp.

WORKERS' COMPENSATION ADVISORY BOARD

During FY05, the Workers' Compensation Advisory Board was inactive and had no members. Since then, the board has been reconstituted. The board assists the Commission in formulating policies, setting priorities, and developing administrative goals. The board also makes recommendations to the governor regarding Commission appointments.

EMPLOYEE REPRESENTATIVES

James Brown
International Assoc. of Machinists

Michael Carrigan
Illinois AFL-CIO

Frank Cavaretta
United Steel Workers

Elwood Flowers
Amalgamated Transit Union

Dave Menchetti
Cullen, Haskins, Nicholson, & Menchetti

Kim Presbrey
Presbrey & Assoc.

EMPLOYER REPRESENTATIVES

David Buckman
CORE Construction Group

Mark Flannery
Caterpillar, Inc.

Kim Maisch
Natl. Fed. of Independent Business

Boro Reljic
Abbott Industries

Gerald Roper
Chicagoland Chamber of Commerce

David Vite
Illinois Retail Merchants Assoc.

OVERVIEW OF WORKERS' COMPENSATION

Workers' compensation laws were the first acts of social legislation passed in the United States, and they have always been controversial. At the beginning of the 20th century, employers feared the assumption of liability for work-related injuries would destroy their businesses, while workers feared financial ruin from disabling injuries.

Before the laws took effect, an injured worker seeking compensation had to file a lawsuit against his or her employer in court. At the time, the common law held that the employer had a duty to provide a safe place to work and safe tools; to give warnings of dangers; and to provide a sufficient number of appropriate fellow servants to perform the tasks.

In court, the employee had to prove negligence. The employer could present a defense that blamed the injured worker's contributory negligence, or attributed the injury to the negligence of a fellow servant, or argued that the employee assumed certain risks in accepting the job. The process was prolonged and uncertain, with large risks to both employee and employer.

The high injury and death rates throughout the Industrial Revolution and growing dissatisfaction with the common law gradually led to the enactment of employer liability acts. Employers were held more responsible for negligence, but employees still had to file lawsuits for damages.

The first workers' compensation laws originated in Germany in 1884 with a compulsory system of accident insurance covering all employees in manufacturing, mining, and transportation. Similar laws passed in other European countries.

In the U.S., laws were passed on a state-by-state basis. Most of the early laws covered only hazardous occupations and were frequently challenged as unconstitutional. Maryland passed the first act in 1902, which was restricted to fatal cases. The first law of general application that withstood legal challenges was Wisconsin's act of 1911. Illinois passed its law in 1911, effective May 1, 1912. It took until 1948 for all states to establish a workers' compensation law.

Workers' compensation laws contain two tradeoffs:

1. Employees gave up their right to sue and potentially win large awards in court in exchange for more modest but prompt compensation;
2. Employers gave up their common law defenses in exchange for limits on their liabilities.

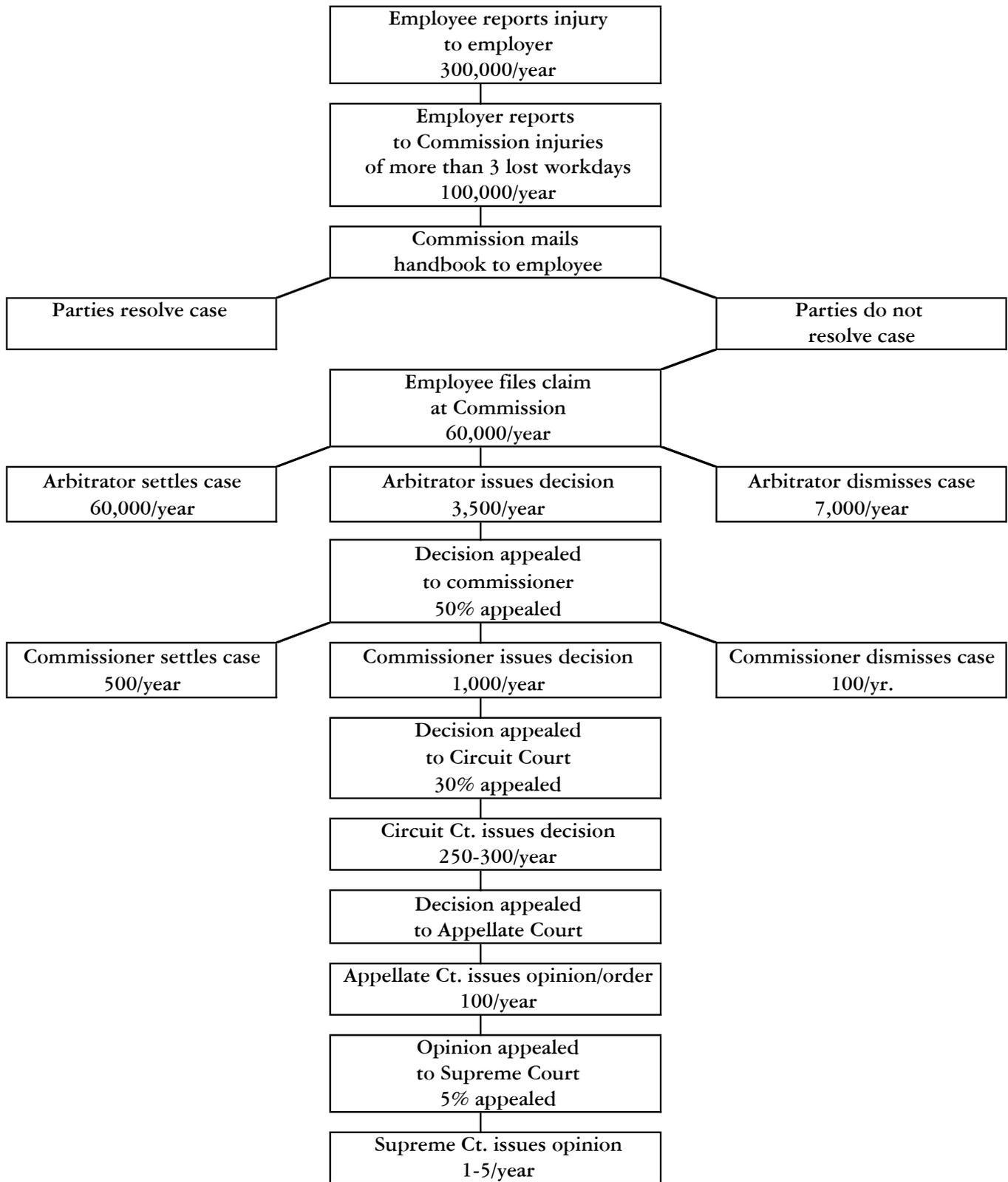
Workers' compensation was established as a no-fault system. The theory behind the law is that the cost of work-related injuries or illnesses should be part of the cost of the product or service.

Originally, the courts administered the Illinois act. The volume overwhelmed the courts, however, and on July 1, 1913, a three-member Industrial Board was created. In 1917, a five-member Industrial Commission was created within the Illinois Department of Labor. In 1957, the Commission separated from the Department of Labor and became a self-standing agency. On January 1, 2005, the agency officially became the Illinois Workers' Compensation Commission.

