

# Fire GUARD



A Publication of the Northern Illinois Alliance of Fire Protection Districts

Summer 2014

## Letter from the President



Now that we have survived a wet spring and are into a sweltering summer season stay cool. A short mention of some of this year's important goings on:

Legislative Day in Springfield held on April 8th and 9th...good turnout  
Congressional Fire Service Caucus held in Washington, DC on April 29, 30 and May 1...another well attended outing with many participants from Illinois. Ron Kubicki, Legislative Liaison will elaborate more in his report in this issue.  
Illinois Association of Fire Protection Districts annual conference was held in Springfield on June 19-22...great attendance and informative sessions. Next year's conference is in Peoria from June 18-21st.  
Illinois Fire Chiefs Association will be convening their conference October 12-14 in Peoria.

The 98th General Assembly has adjourned for the summer but will back for the veto session beginning on November 19th. On the subject of witness slips it is of high importance that we all are prepared to file witness slips when we are alerted by

Chuck Vaughn or Bob Buhs in their hot sheets, sometime this is on short notice but we have to be ready. In an effort to increase NIAFPD membership participation in legislative issues we are considering forming a Legislative Committee, more to come on this.

For those who may not have heard Lisa Rodogno daughter of Senator Rodogno suddenly passed away last month, our thoughts and prayers go out to the family.

As always, on legislative matters please copy Kathy Haage, Ron Kubicki and me.

*Bill Hoffmeister, President  
NIAFPD*

## Letter from the Executive Director



Here we are in the middle of summer but before we know the Fall Legislative Session will be in full swing! It isn't too early to start thinking about issues you would like the NIAFPD to bring before our State Legislators. Contact Legislative Liaison Ronald Kubicki by email [ronaldkubicki@comcast.net](mailto:ronaldkubicki@comcast.net).

On October 4, 2014 the NIAFPD will offer a seminar at the Lisle-Woodridge Fire Protection District. The topic has not been finalized as of this newsletter, but it will qualify for 3 hours for the Advanced Trustee Training Continuing Education Requirement. While there is no cost to attend the seminar we do request that you complete a registration form on-line at [www.niafpd.org](http://www.niafpd.org) which will be available in September, 2014.

The NIAFPD fiscal year closes at the end of October. Members should have receive a request to update our district survey and salary/benefits survey in July. I appreciate our members' quick response in order to be able to update district information before the end of fiscal year. Members will be able to find the district information on the members' only tab at [www.niafpd.org](http://www.niafpd.org). If you do not have your members' only log-in information please contact me and I will be happy to send you the information. Did you know any changes to your district's information can be changed by logging into the members' only tab of our website? If I can be of help to anyone please give me a call at 224-355-9778 or email me at [khaage@dbfd.org](mailto:khaage@dbfd.org).

*Kathy Haage, Executive Director  
NIAFPD*

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## New workers' compensation provisions impact fire service and safety vendors

by Tony Andrews & Michael Toren, Ottosen Britz Kelly Cooper Gilbert & DiNolfo, Ltd.



On June 5, 2014, Illinois Governor Pat Quinn signed Senate Bill 3287 into law as Public Act 98-0633 ("PA 98-0633"). The law modified the Workers' Compensation Act to exclude from its coverage third-party service companies that provide safety consulting. The law is widely perceived as a response to a 2012 Illinois appellate court decision that granted safety inspectors immunity from tort liability in lawsuits filed by injured employees. See *Mockbee v. Humphrey Manlift Co.*, 2012 IL App (1st) 093189.

### **Mockbee v. Humphrey Manlift Co.**

In *Mockbee*, the plaintiff was injured during a fall from a manlift platform at the Quaker Oats plant in Danville, Illinois. Quaker had contracted with Harris Industries for certain inspection and testing services on its manlift. Humphrey Manlift Company was also solicited to examine the manlift for a restoration project. Despite inspections by Harris and Humphrey, neither contractor brought attention to a missing guardrail in the area where the plaintiff fell. The plaintiff filed a negligence lawsuit against Harris and Humphrey, as her employer Quaker was only subject to a workers' compensation claim. The trial court granted summary judgment to these consulting defendants.

