

Fire GUARD

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A Publication of the Northern Illinois Alliance of Fire Protection Districts

Spring 2019

Letter from the President



As you all know by now, our Executive Director, Kathy Haage, is retiring. As you also know, Kathy has been the one constant in the NIAFPD, working with several Presidents, several Secretary/Treasurers and many more than several Board Directors. She has been there to hold everything together and has been the “Face of the NIAFPD” throughout our entire history.

I can't fully express how we all feel about the many contributions she has made and the enhancements she has brought to grow our organization over the years. And, although I wish she would stay to continue helping me lead this wonderful organization, I certainly can't fault her for finally stepping aside and looking to enjoy her well-earned retirement. So I will just thank her from the bottom of my heart not only for what she has done for the Alliance but for what she has done for me. However, as much as she will be missed, we need carry on and do our best to replace her with someone who will possess the same passion, skills and drive to continue moving the NIAFPD forward into the future.

The Executive Director position developed around what Kathy has been doing. A job description and compensation package will be presented to the Board of Directors for approval at their quarterly meeting on April 27th.

Even though we have already been approached by several interested candidates, we will officially post the job opening after this approval. That posting and job description will appear on our website, niafpd.org, beginning Monday May 6th.

I am confident that there is a deep pool of very qualified professionals from right here in our own membership and I believe that we won't need to reach out much further to find the perfect candidate. So, please check out the website after May 6th and let us know of your interest in becoming the new face of the NIAFPD. Best wishes on retirement to Kathy. Nick Kosiara

Letter from the Executive Director



I was very humbled to receive the Carl Roscher Award at the conference. It has been an honor to serve as the NIAFPD Executive Director over the past years and I leave with mixed emotions.

Thank you for all the kind words of congratulations on my retirement.

Kathleen Haage
Executive Director

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Dawson v. City of Geneseo: Pension Protection Clause does not extend to retiree healthcare

by Brian J. O'Connor, Ottosen Britz Kelly Cooper Gilbert & DiNolfo, Ltd.

On October 23, 2018, the Illinois Appellate Court issued its ruling in *Dawson v. City of Geneseo*, 2018 IL App (3d) 170625, affirming the circuit court dismissal of retiree Larry Dawson's challenge to the City of Geneseo's reduction in the percentage of contribution made by the City to Dawson's health insurance premium.

Background

In 1995, the City enacted an ordinance permitting retirees with ten or more years of service to continue participation in the City's group health insurance. The City would pay a variable percentage of the premium for that coverage depending on the retiree's years of service with the City. The ordinance had been amended several times over the years and included a disclaimer that the terms in the ordinance were informational only, were not intended to create a contractual obligation, were implemented at the City's sole discretion, and were subject to amendment or cancellation by the City at any time.

An amendment in November 2011 is at the heart of this dispute. Effective January 2012, the amendment provided for a reduced variable contribution percentage by the City, as well as a cap on the amount of the City's contribution to an existing retiree's health insurance premium.

In December 2016, Dawson and other City retirees filed a lawsuit challenging the reduction of the City contribution. The complaint alleged that:

- The reduction in the City's health insurance contribution was a diminution or reduction in a benefit protected by the Pension Protection Clause of the Illinois Constitution;
- The ordinance was an enforceable contract between the City and retirees;
- Retirees had relied upon the pre-amended ordinance to their detriment now that the contribution terms had been reduced; and
- The City's conduct in implementing the original ordinance created a contract which the City should be precluded from altering.

In June 2017, the City filed motions to dismiss the lawsuit because it failed to state a violation of the Pension Protection Clause and that the final three claims were barred by the express disclaimer language included in the ordinance. After a

hearing on the City's motions in August 2017, the circuit court granted the City's motions and dismissed the complaint. Dawson appealed the circuit court's dismissal.

The Appellate Court's Decision

The appellate court affirmed the circuit court's ruling dismissing all claims and upholding the City's amendment of the health insurance contribution ordinance. First, the appellate court cited the inapplicability of the Pension Protection Clause, which provides:

Membership in any pension or retirement system of the State, any unit of local government or school district, or any agency or instrumentality thereof, shall be an enforceable contractual relationship, the benefits of which shall not be diminished or impaired. (Illinois Constitution, Article XIII, Section 5).

