

State of Illinois

Workers' Compensation Commission Fiscal Year 2018 Annual Report



JB Pritzker, Governor

Michael J. Brennan, Chairman

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Illinois Workers' Compensation Commission

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JB Pritzker, Governor

Michael J. Brennan, Chairman

The Honorable Governor JB Pritzker
Office of the Governor
207 State House
Springfield, Illinois 62706

Dear Governor Pritzker,

By the requirements of §15 of the Illinois Workers' Compensation Act, 820 ILCS 305/15, we the undersigned Commissioners hereby submit, this, the Fiscal Year 2018 Annual Report, summarizing the operations and activities of the Commission.

This Annual Report demonstrates continued improvement in the cost of Workers' Compensation, since the passage of reform amendments to our Act in 2011. Statistically, we have moved from the third most costly state system in the nation to twenty second. This is a vast improvement.

As Commissioners we are committed to providing injured workers and their employers a timely, just and appropriate resolution of all claims. We thank you for your support and the opportunity to continue our work.

Sincerely,

Michael Brennan
Michael J. Brennan, Chairman

Thomas J. Tyrrell
Thomas J. Tyrrell, Commissioner

Stephen J. Mathis
Stephen J. Mathis, Commissioner

Deborah L. Simpson
Deborah L. Simpson, Commissioner

L. Elizabeth Coppoletti
L. Elizabeth Coppoletti, Commissioner

D. Douglas McCarthy
D. Douglas McCarthy, Commissioner

Barbara N. Flores
Barbara N. Flores, Commissioner

Marc Parker
Marc Parker, Commissioner

Maria E. Portela
Maria E. Portela, Commissioner

OVERVIEW OF WORKERS' COMPENSATION

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

Before the advent of workers' compensation laws, an injured worker had to file a lawsuit against the employer and prove the employer had failed to provide a safe workplace, to warn of danger, or to provide enough appropriate fellow workers. The employer then 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 employer's liability was unlimited.

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. Similar laws passed in other European countries.

In the U.S., workers' compensation laws were passed on a state-by-state basis. Most of the early laws covered only hazardous occupations and were found unconstitutional. Maryland passed the first act in 1902. Wisconsin's law of 1911 was the first that withstood legal challenges. Illinois also passed its first law in 1911, effective May 1, 1912.¹ It took until 1948 for all states to establish a law.

Workers' compensation laws balance competing interests: employees give up their right to sue in civil court and potentially win large awards in exchange for more modest but prompt compensation; employers give 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 Act, but the volume overwhelmed the courts. On July 1, 1913, a three-member Industrial Board was created.² In 1917, a five-member Industrial Commission was created within the Illinois Department of Labor.³ In 1957, the Commission separated from the Department of Labor and became a self-standing agency.⁴ On January 1, 2005, the agency officially became the Illinois Workers' Compensation Commission.⁵

Almost every employee who is hired, injured, or whose employment is located in Illinois is protected by the Illinois Workers' Compensation Act. When an injury is sustained at work, the injury may be compensable according to the Act. Benefits may include an award for medical treatment, lost income, and permanent disability.

Illinois employers pay for workers' compensation benefits through insurance policies or by becoming self-insured. 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, if leave is granted, the Illinois Supreme Court. Most claims, however, are settled between the parties prior to, or following, the initial arbitration.

¹ Act of June 10, 1911. 1911 Ill. Laws 315-26.

² Act of June 28, 1913, sec. 1, § 13. 1913 Ill. Laws 346-347.

³ Act of May 31, 1917, sec. 1, § 13(a) and (b). 1917 Ill. Laws 498-99.

⁴ Act of July 11, 1957, sec. 1, § 13(a). 1957 Ill. Laws 2633.

⁵ P.A. 93-721.