On appeal, the court examined whether Harris and Humphrey were entitled to immunity under the Workers' Compensation Act (820 ILCS 305/5) Section 5 of the Act granted immunity to entities that meet three criteria: (1) service organizations (2) that were retained by the employer (3) to provide safety service, advice, or give recommendations to the employer. The parties did not dispute that the defendants were retained by Quaker or that they provided safety service, advice, or recommendations to Quaker. Rather, the dispute centered on the meaning of "service organization."

The plaintiff alleged that an entity cannot be "service organization" under Section 5 of the Act unless it contributed to workers' compensation benefits. The appellate court rejected this interpretation. In ruling for the defendants, the court adopted the plain and simple meaning of "service organization." Service organizations were ruled to include the types of entities that provide the safety service, advice, or recommendations described in the section. Under this definition, the defendants were afforded the protections of Workers' Compensation Act and could not be sued for negligence.

### **The Amendments to the Workers' Compensation Act**

PA 98-0633 amends the Workers' Compensation Act to overturn the ruling in *Mockbee*. A mere three words have been crossed out of the old legislation. In their place are six new ones. Those six words, however, have the potential to impact the entire safety consulting industry.

Before the passage of PA 98-0633, Section 5(a) of the Act provided, in relevant part:

- No common law or statutory right to recover damages from the employer, his insurer, his broker, any service organization retained by the employer, his insurer or his broker to provide safety service, advice or recommendations for the employer or the agents or employees of any of them for injury or death sustained by any employee while engaged in the line of his duty as such employee, other than the compensation herein provided, is available to any employee who is covered by the provisions of this Act... (emphasis added).

PA 98-0633 amended the section to now provide:

- No common law or statutory right to recover damages from the employer, his insurer, his broker, any service organization that is wholly owned by the employer, his insurer or his broker and that provides safety service, advice or recommendations...for injury or death...other than the compensation herein provided...is available... (emphasis added).

### **Implications of the New Law**

PA 98-0633 specifically targets third-party safety consultants. Before the enactment of the new law, the Workers' Compensation Act was the exclusive remedy for injury claims filed against safety consultants for injuries arising at workplaces. The passage of PA 98-0633 eliminates workers' compensation immunity for outside safety consulting companies. The legislation, advanced by the Illinois Trial Lawyers Association, now imposes tort liability on third-party safety consultants and subjects them to negligence lawsuits.

Without the protections of workers' compensation, safety consultants may experience an increase in litigation. The new liabilities imposed by PA 98-0633 may result in higher expenses and unpredictable damages. The higher defense costs incurred by safety consultants, in turn, will either force them out of business or be passed on to the employers for whom they offer their services.

Thus, fire protection districts that retain outside safety consultants may see increased costs passed on to them by consulting companies that now face the higher, less predictable costs associated with negligence lawsuits instead of workers' compensation claims. In turn, if your fire department employees are providing outside safety consulting services, they should consider reviewing their insurance policies to ensure that their coverages are appropriate.





## Legislative Update

Ronald P. Kubicki, Legislative Liaison NIAFPD

Over the past few months we have been asked just what the NIAFPD Pac Fund is and how is it used. So I will try to explain it to you. The NIAFPD established a Pac fund about 20 years ago to help and assist state and local legislators in funding their special events throughout the year. The Pac fund is funded by taking a portion of our Associates members' dues and placing it in a special fund. We do not use any part of our members' dues because they are paid to us by their tax dollars and this would not be legal. We have to register the Pac fund with the State of Illinois and must keep records of all expenditures. We distribute the funds equally each year to both the Democrat and Republican parties. The decision on how the money is spent is made by the Board after receiving input from our Legislative Lobbyist and myself. Over the past 10 years we have helped sponsor many different types of events and have purchase tickets to a number of events that were being held by legislators all over the state. We generally sponsor or purchase tickets to events offered by the leadership of the Senate and House for both parties. We have also sponsored or purchased tickets to events being held by the two co-chairs of the Fire Caucus.

