



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB2496

by Rep. Robert Martwick

SYNOPSIS AS INTRODUCED:

40 ILCS 5/14-103.41 new	
40 ILCS 5/14-123	from Ch. 108 1/2, par. 14-123
40 ILCS 5/14-123.1	from Ch. 108 1/2, par. 14-123.1
40 ILCS 5/14-124	from Ch. 108 1/2, par. 14-124
40 ILCS 5/14-124.5 new	
40 ILCS 5/14-125	from Ch. 108 1/2, par. 14-125
40 ILCS 5/14-127	from Ch. 108 1/2, par. 14-127

Amends the State Employee Article of the Illinois Pension Code. Allows licensed health care professionals (rather than just physicians) to make certain disability determinations. Defines "licensed health care professional". Requires a licensed health care professional to submit his or her registration number on all reports submitted to the System. Eliminates the 12-month application deadline for certain disability benefits. Makes changes to provisions concerning when a nonoccupational disability benefit begins to accrue. Also makes changes relating to Social Security full retirement age and to hearings under certain provisions of the Workers' Compensation Act and the Workers' Occupational Diseases Act. Makes a technical change. Effective immediately.

LRB100 08022 RPS 18105 b

FISCAL NOTE ACT
MAY APPLY

PENSION IMPACT
NOTE ACT MAY
APPLY

1 AN ACT concerning public employee benefits.

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

4 Section 5. The Illinois Pension Code is amended by changing
5 Sections 14-123, 14-123.1, 14-124, 14-125, and 14-127 and by
6 adding Sections 14-103.41 and 14-124.5 as follows:

7 (40 ILCS 5/14-103.41 new)

8 Sec. 14-103.41. Licensed health care professional.

9 "Licensed health care professional": Any individual who has
10 obtained a license through the Department of Financial and
11 Professional Regulation under the Medical Practice Act of 1987,
12 under the Physician Assistant Practice Act of 1987, or under
13 the Clinical Psychologist Licensing Act or an advanced practice
14 nurse licensed under the Nurse Practice Act.

15 (40 ILCS 5/14-123) (from Ch. 108 1/2, par. 14-123)

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

22 (a) application is made ~~within 12 months~~ after the date

1 that such disability results in the loss of pay, or ~~12 months~~
2 after the date that the Illinois Workers' Compensation
3 Commission rules on the application for an occupational
4 disability, or ~~12 months~~ after the occurrence of disablement if
5 an occupational disease; and

6 (b) proper proof is received from one or more licensed
7 health care professionals ~~physicians~~ designated by the Board
8 certifying that the member is mentally or physically
9 incapacitated.

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

13 (1) the date on which disability ceases;

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

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

19 (4) the end of the month following the fifth
20 anniversary of the effective date of the benefit, or of the
21 temporary disability benefit if one was received, in the
22 case of benefits commencing on or after attainment of age
23 60; or

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

26 At the end of the month in which the benefits cease as

1 prescribed in paragraphs (3) or (4) above, if the member is
2 still disabled, he shall become entitled to a retirement
3 annuity and the minimum period of service prescribed for the
4 receipt of such annuity shall be waived.

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

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

11 (Source: P.A. 93-721, eff. 1-1-05.)

12 (40 ILCS 5/14-123.1) (from Ch. 108 1/2, par. 14-123.1)

13 Sec. 14-123.1. Temporary disability benefit.

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

18 (1) the agency responsible for determining the
19 liability of the State (i) has formally denied all
20 employer-paid temporary total disability benefits under
21 the Workers' Compensation Act or the Workers' Occupational
22 Diseases Act and an appeal of that denial is pending before
23 the Illinois Workers' Compensation Commission, or (ii) has
24 granted and then terminated for any reason an employer-paid
25 temporary total disability benefit and the member has filed

1 a petition for ~~a emergency~~ hearing under Section 19(b) or
2 Section 19(b-1) of the Workers' Compensation Act or Section
3 19(b) or Section 19(b-1) of the Workers' Occupational
4 Diseases Act; ~~and~~

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

16 (3) proper proof is received from one or more licensed
17 health care professionals ~~physicians~~ designated by the
18 Board certifying that the member is mentally or physically
19 incapacitated.