MISSION STATEMENT

The Illinois Workers' Compensation Commission resolves claims made by injured workers for injuries arising out of and in the course of employment. The Commission strives to assure financial protection for injured workers and their dependents at a fair cost to employers. The Commission performs three main functions:

- 1) *Resolves claims.* The Commission strives to provide a fair, timely process by which disputed claims may be resolved.
- 2) *Ensures compliance with the law.* The Commission protects the rights of employees and employers under the Illinois Workers' Compensation and Occupational Diseases Acts.
- 3) *Administers self-insurance.* The Commission evaluates and approves eligible employers that wish to insure themselves for their workers' compensation liabilities.

The Commission strives to accomplish these goals while looking constantly for ways to improve the quality of service.

BOARD MEMBERS

The Commission is grateful to all board members, who serve without compensation. Membership listing is as of June 30, 2018.

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.

Robert Hanaford Governor Appointee	Kevin Lamborn Senior Business Commissioner	Arbitrator George Andros Chicago Arbitrator
Velisha Haddox Governor Appointee	David L. Gore Senior Labor Commissioner	Arbitrator Maureen Pulia Downstate Arbitrator

SELF-INSURERS ADVISORY BOARD

The board reviews applications from private companies to self-insure, and makes recommendations to the Chairman. The board also ensures the continued payment of benefits to workers of bankrupt self-insurers.

Alex G. Alexandrou City of Aurora	Paul T. Bergmann Property-Casualty Insurance Consulting	Joan Vincenz United Airlines
Gerald F. Cooper, Jr. Scopelitis, Garvin, Light, Hanson & Feary	John Rittenhouse CCMSI	David Taylor Reyes Holdings

WORKERS' COMPENSATION ADVISORY BOARD

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.

<u>EMPLOYEES</u>		<u>EMPLOYERS</u>	
Richard Aleksy Corti, Aleksy, and Castenada	Philip Gruber Int'l. Assoc. of Machinists	Mark Grant National Federation of Independent Business	Mark Flannery Corporate Counsel at Caterpillar Inc.
Aaron Anderson Painters Dist. Council #30	Joseph Coli Illinois Advocates, LLC	Todd Maisch Illinois Chamber of Commerce	Robert Karr IL Retail Merchants Assoc.
Michael Carrigan Illinois AFL-CIO	Sean Stott Laborers' International Union	Jay Dee Shattuck Shattuck & Associates	Mark Denzler Illinois Manufacturers Assoc.