Almost every employee who is hired, injured, or whose employment is localized in Illinois is covered by workers' compensation. For the most part, benefits are paid for accidental injuries that are caused, in whole or in part, by the employee's work. This includes the aggravation of a pre-existing condition and injuries brought on by the repetitive use of a part of the body.

Illinois employers pay for workers' compensation benefits through insurance policies or by self-insurance. Benefits are based on the worker's earnings, subject to certain limits. Cases are first heard by arbitrators, whose decisions may be appealed to commissioners. Cases may proceed on to the circuit court, Illinois Appellate Court, and the Illinois Supreme Court. Most cases, however, are settled between the parties.

OVERVIEW OF DISPUTE RESOLUTION PROCESS



Note: Cases can go back and forth between levels. Figures are rough.

FINANCES

Recognizing the Commission’s position as one of the lowest-funded workers’ compensation agencies in the country, the legislature passed and the governor signed a bill authorizing an independent source of operating funds for the Commission in 2003. Illinois became the 46th state in the country to pay for its workers’ compensation agency through an independent source of funds.

Since the assessment was enacted, the Commission’s expenditures have increased 45%. Even so, the cost of administering Illinois' workers' compensation program—\$2.65 per covered worker—is *still less than one-half* the average cost in comparable states of \$6.93 per covered worker.¹

SPECIAL FUNDS

The Commission operates seven funds that are independent of the General Revenue Fund.

ACTIVITY OF SPECIAL FUNDS

	6/30/04 Balance	<i>plus</i> Income	<i>minus</i> Expenditures	<i>plus/minus</i> Adjustments	6/30/05 Balance
IWCC Operations Fund	\$5,554,477	\$25,018,385	\$14,880,600	(\$11,445,194)	\$4,247,068
Rate Adjustment Fund	(\$14,828,479)	\$9,297,226	\$10,393,051	\$2	(\$15,924,302)
Second Injury Fund	\$480,286	\$1,232,788	\$1,189,143	\$0	\$523,931
Self-Insurers Administration Fund	\$728,668	\$398,880	\$637,786	(\$16,577)	\$473,185
Self-Insurers Security Fund	\$4,382,463	\$24,580,757	\$6,490,663	(\$1,413,971)	\$21,058,586
Transcript Deposit Fund	\$26,012	\$10,640	\$6,156	\$0	\$30,496
Workers' Compensation Benefit Trust Fund	\$195,803	\$3,623	\$0	\$0	\$199,426

IWCC OPERATIONS FUND

Illinois Compiled Statutes, Ch. 820, Para. 305, Sec. 4(a-1), 4(d); Ch. 215, Para. 5, Sec. 416

The IWCC Operations Fund was created in 2003 to pay for the administrative costs of the agency. Employers pay a 1.01% surcharge on workers’ compensation insurance premiums, and self-insured employers pay an assessment of 0.0075% of payroll.

RATE ADJUSTMENT FUND

Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 7

The Rate Adjustment Fund was created in 1975 to pay cost-of-living increases to roughly 1,200 individuals who are either permanently and totally disabled or the survivors of fatally injured workers. Individuals who receive awards or settlements for permanent and total disability or death benefits are eligible.

Benefits are paid each month, beginning on July 15 of the second year after the award or settlement is entered by the Commission. Recipients are given an amount equal to the percentage increase in the statewide average weekly wage, as calculated by the Department of Employment Security. If there is a decrease in the statewide average weekly wage, there is no change in the compensation rate.

The fund has run a deficit since 1994. The assessment amount has been increased several times over the years, but it has never been enough to cover the benefits paid out. The legislature authorized the

Commission to borrow money from the General Revenue Fund to pay benefits and, as of 6/30/05, the fund owed the GRF approximately \$16 million.

During FY05, self-insured employers and insurance companies paid semiannually an amount up to $\frac{3}{4}$ of 1% of all indemnity payments paid in the six-month period preceding the payment date. The legislature increased the assessment to 1.25%, effective January 2006. The new rate should guarantee that the Commission will pay benefits on time and pay off the debt over the next several years.

SECOND INJURY FUND

Illinois Compiled Statutes, Chapter 820, Paragraph 305, Sections 7-8

The Second Injury Fund provides an incentive to employers to hire disabled workers, but Illinois' SIF is more narrowly constructed than most other states. If a worker who had previously incurred the complete loss of a member or the use of a member (one hand, arm, foot, leg, or eye) is injured on the job and suffers the complete loss of another member so that he or she is permanently and totally disabled (PTD), the employer is liable only for the injury due to the second accident. The fund pays the amount necessary to provide the worker with a PTD benefit.

Approximately 100 individuals receive SIF benefits. In January and July each year, insurers and self-insured employers pay assessments up to $\frac{1}{8}$ of 1% of compensation payments made during the previous six months.

SELF-INSURERS ADMINISTRATION FUND

Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a-6.1

The Self-Insurers Administration Fund was created in 1988 to pay the administrative costs of the Commission's self-insurance program. Private self-insured employers pay a fee of \$500 per entity when applying for or renewing the self-insurance privilege.

SELF-INSURERS SECURITY FUND

Illinois Compiled Statutes, Chapter 820, Paragraph 305, Section 4a-5, 6

The Self-Insurers Security Fund was created in 1986 to pay benefits to employees of private self-insurers that became insolvent after 1986. Self-insured employers pay assessments based on their indemnity payments, up to a maximum of 1.2% of indemnity benefits paid during the preceding year. The "income received" column also reflects the collection of bonds and escrows from self-insured employers during the year. The "adjustments" column reflects changes in the unpaid liability of the fund. This fund has always paid the benefits in full.

TRANSCRIPT DEPOSIT FUND

Illinois Compiled Statutes, Chapter 30, Paragraph 105

When a case is appealed to the circuit court, the appealing party pays a \$35 fee for the preparation of the file.

W.C. BENEFIT TRUST FUND

Illinois Compiled Statutes, Chapter 30, Paragraph 105

The Workers' Compensation Benefit Trust Fund pays benefits to employees of private self-insurers that became insolvent before 1986. Benefits are paid from securities posted by the self-insurers; any unused funds are then returned to the insolvent estate.

INSURANCE

Employers are responsible for the payment of benefits to injured workers; they must either purchase insurance or obtain permission to self-insure.

INSURANCE

The workers' compensation insurance business in Illinois is healthy and highly competitive. More insurance companies sell workers' compensation policies in Illinois than in any other state.² And, over the last 10 years, the number of companies selling w.c policies in Illinois actually increased 13%.³

The National Council on Compensation Insurance, a private organization, issues advisory insurance rates. Illinois carriers are free to set their own rates, and use the advisory rate in their calculations. Insurance companies file rates with the Illinois Division of Insurance that deviate roughly 10% above or below the advisory rate.

Using the NCCI advisory rates, a premium of \$100 in 1990 would cost only \$104.32 in 2006. After adjusting for inflation, the 2006 advisory rate actually represents a *34% decrease* in costs.⁴

INSURANCE COMPLIANCE PROGRAM

Illinois law requires employers to insure themselves for their workers' compensation liabilities, but a small percentage of employers fail to comply. These employers enjoy an unfair competitive advantage over law-abiding companies, while leaving their employees vulnerable if accidents should occur.

