

Fire GUARD

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A Publication of the Northern Illinois Alliance of Fire Protection Districts

Summer 2019

Letter from the President



As you all know, our Executive Director, Kathy Haage, announced her well-earned retirement this past January. Faced with the challenge of finding the perfect replacement for her, the Board of Directors formed a Selection Committee made up of Secretary/Treasurer Bonnie Bayser, Director Brent Frank and myself. Our search delivered many inquiries and resumes from some very well qualified candidates. We then screened all the applicants, selected final candidates and conducted interviews.

After much work and deliberation, we now are very pleased to introduce our new Executive Director, Denise Kauffman. Denise is currently the Executive Assistant to Fire Chief Tony Huemann of McHenry Township Fire Protection District and also served in that role at the Lake Zurich Rural Fire Protection District. Denise has extensive experience in local governments, various governing boards and even worked as part of a U.S. Senator's staff in Washington, DC. Denise has a degree in Journalism and Public Relations and is also comfortable in working on websites and social media platforms among many other talents.

She started with the NIAFPD on July 1st and we are very excited to get to know her as she gets to know the NIAFPD and all of our membership. Kathy has offered her time to continue on for a while as she shows Denise the ropes and ensures a smooth transition. So, please welcome Denise to the family of the Northern Illinois Alliance of Fire Protection Districts!

Letter from the Executive Director



I am truly honored and excited to join the NIAFPD as your new Executive Director. Kathy Haage's footprint has undoubtedly left some big shoes to fill. I am lucky to be joining a fantastic team and look forward to getting to know all of you who make up this inspiring community.

I would like to thank the Board of Directors and Kathy for their support and commitment to make the transition as seamless as possible. I am grateful for their mentoring, their dedication to this organization and for the new budding friendships.

This newsletter, the NIAFPD website and social media provide the opportunity to share our stories and news. I welcome your input and encourage communication. Send photos or drop me a quick email. Together as a unified, coordinated, efficient organization we can attain the goals of the NIAFPD.

I look forward to a long relationship exploring the challenges, meeting the faces of the NIAFPD and getting to know your fire districts. Please plan to attend the October 26th Fall Seminar! See you there!

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

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PTSD and its potential for line-of-duty disability benefits

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

In the past, firefighters' disability claims involving certain psychological disorders—namely post-traumatic stress disorder (PTSD)—have typically resulted in an award of non-duty disability benefits. Nevertheless, some recent case law suggests otherwise for firefighters who have the proper set of facts to support their claim.

In *Prawdzik v. Board of Trustees of the Homer Township Fire Protection District Pension Fund*, 2019 IL App (3d) 170024, Gregory Prawdzik appealed the decision of the Homer Township Fire Protection District Firefighters' Pension Fund, denying Prawdzik a "line-of-duty" disability pension. Prawdzik was employed as a firefighter for the Homer Township Fire Protection District Fire Department starting on May 8, 2006. In 2008-09, during his employment as a firefighter, Prawdzik was deployed for military duty in Afghanistan for a 10-month period. He was deployed to the eastern border of Afghanistan, near Pakistan, where he served as a combat medic and combat advisor. Prawdzik testified that he encountered many life-threatening incidents while he was in Afghanistan. For example, on one occasion, a rocket attack occurred while Prawdzik was in the "chow hall." Prawdzik testified that the door bowed in, all the lights shut off, the emergency power came on, and the room was filled with dust. He felt that his life was in jeopardy.

Prawdzik testified that he also experienced IED attacks. Once, Prawdzik was driving in a convoy of U.S. military mine resistant ambush proof (MRAP) vehicles when the convoy was struck by an IED. Prawdzik heard a loud boom and "everything went black." He was thrown to the back of the vehicle and hit his head. The blow rendered him unconscious. Prawdzik testified that, while he was in Afghanistan, he felt as though his life was under constant threat and that he was going to die there.

Prawdzik returned from Afghanistan and resumed working as a firefighter for the District on November 1, 2009. After he returned from Afghanistan, Prawdzik suffered from a variety of symptoms that he did not have before his deployment, which he acknowledged were symptoms of PTSD. He sought treatment through the Department of Veterans Affairs (VA), which later formally diagnosed him with PTSD due to "the post-military stressors of unstructured time and frustration over continuous Iraq and Afghanistan war news." The VA determined that Prawdzik's PTSD was related to his military service and awarded him VA disability benefits for PTSD, among other conditions.

