

**HB4579**



**102ND GENERAL ASSEMBLY**

**State of Illinois**

**2021 and 2022**

**HB4579**

Introduced 1/21/2022, by Rep. Michael J. Zalewski

**SYNOPSIS AS INTRODUCED:**

40 ILCS 5/13-209.5 new

40 ILCS 5/13-309

from Ch. 108 1/2, par. 13-309

40 ILCS 5/13-310

from Ch. 108 1/2, par. 13-310

40 ILCS 5/13-314

from Ch. 108 1/2, par. 13-314

Amends the Metropolitan Water Reclamation District Article of the Illinois Pension Code. In provisions concerning disability determinations, allows licensed health care professionals (rather than just physicians) to make certain disability determinations. Defines "licensed health care professional". Effective immediately.

LRB102 23845 RPS 33038 b

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  
5           changing Sections 13-309, 13-310, and 13-314 and by adding  
6           Section 13-209.5 as follows:

7           (40 ILCS 5/13-209.5 new)

8           Sec. 13-209.5. "Licensed health care professional": Any  
9           individual who has obtained a license through the Department  
10           of Financial and Professional Regulation under the Medical  
11           Practice Act of 1987, under the Physician Assistant Practice  
12           Act of 1987, or under the Clinical Psychologist Licensing Act  
13           or an advanced practice registered nurse licensed under the  
14           Nurse Practice Act.

15           (40 ILCS 5/13-309) (from Ch. 108 1/2, par. 13-309)

16           Sec. 13-309. Duty disability benefit.

17           (a) Any employee who becomes disabled, which disability is  
18           the result of an injury or illness compensable under the  
19           Illinois Workers' Compensation Act or the Illinois Workers'  
20           Occupational Diseases Act, is entitled to a duty disability  
21           benefit during the period of disability for which the employee  
22           does not receive any part of salary, or any part of a

1       retirement annuity under this Article; except that in the case  
2       of an employee who first enters service on or after June 13,  
3       1997 and becomes disabled before August 18, 2005 (the  
4       effective date of Public Act 94-621), a duty disability  
5       benefit is not payable for the first 3 days of disability that  
6       would otherwise be payable under this Section if the  
7       disability does not continue for at least 11 additional days.  
8       The changes made to this Section by Public Act 94-621 are  
9       prospective only and do not entitle an employee to a duty  
10      disability benefit for the first 3 days of any disability that  
11      occurred before that effective date and did not continue for  
12      at least 11 additional days. This benefit shall be 75% of  
13      salary at the date disability begins. However, if the  
14      disability in any measure resulted from any physical defect or  
15      disease which existed at the time such injury was sustained or  
16      such illness commenced, the duty disability benefit shall be  
17      50% of salary.

18           Unless the employer acknowledges that the disability is a  
19       result of injury or illness compensable under the Workers'  
20       Compensation Act or the Workers' Occupational Diseases Act,  
21       the duty disability benefit shall not be payable until the  
22       issue of compensability under those Acts is finally  
23       adjudicated. The period of disability shall be as determined  
24       by the Illinois Workers' Compensation Commission or  
25       acknowledged by the employer.

26           An employee in service before June 13, 1997 shall also

1 receive a child's disability benefit during the period of  
2 disability of \$10 per month for each unmarried natural or  
3 adopted child of the employee under 18 years of age.

4 The first payment shall be made not later than one month  
5 after the benefit is granted, and subsequent payments shall be  
6 made at least monthly. The Board shall by rule prescribe for  
7 the payment of such benefits on the basis of the amount of  
8 salary lost during the period of disability.

9 (b) The benefit shall be allowed only if all of the  
10 following requirements are met by the employee:

11 (1) Application is made to the Board.

12 (2) A medical report is submitted by at least one  
13 licensed health care professional ~~licensed and practicing~~  
14 ~~physician~~ as part of the employee's application.

15 (3) The employee is examined by at least one licensed  
16 health care professional ~~and practicing physician~~  
17 appointed by the Board and found to be in a disabled  
18 physical condition, and shall be re-examined at least  
19 annually thereafter during the continuance of disability.  
20 The employee need not be examined by a licensed health  
21 care professional ~~and practicing physician~~ appointed by  
22 the Board if the attorney for the district certifies in  
23 writing that the employee is entitled to receive  
24 compensation under the Workers' Compensation Act or the  
25 Workers' Occupational Diseases Act. The Board may require  
26 other evidence of disability.

