AGENDA

MOLINE FIREFIGHTERS' PENSION BOARD

October 23rd, 2014 at 8:30 a.m.

Conference Room-Moline Fire Department
1630 8th Avenue, Moline, Illinois

Trustees: **Brian Vyncke (President)** **Mike Lucchetti (Elected Trustee)**
Mike Rasche (Secretary) **Kathleen Carr (Treasurer)**
Scott Raes (Appointed Trustee)

Notice is hereby given that the Board of Trustees of the Moline Fire Pension Board will hold a meeting that will commence at 8:30 a.m. on Thursday October 23rd, 2014 in the Moline Fire Department Conference Room, 1630 8th Avenue, Moline, Illinois to discuss the public business as set forth in the Agenda below.

1. **Meeting Call to Order**
2. **Roll Call of Members**
3. **Approval of Minutes**
   - A. Minutes of the July 24, 2014 Regular Meeting
   - B. Minutes of the August 26, 2014 Special Meeting
   - C. Minutes of the September 26, 2014 Special Meeting
4. **Report/Expenses**
   - A. Mitchell, Vaught & Taylor
   - B. Expenses
   - C. Treasurers Reports
5. **Correspondence**
   - A. IPFA 2014 Fall Pension Seminar
   - B. U.S. Census Bureau 2014 Annual Survey of Public Pensions
   - C. Reimer & Karlson LLC Newsletter
6. **New Business**
   - A. Acceptance of Membership Application-Anthony Brown
   - B. 2015 Meeting Schedule
   - C. Termination of Benefits-Kozeliski
   - D. Contracted rates with University of Iowa Hospitals
   - E. Lauterbach & Amen Proposal
   - F. Reimer & Karlsen LLC Proposal for Services
   - G. Invoice from Dobrovolny Law Offices
7. **Other Business**
8. **Public Comment**
9. **Adjournment**

Any person with disabilities who wishes to attend the meeting who requires a special accommodation, or any other person requiring a special accommodation in attending the meeting, should notify Andrea Awbrey, Moline Fire Department, 309-524-2250, at least 24 hours prior to the scheduled meeting time.

Minutes

MOLINE FIREFIGHTERS' PENSION BOARD

Thursday July 24th, 2014 – 8:30 a.m.
Conference Room-Moline Fire Department
1630 8th Avenue, Moline, Illinois

Board Members Present:
Kathleen Carr (Treasurer)
Mike Rasche (Secretary)
Mike Lucchetti (Elected Trustee)
Scott Raes (Trustee)

Others Present:
Andrea Awbrey (Recording Secretary)
William Yocius Jr. (Mitchell, Vaught, and Taylor)
Jim Nowicki (Mitchell, Vaught, and Taylor)

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1. Acting President Mike Lucchetti called the meeting to order at 8:32a.m.

2. Roll Call of Members-Brian Vyncke-Absent

3. Approval of Minutes
Kathy Carr, seconded by Scott Raes, made a motion to approve minutes dated June 11, May 7, April 25, April 24, and July 14, 2014. Motion carried unanimously.

4. Review of Closed Session Minutes
Kathy Carr, seconded by Scott Raes, made a motion to approve and keep executive session minutes dated July 14, May 7, and April 25 closed for a six month period. Motion carried unanimously.

4. Report/Expenses:
   A. Mitchell, Vaught, and Taylor
   William Yocius and Jim Nowicki presented the Quarterly Investment report. Scott Raes, seconded by Mike Rasche, made a motion to allocate 70% to Blair and 30% to Mitchell, Vaught, and Taylor. Motion carried unanimously.
   B. Expenses
   Scott Raes, seconded by Kathy Carr, made a motion to approve expenses as of 6/30/14. Motion carried unanimously.
   C. Treasurer's Report
   Scott Raes, seconded by Mike Rasche, made a motion to approve the Treasurers Report as of 5/31/14. Motion carried unanimously.

5. Correspondence
   A. Pension Seminar Invite from Mitchell, Vaught, and Taylor
   All correspondence was reviewed with no action taken

6. New Business
   A. Affirmation of Mayor's Reappointment of Scott Raes to the Firefighters Pension Board for a three year term to expire April 30, 2014.
   Kathy Carr, seconded by Mike Rasche, made a motion to accept the reappointment. Motion carried unanimously.
   B. Application for Widow Benefits-Hallquist
   Kathy Carr, seconded by Scott Raes, made a motion to accept the pension application for Loretta Hallquist. Motion carried unanimously.