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

26 In the case of termination of an employer-paid temporary

1 total disability benefit, the temporary disability benefit
2 under this Section shall be calculated from the day following
3 the date of termination of the employer-paid benefit or the
4 31st day of absence from work on account of disability,
5 whichever is later, but shall not become payable to the member
6 until (i) the member's right to an employer-paid temporary
7 total disability benefit is denied as a result of the ~~emergency~~
8 hearing held under Section 19(b) or Section 19(b-1) of the
9 Workers' Compensation Act or Section 19(b) or Section 19(b-1)
10 of the Workers' Occupational Diseases Act or (ii) the
11 expiration of 150 days from the date of termination of the
12 employer-paid benefit, whichever occurs first. If a terminated
13 employer-paid temporary total disability benefit is resumed or
14 replaced with another employer-paid disability benefit and the
15 resumed or replacement benefit is later terminated and the
16 member again files a petition for a ~~emergency~~
17 Section 19(b) or Section 19(b-1) of the Workers' Compensation
18 Act or Section 19(b) or Section 19(b-1) of the Workers'
19 Occupational Diseases Act, the member may again become eligible
20 to receive a temporary disability benefit under this Section.
21 The waiting period before the temporary disability benefit
22 under this Section becomes payable applies each time that the
23 benefit is reinstated.

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

- 26 (1) the disability ceases;

- 1 (2) the member engages in gainful employment;
- 2 (3) the end of the month in which the member attains
3 age 65, in the case of benefits commencing prior to
4 attainment of age 60;
- 5 (4) the end of the month following the fifth
6 anniversary of the effective date of the benefit in the
7 case of benefits commencing on or after attainment of age
8 60;
- 9 (5) the end of the month in which the death of the
10 member occurs;
- 11 (6) the end of the month in which the aggregate period
12 for which temporary disability payments have been made
13 becomes equal to 1/2 of the member's total period of
14 creditable service, not including the time for which he has
15 received a temporary disability benefit or nonoccupational
16 disability benefit; for purposes of this item (6) only, in
17 the case of a member to whom Section 14-108.2a or 14-108.2b
18 applies and who, at the time disability commences, is
19 performing services for the Illinois Department of Public
20 Health or the Department of State Police relating to the
21 transferred functions referred to in that Section and has
22 less than 10 years of creditable service under this
23 Article, the member's "total period of creditable service"
24 shall be augmented by an amount equal to (i) one half of
25 the member's period of creditable service in the Fund
26 established under Article 8 (excluding any creditable

1 service over 20 years), minus (ii) the amount of the
2 member's creditable service under this Article;

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

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

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

12 If a covered employee is eligible under the Social Security
13 Act for a disability benefit before attaining the Social
14 Security full retirement age ~~65~~, or a retirement benefit on or
15 after attaining the Social Security full retirement age ~~65~~,
16 then the amount of the member's temporary disability benefit
17 shall be reduced by the amount of primary benefit the member is
18 eligible to receive under the Social Security Act, whether or
19 not such eligibility came about as the result of service as a
20 covered employee under this Article. The Board may make such
21 reduction pending a determination of eligibility if it appears
22 that the employee may be so eligible, and shall make an
23 appropriate adjustment if necessary after such determination
24 has been made. The amount of temporary disability benefit
25 payable under this Article shall not be reduced by reason of
26 any increase in benefits payable under the Social Security Act

1 which occurs after the reduction required by this paragraph has
2 been applied. As used in this subsection, "Social Security full
3 retirement age" means the age at which an individual is
4 eligible to receive full Social Security retirement benefits.