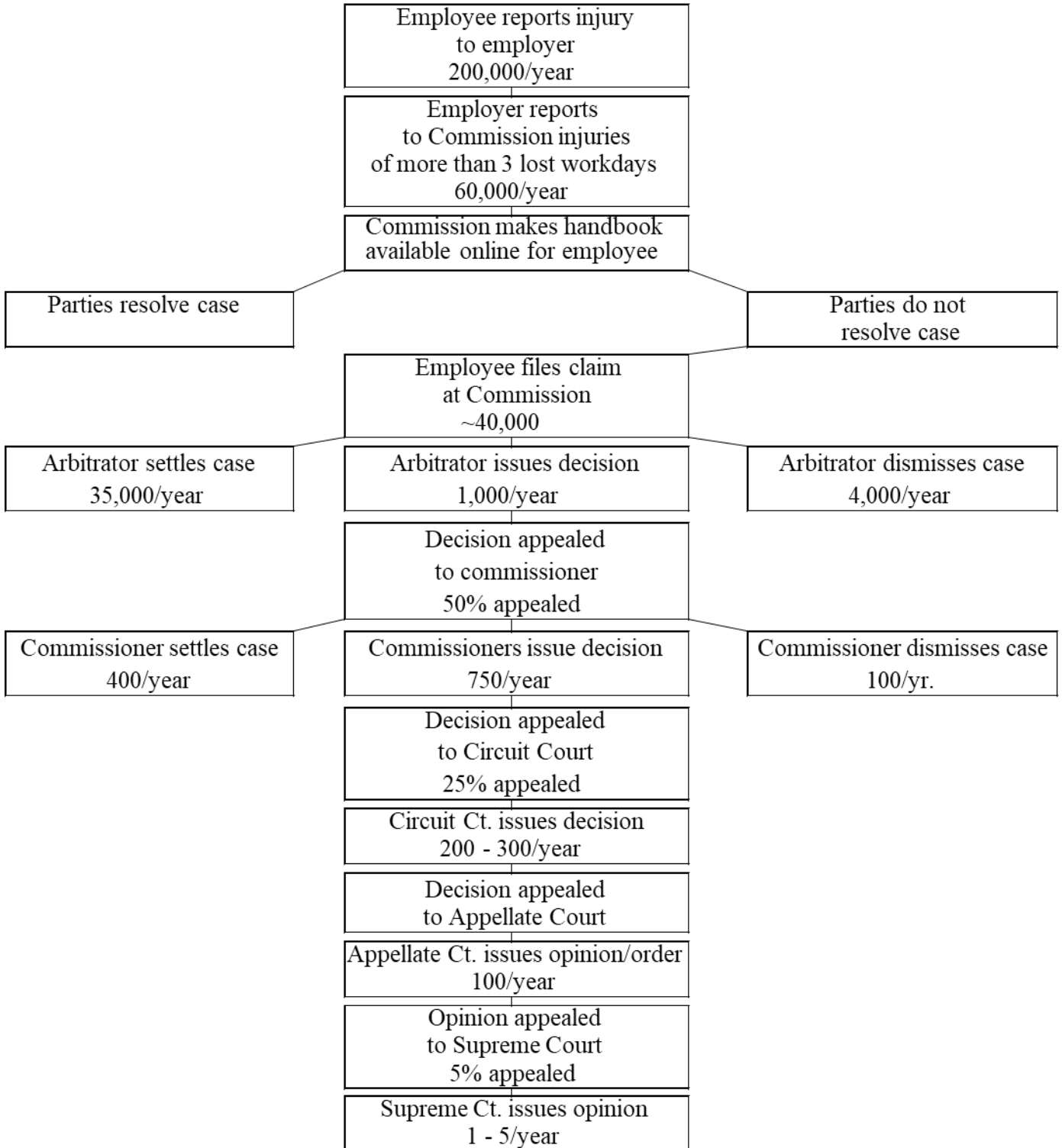
WORKERS' COMPENSATION MEDICAL FEE ADVISORY BOARD

The board advises the IWCC on the establishment of medical fees and the accessibility of treatment.

<u>EMPLOYEES</u>	<u>EMPLOYERS</u>	<u>MEDICAL PROVIDERS</u>
Jason Keller IL AFL-CIO	Jeffrey White Gallagher Bassett	Preston Wolin, MD Clinic for Athletic Medicine, Ltd.
Dianne McGuire College of DuPage	Barb Molloy Molloy Consulting	Adam Low IL Hospital Assoc.
David Menchetti Cullen, Haskins, Nicholson & Menchetti	Amy Bilton Nyhan, Bambrick, Kinzie & Lowry	David Fletcher, MD Safeworks Illinois

STATISTICS

Each year in Illinois, approximately 200,000 work-related accidents occur. In most of these cases, the worker does not lose time from work. Fewer than 45,000 claims are filed with the Commission. The statistics in this section refer only to those cases that are filed with the Commission. The flowchart below illustrates the process.



DETAILED CASE INFORMATION

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.

NEW CASES FILED IN FY18

Chicago (1 hearing site)	17,196
Downstate (18 sites)	21,196

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5	Zone 6
Collinsville 2,042	Quincy 326	Bloomington 658	Kankakee 413	Rockford 1,491	Elgin 535
Herrin 894	Springfield 1,238	Peoria 1,361	Joliet 2,445	Waukegan 1,647	Geneva 1,440
Mt. Vernon 873	Urbana 1,075	Rock Island 830	Ottawa 764	Woodstock 624	Wheaton 2,540

CASES OPENED

CASES OPENED

	FY14	FY15	FY16	FY17	FY18
New claims filed	43,732	42,758	41,777	38,357	38,392
Reinstated	1,387	1,258	1,188	1,145	1,087
Remanded to Arbitrator	353	402	315	301	249
Remanded to Commissioner	<u>61</u>	<u>40</u>	<u>32</u>	<u>37</u>	<u>24</u>
Total cases returned to caseload	1,801	1,700	1,535	1,483	1,360
Total additions to the caseload	45,553	44,458	43,312	39,840	39,752
Change from previous year	2%	(2%)	(3%)	(8%)	(1%)

CASES CLOSED

As in other court systems, most cases filed at the Commission are settled. Please note that the figures below 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 on the Commission level, 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.⁶

⁶ "DWP" refers to cases that were Dismissed for Want of Prosecution. "Original settlements" are settlements that were filed without a prior application. "SC" refers to settlement contracts.