C. Duty Disability Order-Sottos
Kathy Carr, seconded by Mike Rasche, made a motion to accept the Order and Certificate of Payment for Jerry Sottos. Motion carried unanimously.

D. Acceptance of Audit Report
Scott Raes, seconded by Mike Lucchetti, made a motion to accept the City's portion of audit report. Motion carried unanimously.

E. Pension Board Annual Report to Municipality
Kathy Carr, seconded by Scott Raes, made a motion to accept the annual report to the municipality. Motion carried unanimously.

F. Annual Actuarial Report
Scott Raes, seconded by Kathy Carr, made a motion to accept the actuarial report. Motion carried unanimously.

G. Department of Insurance Annual Report
Mike Rasche, seconded by Scott Raes, made a motion to approve the Department of Insurance Annual Report. Motion carried unanimously.

H. Election of Officers
Kathy Carr, seconded by Scott Raes, made a motion to keep the board positions as is. Motion carried unanimously.

7. Other Business
There was not additional business.

8. Public Comment
There were no public comments.

9. Adjournment
Scott Raes, seconded by Mike Rasche, made a motion to adjourn at 9:32a.m. Motion carried unanimously.

Respectfully Submitted
Andrea J. Awbrey
Recording Secretary

Approved by,
Mike Rasche
Secretary

Special Meeting

MINUTES

MOLINE FIREFIGHTERS' PENSION BOARD

Tuesday August 26, 2014 10:45a.m.
Moline Fire Department Conference Room
1630 8th Avenue, Moline, Illinois

Board Members Present: Brian Vyncke (President)
Kathleen Carr (Treasurer)
Mike Lucchetti (Trustee)
Mike Rasche (Secretary)
Scott Raes (Appointed Trustee)

Others Present: James Dobrovolny (Moline Fire Pension Board Attorney)
Andrea Awbrey (Recording Secretary)

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1. **Special Meeting Called to Order**-President Brian Vyncke called the meeting to order at 10:48a.m.

2. **Roll Call of Members**-All members present

3. **Public Comment**-None

4. **Hearing on the Tolling of Administrative Review Time Limits for the Disability Application of Fire Engineer Jerry S. Sottos-** The hearing was turned over to the Board's attorney, Jim Dobrovolny, who served as the Hearing Officer by conference call from his offices in Urbana. This matter is before the Board of Trustees of the Firefighters' Pension Fund of Moline ("Board") to reconsider its previous Order and Certificate of Payment entered July 24, 2014 in this matter in relation to dates of disability and setting of pensionable salary amounts as of those dates of disability.

   Proper Notice was sent to both Mr. Duda, attorney for Mr. Sottos, and Mr. Sottos for today's date and time. Mr. Duda and Mr. Sottos were not present for today's hearing. Mr. Duda had previously advised the Board that he waived the 10 day Notice of Hearing, and that he agreed that today's hearing tolls the running of the 35 days for review or appeal requirements of the Illinois Administrative Review Act. Mr. Duda had previously advised he could be present September 26, 2014 at 10:00 a.m. at the Moline Fire Department, 1630 8th Avenue, Moline, IL 61265 in the second floor conference room.

   Mr. Dobrovolny presented a draft Rehearing Order to the Board to consider, the effect of which would be to toll the 35 day time limit for Administrative Review of the previous Order and Certificate of Payment, and to allow the Petitioner's counsel the opportunity to be present September 26, 2014 when the previously entered Order and Certificate of Payment will be reconsidered.

   Mike Lucchetti made a motion to adopt the written Rehearing Order, seconded by Scott Raes. Motion carried unanimously. See Rehearing Order. Copies to be sent to Mr. Duda and Mr. Dobrovolny.

5. **Adjournment**-Scott Raes, seconded by Kathy Carr, made a motion to adjourn at 11:12a.m. Motion carried unanimously.