If the Commission finds an employer knowingly and willfully failed to obtain insurance, it may be fined up to \$500 for every day of noncompliance, with a minimum fine of \$10,000. Corporate officers may be held personally liable if the company fails to pay the fine.

Under legislation that took effect July 20, 2005, an employer may also face criminal charges and/or a work-stop order for failing to obtain workers' compensation insurance.

BALANCE BILLING

By law, employers are responsible for the payment of all medical services reasonably necessary to cure or relieve the injured worker from the effects of the injury. In some cases, however, the medical provider or insurer will try to get the injured worker to pay any unpaid balances of medical bills. Workers may be pursued by collection agencies, and their credit records may be damaged, for bills that were never their responsibility. During FY05, Illinois was the only state in the country that allowed balance billing in workers' compensation cases.

The legislation that took effect July 20, 2005 contains a balance billing provision. If an employee informs the medical provider that a claim is on file at the Commission, the provider must cease all efforts to collect payment from the employee. Any statute of limitations or statute of repose applicable to the provider's efforts to collect from the employee is tolled from the date that the employee files the application with the Commission until the date that the provider is permitted to resume collection.

When an employee notifies a medical provider that the treatment or service is for a work-related injury, the provider shall bill the employer directly. If the employer does not dispute payment of first aid, medical, surgical, or hospital services, Section 8(a) provides that the employer shall make payment directly to the provider on behalf of the employee. The employer shall pay the bill within 60 days of receipt of the bill as long as the claim contains substantially all the required data elements necessary to adjudicate the bills. Unpaid bills incur interest at a rate of 1% per month payable to the provider. A provider cannot hold an employee liable for costs related to non-disputed services for a compensable injury and shall not bill or

attempt to recover from the employee the difference between the provider's charge and the amount paid by the employer or insurer on a compensable injury.

While the claim at the Commission is pending, the provider may mail the employee reminders that the employee will be responsible for payment of the bill when the provider is able to resume collection efforts. The provider may request information about the Commission claim and if the employee fails to respond or provide the information within 90 days, the provider is entitled to resume collection efforts and the employee is responsible for payment of the bills. The reminders shall not be provided to any credit agency.

SELF-INSURANCE

Private employers may obtain approval to insure themselves for their workers' compensation liabilities, or they may join a pool of other employers. The Commission evaluates individual self-insurers, while the Illinois Division of Insurance evaluates pools. Public employers may self-insure without obtaining approval.

Less than 1% of employers self-insure, and they employ roughly 10% of the employees in Illinois.

As the cost of traditional insurance has decreased, many employers have stopped self-insuring and returned to conventional insurance arrangements.

PARENT COMPANIES PARTICIPATING IN THE COMMISSION'S SELF-INSURANCE PROGRAM

Date	# Parent Companies
6/30/95	496
6/30/00	361
6/30/01	335
6/30/02	329
6/30/03	314
6/30/04	317
6/30/05	319

ADMINISTRATION

ADMINISTRATIVE ACCOMPLISHMENTS

- To better reflect our mission and to eliminate confusion regarding our services, the legislature changed our name from the Illinois Industrial Commission to the Illinois Workers' Compensation Commission.
- We hired seven additional arbitrators and had 35 arbitrators on staff, an all-time high. The average caseload fell 40%, from 5,000 to 3,000 cases per arbitrator. Lower workloads allow arbitrators more time to attend to individual cases.
- We contracted with the National Judicial College to teach arbitrators a week-long class on administrative law and workers' compensation.
- We reduced the time arbitration cases are automatically continued from three months to two months. This gives parties 50% more opportunities to request a trial or take other action on a case.

- We added several new online services:

We made all arbitrators accessible by e-mail. Attorneys may now e-mail their proposed decisions.

We posted arbitration trial dates on our Web site within one hour of the status calls.

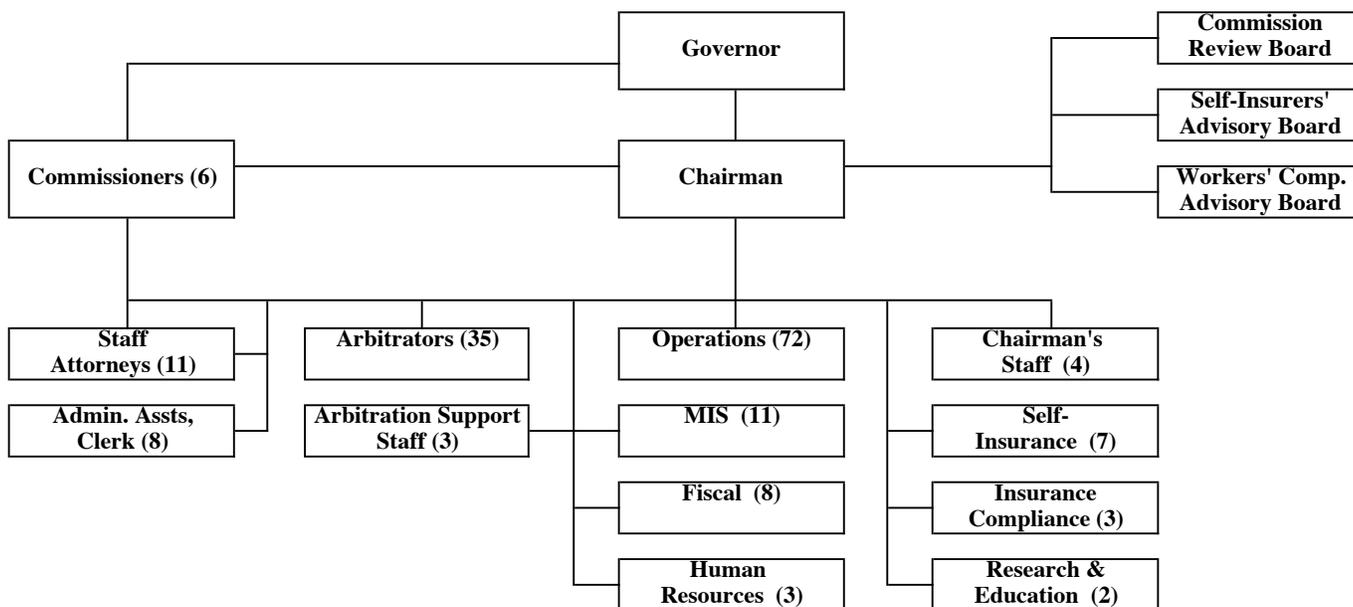
We added a page to our Web site that allows users to identify an employer's insurance carrier. This page now receives over 500 hits each month.

We created a group e-mail news service. Roughly 1,000 people now receive e-mail versions of the news items that are posted to our Web site.

ORGANIZATIONAL STRUCTURE

At the end of FY05, the Workers' Compensation Commission consisted of the chairman, six commissioners, 159 employees, and seven employees in the separately-funded Self-Insurance Division, for a total of 173 people.

