

Fire GUARD



www.niafpd.org

A Publication of the Northern Illinois Alliance of Fire Protection Districts

Winter 2020

Letter from the President



I trust that you had a joyous, happy and rewarding holiday season with family, friends and all those special people both close and far. But, once again, for all the preparations, shopping, planning, anxiety and finally excitement of the season -- the holidays abruptly end. Then comes the long dry spell with no holiday breaks until spring. Alas, you can break up that routine winter schedule by planning to attend the 27th Annual NIAFPD Conference!

The conference committee has been busy for months putting together the finest fire service educational conference focusing on timely issues facing the fire protection districts in our region. Registration is still open to attend the conference on Thursday, January 23rd through Saturday, January 25th at the Oakbrook Hills Resort and Conference Center.

As always, Pension Board Trustees will be able to fulfill their complete (and still mandatory) 16 CEU hours at this conference without having to either travel out of state or attend training sessions in multiple locations. But, more importantly, you won't want to miss the opportunity to be updated on the impacts and changes the new pension consolidation legislation will bring to your funds and boards.

And, Trustees, Administrators and Commissioners will find a wide variety of sessions that teach, inform and even entertain throughout the conference. The NIAFPD conference also provides a great opportunity to meet, network and catch up with others in similar positions. Get to know your neighboring district trustees and communicate your experiences -- we all benefit when we share and enlighten each other on all that we do. Whether you are catching up with old friends or making a few new ones, the Annual Conference should not be missed!

Looking forward to seeing you all at the conference. And, if we haven't yet met, please feel free to stop me any time and introduce yourself.

Letter from the Executive Director



A new year. January 2020. A time when our vision is also 20/20 for all the goals we want to accomplish! I can clearly see growing our organization to best serve the needs of all of our fire protection districts at the top of the new year resolution list!

Just like the fit and feel of a pair of favorite winter mittens, it is a reassuring to know that the NIAFPD mainstay -- The Annual Conference -- is just a week away! For those procrastinators who have promised in the new year to be more proactive, we have made it very easy to still register online for the January 23-25th educational event. Visit the website at www.niafpd.org.

As we resolve in this new year to continue good practices, accomplish a personal goal or work to improve on a bad habit, please also commit to active participation with the NIAFPD. Together we can accomplish our objectives that then also makes us all stronger as individual organizations. We need your participation with the NIAFPD by attending the conference, by reading the newsletter, sharing information on our social media sites and updating your contact information as needed. Engage with the NIAFPD to receive the benefits of your membership.

In a time with many changing variables, it is comforting to know that one constant remains -- the comradery, dedication and talents of our NIAFPD members. Looking forward to meeting you at the NIAFPD conference.

Denise Kauffman • niafpd1@gmail.com • (847) 951-2482



Two Approaches to Cannabis Employment Policies

by Ryan R. Morton, Ottosen DiNolfo Hasenbalg & Castaldo, Ltd.

The new year is upon us and hordes of people are lining up outside newly opened cannabis dispensaries throughout the state. That initial fervor to legally purchase cannabis demonstrates part of the reason why state lawmakers and Governor J.B. Pritzker were so excited to pass and sign the Cannabis Regulation and Tax Act (CRTA) (410 ILCS 705/1, et seq.) last year. The State is anticipating—likely, over-anticipating—a windfall of tax revenue from the sale of marijuana and cannabis-infused products to anyone over the age of 21.

In their haste to ensure cannabis sales could start on January 1, the General Assembly initially failed to include an exception for law enforcement and firefighters, except when those employees were on duty. That omission confused many in those sectors, since the comparable Compassionate Use of Medical Cannabis Program Act (410 ILCS 130/1, et seq.) prohibits active duty firefighters from using medical marijuana at any time, not just while on duty. Why would it be acceptable to use marijuana for recreational purposes off-duty but not for medical reasons?

The legislature eventually realized its mistake and addressed that discrepancy by amending the CRTA during the veto session in November 2019. However, the amended section does not mirror the medical cannabis act. The difference between the two laws allows employers to choose between two very different policy options: (1) prohibiting cannabis use while on duty or on call, or (2) prohibiting cannabis use at any time (zero tolerance).