Respectfully Submitted,

Andrea J. Awbrey
Recording Secretary

Approved By
Mike Rasche
Secretary

Special Meeting

MINUTES

MOLINE FIREFIGHTERS' PENSION BOARD

Friday September 26, 2014 10:00a.m.
Moline Fire Department Training Room
1630 8th Avenue, Moline, Illinois

Board Members Present:
Brian Vyncke (President)
Kathleen Carr (Treasurer)
Mike Lucchetti (Trustee)
Mike Rasche (Secretary)
Scott Raes (Appointed Trustee)

Others Present:
James Dobrovolny (Moline Fire Pension Board Attorney)
Alanna Jeffrey (Court Reporter)
Thomas Duda (Attorney representing Jerry Sottos)
Courtney Nelson (Recording Secretary)
Leah Miller (Human Resources)
Alison Fleming (Human Resources)
Jerry Sottos (Applicant)
Natasha Sottos (Applicants Spouse)

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1. **Special Meeting Called to Order**-Attorney James Dobrovolny called the meeting to order at 10:15a.m.

2. **Roll Call of Members**-Mike Lucchetti (Trustee) arrived at 11:03a.m.

3. **Public Comment**-None

4. **Reconsideration of previously entered Order and Certificate of Payment Disability Pension Case Sottos-** James Dobrovolny brought question to Alison Fleming in regards to Mr. Sottos salary. February 27, 2013, Mr. Sottos received an anniversary salary increase to $73,829.32 from $72,204.77. Pension contribution was taken out in up until March 8, 2013. As of March 11, 2013 Mr. Sottos started on worker's compensation. Mr. Sottos had 3 separate periods of pension contribution checks deducted in the amount of $262.58 each based on the $72,204.77 salary. Mr. Sottos anniversary increase was processed on June 7, 2013 where he then had a pension contribution check of $303.83 deducted from paycheck. January 12, 2014 there was a general wage increase that would have brought his salary to $75,674.93 but Mr. Sottos was never paid that. Mr. and Mrs. Sottos arrived to hearing at 10:25 a.m., at this time Thomas Duda asked for a short break to talk with Mr. Sottos; meeting reconvened at 10:28 a.m. In March of 2014, Mr. Sottos received a check for accumulated vacation/compensation payout based on $75,674.93 salary. Mr. Sottos was receiving temporary total disability (TTD) compensation benefits up through February 7, 2014 when his worker's compensation settlement contract was approved. Alison Fleming figured the TTD amount on the year prior salary not the current salary which Mr. Duda verified was correct.

   Mr. Duda believes that under the pension code 4-108, Mr. Sottos accumulates service credit if he is a disabled person. Mr. Sottos should not have to make contributions through his effective date that his disability was awarded at his original hearing to receive service credit but is willing to do so. Mr. Duda would like to put into evidence a copy of the settlement contract of the worker's compensation called Exhibit I September 26. Mr. Duda asks to move the board to vote and reinstate original decision.

5. **Executive Session** - Kathleen Carr made a motion to adjourn into executive session pursuant to 5ILCS 120/2c(4) of open meetings act; seconded by Scott Raes; roll call vote: President Vyncke, aye; Treasurer Kathleen Carr, aye; Trustee Mike Rasche, aye; Trustee Scott Raes, aye; motion carried, meeting adjourned at 10:43 a.m. Mike Lucchetti arrived at 11:03 a.m. The meeting reconvened into open session at 11:08a.m.

6. **Disability Pension Application of Firefighter J. Sottos** – Treasurer Kathleen Carr made a motion to amend previous order and certificate of payment to his annual salary on which his pension is based at $73,829.32 and the excess contributions that were withheld as well as an additional $20.00/month per child be refunded to him. Secretary Mike Rashe seconded the motion; role call vote: President Vynke, aye; Treasurer Kathy Carr, aye; Secretary Mike Rashe, aye; Trustee Scott Raes, aye; Trustee Mike Lucchetti, abstain; motion carried. Mr. Dobrovolny will prepare a written decision and order.

7. **Adjournment**-Trustee Raes made a motion to adjourn; Treasurer Carr seconded; motion carried unanimously. Meeting adjourned at 11:10 a.m.

Respectfully Submitted,

Courtney C. Nelson
Recording Secretary

Approved By
Mike Rasche
Secretary

Firefighters' Pension Expenses for Approval as of 10/09/14

Payee	Amount	Description
AFFI	$1,150.00	Conference Registration
City of Moline	$6,570.00	Audit and Actuary Fees
Dobrovolny Law Offices	$5,624.57	Sottos Disability Hearing
Advisory Research	$9,947.09	Investment Fees
Investment Consultant Group	$5,379.90	Investment Fees
Dana	$1,515.12	Investment Fees
MVT	$4,697.36	Investment Fees
Dobrovolny Law Offices	$3,651.57	Sottos Disability Hearing
IPPFA	$775.00	Membership Fee
University of Iowa Health Care	$2,049.60	Sottos Disability Hearing
Total	$41,360.21	