1                   (c) The benefit shall terminate when:

2                   (1) The employee returns to work or receives a  
3                   retirement annuity paid wholly or in part under this  
4                   Article;

5                   (2) The disability ceases;

6                   (3) The employee attains age 65, but if the employee  
7                   becomes disabled at age 60 or later, benefits may be  
8                   extended for a period of no more than 5 years after  
9                   disablement;

10                  (4) The employee (i) refuses to submit to reasonable  
11                  examinations by licensed health care professionals  
12                  ~~physicians or other health professionals~~ appointed by the  
13                  Board, (ii) fails or refuses to consent to and sign an  
14                  authorization allowing the Board to receive copies of or  
15                  to examine the employee's medical and hospital records, or  
16                  (iii) fails or refuses to provide complete information  
17                  regarding any other employment for compensation he or she  
18                  has received since becoming disabled; or

19                  (5) The employee willfully and continuously refuses to  
20                  follow medical advice and treatment to enable the employee  
21                  to return to work. However this provision does not apply  
22                  to an employee who relies in good faith on treatment by  
23                  prayer through spiritual means alone in accordance with  
24                  the tenets and practice of a recognized church or  
25                  religious denomination, by a duly accredited practitioner  
26                  thereof.

1       In the case of a duty disability recipient who returns to  
2 work, the employee must make application to the Retirement  
3 Board within 2 years from the date the employee last received  
4 duty disability benefits in order to become again entitled to  
5 duty disability benefits based on the injury for which a duty  
6 disability benefit was theretofore paid.

7       (Source: P.A. 95-586, eff. 8-31-07; 96-251, eff. 8-11-09.)

8                     (40 ILCS 5/13-310) (from Ch. 108 1/2, par. 13-310)

9                     Sec. 13-310. Ordinary disability benefit.

10          (a) Any employee who becomes disabled as the result of any  
11 cause other than injury or illness incurred in the performance  
12 of duty for the employer or any other employer, or while  
13 engaged in self-employment activities, shall be entitled to an  
14 ordinary disability benefit. The eligible period for this  
15 benefit shall be 25% of the employee's total actual service  
16 prior to the date of disability with a cumulative maximum  
17 period of 5 years.

18          (b) The benefit shall be allowed only if the employee  
19 files an application in writing with the Board, and a medical  
20 report is submitted by at least one licensed health care  
21 professional ~~and practicing physician~~ as part of the  
22 employee's application.

23          The benefit is not payable for any disability which begins  
24 during any period of unpaid leave of absence. No benefit shall  
25 be allowed for any period of disability prior to 30 days before

1 application is made, unless the Board finds good cause for the  
2 delay in filing the application. The benefit shall not be paid  
3 during any period for which the employee receives or is  
4 entitled to receive any part of salary.

5 The benefit is not payable for any disability which begins  
6 during any period of absence from duty other than allowable  
7 vacation time in any calendar year. An employee whose  
8 disability begins during any such ineligible period of absence  
9 from service may not receive benefits until the employee  
10 recovers from the disability and is in service for at least 15  
11 consecutive working days after such recovery.

12 In the case of an employee who first enters service on or  
13 after June 13, 1997, an ordinary disability benefit is not  
14 payable for the first 3 days of disability that would  
15 otherwise be payable under this Section if the disability does  
16 not continue for at least 11 additional days.

17 Beginning on the effective date of this amendatory Act of  
18 the 94th General Assembly, an employee who first entered  
19 service on or after June 13, 1997 is also eligible for ordinary  
20 disability benefits on the 31st day after the last day worked,  
21 provided all sick leave is exhausted.

22 (c) The benefit shall be 50% of the employee's salary at  
23 the date of disability, and shall terminate when the earliest  
24 of the following occurs:

25 (1) The employee returns to work or receives a  
26 retirement annuity paid wholly or in part under this

1           Article;

2           (2) The disability ceases;

3           (3) The employee willfully and continuously refuses to  
4           follow medical advice and treatment to enable the employee  
5           to return to work. However this provision does not apply  
6           to an employee who relies in good faith on treatment by  
7           prayer through spiritual means alone in accordance with  
8           the tenets and practice of a recognized church or  
9           religious denomination, by a duly accredited practitioner  
10          thereof;

11          (4) The employee (i) refuses to submit to a reasonable  
12          physical examination within 30 days of application by a  
13          licensed health care professional physician appointed by  
14          the Board, (ii) in the case of chronic alcoholism, the  
15          employee refuses to join a rehabilitation program licensed  
16          by the Department of Public Health of the State of  
17          Illinois and certified by the Joint Commission on the  
18          Accreditation of Hospitals, (iii) fails or refuses to  
19          consent to and sign an authorization allowing the Board to  
20          receive copies of or to examine the employee's medical and  
21          hospital records, or (iv) fails or refuses to provide  
22          complete information regarding any other employment for  
23          compensation he or she has received since becoming  
24          disabled; or

25          (5) The eligible period for this benefit has been  
26          exhausted.

1       The first payment of the benefit shall be made not later  
2 than one month after the same has been granted, and subsequent  
3 payments shall be made at least monthly.