The court noted that the Pension Protection Clause provides for protection of a benefit of an enforceable contractual relationship resulting from membership in one of the State's pension or retirement systems. In its ruling the court stated that the benefit that Dawson sought to enforce -- the contribution by the City to health insurance premiums for employees and retirees -- was not a pension or retirement system itself, nor a benefit that results from membership in a pension or retirement system of the Illinois Pension Code. Therefore, the City's health insurance contribution prescribed in the ordinance is not a benefit protected by the Pension Protection Clause.

Second, in affirming the dismissal of the other counts in the complaint, the court cited prior court rulings, which provided that an employer may negate promises of employment or benefits in a handbook by using a disclaimer. If the disclaimer states that the handbook promises nothing and is not a contract, then, no enforceable employee rights are created. The court determined that the City's disclaimer conformed to these prior legal standards. The court determined the City's ordinance stated the provisions of the ordinance were for informational purposes only and were not intended to create or be construed to create a contract between the City and any employees. The court also noted the City retained the right to amend or eliminate provisions in the ordinance, and in fact had amended the ordinance since its original enactment.

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Springfield Legislative Update

By: Liz Brown-Reeves, NIAFPD Lobbyist



As the Illinois General Assembly enters its' final month of May Session, many pieces of legislation remain important to the Northern Illinois Alliance of Fire Protection Districts.

Below are the bills that were on the "Hot Sheet" for the joint legislative day held on April 10th in Springfield.

HB 105 (Willis/ Cullerton,J) - SUPPORT

Clarifies Office of State Fire Marshall responsibilities in Home Rule units of government.

Current Status: Passed House 112-0

HB 271 (Willis/ Anderson) - SUPPORT

Allows bid notices to be published in a newspaper with non-daily publication. Currently, districts are required to publish in a daily newspaper. With many publications moving away from a seven-day publication schedule, it becomes difficult for districts to meet the letter of the law and provide adequate notice of bids.

Current Status: Passed House 110-0

HB 841 (Willis/ Sandoval) - SUPPORT

Creates the offense of first responder endangerment. If a person knowingly creates a dangerous condition and intentionally conceals the dangerous condition in a commercial property under his or her management and the dangerous condition is found to be the primary cause of the death or serious bodily injury of a first responder in the course of his or her official duties, charges may be applied.

Current Status: Passed 113-0

HB 2124 (Welch/ Bush) - SUPPORT

Provides that a public body may hold a closed meeting to consider specific volunteers of the public body including hearing testimony on a complaint lodged against a volunteer to determine its validity.

Current Status: Passed House 101-3

HB 2473 (Willis/ Holmes) - SUPPORT

Provides that a board of trustees of a fire district may enter into contracts involving an expenditure in excess of \$20,000 through participation in a joint purchasing program that requires as part of its selection procedure a competitive solicitation and procurement process.

Current Status: Passed House 101-0

HB 2766 (Hurley/ Link) - SUPPORT

Creates the First Responders Suicide Prevention Act. Provides that emergency services personnel may refer any person to an employee assistance program or peer support counselor and that any communication made by a participant or counselor is confidential and may not be disclosed by any person participating in the peer support counseling session. Requires training programs for police and fire fighters to recognize signs of work-related cumulative stress that may lead to suicide and offer appropriate solutions for intervention.

Current Status: Passed House 114-0

HB 2854 (Gabel/ Fine) - SUPPORT

Creates a hiring preference of up to 20 points for a person who has performed fire suppression service for a department as a firefighter apprentice and otherwise meet the qualifications for original appointment as a firefighter.

Current Status: Passed House 100-0

HB 3390 (Pappas/DeWitt) - SUPPORT

Provides that a kennel operator that maintains dogs and cats for boarding that is not staffed at all times shall be equipped with at least one fire alarm system or fire sprinkler system in operating condition in every building of the kennel operator that is used for the housing of animals.

Current Status: Passed House 95-16

SB 1480 (Morrison/ Morgan) - SUPPORT

Amends the Line of Duty Compensation Act to increase the burial benefit from \$10,000 to \$20,000.

Current Status: Passed Senate 56-001

SB 1894 (Muñoz) - SUPPORT

Provides that children and stepchildren, in addition to the spouse and parents, of a police officer or firefighter who has died in the line of duty may be issued special license plates.