MOLINE FIREFIGHTERS' PENSION
TREASURER'S REPORT
AS OF August 31, 2014

	Debit	Credit
ASSETS:		
Cash - Trust Account	$1,963,429	
Cash - Benefit Account	$9,550	
Investments - Equities	$20,516,605	
Other Investments	$4,122,883	
REVENUES:		
Employer Contributions		$2,634,806
Interest Earnings		$247,017
Employee Contributions		$317,380
Other		$87
EXPENSES:		
Pension Payments - Widows	$429,805	
Pension Payments - Duty Disabled	$385,405	
Pension Payments - Retirees	$2,320,303	
Pension Payments - Separation		
Payroll Services	$4,285	
Medical		
Legal	$5,625	
Investment Fees	$69,601	
State Filing Fee	$4,907	
Seminars	$1,950	
Actuary Services	$2,750	
Audit Services	$3,820	
Insurance Bond	$8,041	
Postage		
Memberships	$104	
Other Supplies	$293	
Other	$3,888	
NET ASSETS		$26,653,953
	$29,853,242	$29,853,242

ILLINOIS PROFESSIONAL FIREFIGHTERS ASSOCIATION

188 Industrial Drive, Suite 438
Elmhurst, IL 60126-1612

V 630-833-2405 F 630-833-2412

ipfa@aol.com www.ipfaonline.org

2014 FALL PENSION SEMINAR Friday, Black Shift, November 7th

Exhibitors **Continental Breakfast** **Break Refreshments** **Lunch** **50/50 Raffle**

Illinois Pensions and the Election- A State Senator's Point of View

The Senate Democratic Deputy Leader will provide his perspective on the election, state and local public pension options, and other legislative matters.

State Senator Terry Link, 30th District

Recent Court Decisions

Court decisions and rulings affecting public pension funds. A description of the Supreme Court ruling concerning health care for retired state employees and its potential impact on related Illinois Supreme Court rulings.

Richard Reimer, IPFA Board Counsel, Reimer & Karlson

Pension Legislation

Commentary concerning proposed legislation impacting one or more of the 18 retirement systems in the State. Will election results change the environment?

Mark Mifflin, IPFA Lobbyist

Asset Allocation Through Volatile Markets

Modern Portfolio Investment Theory considers reduction of risk and increase in the rate of return based on diversification of investments. This presentation will offer different options based on fund asset size.

Tom Sawyer, Sawyer Falduto Asset Management

Illinois Department of Insurance- Investment Schedule Data

A review of acceptable investments vehicles. Also, an analysis of what types of investments are being made by Article 3 and 4 funds, based on fund size.

Kevin Fry, Investment Officer, Illinois Public Pension Division
Travis March, Deputy Director, Illinois Public Pension Division

GASB CHANGES – Pension Accounting, Employer Reporting, and a Pension Coalition Update

The Government Standards Accounting Bureau (GASB) has updated standards for both pension funds and employer reporting. Hear how those changes will impact the fund and employer. Also included will be an update to the second round filing by the Pension Coalition for Internal Revenue Service approval of Article 3 and Article 4 pension funds.

Todd Schroeder, Enrolled Actuary, Lauterbach & Amen
Allison Barrett, Principal, Lauterbach & Amen

Employer Issued Pension Bonds - Another Source of Funding

Both municipal and fire protection district employers have issued Bonds to increase funding levels for their pension funds. Learn the requirements for this method of funding employer costs. The impact to the funding level and actuarial levy calculations will also be explained.

Jerry Marzullo, Attorney, Puchalski Goodloe Marzullo, LLP

Changes in the Energy Sector

Changes to the United States Energy Policy, Gas Exploration Policy, and energy conservation have had an impact on this sector of equity investing. This presentation will describe those changes and their impact on the marketplace.