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

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

16 When a final determination of the character of the
17 disability has been made by the Illinois Workers' Compensation
18 Commission, or by settlement between the parties to the
19 disputed claim, the Board shall calculate the benefit that is
20 payable under Section 14-123 or 14-124, whichever is
21 applicable, and shall deduct from such benefit the amounts
22 already paid under this Section; such amounts shall then be
23 treated as if they had been paid under such Section 14-123 or
24 14-124.

25 (e) Any excess benefits paid under this Section shall be
26 subject to recovery by the System from benefits payable under

1 the Workers' Compensation Act or the Workers' Occupational
2 Diseases Act or from third parties as provided in Section
3 14-129, or from any other benefits payable either to the member
4 or on his behalf under this Article. A member who accepts
5 benefits under this Section acknowledges and authorizes these
6 recovery rights of the System.

7 (f) Service credits under the State Universities
8 Retirement System and the Teachers' Retirement System of the
9 State of Illinois shall be considered for the purposes of
10 determining temporary disability benefit eligibility under
11 this Section, and for determining the total period of time for
12 which such benefits are payable.

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

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

23 (Source: P.A. 93-721, eff. 1-1-05.)

24 (40 ILCS 5/14-124) (from Ch. 108 1/2, par. 14-124)

25 Sec. 14-124. Nonoccupational disability benefit. A member

1 with at least 1 1/2 years of creditable service may be granted
2 a nonoccupational disability benefit, if:

3 (1) application for the benefit is made to the system
4 by the member in writing after the commencement of
5 disability;

6 (2) the member is found upon medical examination to be
7 mentally or physically incapacitated to perform the duties
8 of the member's position;

9 (3) the disability resulted from a cause other than an
10 injury or illness sustained in connection with the member's
11 performance of duty as a State employee;

12 (4) the member has been granted a leave of absence for
13 disability at the time of commencement of disability.
14 Renewal of a disability leave of absence shall not be
15 required for the continued payment of benefits; and

16 (5) the member has used all accumulated sick leave
17 available at the beginning of the leave of absence for
18 disability.

19 The benefit shall begin to accrue on the latest of (i) the
20 31st day of absence from work on account of disability
21 (including any periods of such absence for which sick pay was
22 received); or (ii) the day following the day on which the
23 member last receives or has a right to receive any compensation
24 as an employee, including any sick pay.; ~~or (iii) if~~
25 ~~application by the member is delayed more than 90 days after~~
26 ~~the member's name is removed from the payroll, the date~~

1 ~~application is received by the system.~~ The benefit shall
2 continue to accrue until the first of the following to occur:

3 (a) the date on which disability ceases;

4 (b) the end of the month in which the member attains
5 age 65 in the case of benefits commencing prior to
6 attainment of age 60;

7 (c) the end of the month following the fifth
8 anniversary of the effective date of the benefit, or of the
9 temporary disability benefit if one was received, in the
10 case of benefits commencing on or after attainment of age
11 60;

12 (d) the end of the month in which the aggregate period
13 for which non-occupational disability and temporary
14 disability benefit payments have been made becomes equal to
15 1/2 of the member's total period of creditable service, not
16 including the time during which he has received a temporary
17 disability benefit or nonoccupational disability benefit;
18 for purposes of this item (d) only, in the case of a member
19 to whom Section 14-108.2a or 14-108.2b applies and who, at
20 the time disability commences, is performing services for
21 the Illinois Department of Public Health or the Department
22 of State Police relating to the transferred functions
23 referred to in that Section and has less than 10 years of
24 creditable service under this Article, the member's "total
25 period of creditable service" shall be augmented by an
26 amount equal to (i) one half of the member's period of

1 creditable service in the Fund established under Article 8
2 (excluding any creditable service over 20 years), minus
3 (ii) the amount of the member's creditable service under
4 this Article;

5 (e) the date on which the member engages in gainful
6 employment;

7 (f) the end of the month in which the death of the
8 member occurs.