Current Status: Passed Senate 56-0

SB 40 (Anderson) - OPPOSE

Removes restrictions on the availability to receive a veteran's preference promotion if the person has already received a promotion based on a veteran's preference.

Current Status: Returned to Senate Assignments Committee

Continued on Page 8

Legislative Liaison NIAFPD

By: Ronald Kubicki, Legislative Liaison NIAFPD

As winter moves out and Spring is finally here the 101st General Assembly has been very busy working on so many issues related to the Fire Service. Here are just a few Bills we are watching for you.

SB37
HB271
HB2473
SB1894

You can check out Liz Browns report for more information on these and other bills of interest.

The NIAFPD, Illinois Fire Chiefs Association and the Illinois Association of Fire Protections Districts held its 23rd annual Legislative Day on Tuesday and Wednesday April 9th and 10th in Springfield. Our President Nick Kosiara along with Kathy Haage and myself were in attendance along with over 75 Chiefs, trustees and other fire administration personnel from across the state who made visits to our legislators to inform them of issues that will affect the fire service in Illinois. Our meetings and the reception that followed were very successful. This legislative day, along with the meet and greet we held back in February with the newly elected legislators, helps the legislators better understand just how committed the fire service is to the public safety of the residents of Illinois and how important issues related to the fire service are to us. After almost 40 years of working down in Springfield I can see just how far we have come and how connected the fire service has become. We now present a much more united front to our legislators then we have in the past. We have become a much-needed voice for all those who in the past have felt left out of the process. I would like to thank all of you who took the time out of your busy schedules to travel down to Springfield to help us. I would also like to thank the staffs and leadership of all three organizations that helped to make this event so successful.

On April 29 through May 4 President Kosiara and myself will be in Washington DC with the Illinois Fire Caucus to speak with the Illinois Congressional Delegation and both our US Senators to keep them informed of issues that may affect Illinois. I will report on that visit in our next Fire Guard. If you would like more information on the issues we will be presenting, please contact me and I will be happy to send you a hot sheet from our visit.

ronaldkubicki@comcast.net

Last but by no means least I want to thank Kathy Haage as she retires and Chief Jim Quinn as he steps down as our NIAFPD Conference chairman. First let me talk about Kathy, she has been a major part of the growth of the NIAFPD for the past 25 years. Kathy started working for me when I served as President 25 years ago and helped us get the NIAFPD on the right track. I can never repay Kathy for all she has done for me and the NIAFPD. Chief Quinn and I have been friends for over 30 years. He has been one of those few people that when I needed some advice, I gave him a call and he would always be there to help. Chief Quinn was the one who told me that it was time that the NIAFPD should maybe start its own conference some 26 years ago. Thanks to his advice, we now have one of the best conferences in the state. I have the utmost respect for all the fire chiefs in our state, but there are a few who stand out over and above the rest and Chief Quinn is one of them. I had the pleasure to have both Kathy and Jim accompany me to Russia on two different occasions and they both represent the NIAFPD with great style and knowlage. I know that in todays world this might not be politically correct but here it goes anyway - "I Love You Two" and I wish you both the best of luck in the future.

NEW FACE

So who's the new face? Well I would like to take a few moments and introduce myself to you. My name is Ellen Dimock and I have been a Trustee with the Grayslake Fire Protection District for the past 20 years. Seventeen of those years I served as Treasurer, my last three as President. I hope to continue in this position for years to come.

I have been attending the many conferences that have been offered in Springfield, Peoria, Oak Brook etc. just to name a few. This past January I was voted in by you, my peers, to fulfil an open position on the Board of the NIAFPD. I am much honored to become a part of this organization and look forward to working with my fellow board members in bringing you some of the best learning conferences we can put together. So let's pass those time sheets forward and let's get learning. Can not wait to see you at the next conference! Thank you.

**NIAFPD 2020 Annual Conference will be held January 23-25, 2020
Hilton Chicago/Oak Brook Hills Resort & Conference Center**



ADVANCED TRUSTEE TRAINING (ATT) will be offered at the NIAFPD Conference

Part 1 – Friday January 24, 2020 Part 2 & 3 – Saturday January 25, 2020

(Please send an email to khaage@comcast.net if you would like to attend the ATT Program)

The ATT Program is a 3-part training program that allows additional compensation for paid trustees who complete the program under Public Act 95-0799 (effective January 1, 2009).