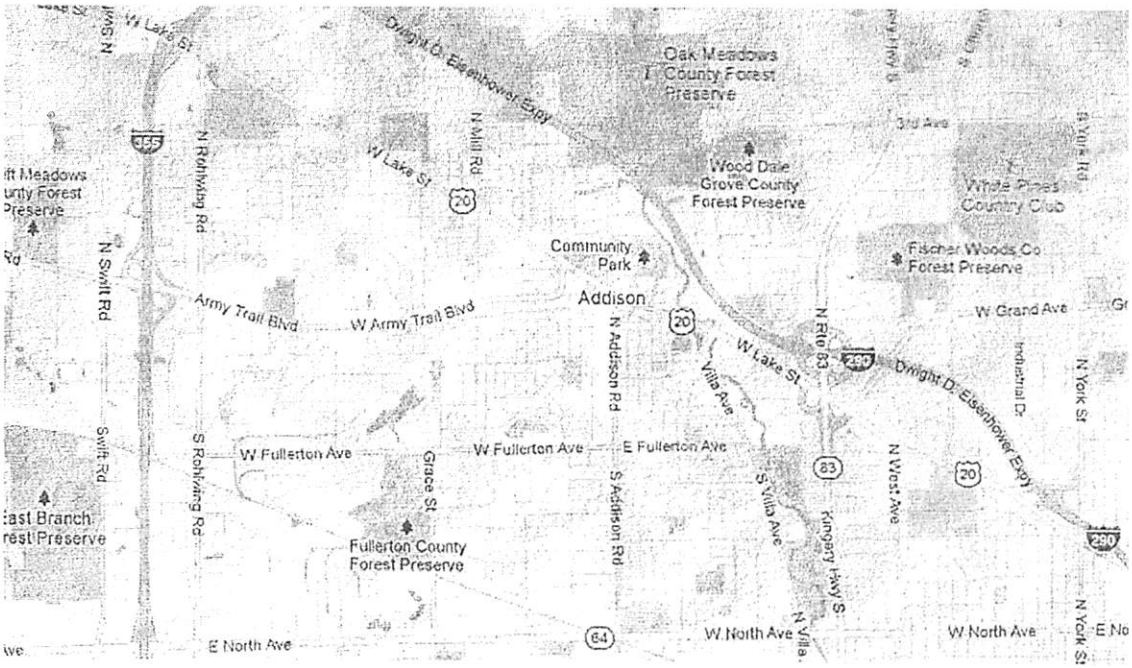
Gary Karshna, President, Capital Gains Inc.

IPFA Members: $115.00 **Non-Members: $140.00** **Walk-Ins: $160.00**

YOUR PENSION PROTECTORS

Empress Banquets **200 East Lake Street** **Addison, IL** **630-279-5900**

Registration: 07:00 to 08:00



Empress Banquets is on the north side of Lake Street:

North of North Avenue
South of I-290, Eisenhower Expressway
East of I-355 and Addison Road
West of Route 83, Kingery Highway

HOTEL:

Hampton Inn & Suites
1685 West Lake Street
Addison, IL
630-495-9511
http://hamptoninn3.hilton.com/

IPFA maintains a database that compiles the funding and rate of return history of all Article 4 funds since 1964 and Article 3 funds since 2004. These reports now include the IDOI calculated tax levy for each fund. A copy of your fund's history will be included in your seminar packet when you attend the 2014 IPFA Spring Pension Seminar.

The Illinois Pension Statute requires continuing education for all pension board members.

This seminar provides up to 8 hours of credits.

Spending Illinois Money in Illinois

2014 IPFA FALL PENSION SEMINAR

Friday 11/7/2014 Black Shift

Empress Banquets 200 East Lake Street Addison, IL 60101 630-279-5900

SEMINAR REGISTRATION FORM

(Please type or print)

Municipality, District, or Firm: _____ Address: _____

City: _____, IL Zip: _____ Phone: _____

SEMINAR FEES: ***IPFA Members: $ 115.00*** ***Non - Members: $ 140.00*** ***Walk-In Registration: $ 160.00***

Avoid the walk-in surcharge by registering on or before Monday, November 3rd

First Name:	Last Name:	e-mail Address:	Member	Non-Member
			$____.__	$____.__
			$____.__	$____.__
			$____.__	$____.__
			$____.__	$____.__
			$____.__	$____.__

TOTAL CHECK ENCLOSED $____.__

Payment must accompany this Registration Form and be received in our office **on or before** Monday, November 3rd to qualify for Registration rates. Reservations received after the above date will be charged walk-in fees. Requests for refunds must be received on or before the above date for full fee refunds. **No refunds** of seminar fees after this date. Please return the completed form in the enclosed envelope, mail it to IPFA, 188 Industrial Drive, Suite 438, Elmhurst, IL 60126-1612, fax it to 630-833-2412, or scan and e-mail to *ipfa@aol.com*. Any questions, call 630-833-2405. For Tax Reporting Purposes our Federal I.D. Number is: 36-2650496.