4       (Source: P.A. 102-210, eff. 7-30-21.)

5                     (40 ILCS 5/13-314) (from Ch. 108 1/2, par. 13-314)

6       Sec. 13-314. Alternative provisions for Water Reclamation  
7 District commissioners.

8       (a) Transfer of credits. Any Water Reclamation District  
9 commissioner elected by vote of the people and who has elected  
10 to participate in this Fund may transfer to this Fund credits  
11 and creditable service accumulated under any other pension  
12 fund or retirement system established under Articles 2 through  
13 18 of this Code, upon payment to the Fund of (1) the amount by  
14 which the employer and employee contributions that would have  
15 been required if he had participated in this Fund during the  
16 period for which credit is being transferred, plus interest,  
17 exceeds the amounts actually transferred from such other fund  
18 or system to this Fund, plus (2) interest thereon at 6% per  
19 year compounded annually from the date of transfer to the date  
20 of payment.

21       (b) Alternative annuity. Any participant commissioner may  
22 elect to establish alternative credits for an alternative  
23 annuity by electing in writing to make additional optional  
24 contributions in accordance with this Section and procedures  
25 established by the Board. Unless and until such time as the

1       U.S. Internal Revenue Service or the federal courts provide a  
2       favorable ruling as described in Section 13-502(f), a  
3       commissioner may discontinue making the additional optional  
4       contributions by notifying the Fund in writing in accordance  
5       with this Section and procedures established by the Board.

6           Additional optional contributions for the alternative  
7       annuity shall be as follows:

8               (1) For service after the option is elected, an  
9       additional contribution of 3% of salary shall be  
10      contributed to the Fund on the same basis and under the  
11      same conditions as contributions required under Section  
12      13-502.

13               (2) For contributions on past service, the additional  
14      contribution shall be 3% of the salary for the applicable  
15      period of service, plus interest at the annual rate from  
16      time to time as determined by the Board, compounded  
17      annually from the date of service to the date of payment.  
18      Contributions for service before the option is elected may  
19      be made in a lump sum payment to the Fund or by  
20      contributing to the Fund on the same basis and under the  
21      same conditions as contributions required under Section  
22      13-502. All payments for past service must be paid in full  
23      before credit is given. No additional optional  
24      contributions may be made for any period of service for  
25      which credit has been previously forfeited by acceptance  
26      of a refund, unless the refund is repaid in full with

1           interest at the rate specified in Section 13-603, from the  
2           date of refund to the date of repayment.

3           In lieu of the retirement annuity otherwise payable under  
4           this Article, any commissioner who has elected to participate  
5           in the Fund and make additional optional contributions in  
6           accordance with this Section, has attained age 55, and has at  
7           least 6 years of service credit, may elect to have the  
8           retirement annuity computed as follows: 3% of the  
9           participant's average final salary as a commissioner for each  
10          of the first 8 years of service credit, plus 4% of such salary  
11          for each of the next 4 years of service credit, plus 5% of such  
12          salary for each year of service credit in excess of 12 years,  
13          subject to a maximum of 80% of such salary. To the extent such  
14          commissioner has made additional optional contributions with  
15          respect to only a portion of years of service credit, the  
16          retirement annuity will first be determined in accordance with  
17          this Section to the extent such additional optional  
18          contributions were made, and then in accordance with the  
19          remaining Sections of this Article to the extent of years of  
20          service credit with respect to which additional optional  
21          contributions were not made. The change in minimum retirement  
22          age (from 60 to 55) made by Public Act 87-1265 applies to  
23          persons who begin receiving a retirement annuity under this  
24          Section on or after January 25, 1993 (the effective date of  
25          Public Act 87-1265), without regard to whether they are in  
26          service on or after that date.

1                   (c) Disability benefits. In lieu of the disability  
2 benefits otherwise payable under this Article, any  
3 commissioner who (1) has elected to participate in the Fund,  
4 and (2) has become permanently disabled and as a consequence  
5 is unable to perform the duties of office, and (3) was making  
6 optional contributions in accordance with this Section at the  
7 time the disability was incurred, may elect to receive a  
8 disability annuity calculated in accordance with the formula  
9 in subsection (b). For the purposes of this subsection, such  
10 commissioner shall be considered permanently disabled only if:  
11 (i) disability occurs while in service as a commissioner and  
12 is of such a nature as to prevent the reasonable performance of  
13 the duties of office at the time; and (ii) the Board has  
14 received a written certification by at least 2 licensed health  
15 care professionals physicians appointed by it stating that  
16 such commissioner is disabled and that the disability is  
17 likely to be permanent.