Prawdzik testified that he experienced panic attacks and related symptoms while on duty as a firefighter in 2009 and 2010 but that he did not report them to the District because he was hoping the situation would "resolve and take care of itself." He also experienced panic attacks when he was not on duty. While attempting to complete a driving program at work, Prawdzik was "having issues with getting in the vehicles and driving the larger vehicles." He testified that the MRAP vehicles he drove in Afghanistan were built similarly to fire department trucks in that they had the same chassis that a fire engine has, as well as the same steering column, transmission, brake system, and an identical inside cab area.

On July 13, 2011, Prawdzik informed the District that he suffered from PTSD. He discussed some of his experiences in Afghanistan and reported that one of the things that bothered him at work was driving the fire engine and other trucks, noting the similarity between these trucks and military vehicles.

On November 7, 2014, Prawdzik was working full duties as a firefighter when he was dispatched to an emergency call. On the way back from the call, the fire truck Prawdzik was driving was shifting roughly between gears. As Prawdzik tried to check the pump shift lever to fix the problem, he inadvertently hit the power switch, shutting off all the power in the vehicle while the vehicle was traveling at approximately 45 miles per hour. This event reminded Prawdzik of his experience in Afghanistan when his vehicle was hit by an IED, and it gave Prawdzik the feeling that he was going to die. Prawdzik testified that he had an anxiety attack afterward and that his PTSD symptoms of anxiety got progressively worse thereafter.

On June 18, 2015, Prawdzik filed an application for disability benefits with the Board. Pursuant to the Illinois Pension Code, the Board had Prawdzik evaluated by three physicians. The Board issued a written order granting Prawdzik a "non-duty" disability pension but denying him a "line-of-duty" disability pension. The Board found that Prawdzik was entitled to a "non-duty" disability pension because he was "mentally permanently disabled for service in the fire service" as a result of the "sickness" of PTSD. However, the Board denied Prawdzik a "line-of-duty" disability pension because it found that the disabling PTSD was not incurred in and did not result from the performance of an act of duty or the cumulative effects of acts of duty.

Continued on Next Page

The Board concluded that the “underlying cause” of the claimant’s disabling PTSD was “external to, and independent of, any specific act of duty or to the cumulative effects of acts of duty.” It denied Prawdzik’s claim for a “line of duty” pension on that basis. Prawdzik filed a complaint for administrative review of the Board’s decision in the circuit court of Will County. The circuit court affirmed the Board’s decision and an appeal was filed shortly thereafter.

On appeal, the court began by identifying the standard of review to govern its analysis. The court determined it should review the Board’s decision, and not the circuit court’s ruling; and therefore, noted that the factual findings of an administrative agency are deemed *prima facie* true and correct and may be reversed only if they are against the manifest weight of the evidence. Furthermore, an agency’s decision is against the manifest weight of the evidence only if the opposite conclusion is clearly evident. The court noted that, under this standard, it should affirm the Board’s decision unless the court, after reviewing the entire record, are left with a definite and firm conviction that a mistake has been committed.

The section of the Illinois Pension Code addressing line of duty disability pensions provides, in relevant part:

If a firefighter, as the result of sickness, accident or injury incurred in or resulting from the performance of an act of duty or from the cumulative effects of acts of duty, is found, pursuant to Section 4-112, to be physically or mentally permanently disabled for service in the fire department, so as to render necessary his or her being placed on disability pension, the firefighter shall be entitled to” a line of duty disability pension. (40 ILCS 5/4-110)

To recover a line of duty disability pension, a firefighter need not prove that his job duties were the “sole or even the primary cause” of his disability; rather, it is sufficient that an act of duty was an “aggravating, contributing or exacerbating factor” in the ensuing disability.

The court found that there is no requirement that the duty-related incident be the originating or primary cause of injury, although a sufficient nexus between the injury and the performance of the duty must exist. Thus, a disability pension may be based upon the line-of-duty aggravation of a preexisting condition. Prawdzik testified that his PTSD symptoms became more severe after the November 7, 2014, incident, and the record shows that he was able to perform his job duties as a firefighter until shortly after the November 7, 2014, incident. Only after that incident was he permanently disabled from performing the essential functions of his job.