The Pension Statute requires continuing education credits for all pension board members. This seminar provides up to 8 hours of credits.

For IPFA Office Use: Date: _____ Check #: _____ Amount: _____ Payer: _____

AP-DLE
(06-2014)

UNITED STATES DEPARTMENT OF COMMERCE
Economics and Statistics Administration
U.S. Census Bureau
Washington, DC 20233-0001
OFFICE OF THE DIRECTOR

ID 17222202000000 906 1400 00 8 DLE
SEQ001-00421

MOLINE FIREFIGHTERS
PENSION FUND
ATTN: FIRE ADMINISTRATIVE SECRETARY
1630 8TH AVE
MOLINE IL 61265-2116

A message from the Director, U.S. Census Bureau...

The U.S. Census Bureau is requesting your help with the 2014 Annual Survey of Public Pensions. This survey, authorized by Title 13, United States Code, Section 182, provides measures of revenue, expenditures, investments, and membership for state and local government employee retirement systems in the United States.

This survey is the only comprehensive source of information on public employee retirement system finances in the United States. The information collected in this voluntary survey serves as an integral part of the foundation for developing national economic and public policy by measuring public activity.

Please respond to this survey online at the following address by **November 28, 2014**: **respond.census.gov/aspp**. To log in and complete the survey online, use the User ID and Password below.

User ID: 172222020 **Password:** U%q55557

If you need assistance with your response, please contact us by phone at 1-800-832-2839 weekdays between 7 AM and 5 PM ET, or by email at govs.pensions@census.gov.

Please retain a copy of your response for your records.

Thank you for participating in the 2014 Annual Survey of Public Pensions. The Census Bureau appreciates your help.

REIMER & KARLSON LLC
A PUBLIC SAFETY LAW FIRM

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OF COUNSEL
ROBERT W. TREVARTHEN

Volume 12, Issue 4 October 2014

Legal and Legislative Update

Recent Court Decisions

Appellate Court Affirms Pension Board Denial of Line-of-Duty Disability

Shafer v. Lake in the Hills Pension Bd., 2014 IL App (2d) 131002-U

In a recent Rule 23 opinion, the Second District Appellate Court affirmed the pension board's denial of Officer Shafer's line-of-duty disability pension claim. The police department required physical fitness testing of its officers, as was specified in the collective bargaining agreement. All of the tests are pass/fail and an officer would pass if they achieved a result in the 40th percentile on the first attempt. For the bench press, officers were not required to attempt more than the minimum weight necessary to achieve the 40th percentile. However, officers could attempt greater weights to qualify to earn additional compensatory time.

Shafer passed the bench press test by lifting the minimum weight. Shafer was then asked if he wanted to attempt the 80th percentile weight. While attempting the 80th percentile weight, Shafer suffered a torn rotator cuff. The pension board found that Shafer was disabled, but that the injury did not occur in performance of an act of duty. The pension board awarded a non-duty disability pension, even though Shafer had applied for a line-of-duty disability pension only.

The Appellate Court noted that both police officers and ordinary citizens perform bench presses, and both are at risk of injury while performing the exercise. Shafer argued that he had performed the exercise at a special risk, because he was injured during a mandatory physical fitness test. The Appellate Court held that Shafer was under no duty to perform the physical test that resulted in his injury – attempting to lift the 80th percentile weight. However, Shafer was under no duty to attempt a weight greater than the 40th percentile weight after he had successfully completed the exercise.

The Appellate Court disagreed with Shafer's argument that he was exercising discretion in the performance of his duty in attempting the greater weight. Shafer was exercising personal discretion only, not discretion with respect to the manner in which to perform his duty, in deciding to try to earn additional compensatory time by attempting

IN THIS ISSUE

the 80th percentile weight. Reimer & Karlson represented the pension board in this matter and is pleased with the Appellate Court's affirmation of the pension board's decision. Shafer is currently seeking appeal, as a right, to the Illinois Supreme Court. ❖

Appellate Court Finds Amendment to Pension Credit Statute Does Not Apply Retroactively

White v. Retirement Bd. of the Policemen's Annuity and Benefit Fund of the City of Chicago, 2014 IL App (1st) 132315

In a recent decision, the First District Appellate Court affirmed the circuit court's reversal of a pension board's refusal to approve pension credit for prior service periods. The officer applied for pension credit under Sections 5/5-214(b) and 5/5-214(c) of the Pension Code for two (2) prior service periods. The officer was seeking credit for time spent employed as a legal investigator with the City of Chicago's Corporation Counsel's office and as a police aide with the City of Chicago Police Department. The officer originally applied for the credits in February 2010. At the initial hearing, the officer was cautioned that she may want to hire an attorney. An attorney filed an appearance on behalf of the officer in February 2012, and a hearing was conducted in March 2012.