Part 1 – Organization and Administration of the Fire Protection District

Part 2 – Personnel and Human Resources

Part 3 – Personnel and Human Resources

Each part is a 4 hour course and after completion trustees will receive a completion certificate signed by the Office of the State Fire Marshal.

Trustees who complete all three parts of the program will qualify (subject to local appropriation) to receive an increased payment of up to 50% of their regular trustee's compensation.

Insurance Policies for Active Shooter Incidents May Limit Your Ability to Respond Effectively

Mitch Backes, Insurance Advisor, Corkill Insurance Agency

The agreed-upon definition of an “active shooter” by US government agencies (including the White House, US Department of Justice, FBI, US Department of Education, US Department of Homeland Security, and Federal Emergency Management Agency) is “an individual actively engaged in the killing or attempting to kill people in a confined and populated area”. Unfortunately, the frequency of these incidents seems to be on the rise over the past few decades. The February 15th occurrence in Aurora, IL where a gunman killed and wounded several individuals at an industrial complex is a reminder that this can occur locally. Some proactive risk managers are now purchasing insurance for such events. These Active Shooter policies can provide coverage for such events, but also include services that help organizations evaluate risk, plan for prevention, and coordinate a response.

The Insurance Coverage

There may be some insurance benefits from a ‘standard’ insurance policy that would respond to an Active Shooter event in the workplace. However, many ‘standard’ insurance policies have a provision that may limit their ability to respond as effectively as a policy written specifically for an Active Shooter event. In many cases, a ‘standard’ insurance policy requires victims to allege negligence of the insured for coverage to apply. Establishing negligence may be difficult to do, but even if it’s possible, it will likely take some time. An Active Shooter policy responds on day one of the incidents and can provide benefits to victims and their families. Benefits may include medical expenses, lost wages, and death benefits.

Some risk managers have noticed that they have coverage for incidents of Terrorism and wonder if Active Shooter events would qualify for coverage under the Terrorism coverage they currently purchase. The answer is maybe. Terrorism coverage as it exists in most ‘standard’ policies must meet specific requirements for coverage to apply. One of the most important elements is that the event must be deemed “a Certified Terrorist Attack” by the U.S. Secretary of the Treasury, the Attorney General, and the U.S. Secretary of Homeland Security. Active Shooter policies can be purchased that waive all Terrorism exclusions making coverage quick and easy to define.

Crisis Management is also an area where there can be a difference between ‘standard’ insurance coverage and an Active

Shooter policy. ‘Standard’ insurance policies may offer some coverage for Crisis Management that generally ranges from 1) low limits for limited services to 2) no coverage at all. Active Shooter policies can contemplate utilization of a public relations consultant, counseling for affected individuals, dedicated crisis hotline, temporary security measures, and an independent investigation for sole use by the insured. Limits on the Active Shooter policies can be as high as \$25,000,000.

Risk Management

Insurance coverage is a focus but preparing your organization for a potential event could be deemed as more important than the actual coverage provided by the insurance policy. Identifying weaknesses and planning for a possible event are services that are provided by many insurers. The pre-planning security review provided by Active Shooter insurers can identify security gaps, outline response strategies, provide employee training and overall raise awareness of the situations that may lead to Active Shooter events.

Contact an Insurance Advisor

Coverage and services will vary from policy to policy. This is true for ‘standard’ policies **and** Active Shooter policies; there isn’t a one-size-fits-all option that exists. To learn more about what suitable options exist for your organization, reach out to a qualified insurance advisor who can help you explore what may be the best fit for you.