ILLINOIS WORKERS' COMPENSATION COMMISSION ORGANIZATIONAL CHART



There have been several staff changes since FY05 ended. For the sake of clarity, current staff are listed.

CHAIRMAN'S OFFICE

Headcount: 4

Dennis R. Ruth, Chairman

The Chairman's Office consists of Dan Creedon, legislative liaison; Kathryn Kelley, legal counsel; Amy Masters, chief of staff/assistant secretary; and Karen Smith, chairman's administrative assistant.

FISCAL OFFICE

Headcount: 8

Carol Reckamp, Manager

The unit maintains the Commission's budget, manages the appropriations process, administers the Commission's seven special funds, and handles payroll and purchasing.

HUMAN RESOURCES

Headcount: 3

Rebecca Loreda Paz, Manager

This office handles all personnel transactions and benefit programs.

INSURANCE COMPLIANCE

Headcount: 3

Jannis Eisbart, Manager

This unit enforces the law that requires employers to have workers' compensation insurance.

JUDICIAL DIVISION

Headcount: 81

Amy Masters, Manager

Arbitration

Bertha Parker, Coordinator

Arbitrators conduct hearings, issue decisions, and approve settlements of cases. At the end of FY05, 17 arbitrators worked in the Chicago office and 18 arbitrators traveled to 31 downstate hearing sites. Three support staff set schedules, conduct legal research, and provide clerical support.

Commission

Dora Shabazz, Coordinator

At the end of FY05, there were two panels of three commissioners; there are now three panels that conduct hearings, issue decisions, and approve settlements of cases that have been appealed from the arbitration level. On each panel, one member represents business, one represents labor, and one is a public member.

Each commissioner has two staff attorneys who analyze and summarize cases, and draft decisions and orders; each commissioner also has an administrative assistant who manages the caseload and provides clerical support.

MANAGEMENT INFORMATION SYSTEMS

Headcount: 11

Terry W. Spurlin, Manager

MIS maintains the computer systems, and produces notices, call sheets, and other documents.

OPERATIONS DIVISION

Headcount: 72

Carolyn Parks, Operations Manager/Executive Director

Central Files

Walter Bennett, Supervisor

Employees maintain the case files, coordinate correspondence with the downstate arbitrators, and provide copies of case records to the public.

Court Reporting

Linda Freeman, Supervisor

Twenty-five court reporters record hearings and produce typewritten transcripts of hearings. One staff person tracks transcripts throughout the hearing process.

Data Entry

Jana Fortner Thompson, Supervisor

This unit enters data relating to cases, and types the decisions of arbitrators and commissioners.

Docket

Henriett Smith, Supervisor

Employees process all incoming claims, motions, and other case documents.

Information

Yvonna Castronova, Supervisor

Employees in four locations handle roughly 100,000 telephone calls each year. They explain procedures, distribute informational materials, and prepare summons for the circuit courts.

Mail Room

Marva Williams, Supervisor

The Mail Room handles nearly one-half million pieces of mail each year.

Reception

Alice Thompson

The receptionist directs visitors and telephone calls.

Review and Emergency Hearings (19(b) and 19(b-1))

Bessie Mims, Supervisor

The unit maintains files for cases on review and schedules oral arguments. It also manages cases filed under Sections 19(b) and 19(b-1) of the Act, which outlines the process by which emergency cases are to be handled.

RESEARCH AND EDUCATION

Headcount: 2

Susan Piha, Manager

This unit conducts operations research, handles communications, and manages training programs.

SELF-INSURANCE DIVISION

Headcount: 7

Maria Sarli-Dehlin, Manager

This division administers the self-insurance privilege and handles insolvencies of individual bankrupt self-insurers.

STATISTICS

Each year in Illinois, roughly 300,000 work-related accidents occur. In most of these cases, the worker does not lose time from work. Each year, approximately 60,000 claims are filed with the Commission; the statistics in this section refer only to those cases that are filed with the Commission.

ACCIDENT

Location of accident. Cases are assigned to the hearing site nearest the site of the accident. If the accident occurred outside of Illinois, the case is assigned to the hearing site closest to the petitioner's home; if the petitioner lives outside of Illinois, the case is set at the site most convenient to the parties.

The following table groups the 1,200 cities and towns in Illinois by the 32 hearing sites to which the claims were assigned, and indicates where accidents occur.

NEW CASES FILED BY HEARING SITE

Hearing Site	FY05	FY04	FY03	FY02	FY01
1. Belleville*	1,365	1,459	1,681	1,689	1,829
2. Bloomington	1,682	1,940	1,854	1,805	1,790
3. Carlinville	309	322	366	389	369
4. Carlyle	619	652	703	892	991
5. Chicago	23,096	24,712	26,475	27,795	29,257
6. Clinton	175	255	240	231	273
7. Collinsville*	1,904	2,095	2,021	2,013	2,016
8. Danville	541	541	653	625	632
9. Decatur	853	851	915	1,093	1,282
10. De Kalb	458	483	521	552	533
11. Galesburg	710	664	734	753	865
12. Geneva	2,558	2,704	2,773	2,824	2,859
13/14. Herrin/Whittington	2,577	2,487	2,466	2,368	2,471
15. Jacksonville	535	533	542	486	579
16. Joliet	2,431	2,543	2,617	2,671	2,651
17. Kankakee	686	728	781	797	863
18. Lawrenceville	416	357	475	438	430
19. Mattoon	1,114	1,090	1,162	1,292	1,410
20. Mt. Vernon	527	492	506	515	508
21. Ottawa	898	983	931	1,086	1,013
22. Peoria	2,644	2,845	2,838	2,738	2,954
23. Quincy	478	525	558	554	532
24. Rock Falls	427	555	634	692	872
25. Rock Island	814	795	799	899	947
26. Rockford	2,314	2,612	2,649	2,886	2,975
27. Springfield	1,298	1,435	1,424	1,399	1,324
28. Taylorville	137	150	139	146	170
29. Urbana	892	934	964	1,060	1,013
30. Waukegan	2,178	2,272	2,462	2,480	2,550
31. Wheaton	3,135	3,219	3,456	3,829	3,953
32. Woodstock	944	1,034	964	1,081	1,127
Total new cases filed	58,715	62,267	65,303	68,078	71,038

* In FY04, cases in eastern Madison County were moved from the Belleville docket to the new Collinsville docket.

ACCIDENT

Part of body injured. If a case involved more than one body part, each part was counted separately.

PART OF BODY INJURED
BY FISCAL YEAR OF ACCIDENT

	FY05	FY04	FY03	FY02	FY01
Head and neck					
Eyes	<1%	1%	<1%	1%	1%
Head--other parts	3%	3%	3%	3%	3%
Neck	4%	4%	4%	4%	4%
Trunk					
Back	18%	18%	18%	18%	18%
Shoulder	6%	6%	7%	6%	6%
Not specified	2%	2%	2%	2%	2%
Upper extremities					
Arm	10%	10%	11%	10%	10%
Hand	13%	13%	14%	14%	14%
Finger	5%	5%	6%	6%	6%
Not specified	3%	3%	3%	3%	3%
Lower extremities					
Foot	5%	5%	5%	5%	5%
Knee	6%	6%	6%	6%	6%
Leg	7%	7%	7%	7%	7%
Toe	<1%	<1%	<1%	<1%	<1%
Not specified	2%	1%	1%	2%	2%
Body systems	<1%	<1%	<1%	<1%	<1%
Multiple parts	16%	16%	13%	13%	13%
Total	100%	100%	100%	100%	100%

AVERAGE WEEKLY WAGE

Claimants' wages generally lag behind the statewide average weekly wage. The wages of workers who experienced accidents in FY05 averaged \$35,905/year, 12% lower than the statewide average of \$41,027.