CASES CLOSED BY ARBITRATORS

FINAL ACTION	FY14	FY15	FY16	FY17	FY18
Voluntary dismissals	629	767	567	677	563
DWP	<u>3,881</u>	<u>3,757</u>	<u>3,873</u>	<u>3,298</u>	<u>3,144</u>
Total dismissals	4,510	4,628	4,751	3,975	3,862
Original settlements	4,610	4,278	5,527	4,233	4,578
SC before arb. dec.	33,258	32,258	34,824	34,095	32,765
SC after arb. decision	<u>578</u>	<u>643</u>	<u>528</u>	<u>584</u>	<u>567</u>
Total settlements	37,179	41,220	39,300	39,300	37,126
Arbitration decisions	<u>1,113</u>	<u>941</u>	<u>861</u>	<u>811</u>	<u>871</u>
Total	44,069	42,644	46,270	43,698	41,704

CASES CLOSED BY COMMISSIONERS

	FY14	FY15	FY16	FY17	FY18
Dismissals at review	162	104	221	167	155
SC before arb. decision	110	184	134	144	180
SC before review dec.	144	118	133	137	209
SC after review dec.	<u>109</u>	<u>115</u>	<u>74</u>	<u>105</u>	<u>126</u>
Total settlements	343	417	341	388	515
Review decisions	<u>890</u>	<u>922</u>	<u>789</u>	<u>675</u>	<u>699</u>
Total	1,415	1,443	1,351	1,230	1,369

TOTAL CASES CLOSED

	FY14		FY15		FY16		FY17		FY18	
Dismissals	4,672	10%	4,732	10%	4,972	10%	4,142	9%	3,862	9%
Settlements	38,809	85%	37,596	85%	41,561	86%	39,300	87%	37,126	88%
Decisions	<u>2,003</u>	4%	<u>1,863</u>	4%	<u>1,650</u>	3%	<u>1,486</u>	3%	<u>1,570</u>	3%
Total	45,484		44,191		48,183		44,928		42,558	

DECISIONS ISSUED

DECISIONS AND APPEALS

	Arbitration Decisions	% Appealed	Commission Decisions	% Appealed	Circuit Ct. Decisions	Appellate Opinions	Supreme Ct. Opinions
2012	3,096	57%	1,410	29%	245	109	0
2013	3,326	57%	1,504	27%	219	128	1
2014	2,693	52%	1,069	26%	202	113	0
2015	2,450	55%	1,183	33%	282	94	0
2016	2,280	57%	977	28%	218	113	0
2017	2,099	53%	864	18%	206	79	2
2018	2,095	51%	860	25%	208	80	0

GENDER

Women constitute 58.9% of the Illinois labor force.⁷

EMPLOYMENT STATUS OF CIVILIAN NON-INSTITUTIONAL POPULATION BY SEX

(NUMBERS IN THOUSANDS)

Population Group	Civilian Non- institutional Population	Number	Percentage of Population
Total	10,001	6,171	61.8
Men	4,797	3,110	70.1
Women	5,204	3,061	58.9

AVERAGE FUNERAL BENEFIT IN DEATH CASES

Section 7(f) of the Illinois Workers' Compensation Act states employers are required to pay the sum of \$8,000 to the widow or widower, other dependent, next of kin or the person or persons incurring the expense of burial. This fee is assessed to fatal cases in the State of Illinois.