Prohibiting Cannabis Use While on Duty or on Call

The exact language of the CRTA states that the Act “does not permit . . . the use of cannabis by a law enforcement officer, corrections officer, probations officer, or firefighter while on duty.” (410 ILCS 705/10-35(a)(8)). In that regard, a district’s policy toward cannabis use should not be any different than it currently is for firefighters. Cannabis is still considered a controlled substance, both federally and when possessed in large amounts (more than 30 grams) in Illinois. Therefore, any existing policy that prohibits the use of unlawful or controlled substances still covers cannabis as it relates to firefighters.

Similarly, nothing in the CRTA prevents an employer from disciplining a firefighter for being under the influence of cannabis while on duty. If a supervisor has a “good faith” belief that a firefighter is impaired by cannabis at work, the district can take appropriate action. “Impairment” means the employee manifests specific, articulable symptoms while working that decrease the

person’s ability to perform firefighters’ duties. Those symptoms include changes to speech, physical dexterity, agility, coordination, and demeanor, as well as irrational or unusual behavior or negligence or carelessness in operating equipment or machinery. A disregard for the safety of others and involvement in a serious accident also qualifies as possible symptoms of impairment.

To fully incorporate the CRTA, all policies should also include prohibitions on using cannabis in the “workplace” and while “on call,” including definitions for both terms. The new law already prohibits the use of cannabis on public property, but more explicit policy language makes it clear cannabis cannot be used on the premises or at any place where duties are being performed.

Prohibiting Cannabis Use at Any Time (Zero Tolerance)

Senate Bill 1557 made several changes to the CRTA, including the addition of language that allows districts to prohibit cannabis use or possession by firefighters “on or off duty.” Importantly, this “zero tolerance” option does not apply to other employees who work in a fire department; those employees are still prohibited from using cannabis or being under the influence of cannabis only while on duty. Even for firefighters the status quo is only a prohibition for on-duty use of cannabis. Districts must affirmatively adopt a policy to prohibit the use of cannabis at all times by firefighters.

The complication for many districts, though, is that the amendment explicitly states that provisions in collective bargaining agreements prevail over department policies in this area. Union members have a right to bargain over any policy that would restrict cannabis use beyond the basic requirements of the CRTA. One final caveat is that employers may not take adverse employment action against an employee solely based on someone else in the employee’s household lawfully possessing or consuming cannabis.

Choosing Between Policies for Firefighters

District boards across the state are divided over the best policy approach to take regarding cannabis. Those in favor of “zero tolerance” point out that the restrictive policy makes it easier to discipline firefighters when necessary. If cannabis use is prohibited only while on duty, then a positive drug test could be explained simply by saying the firefighter used cannabis while off

Continued on Page 10



Springfield Legislative Update



By: Liz Brown-Reeves, NIAFPD Lobbyist

The General Assembly wrapped up legislative work for 2019 following the end of Veto Session on November 14. Lawmakers return for Spring Session on January 28th.

Veto Session ended with some surprising news with the announcement that Senate President John Cullerton is planning to retire in January. The race to replace President Cullerton is underway with three announced candidates, Senators Kimberly Lightford, Don Harmon, and Elgie Sims. The election to select a replacement is set for January 19.

With Democratic Gov. JB Pritzker having vetoed only eight of the 599 bills that passed both chambers during the Spring Session, a number of new legislative proposals surfaced during the Veto Session.

Pension Consolidation

At the recommendation of a task force formed by Pritzker, the General Assembly approved the consolidation of 649 suburban and downstate police and firefighter pension funds into two, with the intended purpose of generating billions of dollars in additional earnings and cutting administrative costs over the next 20 years. The bill was effective immediately.

NEW LAWS BEGINNING JAN 1

Minimum wage

The state's minimum wage will increase by \$1 an hour to \$9.25 an hour on Jan. 1. It is the first increase since 2010. A 75-cents an hour increase is scheduled for July 1. After that, the minimum wage will increase by \$1 an hour each year until it hits \$15 an hour in 2025.

Vehicle fees

License plate fees increase by \$50 to \$151 a year. Fees for electric cars are going up to \$248 a year, from the \$35 every two years now in effect.

Traffic fines

Several traffic fines are going up in the new year. The fine is increasing to \$250 for failing to reduce speed and move over when emergency vehicles are on the highway. Also, the fine for failing to reduce speed and move over in a construction zone is going from \$10,000 to \$25,000.

Mental health

In response to a number of suicides by first responders, there will be new training on how to recognize work-related stress and other issues that can lead to suicide. They also will be trained on how to help a person showing signs of distress.

No watching movies while driving

You're not supposed to talk on the cell phone when you drive. Lawmakers have added to that that you shouldn't watch streaming videos while you drive.