The court went on to acknowledge existing case law that would maintain its stance in favor of the Board for a police officer in a similar situation, but explicitly rejected adopting this ruling here

on the basis that the Illinois Pension Code defines “act of duty” very differently for police officers than for firefighters. For police officers, the Illinois Pension Code defines “act of duty” as any act of police duty “inherently involving special risk, not ordinarily assumed by a citizen in the ordinary walks of life” that is imposed on a policeman by statutes, ordinances, or regulations, or “any act of heroism having for its direct purpose the saving of a life or property of a person other than the policeman.” (40 ILCS 5/1-113)

For firefighters, by contrast, the Illinois Pension Code defines “act of duty” far more broadly to include “[a]ny act imposed on an active fireman by the ordinances of a city, or by the rules or regulations of its fire department, or any act performed by an active fireman while on duty, having for its direct purpose the saving of the life or property of another person.” (40 ILCS 5/6-110) These differing statutory definitions of “act of duty” entail different standards for awarding “line of duty” disability pensions to police officers as compared to firefighters. Unlike a police officer, a firefighter seeking a line of duty disability pension may establish that his disability is caused by an “act of duty” even if work-related stress was a contributing case, rather than the sole cause, of his disabling psychological condition.

Here, Prawdzik presented evidence of a specific, work-related traumatic incident (the November 7, 2014, incident) that aggravated his preexisting symptoms and rendered his preexisting psychological condition permanently disabling. The court concluded that the manifest weight of the evidence in this case established that Prawdzik’s psychological disability was caused, at least in part, by his work duties. Even when all reasonable inferences are drawn in the Board’s favor, a conclusion opposite of that reached by the Board is clearly apparent, and therefore, the appellate court reversed the holding of the circuit court and remanded the cause back to the Board with instructions to award Prawdzik a line of duty disability pension.

The result of this case could vastly alter the way pension boards review these types of applications, not to mention potentially detrimental consequences for our combat veterans. Specifically, this decision may deter police and fire departments from hiring combat veterans if their general job duties might trigger some preexisting PTSD which would entitle them to receive a line-of-duty disability pension, a concern noted by the court.

Michael Castaldo III is an associate with the law firm of Ottosen Britz Kelly Cooper Gilbert & DiNolfo, Ltd. in Naperville. Michael graduated from Chicago-Kent College of Law in May 2018, holds an undergraduate degree in finance and business management from DePaul University, and received his master’s degree in business administration in May 2019. Michael works with both public sector and private sector clients while focusing on the areas of municipal, corporate, and business law.



Springfield Legislative Update

By: Liz Brown-Reeves, NIAFPD Lobbyist



The General Assembly once again could not finish by its scheduled adjournment of May 31st. A new Governor and Administration coupled with fifty new legislators added to the process and added two extra days into the session. The Illinois General Assembly has adjourned sine die for the Spring Session.

Legislators successfully negotiated a balanced Fiscal Year 2020 budget that received bipartisan support, approved a ballot referendum to allow voters to decide if the state should keep the current flat tax or change to a graduated income tax, legalized recreational cannabis use, increased the minimum wage, overhauled the state's Medicaid managed care program and approved a major expansion to gaming in the state.

Ten years after Illinois last passed a capital infrastructure bill, the General Assembly approved a \$45 billion infrastructure plan that will fund billions of dollars of backlogged road and bridge projects as well as vertical projects such as schools, state higher education facilities and other state-owned buildings.

A rundown on the major bills can be found below. The General Assembly returns to Springfield October 28, 2019 for Veto Session.

HB 105 (Willis/ Cullerton,J) - SUPPORT

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

Current Status: Passed Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

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 Both Chambers/ Sent to Governor

Continued on Page 8

Legislative Liaison NIAFPD

By: Ronald Kubicki, Legislative Liaison NIAFPD

As most of you know by now, the 101st General Assembly Spring Session ended with a bang. They passed a budget that included a lot of new taxes and some good things for the fire service. Check out Liz's report for the complete lowdown. I know a lot of you were concerned about SB37. Liz will report on the status of that as well.

On Friday June 28th while attending the IAFPD Annual Conference in Peoria, I represented the NIAFPD at a meeting along with members of the Illinois Fire Chiefs Association and the Illinois Association of Fire Protection Districts to discuss how these three organizations can better serve our members through more joint programs. We discussed a wide variety of topics and ideas that we feel will help reach our goal. We have decided to hold at least three meetings a year, one at each other's conference to review what is going on in each organization. We also decided to work even closer on our annual Legislative Day activities. Each organization will pick up the registration cost of two members from the other organizations at their respected conference. This way it ensures that there will be representation from each organization at all three conferences. The partnership between these three organizations has been a major factor in the promotion of the fire service throughout our state. I only see great things for us in the future.