You might ask why we do all of this and the answer is simple to keep the NIAFPD name and our goals and objectives in the eyes and minds of those who make decisions about the fire service every day in Springfield. We are up against hundreds of Pac funds throughout the state who have a much larger pool of funds to draw from. I feel that our efforts have paid off big time over the years. Legislators from both parties have used many of our members as contacts for information on bills that come across their desk and to get their position on a number of issues.

I hope this helps you better understand the NIAFPD Pac fund and how it is used. Should you have any questions please feel free to contact me at [ronaldkubicki@comcast.net](mailto:ronaldkubicki@comcast.net).




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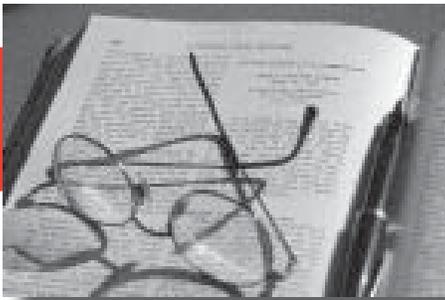
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## Recent Bill Update

by Chuck Vaughn, Vaughn Consulting Services

As NIAFPD assesses the successes and failures by our General Assembly in 2014 we can point to several areas I would like to present to you. After 5 frustrating years of trying, we passed our bill to require Cook Co. to notify fire districts when tax challenges of \$159,000 are made. Since this is what all the other 101 counties do (From a Bill we passed 4 years ago) this seemed a reasonable request. It just took Cook Co. a long time to process the concept.

Recently two very important, and connected, bills were signed by the Governor. HB 4334 raised the limit on fire truck loans from the no-interest loan fund we worked so hard to establish to \$330,000 (Up from \$250,000). When we created the loan funds Rep. Moffitt worked to find sustaining sources to make the funds work. HB4452 puts 5 more years on the program of using serious traffic offenses fines to give money for these loans and small equipment grants ( This generates millions in the following years). A real double victory for districts here. In some recent years there have not been enough loan requests to fully use the dollars available. Think about this partially unused resource.

Another significant success was our ability to work to take almost everything that we opposed out of SB 1681. This bill had so many items we could not support:

- Taking the decision to consider consolidation out of the hands of elected/ appointed Boards
- Taking voluntary efforts away as the proven way to make a difficult task possible
- Getting judges involved in how districts are run
- A creeping movement by labor to capture more administrative rights/ duties
- Clarity on two very critical points--We are not in until we say we are, and we can withdraw from the process when we say we are with drawing.
- This bill actually creates new units of governments when there is so much focus on down-sizing.

All in all, our hard work resulted in a bill that pretty much says we are allowed to do consolidation the way the law already allows us to do it. I think this also works with the great successes that districts/municipalities are having in areas like in the west-DuPage group. Lots more to this, but a job well done by our legislative teams.

The bills that would have negatively affected your levies seem not destined to move in this session, but we keep a careful watch, here. We have started to see DuPage Co. begin to use the power they were given to dissolve other governments. This needs to still be carefully watched as to how it is being done, and how effective it may be. No changes in any part of PTELL occurred, and as I have told you, this is a long-shot.

Bills were passed that recognize the need to let a paramedic be free to work up to the levels his/her certification, and the need to both inspect and liscence trucks in a reasonable manner. The 911 cell phone fees were renewed, with Chicago already set to implement the very large potential fo their fees. Poison Control Centers were funded by changes in the Medicare bill. HB5623 sets in place new requirements on how you web site must occur and be used. I suggest you look at this carefully.

Lots of other bills on my bill list that you can find on our website. I always welcome your calls (630-215-8837). Thanks for your trust in me.