Sexual harassment

Public and private employers will be required to give employees training to combat workplace sexual harassment. The new law also prohibits private employers from requiring employees to sign non-disclosure agreements covering sexual harassment situations. Some hotel and casino employees will also have to be equipped with devices that can alert security if a person needs assistance.

2020 LEGISLATIVE ELECTIONS

The deadline for candidates to file nominating petitions for the 2020 Election cycle has concluded. While petitions have been filed, objections to the petitions are still underway, thus candidates appearing on the March Primary Election ballots and November General Election ballots are still up in the air.

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NIAFPD Checklist:

- ✓ Renew your NIAFPD Membership
- ✓ Attend the NIAFPD Annual Conference on Jan. 23-25, 2020
- ✓ Notify the NIAFPD of any Trustee name, email or address changes
- ✓ Like and Follow the NIAFPD on Facebook, Instagram and LinkedIn
- ✓ Forward information about your District to niafpd1@gmail.com
- ✓ Visit the website often for NIAFPD updates www.niafpd.org

Legislative Liaison NIAFPD

By: Ronald Kubicki, Legislative Liaison NIAFPD

Greetings, I hope all is well and you all enjoyed a safe and happy holiday season.

As I prepare for the NIAFPD Conference at the end of the month, I am also getting organized for the upcoming 101st Legislative General Assembly in Springfield. The Illinois Fire Caucus met back in mid-November and came up with a list of caucus initiatives that we will present as new bills in January. Following are a few of those initiatives presented and passed by the caucus that could help your district:

1. Submitted by the IL Fire Chiefs -- To introduce legislation that would expand upon Public Act 101-0056 that was passed last year and became law as of January 1, 2020. This legislation would allow a Deputy Chief and Assistant Chiefs to use emergency lights during an incident response. This change would be a positive step, particularly for volunteer departments and districts. This is an issue that is more prevalent in volunteer departments and districts but as a fire service family we need to stick together! In many of the down state districts, they do not have a full-time fire chief or a full-time fire district so they must rely on volunteers to protect their residents. Many of the volunteers must use their own vehicles to respond to emergencies. Many times, the Chief cannot respond and an assistant or Deputy Chief responds using their own vehicle.
2. Submitted by the IL Fire Chiefs -- Back in July of 2019, the State of Illinois increased the Motor Fuel Tax to \$.38 per gallon and \$.45.5 per gallon on diesel fuel. This new tax has put another burden on local fire departments and fire districts. The proposed legislation has two components. For those fire districts that own a fuel distribution system providing fuel exclusively to other municipal or fire district vehicles for official use, those sales would be tax free. The second component would be relief from the Motor Fuel Tax for those vehicles purchasing fuel at a non-municipal or fire district exempt fuel

station. This could be done in several ways such as a rebate or having the tax deducted at the point of sale.

As always, Liz Brown and I will stay on top of these and any other issues that come up in the session that may affect Fire Districts.

The House and Senate Legislative Calendars are available for review at www.ilga.gov. Session starts on January 28 and will run through the end of May.

On the national level, I am pleased to report that one of the initiatives that we have been working on in Congress the past few years has passed. The National Firefighter Registry Program to track exposures now has a web link that can be used by any and all fire departments and districts throughout the United States. www.cdc.gov/niosh/firefighters/registry.html

This program was a hard sell, but the benefits could save lives. It also shows me that our work each year in Washington at the CFSI does pay dividends.

The 2020 Congressional Fire Service Institute (CFSI) is scheduled for April 28, 29 and 30th. For information please feel free to contact me at ronaldkubicki@comcast.net.

There is still time for you to contact your local legislators and invite them to the NIAFPD Annual Awards Luncheon on Saturday, January 25th from 12:30 to 1:45 p.m. This is a great way to get them involved with your district and to let them know just what we as an association are doing to make all our members better educated on issues in the fire service. It also gives you a great chance to sit with them over lunch to let them know more about you and your fire district. By reaching out to them, you will open doors that can lead to important dialogue when they need a little help understanding an issue that relates to the fire service.

In closing, please keep up the good work you do for your districts and your communities. I hope to see all of you at the Annual Conference.