AVERAGE WEEKLY WAGE
BY YEAR OF ACCIDENT

	FY05	FY04	FY03	FY02	FY01
Claimants' Average Weekly Wage	\$690.49	\$677.14	\$670.85	\$653.98	\$631.99
Statewide Average Weekly Wage as of 6/30	\$788.99	\$764.80	\$753.31	\$742.24	\$717.24

BENEFIT RATES

Unless otherwise noted, benefits are paid at 66 2/3% of the injured worker's gross average weekly wage (AWW) during the year preceding the accident or last exposure. Benefits are limited to a percentage of the statewide average weekly wage (SAWW) in effect at the time of the injury or exposure. The Illinois Department of Employment Security publishes the SAWW every six months.

WEEKLY BENEFIT LIMITS AS OF JUNE 30, 2005

TEMPORARY TOTAL DISABILITY

	Minimum	Maximum
Single	\$100.90	\$1,051.99
Married, no children	\$105.50	\$1,051.99
1 child under 18	\$108.30	\$1,051.99
2 children	\$113.40	\$1,051.99
3 children	\$117.40	\$1,051.99
4+ children	\$124.30	\$1,051.99

The minimum TTD benefit is the worker's AWW or the amounts listed above, whichever is lower. The maximum benefit can be no more than 133 1/3% of the SAWW. The minimum and maximum benefit levels affect fewer than 5% of claimants.

PERMANENT PARTIAL DISABILITY

	Minimum	Maximum
Single	\$80.90	\$567.87
Married, no children	\$83.20	\$567.87
1 child under 18	\$86.10	\$567.87
2 children	\$88.90	\$567.87
3 children	\$91.80	\$567.87
4+ children	\$96.90	\$567.87

PPD benefits are paid at 60% of the worker's AWW, up to a maximum of \$567.87, except for cases of amputation or enucleation of an eye, for which the maximum is \$1,051.99. The minimum benefit is the worker's AWW or the amounts listed, whichever is lower.

PERMANENT TOTAL DISABILITY

Minimum	Maximum
\$394.50	\$1,051.99

The minimum PTD benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW.

FATALITY

Minimum	Maximum
\$394.50	\$1,051.99

The minimum death benefit cannot be less than 50% of the SAWW. The maximum benefit can be no more than 133 1/3% of the SAWW.

NOTE: The new law makes several changes in the benefit levels. For example, for injuries occurring on or after February 1, 2006, the minimum rates for TTD and PPD increased to 66 2/3% of the sum of the federal minimum wage or the Illinois minimum wage, whichever is higher, multiplied by 40 hours. Currently, minimum rates run from \$173.32 - \$260/week. More information is available on the Commission's Web site.

CASES CLOSED

As in other court systems, most cases at the Commission are settled. Please note that these figures report only the final action on a case. If a case had more than one action (e.g., a case was decided at arbitration, then decided by the Commission, then settled), only the final action is reported here. An arbitration case is counted as closed if it was dismissed, settled, or if a decision was issued and no appeal was filed.

TOTAL CASES CLOSED
ARBITRATION AND REVIEW LEVELS

	FY05	%	FY04	%	FY03	%	FY02	%	FY01	%
Dismissals	7,173	11%	6,785	10%	6,707	10%	7,856	11%	8,059	11%
Settlements	56,327	86%	57,482	87%	61,815	88%	62,316	87%	61,995	87%
Decisions	<u>1,977</u>	3%	<u>2,108</u>	3%	<u>1,914</u>	3%	<u>1,846</u>	3%	<u>1,611</u>	2%
Total	65,477		66,375		70,436		72,018		71,665	

CASES CLOSED
AT ARBITRATION

FINAL ACTION	FY05	%	FY04	%	FY03	%	FY02	%	FY01	%
Dismissals:										
Voluntary	712		590		582		627		602	
DWP*	<u>6,352</u>		<u>6,069</u>		<u>6,042</u>		<u>7,143</u>		<u>7,369</u>	
Total dismissals	7,064	11%	6,659	10%	6,624	10%	7,770	11%	7,971	11%
Settlements:										
Original settlements	9,876		10,480		10,723		11,401		11,501	
Before arb. decision	45,223		45,922		50,206		50,014		49,660	
After arb. decision	<u>713</u>		<u>668</u>		<u>549</u>		<u>495</u>		<u>450</u>	
Total settlements	55,812	87%	57,070	88%	61,478	89%	61,910	87%	61,611	87%
Decisions	1,303	2%	1,379	2%	1,180	2%	1,093	2%	925	1%
Total closed	64,179		65,108		69,282		70,773		70,507	

* DWP = Dismissed for Want of Prosecution

CASES CLOSED
AT REVIEW

FINAL ACTION	FY05	%	FY04	%	FY03	%	FY02	%	FY01	%
Dismissals at review	109	8%	126	10%	83	7%	86	7%	88	8%
Settlements:										
Before arb. decision	75		45		42		49		42	
After arb. decision	321		252		196		235		211	
After review decision	<u>119</u>		<u>115</u>		<u>99</u>		<u>122</u>		<u>131</u>	
Total settlements	515	40%	412	33%	337	29%	406	33%	384	33%
Review decisions	674	52%	729	58%	734	64%	753	60%	686	59%
Total cases closed	1,298		1,267		1,154		1,245		1,158	

Because of rounding, percentages do not always add up to 100%.

CASES OPENED

CASES OPENED

	FY05	FY04	FY03	FY02	FY01
New claims filed	48,711	51,752	54,504	56,548	59,320
Original settlements filed	<u>10,004</u>	<u>10,515</u>	<u>10,799</u>	<u>11,530</u>	<u>11,718</u>
Total new cases filed	58,715	62,267	65,303	68,078	71,038
Returned for further action*	222	42	384		
Reinstated	1,992	1,914	2,244	2,616	1,975
Remanded to arbitrator	52	54	36	32	25
Remanded to commissioner	<u>65</u>	<u>73</u>	<u>55</u>	<u>50</u>	<u>56</u>
Total cases returned to caseload	2,331	2,083	2,719	2,698	2,056
Total additions to the caseload	61,046	64,350	68,022	70,776	73,094

* This category was created to make the caseload numbers balance, accounting for those cases that were counted closed more than once (e.g., a case was decided in one fiscal year, and counted as closed, but then a settlement was approved in the next fiscal year).

A new claim is opened when a worker files an application with the Commission. In 96% of those cases, the worker hires an attorney. When a settlement contract is filed without a prior application, it is referred to as an original settlement. In 94% of those cases, the worker *does not* have an attorney.