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## Common Stocks Start 2014 with a Positive Tone

Thomas S. Sawyer, Sawyer Falduto Asset Management, LLC



The last several issues of FireGuard have focused largely on the resilience of equity markets in the face of a slowing Global economic landscape and geopolitical unrest. As the mid-point of 2014 approaches we will return to the interest rate environment and a fresh look at fixed income markets.

As we suspect most readers are aware, the Federal Open Market Committee (FOMC) met last week. There were no surprise changes to monetary policy as a result of the meeting. Short-term interest rates will be held at or near zero for an extended period of time. The consensus is that future increases in the fed funds rate are not slated to commence until mid-2015 at the earliest.

Remember the buzz word “tapering” that dominated the financial media for a period of time last year? The FOMC announced another \$10 billion reduction (taper) in purchases of U.S. Government securities. Monthly purchases have now been trimmed to \$35 billion from the original \$85 billion with five consecutive \$10 billion reductions. The Fed remains on pace to bring asset purchases to an end late this year.

Federal Reserve Chairman Janet Yellen commented that “Economic activity is rebounding in the current quarter and will continue to expand at a moderate pace.” While the level of economic activity seems to be improving, the Fed will likely remain very accommodative based on the following:

- Even though inflation is gradually moving toward the Fed’s target of 2.0%, current levels are not enough of a concern to spur any discussion of a shift away from the current, very accommodative policy.
- Jobs data continues to improve with the unemployment rate reaching a post-recession low of 6.3% in May, lending support to the continued reduction in the monthly purchases of U.S. Government securities.
- After a modest contraction during the first quarter largely attributed to the harsh winter, the economy is expected to grow at a rate of little over 2% for the full year.

To summarize, while the economy seems to be making progress with modest growth, low inflation and incrementally improving employment data, the Fed is unlikely to take any chances on hindering the recovery with interest rate increases any time soon. On the other hand, markets do look forward in time. There are hints of rate increases to come reflected in the current structure of bond yields.

Turning our attention to the current structure of interest rates, speaking generally, investors will continue to struggle in the search for yield in fixed income markets. We find it interesting, however, that the yield curve has flattened this year with U.S Treasury yields in the maturity range of 2 to 3 years moving somewhat higher, perhaps discounting future rate increases by the Fed. At the same, time yields on Treasuries with maturities longer than 7 years have moved lower, largely reflecting investor concerns over slowing global economic growth.

U.S. Treasury Maturity	%Yield 12/31/2013	%Yield 06/16/2014	Yield Change
1 Year	0.13	0.11	-0.02
2 Years	0.39	0.49	+0.10
3 Years	0.76	0.95	+0.19
10 Years	3.00	2.61	-0.39

We view change in the structure of the Treasury yield curve “of interest” for a couple of different reasons. First, the decline in longer-term yields is not particularly surprising given the repeated flights to the safety of U.S. Treasuries that have occurred in the years following the 2008/2009 recession. There will likely be continued volatility in longer-term bond yields as the global geopolitical and economic scenarios continue to play out. It is the rise in yields in the 2 to 3 year range of the Treasury yield curve that catches our eye.

In terms of what to do with portfolio structure, we offer alternative views depending on the investment objective of the portfolio. For accounts with a longer investment time horizon, investors are currently getting paid a little bit less in terms of yield than was the case a few months ago. Thus we are inclined to be a little more defensive and allow portfolio durations to move a modestly lower. On the other hand, limited maturity portfolios (many of which have a maximum maturity of 5 years) may have the opportunity to invest excess cash reserves and the cash proceeds from maturities at somewhat more attractive yields in the 2 to 3 year maturity range.