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The Fed Cuts Short-Term Rates and Long-Term Yields Bounce

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

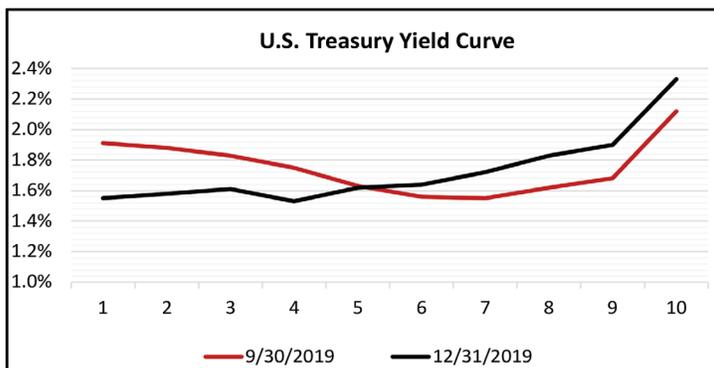
Key Points

- **Short-Term Rates:** After three 0.25% rate cuts during 2019 bringing the fed funds rate to a range of 1.50% to 1.75%, the Federal Reserve has put additional rate cuts on hold.
- **Longer-Term Bond Yields:** Bond yields on longer-term maturities moved higher during the quarter as fears for a recession in the U.S. economic growth eased. The U.S. Treasury yield curve regained an "upward slope" further giving investors comfort that an economic slowdown is not imminent.
- **Low Inflation, Modest Growth and Global Interest Rates:** While there is room for interest rates to move higher, as long as inflation and domestic growth both continue in the neighborhood of 2%, increases will likely be muted. As has been the case for some time, very low yields on foreign sovereign debt limits the upside in U.S. yields.

decade that just ended with the rate on the 10-year U.S. Treasury dropping by 50% during the period.

While interest rates remain very low in the wake of the financial crises, the news for our limited maturity fixed income investors has improved. The U.S. economy continues to show signs of strength fueled in large part by strong readings of consumer confidence. Even though the Fed has trimmed rates recently, short-term yields remain well above the near zero levels observed early in the decade providing an opportunity for investors to actually generate current income on low risk portfolios. Citing U.S. economic strength, the Fed has put additional rate cuts on hold until further notice.

In summary, the yield curve remains relatively flat out to five years, the maturity range where most of our short-term public fund portfolios invest by policy. Given the current rate environment, we are positioning portfolios with a focus on quality. Additional yield can be captured through the addition of allocations to corporate and municipal bond securities if allowed by investment policy. The goal is to maximize current income while providing for broad diversification and principal stability within investment policy guidelines and statutory limitations.



U.S. Interest Rate Trends - the Last 10 Years

Average U.S. Government yields over the last decade are below longer-term historical trend rates as foreign demand and low domestic inflation levels serve to limit upside rate movements. Long-term bond yields have decreased significantly over the

“The allocation to all available asset classes should be determined with careful consideration given to factors such as statutory guidelines, investment time horizon, liquidity requirements, diversification and risk tolerance. The resulting asset allocation should be well documented in your investment policy 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.”

U.S. Government Interest Rates – Looking Back A Decade

	12/31/09	12/31/19	High / Low	Average Last 10 Years
U.S. Government 2 - Year Bond Yield	1.14%	1.57%	2.97% / 0.16%	0.95%
U.S. Government 10 - Year Bond Yield	3.84%	1.92%	3.99% / 1.36%	2.40%
U.S. Government 30 - Year Bond Yield	4.64%	2.39%	4.84% / 1.95%	3.19%

Thank you to the NIAFPD Annual Conference Committee

Thank you to the NIAFPD Annual Conference Committee for the hours spent planning the best educational opportunity in Northern Illinois!



Front Row: L to R – Sue Huiner, Bill Hoffmeister, Dick Swanson.
Back Row: L to R – Nick Kosiara, Michelle Buhr, Jim Grady, Gina Deglefetti, Ron Kubicki, Denise Kauffman.
Not pictured: Jeff Janus, Shawn Flaherty, Karl Ottosen

Ask your legislators to attend the Annual Conference Lunch!

Have you called your local legislators and asked them to join you at the annual conference for the NIAFPD Awards Luncheon on Saturday, January 25th at 12:30 pm? If you need assistance contacting your legislators, call us and we can help! (847) 951-2482.

Karl Ottosen has announced a new name for their firm. Please note that as of January 1, 2020 they are now Ottosen DiNolfo Hasenbalg & Castaldo, Ltd. with a new website: ottosenlaw.com and new email addresses ending in @ottosenlaw.com



Still time to register!

Join us for the Annual Conference on January 23rd - 25th!