18                   (d) Alternative survivor's benefits. In lieu of the  
19 survivor's benefits otherwise payable under this Article, the  
20 spouse or eligible child of any deceased commissioner who (1)  
21 had elected to participate in the Fund, and (2) was either  
22 making (or had already made) additional optional contributions  
23 on the date of death, or was receiving an annuity calculated  
24 under this Section at the time of death, may elect to receive  
25 an annuity beginning on the date of the commissioner's death,  
26 provided that the spouse and commissioner must have been

1 married on the date of the last termination of a service as  
2 commissioner and for a continuous period of at least one year  
3 immediately preceding death.

4       The annuity shall be payable beginning on the date of the  
5 commissioner's death if the spouse is then age 50 or over, or  
6 beginning at age 50 if the age of the spouse is less than 50  
7 years. If a minor unmarried child or children of the  
8 commissioner, under age 18 (age 23 in the case of a full-time  
9 student), also survive, and the child or children are under  
10 the care of the eligible spouse, the annuity shall begin as of  
11 the date of death of the commissioner without regard to the  
12 spouse's age. Beginning on the first day of the month  
13 following the month in which this amendatory Act of the 96th  
14 General Assembly takes effect, benefits shall begin on the  
15 first of the month following the commissioner's date of death  
16 if the spouse is then age 50 or over or, if a minor unmarried  
17 child or children of the commissioner, under age 18 (age 23 in  
18 the case of a full time student), also survive, and the child  
19 or children are under the care of the eligible spouse. The  
20 benefit is payable for the full month if the annuitant was  
21 alive on the first day of the month.

22       The annuity to a spouse shall be the greater of (i) 66 2/3%  
23 of the amount of retirement annuity earned by the commissioner  
24 on the date of death, subject to a minimum payment of 10% of  
25 salary, provided that if an eligible spouse, regardless of  
26 age, has in his or her care at the date of death of the

1 commissioner any unmarried child or children of the  
2 commissioner under age 18, the minimum annuity shall be 30% of  
3 the commissioner's salary, plus 10% of salary on account of  
4 each minor child of the commissioner, subject to a combined  
5 total payment on account of a spouse and minor children not to  
6 exceed 50% of the deceased commissioner's salary or (ii) for  
7 the spouse of a commissioner whose death occurs on or after  
8 August 18, 2005 (the effective date of Public Act 94-621), the  
9 surviving spouse annuity shall be computed in the same manner  
10 as described in Section 13-306(a). The number of total service  
11 years used to calculate the commissioner's annuity shall be  
12 the number of service years used to calculate the annuity for  
13 that commissioner's surviving spouse. In the event there shall  
14 be no spouse of the commissioner surviving, or should a spouse  
15 die while eligible minor children still survive the  
16 commissioner, each such child shall be entitled to an annuity  
17 equal to 20% of salary of the commissioner subject to a  
18 combined total payment on account of all such children not to  
19 exceed 50% of salary of the commissioner. The salary to be used  
20 in the calculation of these benefits shall be the same as that  
21 prescribed for determining a retirement annuity as provided in  
22 subsection (b) of this Section.

23 Upon the death of a commissioner occurring after  
24 termination of a service or while in receipt of a retirement  
25 annuity, the combined total payment to a spouse and minor  
26 children, or to minor children alone if no eligible spouse

1 survives, shall be limited to 85% of the amount of retirement  
2 annuity earned by the commissioner.

3 Marriage of a child or attainment of age 18 (age 23 in the  
4 case of a full-time student), whichever first occurs, shall  
5 render the child ineligible for further consideration in the  
6 payment of annuity to a spouse or in the increase in the amount  
7 thereof. Upon attainment of ineligibility of the youngest  
8 minor child of the commissioner, the annuity shall immediately  
9 revert to the amount payable upon death of a commissioner  
10 leaving no minor children surviving. If the spouse is under  
11 age 50 at such time, the annuity as revised shall be deferred  
12 until such age is attained.

13 (e) Refunds. Refunds of additional optional contributions  
14 shall be made on the same basis and under the same conditions  
15 as provided under Section 13-601. Interest shall be credited  
16 on the same basis and under the same conditions as for other  
17 contributions.

18 Optional contributions shall be accounted for in a  
19 separate Commission's Optional Contribution Reserve. Optional  
20 contributions under this Section shall be included in the  
21 amount of employee contributions used to compute the tax levy  
22 under Section 13-503.

23 (f) Effective date. The effective date of this plan of  
24 optional alternative benefits and contributions shall be the  
25 date upon which approval was received from the U.S. Internal  
26 Revenue Service. The plan of optional alternative benefits and

1 contributions shall not be available to any former employee  
2 receiving an annuity from the Fund on the effective date,  
3 unless said former employee re-enters service and renders at  
4 least 3 years of additional service after the date of re-entry  
5 as a commissioner.

6 (Source: P.A. 95-279, eff. 1-1-08; 96-251, eff. 8-11-09.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.