⁷ See http://www.ides.illinois.gov/IDES%20Forms%20and%20Publications/Women_and_minorities_2018.pdf

INJURY DATA

The statistics in this section come from the U.S. Bureau of Labor Statistics (BLS) and the Illinois Department of Public Health's (IDPH) Survey of Occupational Injuries and Illnesses in Illinois, 2016. The IDPH estimates a total of 137,000 non-fatal injury cases. The overall incidence rate for nonfatal occupational injuries and illnesses in Illinois was 3.0 per 100 full-time workers.⁸

BLS DATA

RATE OF NON-FATAL WORK-RELATED INJURIES AND ILLNESSES IN ILLINOIS IN 2016⁸

Workers' Nonfatal Injury Rate by Industry		Number of Private Sector Workers' Injuries	
Government	4.9%	Overexertion and bodily reaction	12,070
Manufacturing	3.4%	Contact w. object, equipment	7,650
Natural resources and mining	5.4%	Fall, slip, trip	8,860
Construction	2.1%	Transportation incidents	1,340
Services	2.6%	Exposure to harmful substance/envIRON.	1,420
		Violence—intentional injury	1,310
Incidence rate for all workers	3.0%	Fire or explosion	50

DISTRIBUTION OF 163 FATAL WORK-RELATED INJURIES IN ILLINOIS IN 2017⁹

Distribution by Industry		Distribution by Event	
Goods-producing	34%	Transportation incident	37%
Agriculture	27%	Violence/injuries	12%
Construction	47%	Falls, slips, trips	17%
Manufacturing	22%	Contact with objects/equip.	14%
Service-providing	57%	Exposure to harmful substance	13%
Trade	62%	Fires and explosions	4%
Transportation	45%		
Government (state and local)	9%		

AVERAGE WEEKLY WAGE BY YEAR OF ACCIDENT¹⁰

	FY14	FY15	FY16	FY17	FY18
Claimants' Average Weekly Wage	\$820.69	\$833.10	\$877.14	\$876.41	\$849.93
SAWW as of end of FY	\$1,002.68	\$1,021.34	\$1,048.67	\$1,076.38	\$1,097.85
Claimants' wages as % of SAWW	85%	82%	82%	81%	77%

⁸ See <http://www.dph.illinois.gov/sites/default/files/publications/publicationsoppssoi-2016-report.pdf>

⁹ See <https://www.bls.gov/iif/oshwc/foi/tgs/2017/iiffw17.htm>

¹⁰ The average maximum rate for Temporary Total Disability (TTD) in FY '18 was \$1,463.80. The average maximum rate for Permanent Partial Disability (PPD) in FY '18 was \$790.64.

AGGREGATE BENEFIT PAYMENTS

TOTAL WORKERS' COMPENSATION BENEFIT PAYMENTS¹¹

\$ in thousands	2012	2013	2014	2015	2016
Illinois	\$2,677,485	\$2,637,292	\$2,722,536	\$2,399,163	\$2,354,119
% change from prior year		(1.5%)	3.2%	(11.9%)	(1.9%)
U.S. nonfederal total	\$58,854,746	\$59,524,411	\$59,184,429	\$58,335,268	\$58,355,672
% change from prior year		1.1%	(0.6%)	(1.4%)	(0.0%)

TOTAL WORKERS' COMPENSATION MEDICAL BENEFIT PAYMENTS

\$ in thousands	2012	2013	2014	2015	2016
Illinois	\$1,175,416	\$1,186,782	\$1,227,864	\$1,086,821	\$1,059,354
% change from prior year		1.0%	3.5%	(11.5%)	(2.5%)
U.S. nonfederal total	\$30,155,592	\$30,839,458	\$30,762,878	\$30,003,807	\$29,938,819
% change from prior year		2.3%	(0.2%)	(2.5%)	(0.2%)

COST TO EMPLOYERS

OREGON ESTIMATE OF PREMIUM RATES¹²

Per \$100 of payroll/	2000	2006	2010	2012	2014	2016	2018
Illinois	\$2.74	\$2.69	\$3.05	\$2.83	\$2.35	\$2.23	\$1.80
Median	\$2.26	\$2.48	\$2.04	\$1.88	\$1.85	\$1.84	\$1.70
IL rank among 51	15	20	3	4	7	8	22
(1= most expensive)							