Prior to the continued hearing date, Section 5-214(b) of the Pension Code was amended (effective January 5, 2012). Section 5-214(c) remained unchanged. The following language was appended to the end of Section 5-214(b):

> ...provided that, in each of these cases and for all periods specified in this item (b), including those beginning before the effective date of this amendatory Act of the 97th General Assembly, the police officer is on leave and continues to remain in sworn status, subject to the professional standards of the public employer or those terms established in statute.

COGFA Publishes Results from PSEBA Study

The Illinois Commission on Governmental Forecasting and Accountability (COGFA) has published an independent study of Public Safety Employee Benefits Act (PSEBA), the statute that grants special health insurance to public safety employees who are catastrophically injured in the line of duty. The study examined the cost and participation trends associated with employees eligible for lifetime health insurance benefits provided for under PSEBA.

COGFA relied on survey results from both 126 individual units of government and 456 individual PSEBA recipients. Results from the study include certain demographics: the largest group of PSEBA recipients are an average age of 54, with the majority of recipients between 40 and 60 years of age. Over 40% of PSEBA recipients received the benefit due to an injury to their back or spine.

Revealed in the study is that 37% of PSEBA recipients are employed, while 155 of the 452 individuals indicated they have insurance available through their employer, their spouse's employer, or both. The COGFA report also detailed the costs involved for the employers that provide benefits to PSEBA recipients.

In the published results, COGFA pointed out that certain data was unable to be collected and/or analyzed. The statutorily-required form sent to individuals and employers did not answer certain questions regarding health insurance plans. As a result, in part, COGFA was unable to make a determination as to the associated costs and benefit levels of health insurance provided to PSEBA recipients and their spouses from a current employer, as set forth in subsection C of Public Act 98-0561. In addition, the City of Chicago, which accounts for over 1/3 of Illinois residents, did not submit the information requested within the allotted timeframe of the study. ❖

Public Comment Under the Open Meetings Act

As many of you know, the Open Meetings Act was recently amended to allow for public comment at public meetings. In many public meetings, it has been custom and practice for the speaker to identify themselves by name and address prior to making comments. This was the case in one suburb when a speaker refused to give her home address prior to addressing the village board. The Mayor insisted the rules of the board required her address and interrupted her comments to the board. Eventually, the speaker was allowed to address the board without stating her address.

In analyzing the complaint brought by the speaker, the Attorney General noted the amendment to the Open Meetings Act does allow public bodies to create rules and regulations for the public comment portions of public meetings. See 5 ILCS 120/2.06(g). However, those rules and regulations are subject to reasonable "time, place, and manner" restrictions as has been interpret by a vast body of case law on government regulation of speech. The AG then noted the village ordinance regulating public comment at board meetings does not require a member of the public to state his or her home address prior to addressing the board.

Nevertheless, since many public bodies followed a similar practice, the PAC addressed the issue to provide clarity. The PAC found a requirement that a speaker provide their home address prior to addressing a public body at an open meeting exceeded the rule making authority of the Open Meetings Act. The PAC found such a requirement serves little purpose and has the potential to significantly limit public participation at meetings.❖

At the hearing, the officer provided testimony regarding the duties she performed as a police aide with the police department. Her duties included assisting citizens and conducting investigations. All of the officer's investigations occurred within the police station. The pension board voted to deny the officer's claims for pension credits for both the period as a legal investigator with the Corporation Counsel and as a police aide with the police department. The pension board stated that it was required to follow the law in existence at the time of the hearing. The pension board also decided that the investigative work performed by the officer as a police aide was not the type of investigative work contemplated by §5-214(c).