Bond Yields - Stable Rates and Yield Curve Inversion

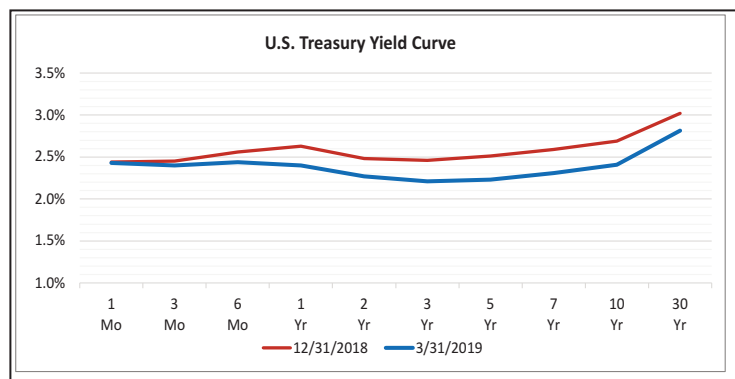
By: Thomas S. Sawyer, Managing Partner, Sawyer Falduto Asset Management, LLC

Key Points

- **Fixed Income:** Short-term interest rates were unchanged at the Federal Reserve meeting in March. Current monetary policy has shifted away from additional rate increases. Capital markets are now reflecting the strong possibility of a rate decrease during 2019.
- **Economy:** Expectations for economic growth have been lowered based on global trade concerns. Growth continues to be positive, but at a slowing rate. Inflation continues at around a modest 2% trend rate.
- **Equities:** Equities posted solid gains during the first quarter both domestically and internationally. The equity strength was broad-based as all of the S&P 500 sectors generated positive returns. S&P 500 had its best start for the year since 1998 and highest overall quarterly gain since 3Q 2009.

Bond Yields

The rates across the U.S. Treasury yield curve shifted lower during the quarter. At this writing, the curve is inverted from the 6-Month T-Bill to the 10-Year Treasury Note.



- The yield curve inverted briefly at the short-end driving investor uncertainty about the direction of the economy. A flight to the safety of U.S. Government debt pushed the yield on the 10 Year Treasury note to 2.41% which is the lowest level in fifteen months.
- While it is worth noting that flat or inverted yield curves are often associated with periods of slowing economic growth, expectations are the U.S. economy will continue to move forward, just at a more modest pace.

Many readers of FireGuard maintain short-term, or limited maturity, fixed income portfolios for cash management purposes. Interest rates appear to have stabilized for the near-term with short-term bond yields currently in the 2.3% to 2.5% range. In terms of portfolio structure for our limited maturity fixed income portfolios, the relatively short average maturity results in a high level of principal stability while allowing for the timely reinvestment of maturities and cash flows.

Our position remains unchanged for portfolios that are managed to longer investment time horizons. With the yield curve continued flattening/inversion, there is little incentive to extend portfolio maturities. Portfolios are conservatively positioned with a focus on credit quality.

"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 risk tolerance. The resulting asset allocation 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."





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ATTORNEY ARTICLE

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Takeaways: Contracts and Disclaimers

Fire department officials and chief officers need to be mindful of pitfalls that might be created by hastily created documents professing to describe terms and conditions of employment in the fire service. A document describing terms and conditions of employment, such as an employee handbook, combined with related action consistent with the terms of that document might contain language which could be interpreted as a promise or contract of employment which would be a binding agreement.

Well-crafted disclaimers, prominently included in any employment-related document, regularly reinforced by orientation and consistent action by administrators are critical in the effort to help the fire service avoid unintended consequences related to fire service employment.

Brian J. O'Connor has been an attorney with Ottosen Britz Kelly Cooper & Gilbert & DiNolfo, Ltd. since 2004. He has presented at various fire service events such as the Illinois Alliance of Fire Protection Districts and the Northern Illinois Alliance of Fire Protection Districts as well as local fire service-related organizations. Additionally, he has authored many articles for various fire service publications and organizations.

LEGISLATIVE UPDATE

Continued From Page 3

HB 2141 (Davis) - OPPOSE

Removes the requirement that the 10 years' experience criteria for appointment to fire chief must be at the fire department from which the appointment is being made. Provides that a person not meeting any of the four specified qualifications may be hired as fire chief on the condition that the person obtain one of the applicable certifications within one year of appointment.

Current Status: Returned to House Rules Committee

HB 2206 (Yingling) - OPPOSE

Creates the Local Government Residential Inspection Limitation Act. Provides that except for a fire, medical, or police emergency or as otherwise permitted by specified provisions of the Fire Investigation Act, a unit of local government may not conduct a physical inspection of residential property without the voluntary consent of the owner or occupant, a lawful warrant, or court order.

Current Status: Returned to House Rules Committee

2019 Legislative Day—Springfield





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