CASES PENDING

Arbitration. At the end of FY05, there were roughly 102,000 cases pending at arbitration. In most cases, the parties to these pending cases are *not waiting* for the Commission to act. Roughly 90,000 of these cases have the status, “continued at arbitration,” which means the case is being automatically continued, waiting for the parties to act. The majority of cases at arbitration are settled, and parties are free to settle at any time.

After the Commission hired more arbitrators, the chairman directed arbitrators to give special attention to the oldest cases, and make efforts to resolve these cases. Since that initiative began, the number of red-line cases—those three years old or older—has decreased by 7%.

Review. At the end of FY05, there were 2,500 cases pending before commissioners.

DECISIONS ISSUED

As in other court systems, most of the cases filed with the Commission are settled. Fewer and fewer cases proceed on to the next level, as shown below. Cases involving state employees cannot proceed past the Commission.

DECISIONS AND APPEALS

	Arbitration Decisions Issued	% Appealed	Commission Decisions Issued	% Appealed	Circuit Ct. Decisions Issued	Appellate Ct. Opinions/Orders Issued	Supreme Ct. Opinions Issued
2000	2,606	49%	1,162	31%	250-300	138	1-5
2001	2,409	52%	941	29%	250-300	100	1-5
2002	2,802	50%	1,093	29%	250-300	112	1-5
2003	2,912	50%	1,055	29%	250-300	107	1-5
2004	3,759	51%	1,025	31%	250-300	123	1-5
2005	3,578	52%	1,054	28%	250-300	106	1-5

Note: Commission figures are for the fiscal year; court figures are for the calendar year.

Appeal rates. The petitioner appeals an arbitration decision hoping for an increase in benefits, but of those cases appealed by the petitioner, the commissioners let the benefits stand or decreased the benefits in 64% of these cases. Similarly, the respondent appeals in the hope of a decreased benefit, but of the cases appealed by the respondent, the commissioners did not decrease benefits 81% of the time.

OUTCOME OF APPEALS
REVIEW DECISIONS ISSUED IN FY05

Arbitration decision was appealed by:	Petitioner (Employee)	Respondent (Employer)	Both	Total
Affirmed	63%	72%	60%	66%
Reversed	15%	4%	3%	9%
Modified, no change in benefits	0%	1%	0%	1%
Benefits increased	21%	8%	29%	17%
Benefits decreased	1%	14%	8%	7%

Turnaround times. The times shown below should be considered together. A regular case that is decided at both the arbitration and Commission levels, for example, would take about 46 months.

DECISIONS ISSUED DURING FY05

	Regular Cases	19(b) Cases	19(b-1) Cases
Arbitration decisions*	2,743	825	10
# Months to issue	32	6	4
Commission decisions**	685	280	2
# Months to issue	14	12	4

* For regular arbitration cases, the turnaround time is calculated from the date a claim is filed until the date the decision is filed; for 19(b) and 19(b-1) cases, the time is calculated from the date a petition is filed until the decision is filed.

** For Commission decisions, the turnaround time is calculated from the date a *Petition for Review* is filed until the decision is filed.

Note: Some decisions—those involving only attorney fees or penalties, for example—are not included in the three categories above.

Trends. Under Section 19(b-1) of the Act, an injured worker who is not receiving temporary total disability benefits or medical benefits may petition for an emergency hearing. Alternately, the worker may choose to file under 19(b) of the Act if he or she is not receiving temporary total disability benefits. Over the years, there has been a clear shift from 19(b-1) petitions, which involve statutorily set deadlines, to 19(b) petitions, where the deadlines are not defined but expedited hearings are set. The new law, incidentally, requires the Commission to issue a 19(b) review decision within 180 days of the date the *Petition for Review* was filed.

EXPEDITED DECISIONS ISSUED BY ARBITRATORS

	19(b)/8(a)	19(b-1)	Total
FY90	170	342	512
FY95	419	132	551
FY00	347	20	367
FY03	516	14	530
FY04	827	7	834
FY05	825	10	835

GENDER

Women constitute 47% of the work force in Illinois,⁵ but they file a smaller share of workers' compensation claims. The most dangerous industries—construction, agriculture, transportation, etc.—are still male-dominated. Over the years, the proportion of female claimants has increased, however, from 22% of claimants in FY85 to 33% in FY05.

INJURY RATES

The statistics in this section come from the National Council on Compensation Insurance and the U.S. Bureau of Labor Statistics, which use different methods to derive their data. There are limitations to all these data collection methods—NCCI excludes self-insurers, the BLS nonfatal survey is prone to sampling error, BLS fatal data excludes deaths that do not occur at the workplace, etc.—but they produce the best data now available.

In rough terms, both data sets indicate that about 5% of Illinois workers experience an injury each year, and that the injury rates have declined dramatically over the years.

The overall injury rate in Illinois has tended to be lower than other states (*see* “Interstate Comparisons”), and it continues to decrease: Illinois' 2002 total injury rate is 49% lower than in 1991.

PERCENTAGE OF WORKERS EXPERIENCING WORK-RELATED INJURIES IN ILLINOIS EACH YEAR BY INJURY TYPE⁶

NCCI DATA

Policy Year	Medical Only	Temporary Total	Permanent Partial	Permanent Total	Fatal	Total
1991	6.3%	1.49%	1.04%	.004%	.004%	8.9%
1995	4.9%	1.23%	0.68%	.004%	.004%	6.8%
2000	3.9%	0.84%	0.69%	.007%	.005%	5.4%
2001	3.4%	0.75%	0.65%	.008%	.004%	4.9%
2002	3.2%	0.70%	0.64%	.006%	.002%	4.5%

RATE OF NONFATAL WORK-RELATED INJURIES AND ILLNESSES IN ILLINOIS, 2003⁷

BLS DATA

Workers' Injury Rate by Industry		Distribution of Injuries by Event	
Transportation	7.4%	Overexertion	28%
Manufacturing	7.0%	Contact w. objects/equip.	26%
Construction	6.8%	Fall	18%
Mining	6.8%	Repetitive motion	5%
Government	5.7%	Transportation accident	4%
Agriculture	5.1%	Exposure to harmful substances	4%
Services (excl. Transp. & Fin.)	3.9%	Slip or trip (no fall)	3%
Finance	1.4%	Assault or violent act	2%
Average for all workers	4.7%	Fire or explosion	<1%
		Data not available	9%

FATAL WORK-RELATED INJURIES IN ILLINOIS, 2003⁸

BLS DATA

Number of Fatalities by Industry		Distribution of Fatalities by Event	
Construction	47	Transportation accident	33%
Transportation	28	Assault or violent act	22%
Trade, wholesale and retail	16	Fall	18%
Agriculture	15	Contact with objects/equip.	16%
Manufacturing	13	Exposure to harmful subst.	11%
Government	11	Fire or explosion	2%
Mining	3		
Other	<u>67</u>		
Total number of fatalities	200		

MEDICAL CARE

By law, the employer is required to pay for medical care that is reasonably required to cure or relieve the employee from the effects of a work-related injury or disease. The employer shall pay for all necessary first aid and emergency services, two treating physicians, surgeons, or hospitals of the employee's choice, and any additional medical care providers to whom the employee is referred by the two physicians, surgeons, or hospitals. The employer shall also pay for necessary physical, mental, and vocational rehabilitation of the employee. The employee must cooperate in reasonable programs to assist in his or her recovery and return to work.

