



## 103RD GENERAL ASSEMBLY

### State of Illinois

### 2023 and 2024

### HB2035

Introduced 2/7/2023, by Rep. Kelly M. Burke

#### 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
40 ILCS 5/13-706	from Ch. 108 1/2, par. 13-706

Amends the Metropolitan Water Reclamation District 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". Makes conforming changes. Makes changes concerning the Board of the Fund's powers to waive the requirement of legal guardianship of certain persons.

LRB103 25367 RPS 51712 b

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, 13-314, and 13-706 and by  
6 adding Section 13-209.5 as follows:

7 (40 ILCS 5/13-209.5 new)

8 Sec. 13-209.5. Licensed health care professional.

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

16 (40 ILCS 5/13-309) (from Ch. 108 1/2, par. 13-309)

17 Sec. 13-309. Duty disability benefit.

18 (a) Any employee who becomes disabled, which disability is  
19 the result of an injury or illness compensable under the  
20 Illinois Workers' Compensation Act or the Illinois Workers'  
21 Occupational Diseases Act, is entitled to a duty disability  
22 benefit during the period of disability for which the employee

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

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

1 An employee in service before June 13, 1997 shall also  
2 receive a child's disability benefit during the period of  
3 disability of \$10 per month for each unmarried natural or  
4 adopted child of the employee under 18 years of age.

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

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

12 (1) Application is made to the Board.

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

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

1 other evidence of disability.

2 (c) The benefit shall terminate when:

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

6 (2) The disability ceases;

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

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

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

1           thereof.

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

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

9           (40 ILCS 5/13-310) (from Ch. 108 1/2, par. 13-310)

10          Sec. 13-310. Ordinary disability benefit.

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

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

24          The benefit is not payable for any disability which begins  
25 during any period of unpaid leave of absence. No benefit shall

1 be allowed for any period of disability prior to 30 days before  
2 application is made, unless the Board finds good cause for the  
3 delay in filing the application. The benefit shall not be paid  
4 during any period for which the employee receives or is  
5 entitled to receive any part of salary.

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

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

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

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

26 (1) The employee returns to work or receives a

1 retirement annuity paid wholly or in part under this  
2 Article;

3 (2) The disability ceases;

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

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

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



1 exhausted.

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

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

6 (40 ILCS 5/13-314) (from Ch. 108 1/2, par. 13-314)

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

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

22 (b) Alternative annuity. Any participant commissioner may  
23 elect to establish alternative credits for an alternative  
24 annuity by electing in writing to make additional optional  
25 contributions in accordance with this Section and procedures

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

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

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

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

1 of a refund, unless the refund is repaid in full with  
2 interest at the rate specified in Section 13-603, from the  
3 date of refund to the date of repayment.

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

1 service on or after that date.

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

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

1 provided that the spouse and commissioner must have been  
2 married on the date of the last termination of a service as  
3 commissioner and for a continuous period of at least one year  
4 immediately preceding death.

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

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

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

24 Upon the death of a commissioner occurring after  
25 termination of a service or while in receipt of a retirement  
26 annuity, the combined total payment to a spouse and minor

1 children, or to minor children alone if no eligible spouse  
2 survives, shall be limited to 85% of the amount of retirement  
3 annuity earned by the commissioner.

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

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

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

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

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

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

8 (40 ILCS 5/13-706) (from Ch. 108 1/2, par. 13-706)

9 Sec. 13-706. Board powers and duties. The Board shall have  
10 the powers and duties set forth in this Section, in addition to  
11 such other powers and duties as may be provided in this Article  
12 and in this Code:

13 (a) To supervise collections. To see that all amounts  
14 specified in this Article to be applied to the Fund, from  
15 any source, are collected and applied.

16 (b) To notify of deductions. To notify the Clerk of  
17 the Water Reclamation District of the deductions to be  
18 made from the salaries of employees.

19 (c) To accept gifts. To accept by gift, grant, bequest  
20 or otherwise any money or property of any kind and use the  
21 same for the purposes of the Fund.