Oak Brook Hills Resort and Conference Center

Sessions include:

- Fire Commission Legal Update
- 2020 Insight into Collective Bargaining Trends
- Mental Health and Wellness Panel
- How to be a Fire Service Legislative Advocate
- Smoking Out Issues with Legalized Marijuana
- Anatomy of a Disciplinary Grievance -- Mock Hearing
- Risk Assessment for Article 4 Pension Funds
- After the Decision:
 - Defending Pension Board Disability Determinations on Appeal
 - Investment Advisors -- Standards of Care to Pension Funds
 - IMRF for Fire Protection Districts
 - Fire and Building Codes
 - Pension Consolidation Task Force Report
 - Fiduciary Liability Insurance Case Law Update
 - Community Risk Reduction
 - Open Meetings Act

Register now: www.niafpd1.org

Legalizing Marijuana: What Does that Mean for the Fire Service?



Thank you to Karl Ottosen and Ryan Morton, from Ottosen DiNolfo Hasenbalg & Castaldo Ltd, for the informative presentation to the standing room only audience of trustees and fire chiefs that attended the Fall Seminar.



Member News

Please send news from your district to niafpd1@gmail.com for sharing on social media or in the Fire Guard.

Congratulations to the following new Fire Chiefs:

Chief Trevor Herrmann, Hampshire Fire Protection District
Chief Rob Schulz, Carol Stream Fire Protection District

Best Wishes in retirement to these Fire Chiefs:

Chief Bill Robinson, Hampshire Fire Protection District
Chief Joseph Leone, Addison Fire Protection District



Lisle-Woodridge Fire Protection District Trustee Perry recently received the key to the city at the Village of Woodridge annual Community Recognition Award Ceremony for providing positive contributions to the community. Congratulations!

Trustee Andrew Skyba from Norwood Park Fire Protection District recently celebrated his 30 year anniversary on the board. Congratulations and thank you for your many years of service!

In Memoriam

Retired Deputy
Chief William Gitzke,
Cary Fire Protection District,
passed away on November 15,
2019. Rest in peace.



Lisle-Woodridge Trustee Wang joined the crew at Fire Ops 101 to learn about firefighting in November of 2019.

Please send us news about your district and your trustees to include in our "Member News" and "In Memoriam" sections in every Fire Guard newsletter.

Forward all photos and news you wish to share to niafpd1@gmail.com.

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Membership Renewal is Now Due!

Your membership investment renewal forms have been sent. If you have not yet done so, please review all information and add the names of any new trustees or personnel so that we can keep our records up to date! This will also be the opportunity for you to correct any new building locations or email addresses. Thank you!

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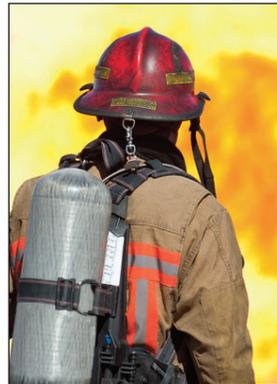


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duty. Since there is still no reliable test to pinpoint when cannabis entered a person's body, it is conceivable that cannabis could have been ingested days or weeks earlier.

On the other hand, some district boards question whether prohibiting the use of a legal substance outside of work is an invasion of the employees' privacy, regardless of what the law says. Districts do not restrict the use of alcohol and other legal products outside of work, so why should cannabis be treated differently? Simply following the law as written also establishes one uniform policy for the entire department, treating non-firefighting employees the same as firefighters.

Then again, a "zero tolerance" recreational use policy harmonizes with the prohibition against using medical cannabis while off-duty, treating both types of cannabis users the same.

Once district boards decide which policy to institute, they should consult with legal counsel to tailor the policies and, if necessary, collective bargaining agreements to their specific desires. Until those policies are adopted, the CRTA controls any conflict between the law and current drug policies. Also, once the policies are in effect, the policies must be enforced even-handedly, since failing to do so could result in a violation of the new law.

Ryan R. Morton is an associate with the law firm of Ottosen DiNolfo Hasenbalg & Castaldo, Ltd. in Naperville. He graduated from the John Marshall Law School in June 2017 and holds an undergraduate degree in journalism from Northwestern University. Prior to earning his law degree, Ryan worked for six years as a radio news director, covering local governments throughout Northern Illinois. He focuses his practice in the areas of municipal, school, and fire district law, as well as public pension and public labor and employment law. He has also presented for the Northern Illinois Alliance of Fire Protection Districts and has written many articles for fire service publications.

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