PENALTIES

Under Section 16 of the Act, the Commission may order the respondent to pay the petitioner's attorneys' fees if the respondent or its agent has unreasonably delayed benefits to an employee, intentionally underpaid an employee, engaged in frivolous defenses, or has otherwise treated an employee unfairly.

Under Section 19(k), the Commission may award the petitioner additional compensation equal to 50% of the amount of compensation payable at the time of the award if there was an unreasonable or vexatious delay of payment, or an intentional underpayment of compensation. Based on current case law, medical expenses are now considered compensation under Section 19(k).

Under Section 19(l), the Commission may award the petitioner additional compensation of \$10 per day for every day that a weekly compensation benefit has been withheld without good and just cause, up to \$2,500.

PERCENTAGE OF DECISIONS AND ORDERS AWARDING PENALTIES BY YEAR AWARDED

	Arbitration Decisions		Commission Decisions	
	Emergency	Regular	Emergency	Regular
FY01	12%	2%	4%	3%
FY02	10%	2%	7%	2%
FY03	10%	2%	4%	3%
FY04	12%	3%	6%	3%
FY05	14%	3%	8%	3%

The new law provides that, when awarding 19(k) penalties, the Commission shall consider whether an arbitrator has determined that the claim is not compensable or whether the employer has made payments under a group health plan (Section 8(j)).

The new law also provides that Section 19(l) penalty covers the unreasonable delay of the payment of medical benefits as well as TTD benefits, and the amount increases from \$10 to \$30 a day and from a maximum of \$2,500 to \$10,000. The new law also provides that, if the employee has made written demand for payment of benefits under Sections 8(a) or 8(b), the employer shall have 14 days after receipt of the demand to provide a written reason for the delay. If the demand is for medical benefits, the time for the employer to respond does not begin until the expiration of the 60-day period allotted the employer to pay medical bills under Section 8.2.

POST-AWARD PETITIONS

Cases that were closed by awards or some settlements may return to the Commission for additional hearings. Under Section 8(a) of the Act, an injured worker may petition the Commission to order payment for additional medical treatment. Under Section 19(h) of the Act, either party may petition if the injured worker's physical condition changes significantly within 30* months of the award or settlement.

*Effective 2/1/06, wage differential cases under Section 8(d)(1) can be reopened within 60 months of the award.

CASES WITH POST-AWARD PETITIONS FILED
BY YEAR PETITION FILED

Section	FY05	FY04	FY03	FY02	FY01
8(a)	169	201	131	123	123
19(h)	10	16	9	4	12
8(a) and 19(h)	<u>55</u>	<u>47</u>	<u>52</u>	<u>39</u>	<u>84</u>
Total	234	264	192	166	219

DISPOSITION OF POST-AWARD PETITIONS
THROUGH DECISIONS AND ORDERS
BY YEAR DECISION ISSUED

Section	FY05	FY04	FY03	FY02	FY01
8(a)					
Granted	15%	25%	22%	14%	17%
Denied	1%	4%	1%	9%	5%
Dismissed	33%	46%	40%	50%	47%
Withdrawn	50%	25%	38%	28%	32%
19(h)					
Granted	17%	26%	36%	11%	18%
Denied	9%	21%	20%	32%	29%
Dismissed	57%	35%	28%	46%	44%
Withdrawn	17%	18%	16%	11%	9%

If one decision covered both 8(a) and 19(h) petitions, each outcome is reflected separately in this section. Because of rounding, percentages do not always total 100%.

REHABILITATION

Section 8(a) of the Act requires an employer to pay for treatment, instruction, and training necessary for the physical, mental, and vocational rehabilitation of an injured worker, including maintenance and incidental expenses. Section 6(d) requires an employer to notify an injured worker of the right to rehabilitation services and the location of public rehabilitation centers. Finally, Section 7110.70 of the Commission's rules requires an employer to prepare an assessment of an employee's rehabilitation needs, both medical and vocational, when it becomes apparent the work injuries will prevent his or her return to the pre-accident job, or when the employee is off work for more than 120 days.

As with other employer obligations, where there is a dispute between the parties, the injured worker has the burden of proving entitlement to vocational rehabilitation benefits. In resolving these disputes, the Commission looks to the guidelines established by the Illinois Supreme Court in National Tea Company v. Industrial Commission, 97 Ill.2d 424 (1983).

INTERSTATE COMPARISONS

Workers' compensation benefits are based on wages and, all things being equal, a high-wage state would be expected to have high costs. Yet Illinois is ranked much lower in various measures of workers' compensation than its wages would suggest. Among the 50 states and the District of Columbia, Illinois is ranked:

9th highest in annual average wages;⁹

Illinois	\$42,276
National median	\$35,204

19th highest in w.c. indemnity costs per claim;¹⁰

Illinois	\$17,589
National median	\$16,189

23rd highest in w.c. insurance premium rates per \$100 of payroll;¹¹

Illinois	\$2.65
National median	\$2.58

26th highest in w.c. medical costs per claim;¹²

Illinois	\$4,142
National median	\$4,292

30th highest in w.c. benefit cost rate (w.c. benefits divided by payroll);¹³

Illinois	0.93%
National median	0.97%

37th highest in w.c. injury rate (percentage of workers experiencing a work injury/year).¹⁴

Illinois	4.9%
National median	6.4%

OTHER INTERSTATE COMPARISONS: BENEFIT PAYMENTS

Illinois' benefit costs have grown at a slower rate than the national average and our comparison groups.

TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS¹⁵

In \$billions	2003	2002	2001	2000	1999	1998	1997	1996	1995	1994	1993
Illinois	\$2.1	\$2.2	\$2.1	\$2.0	\$1.9	\$1.8	\$1.8	\$1.6	\$1.4	\$1.6	\$1.7
% Change	(3%)	2%	7%	3%	5%	4%	7%	14%	(9%)	(5%)	(5%)
U.S.	\$51.7	\$50.0	\$46.4	\$44.0	\$41.7	\$40.4	\$39.5	\$38.8	\$39.0	\$40.4	\$39.7
% Change	3%	8%	6%	5%	3%	2%	2%	(1%)	(3%)	2%	(4%)

INCREASE IN TOTAL BENEFIT PAYMENTS, 1978 - 2003

	2002-2003	1993-2003	1983-1993	1978-1983
National average	3%	30%	166%	84%
Illinois	(3%)	26%	125%	51%
Neighboring states average	(1%)	38%	158%	49%
Large industrial states average	5%	36%	184%	86%

OTHER INTERSTATE COMPARISONS: COMPLIANCE WITH 1972 RECOMMENDATIONS

In 1972, the National Commission on State Workmen's Compensation Laws, appointed by President Nixon, unanimously listed 19 items as essential to an adequate system. Over 30 years later, no state in the country meets all the requirements; Illinois meets more than most states.¹⁶