22 (d) To invest the reserves. To invest the reserves of  
23 the Fund in accordance with the provisions set forth in  
24 Section 1-109, 1-109.1, 1-109.2, 1-110, 1-111, 1-114, and  
25 1-115 of this Code. Investments made in accordance with



1 Section 1-113 of Article 1 of this Code shall be deemed  
2 prudent. The Board is also authorized to transfer  
3 securities to the Illinois State Board of Investment for  
4 the purpose of participation in any commingled investment  
5 fund as provided in Article 22A of this Code.

6 (e) To authorize payments. To consider and pass upon  
7 all applications for annuities and benefits; to authorize  
8 or suspend the payment of any annuity or benefit; to  
9 inquire into the validity and legality of any grant of  
10 annuity or benefit paid from or payable out of the Fund; to  
11 increase, reduce, or suspend any such annuity or benefit  
12 whenever the annuity or benefit, or any part thereof, was  
13 secured or granted, or the amount thereof fixed, as the  
14 result of misrepresentation, fraud, or error. No such  
15 annuity or benefit shall be permanently reduced or  
16 suspended until the affected annuitant or beneficiary is  
17 first notified of the proposed action and given an  
18 opportunity to be heard. No trustee of the Board shall  
19 vote upon that trustee's own personal claim for annuity,  
20 benefit or refund, or participate in the deliberations of  
21 the Board as to the validity of any such claim. The Board  
22 shall have exclusive original jurisdiction in all matters  
23 of claims for annuities, benefits and refunds.

24 (f) To submit an annual report. To submit a report in  
25 July of each year to the Board of Commissioners of the  
26 Water Reclamation District as of the close of business on

1 December 31st of the preceding year. The report shall  
2 include the following:

3 (1) A balance sheet, showing the financial and  
4 actuarial condition of the Fund as of the end of the  
5 calendar year;

6 (2) A statement of receipts and disbursements  
7 during such year;

8 (3) A statement showing changes in the asset,  
9 liability, reserve and surplus accounts during such  
10 year;

11 (4) A detailed statement of investments as of the  
12 end of the year; and

13 (5) Any additional information as is deemed  
14 necessary for proper interpretation of the condition  
15 of the Fund.

16 (g) To subpoena witnesses. To compel witnesses to  
17 attend and testify before it upon any matter concerning  
18 the Fund and allow witness fees not in excess of \$6 for  
19 attendance upon any one day. The President and other  
20 members of the Board may administer oaths to witnesses.

21 (h) To appoint employees and consultants. To appoint  
22 such actuarial, medical, legal, investigational, clerical  
23 or financial employees and consultants as are necessary,  
24 and fix their compensation.

25 (i) To make rules. To make rules and regulations  
26 necessary for the administration of the affairs of the

1 Fund.

2 (j) To waive guardianship. To waive the requirement of  
3 legal guardianship of a person under legal disability or  
4 any minor unmarried beneficiary of the Fund for a  
5 representative living with a parent or grandparent, and  
6 legal guardianship of any beneficiary under legal  
7 disability whose husband, wife, or parent is managing such  
8 person or beneficiary's affairs, whenever the Board deems  
9 such waiver to be in the best interest of the person or  
10 beneficiary.

11 (k) To collect amounts due. To collect any amounts due  
12 to the Fund from any participant or beneficiary prior to  
13 payment of any annuity, benefit or refund.

14 (l) To invoke rule of offset. To offset against any  
15 amount payable to an employee or to any other person such  
16 sums as may be due to the Fund or may have been paid by the  
17 Fund due to misrepresentation, fraud or error.

18 (m) To assess and collect interest on amounts due to  
19 the Fund using the annual rate as shall from time to time  
20 be determined by the Board, compounded annually from the  
21 date of notification to the date of payment.

22 (Source: P.A. 94-621, eff. 8-18-05; 95-586, eff. 8-31-07.)