*“The allocation to equities, fixed income and all available asset classes should be determined with careful consideration given to factors such as investment time horizon, liquidity requirements, diversification and the risk tolerance. The resulting asset allocation guidelines should be well documented in your investment policy statement and guidelines. Information contained in this commentary is solely the opinion of the author and obtained from sources believed to be reliable. Accuracy can not be guaranteed. Past performance is not predictive of future returns.”*



# Mark Your Calendars!

## NIAFPD by Conference Chairman, Retired Chief James Quinn

Now is the time to mark your calendars and schedules for February 5, 6, 7 and 8, 2015 so you won't forget the 2015 Northern Illinois Alliance of Fire Protection Districts Annual Conference. 2015 will be our 22nd annual conference which has consistently grown in attendance year after year. We will once again be at the Westin Lombard due to the many positive responses we received on their facilities.

The conference committee has met to plan 2015's programs that will include informative classes for fire district trustees, commissioners, chief officers, administrative staff and pension board trustees. While the

committee has a very good start in the development of educational sessions, we would very much like to hear from you with any ideas or suggestions for programs. We ask that you contact the Alliance Office with your ideas or suggestions by e-mail at [khaage@comcast.net](mailto:khaage@comcast.net) or you can share your thoughts with our Executive Director directly by calling 224-355-9778.

At your next board meeting discuss attending this very informative and worthwhile conference. We ask that you don't wait until the last minute to register. Start discussing it now and be prepared to complete everybody's registration by December if not sooner.





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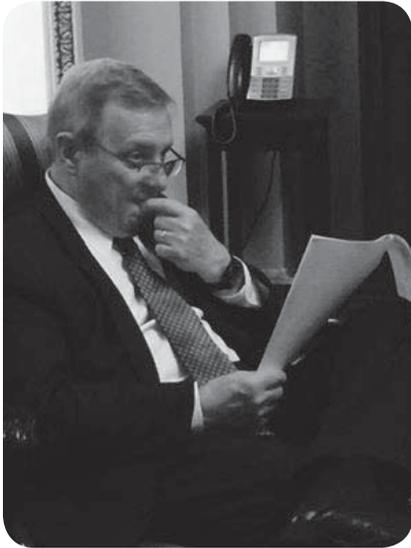
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## Congressional Fire Service Event



*Senator Dick Durbin Listens to Illinois Fire Service during Congressional Fire Service Event*



## A Look At The Past



Carl Roscher was the first NIAFPD President. To honor him the Carl Roscher Award was created. This award is an exclusive limited award: *Leadership award for persons, which have achieved outstanding results in the best interest of the fire service and the NIAFPD.*



## Many Thanks to Bob Buhs . . .



On behalf of the NIAFPD membership we wish to thank Bob for all his support especially keeping everyone informed on legislative issues important to the Illinois fire districts. Most of the reports prepared were emailed out in the middle of the night so we could take action first thing in the morning. In recent years Bob was instrumental in setting up meetings with legislators during the Annual Congressional Fire Service Meeting with Illinois Senators and Congressman.

Bob served on the Illinois Fire Chiefs Association Board from 1988 to 1998 and was their President during 1996/97. He served on the Illinois Educational and Research an arm of the Illinois Fire Chiefs Association from 1988 to 1994 and was their President from 1990 to 1994. In 2003 Bob was named the Illinois Fire Chiefs Association Executive Director; and will be retiring this year.

We sincerely appreciate all your dedication and support.

~ NIAFPD Board of Directors

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Michael Stuart, CRSP  
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# NIAFPD OFFICERS

<i>President</i>	William Hoffmeister hoffmeister@frankfortfire.org	708.641.9672
<i>Past President</i>	Ronald P. Kubicki ronaldkubicki@comcast.net	708.354.6567
<i>Secretary/Treasurer</i>	Nicholas Kosiara njkosi@comcast.net	630.682.4165
<i>Directors</i>	Bonnie Bayser bbayser@foxvalley.net	847.515.1602
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	Juan Manuel Giron JuanManuel@gironbooks.com	
	Bob Klein bob@awardemblem.com	630.235.5211
	Jamie Lowe Lisle-Woodridge FPD jlowe@msn.com	312.401.2101
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