NUMBER OF 19
ESSENTIAL RECOMMENDATIONS MET

NEIGHBORING STATES		National average	12.85	LARGE INDUSTRIAL STATES	
Iowa	15.50	Illinois	15.00	Ohio	15.50
Wisconsin	15.00			Pennsylvania	13.75
Kentucky	14.25			Texas	12.50
Missouri	13.75			California	12.00
Indiana	11.50			New York	10.75
Michigan	9.75			Florida	9.75
<i>Median</i>	14.00			<i>Median</i>	12.25

OTHER INTERSTATE COMPARISONS: COVERAGE OF EMPLOYEES

Even though Illinois does not meet four of the National Commission's recommendations concerning the coverage of employees, more workers are covered in Illinois than in most other states.¹⁷

PERCENTAGE OF EMPLOYEES COVERED

NEIGHBORING STATES		National average	88%	LARGE INDUSTRIAL STATES	
Indiana	90%	Illinois	91%	Ohio	91%
Michigan	89%			New York	90%
Kentucky	87%			Pennsylvania	90%
Iowa	86%			California	89%
Wisconsin	86%			Florida	88%
Missouri	85%			Texas	74%
<i>Median</i>	87%			<i>Median</i>	90%

¹ *State Workers' Compensation Administration Profiles*, US Department of Labor, October 2005 (released March 2006), pp. 419-427. IWCC FY05 expenditures were compared to the FY04 expenditures listed in the USDOL report for the other 31 state agencies that do not operate state insurance funds and whose administrative costs are paid by assessment.

² "Workers' Compensation, Top Writers by State—2003," A.M. Best, November 22, 2004. See also: "All Illinois Licensed Companies--Illinois Workers' Compensation," Illinois Division of Insurance.

³ "Grand Total Premiums/Losses of Illinois Licensed Companies: Workers' Compensation," *Market Share Report*, Illinois Division of Insurance, 1994 – 2004.

⁴ National Council on Compensation Insurance filings with the Illinois Division of Insurance. For more information, call the Illinois Division of Insurance (217/524-8361). The Consumer Price Index data came from the CPI Inflation Calculator on the Bureau of Labor Statistics' web site (www.bls.gov), which showed that \$100 in 1989 represented \$158 in 2005.

⁵ "Employment status of the civilian noninstitutional population by sex, race....2004 annual averages," Illinois table, U.S. Bureau of Labor Statistics, available at <http://www.bls.gov/lau/table14full04.pdf>.

⁶ *Annual Statistical Bulletin*, National Council on Compensation Insurance, 1994 – 2005 editions, Exhibit XII. The statistic for the overall reduction in injury rate was calculated as follows: for Policy Year 1991, the NCCI reported 8,874 total injuries per 100,000 workers; for Policy Year 2002, the NCCI reported 4,517 total injuries per 100,000 workers, a 49% reduction. This information refers only to the experience of employers with insurance, not self-insurers. The figures for fatalities and PTDs come from a small number of cases and should be viewed with caution. Information is not available for the five states with exclusive state insurance funds (ND, OH, WA, WV, WY).

⁷ *Nonfatal Workplace Injuries and Illnesses: Illinois, 2003*, Illinois Department of Public Health, Tables 3, 14. This is the most recent data available. Because of changes in methodology, 2002 and 2003 data are not comparable to prior years. Federal employees and farms with fewer than 11 employees are excluded from the survey. Reports are available at <http://www.idph.state.il.us/about/epi/cfoirpt.htm>. Since 1998, IDPH has participated in the U.S. Bureau of Labor Statistics' federal/state Survey of Occupational Injuries and Illnesses. Each year, they survey a sample of employers in the private and nonfederal public sectors. For more information, contact the IDPH Division of Epidemiologic Studies at 217/785-1873.

⁸ *Census of Fatal Occupational Injuries: Illinois, 2003*, Illinois Department of Public Health, Tables 3, 5. Because of changes in methodology, 2003 data are not comparable to prior years. The IWCC provides information on fatal workers' compensation claims to IDPH, which has participated in the U.S. Bureau of Labor Statistics Census of Fatal Occupational Injuries since 1992. The CFOI methodology does not correspond exactly to workers' compensation criteria, but the program provides a standard measure of fatal occupational injuries for the country.

⁹ "Total coverage (UI and UCFE) by State, 2004 annual averages," US Bureau of Labor Statistics, BLS Web site (<http://www.bls.gov/cew/cewbultn04.htm>).

¹⁰ *Annual Statistical Bulletin*, 2005, Exhibit XI. Ranking covers the 46 states (incl. D.C.) with available data; Policy Year 2001.

¹¹ "Oregon Workers' Compensation Premium Rate Ranking, Calendar Year 2004," Oregon Department of Consumer and Business Services, December 2004, Table 1, and Appendix 4, May 2005. Available at <http://www4.cbs.state.or.us>. There seems to be agreement that the best way to measure employers' costs is through the premiums that employers pay for comparable employees in different states. This report compares employers' w.c. insurance costs in 50 different class codes. Overall, Illinois ranks in the middle, but there is great variation in the manual premium per \$100 of payroll in different classes. Employers in Illinois buy w.c. insurance in an open market, the way drivers buy car insurance, and costs are heavily dependent on accident history and market environment. The employer's ability to shop for the best deal comes into play, too.

¹² *Annual Statistical Bulletin*, 2005, Exhibit XI. Ranking covers the 46 states (incl. D.C.) with available data; Policy Year 2001.

¹³ "Fiscal Data for State Workers' Compensation Systems, 1993-2003," *Research Bulletin*, National Foundation for Unemployment Compensation and Workers' Compensation, August 2005, Table 2. The 2003 data is the most recent data available. Figures for previous years were revised in the 2005 report.

¹⁴ *Annual Statistical Bulletin*, Exhibit XII. Ranking covers the 46 states (incl. D.C.) with available data; Policy Year 2001.

¹⁵ "Fiscal Data," August 2005, Table 14; December 9, 1993, Table 1; May 25, 1990, Table 1.

¹⁶ "State Workers' Compensation Laws in Effect January 1, 2004 Compared with the 19 Essential Recommendations of the National Commission on State Workmen's Compensation Laws," www.workerscompresources.com, John F. Burton, Jr. (former chairman of the National Commission), Table 1. In 1972, the National Commission on Workmen's Compensation issued 84 recommendations concerning the coverage of employees and diseases, income protection, medical care, worker safety, and program administration. They identified 19 of the 84 recommendations as essential to ensuring a minimum level of protection. As of January 1, 2004, compliance levels range from 7.25 in Mississippi to 17.00 in Nebraska. Illinois does not comply with the National Commission's recommendations 2.4 (Illinois exempts farm workers below a certain number of hours), 2.5 (Illinois exempts household workers and casual workers below a certain number of days), 2.6 (Illinois exempts some governmental employees (Chicago police and fire fighters)) and 2.7 (Illinois exempts certain classes of employees, such as those noted above).

¹⁷ "Workers' Compensation Coverage by State," *Workers' Compensation Data Fact Sheet, No. 1*, National Academy of Social Insurance, October 2002, Table 1, column 5. This is the most recent year for which data is available.