



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB1580

by Rep. Robert Martwick

#### SYNOPSIS AS INTRODUCED:

40 ILCS 5/14-103.42 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. In a provision concerning temporary disability benefits, provides that in the case of a terminated employer-paid temporary total disability benefit, the temporary disability benefit under the Article shall not become payable until the expiration of 30 days (instead of 150 days) from the termination of the employer-paid benefit or until other requirements are met. 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 other changes. Effective immediately.

LRB101 06623 RPS 51650 b

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

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 14-103.42 and 14-124.5 as follows:

7 (40 ILCS 5/14-103.42 new)

8 Sec. 14-103.42. 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 30 ~~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.