9 If disability has ceased and the member again becomes
10 disabled within 60 days from date of resumption of State
11 employment, and if the disability is due to the same cause for
12 which he received nonoccupational disability benefit
13 immediately preceding such reentry into service, the 30 days
14 waiting period prescribed for the receipt of benefits is waived
15 as to such new period of disability.

16 A member shall be considered disabled only when the board
17 has received:

18 (a) a written certificate by one or more licensed
19 health care professionals ~~and practicing physicians~~
20 designated by the board, certifying that the member is
21 disabled and unable properly to perform the duties of his
22 position at the time of disability; and

23 (b) the employee certifies that he is not and has not
24 been engaged in gainful employment.

25 The board shall prescribe rules and regulations governing
26 the filing of claims for nonoccupational disability benefits,

1 and the investigation, control and supervision of such claims.

2 Service credits under the State Universities Retirement
3 System and the Teachers' Retirement System of the State of
4 Illinois shall be considered for the purposes of
5 nonoccupational disability benefit eligibility under this
6 Article and for the total period of time for which such
7 benefits are payable.

8 (Source: P.A. 88-535; 89-246, eff. 8-4-95.)

9 (40 ILCS 5/14-124.5 new)

10 Sec. 14-124.5. Reports submitted to the System by licensed
11 health care professionals. A licensed health care professional
12 must submit his or her registration number on all reports
13 submitted to the System.

14 (40 ILCS 5/14-125) (from Ch. 108 1/2, par. 14-125)

15 Sec. 14-125. Nonoccupational disability benefit - Amount
16 of. The nonoccupational disability benefit shall be 50% of the
17 member's final average compensation at the time disability
18 occurred. In the case of a member whose benefit was resumed due
19 to the same disability, the amount of the benefit shall be the
20 same as that last paid before resumption of State employment.
21 In the event that a temporary disability benefit has been
22 received, the nonoccupational disability benefit shall be
23 subject to adjustment by the Board under Section 14-123.1.

24 If a covered employee is eligible for a disability benefit

1 before attaining the Social Security full retirement age ~~65~~ or
2 a retirement benefit on or after attaining the Social Security
3 full retirement age ~~65~~ under the Federal Social Security Act,
4 the amount of the member's nonoccupational disability benefit
5 shall be reduced by the amount of primary benefit the member
6 would be eligible to receive under such Act, whether or not
7 entitlement thereto came about as the result of service as a
8 covered employee under this Article. The Board may make such
9 reduction if it appears that the employee may be so eligible
10 pending determination of eligibility and make an appropriate
11 adjustment if necessary after such determination. The amount of
12 any nonoccupational disability benefit payable under this
13 Article shall not be reduced by reason of any increase under
14 the Federal Social Security Act which occurs after the offset
15 required by this Section is first applied to that benefit.

16 As used in this subsection, "Social Security full
17 retirement age" means the age at which an individual is
18 eligible to receive full Social Security retirement benefits.

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

20 (40 ILCS 5/14-127) (from Ch. 108 1/2, par. 14-127)

21 Sec. 14-127. Credit during disability. During any period of
22 disability for which nonoccupational, occupational or
23 temporary disability benefits are paid, there shall be credited
24 to the account of the disabled member amounts representing the
25 contributions the member would have made had he or she remained

1 in active employment in the same position and at the rate of
2 compensation in effect at the time disability occurred. Service
3 credit shall also be granted ~~him~~ during any such periods of
4 disability for all purposes of this Article except for
5 measuring the duration of nonoccupational and temporary
6 disability benefits. The resolution of a temporary disability
7 benefit into an occupational or nonoccupational disability
8 benefit shall not entitle the disabled member to receive
9 duplicate contribution and service credit under this Section
10 for the period during which the temporary disability benefit
11 was paid.

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

13 Section 99. Effective date. This Act takes effect upon
14 becoming law.