ESTIMATE OF EMPLOYERS COST PER \$100 OF PAYROLL¹³

	2012	2013	2014	2015	2016
Illinois	\$1.32	\$1.31	\$1.29	\$1.21	\$1.15
% change from prior year		(0.4%)	(1.5%)	(6.2%)	(5.3%)
U.S. nonfederal total	\$1.31	\$1.34	\$1.33	\$1.29	\$1.27
% change from prior year		2.1%	(0.6%)	(-2.9%)	(1.9%)

¹¹ See NASI *Workers' Compensation: Benefits, Cost, and Coverage October 2018*

¹² See <https://www.oregon.gov/dcb/reports/Documents/general/prem-sum/18-2082.pdf>

¹³ See NASI *Workers' Compensation: Benefits, Cost, and Coverage October 2018*

INSURANCE

COVERAGE OF EMPLOYEES

Employers are responsible for the payment of benefits to injured workers. Employers are required to either purchase workers' compensation insurance or obtain permission to self-insure. More workers are covered under the law in Illinois than in most other states.¹⁴

PERCENTAGE OF EMPLOYEES COVERED BY WORKERS' COMP 2016

Illinois		99.7%	
U.S. nonfederal average		97.4%	
NEIGHBORING STATES		LARGE INDUSTRIAL STATES	
Indiana	99.6%	California	100.0%
Iowa	98.9%	New York	99.8%
Wisconsin	97.7%	Pennsylvania	99.6%
Michigan	97.7%	Florida	95.7%
Missouri	95.4%	Texas	81.6%

DURATION OF DISABILITY

The duration of temporary total disability charted below is for claims with more than seven days of lost time at 36 months average maturity. TTD claims in Illinois are longer than most states in the study.¹⁵

TTD DURATION IN WEEKS

Illinois	18.4
11-state Median	13.1

NEIGHBORING STATES		LARGE INDUSTRIAL STATES	
Michigan	15.5	Pennsylvania	21.8
Indiana	12.3	California	20.1
Wisconsin	10.6	Texas	16.5
Iowa	11.4	Florida	11.8

¹⁴ See NASI *Workers' Compensation: Benefits, Cost, and Coverage October 2018*

¹⁵ See WCRI *Compscope Benchmarks for Illinois, 19th Edition*.

INJURY RATES

FREQUENCY OF INJURY PER 100,000 WORKERS

Illinois	3,028
Countrywide	3,201

NEIGHBORING STATES		LARGE INDUSTRIAL STATES	
Wisconsin	3,987	Pennsylvania	4,899
Iowa	4,414	California	4,201
Indiana	4,306	Florida	2,962
Michigan	3,101	Texas	2,158

INSURANCE FRAUD

The Illinois Department of Insurance investigates workers' compensation fraud through its Fraud Unit, which is funded by the Commission. It is illegal for anyone—a worker, employer, insurance carrier, or medical provider—to intentionally make a false statement to obtain or deny workers' compensation benefits, obtain workers' compensation insurance at less than the proper rate, obtain approval to self-insure, etc. A "statement" includes any writing, notice, proof of injury, medical bill, record, report, or test result. More information is available at <http://insurance.illinois.gov/wcfu/>.

INSURANCE COMPLIANCE PROGRAM

Illinois law requires employers to insure against workers' compensation liabilities, but some employers fail to comply. These employers enjoy an unfair competitive advantage over insured companies, while leaving employees vulnerable if accidents should occur.

If the Commission finds that an employer knowingly and willfully failed to obtain insurance, the employer 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. An employer may also face criminal charges, and/or a work-stop order for failing to obtain insurance.

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 Department of Insurance evaluates insurance pools. Public employers may self-insure without obtaining approval.

PARENT COMPANIES IN THE COMMISSION'S SELF-INSURANCE PROGRAM

Date	# Parent Companies
6/30/14	236
6/30/15	226
6/30/16	225
6/30/17	217
6/30/18	210

REFERENCES

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