Here are some upcoming dates to remember:

IL Fire Chiefs Conference October 13 - October 15th, Peoria

101st General Assembly Veto Session, October 28, 29, 30 and November 12, 13, & 14th, Springfield

NIAFPD 27th Annual Conference, January 23 - 25, 2020, Westmont/Oak Brook

CFSI April 21 - 24, 2020, Washington, DC

I would like to welcome Denise Kauffman to the position of Executive Director of the NIAFPD. Denise has worked at both the Lake Zurich Fire Protection District and is currently with McHenry Fire Protection District. She has some very tough shoes to fill after Kathy Haage's retirement, but I am sure she will do great. I look forward to working with her over the next few years. Welcome aboard, Denise.

In closing, if you need any information or you might have a suggestion on any legislation please feel free to contact me at 708-768-1668 or at ronaldkubicki@comcast.net.

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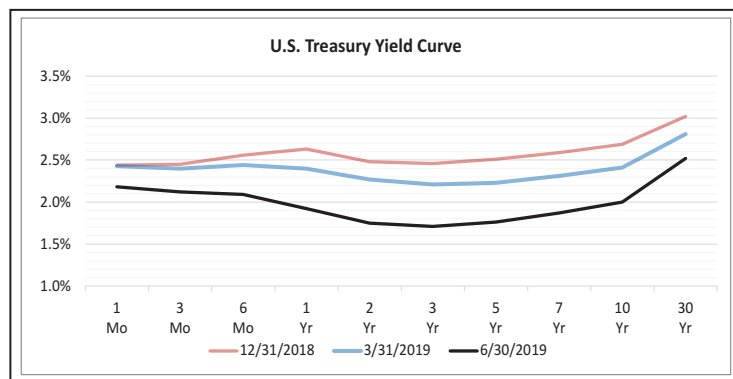
By: Thomas S. Sawyer, Managing Partner, Sawyer Falduto Asset Management, LLC

Key Points

- **Fixed Income:** The Federal Reserve left rates unchanged at the June meeting, though the market expects a rate cut in July and is currently pricing in multiple rate cuts in 2019. The yield curve remains inverted with intermediate bond yields below both short and long-term yields.
- **Economy:** Expectations for economic growth remain tempered based on global trade concerns. Growth continues to be positive, but at a slowing rate. Recent economic data releases, employment and inflation in particular, may call into question the pace of anticipated Fed rate cuts.
- **Equities:** The on-going trade war and tariffs continue to be a primary driver of market volatility. Stocks delivered positive 2Q returns over a volatile path as indicated by the monthly returns for the S&P 500: April +4.05%, May -6.35%, June +7.05% (best June since 1955). Slowing earnings growth and increased recession risk could be headwinds.

Bond Yields Move Sharply Lower

Interest rates across the U.S. Treasury Yield Curve moved sharply lower with the yield on maturities in the 1 to 7-year range dipping below 2 percent. At this writing, the curve is inverted from the 6-Month T-Bill to the 10-Year Treasury Note.



As anticipated, the Federal Reserve left interest rates unchanged at the June meeting holding the target range at 2.25% - 2.50%. Following through on recent guidance, the Federal Reserve laid the groundwork for a rate cut potentially as soon as July of this year. Although the U.S. economy continues on a positive track, concerns over the global economic environment have lowered expectations for both U.S. economic growth and inflation giving the Federal Reserve cause to cut rates in order to sustain the current expansion.

The short end of the yield curve has already discounted at least one rate cut by the Fed this year. Intermediate to long-term yields continue to be pushed lower over uncertainty surrounding global economic growth and the relative value of U.S. debt as compared to global debt around the world. Global debt totaling \$13 trillion now trades with negative yields.

The inversion of the yield curve remains a concern for investors. While not a causal relationship, the Treasury market has been largely consistent in the past discounting periods of slowing economic growth.

Many readers of FireGuard maintain short-term, or limited maturity, fixed income portfolios for cash management purposes. Interest rates may once again become compressed with short-term yields seemingly headed to the sub-2% range making the deployment of short-term cash and reserves challenging.

Regarding portfolio structure, our limited maturity fixed income portfolios are structured to provide a high level of principal stability and the efficient reinvestment of maturities and cash flows. For portfolios that are managed to longer investment time horizons, we continued to hold average maturities/durations conservatively positioned relative to benchmarks and 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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Springfield Legislative Update

Continued from Page 4

SB 40 (Anderson) - OPPOSE

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

Current Status: Bill is Dead

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: Bill is Dead

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: Bill is Dead

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