After reviewing the statutory language, the Appellate Court determined that §5-214(b) was not expressly intended to be applied retroactively. The Appellate Court further found the amendment was substantive in nature, as it limited certain pension credits available. Therefore, the pension board's retroactive application of the statutory amendment was improper. The Appellate Court held that the pension board should have made its determination based on application of the 2010 version of §5-214(b). The Appellate Court further found that the evidence and testimony presented related to the investigative work performed by the officer as a police aide demonstrated that the officer had indeed performed investigative work within the meaning on §5-214(c). The Appellate Court held that the officer had done more than simply passing along information to other officers. The pension board was found to have improperly applied the definition of "investigative work" under §5-214(c), and that the pension board's ruling was clearly erroneous. The Appellate Court confirmed that the officer had presented sufficient evidence to meet the requirements under §5-214(c) to receive pension credits for her time employed as a police aide.

In confirming the circuit court's reversal of the pension board's denial of the officer's claim for pension credits, the Appellate Court remanded the matter to the pension board for a determination of the appropriate pension credits to be granted to the officer in accordance with §§5-214(b) and (c). ❖

Municipality Obligated to Pay for Officer's PSEBA Benefits, Even After Officer Awarded Line-of-Duty Disability Pension

Village of Vernon Hills v. Heelan,
2014 IL App (2d) 130823

The Second District Appellate Court has affirmed a decision that the village continues to be obligated to pay for benefits under to the Public Safety Employee Benefits Act ("PSEBA") for a

police officer following the award of a line-of-duty disability pension. The Village of Vernon Hills filed a complaint against Officer Heelan, seeking a ruling by the Circuit Court that the village was no obligated to pay for health insurance premiums under PSEBA for the officer and his family after the pension board awarded the officer a line-of-duty disability pension.

The Board of Trustees of the Vernon Hills Police Pension Board awarded Heelan a line-of-duty disability pension. The Village's complaint sought declaratory judgment that it was not obligated under Section 10 of PSEBA to pay for the health insurance premiums for Heelan, his wife, and their two children. Heelan filed a counterclaim seeking declaratory judgment that the Village was obligated to pay for the health insurance premiums. Heelan was awarded a line-of-duty disability pension following two hip replacement surgeries, which were necessary following his fall on some ice when responding to a panic alarm call.

In its complaint, the Village alleged that Heelan had not suffered a catastrophic injury, and that the injury had not resulted from his response to what he reasonably believed was an emergency (the requirements for the Village to pay Heelan's health insurance premiums, under §10(b) of PSEBA). The Village argues that a factual distinction existed between Heelan's injury and the facts in *Krohe v. City of Bloomington*, (204 Ill.2d 392 (2003)), which held that an injury resulting in a line-of-duty disability pension is synonymous with a catastrophic injury.

Prior to the bench trial, Heelan filed a Motion in *Limine*, seeking to bar the Village from presenting an evidence or testimony on the issue of whether he had suffered a catastrophic injury under §10(a) of PSEBA. The Circuit Court granted the motion, finding that the Village was collaterally barred from arguing that Heelan had not suffered a catastrophic injury. Following the bench trial, the Circuit Court ruled in favor of Heelan and entered declaratory judgment that the Village was obligated under PSEBA to pay for the health insurance premiums for Heelan and his family.

Heelan also sought sanctions against the Village for filing its complaint, which acknowledged Heelan had received a line-of-duty disability pension and that he was entitled to PSEBA benefits. The Circuit Court found in favor of the Village, holding that the Village did not act to harass Heelan and that it had not act in bad faith in bringing the complaint, which was done in an effort to bring change to the law.

The Appellate Court, in its review, noted PSEBA does not provide a definition for "catastrophic injury," and stated that the Illinois Supreme Court has held the term "catastrophic injury" to be synonymous with an injury resulting in a line-of-duty disability under the Illinois Pension Code. On Appeal, the Village argued "much confusion" resulted from the Supreme Court's decision in *Krohe*. The Appellate Court disagreed, finding *Krohe* had unequivocally resolved the question. The Appellate Court found *Krohe*, *Richter v. Village of Oak Brook*, (2011 IL App (2d) 100114), and *Nowak v. City of Country Club Hills*, (2011 IL 111838), to be controlling case law, which left no ambiguity regarding the applicable definition of "catastrophic injury."

The Appellate Court further found that the Village's complaint and arguments were an improper collateral attack on the findings of the pension board in granting Heelan's application for a line-of-duty disability pension. Because the Village did not challenge the pension board's statutory authority to render its decision, the Village's complaint was held to be an improper collateral attack on the pension board's decision. In so holding, the Appellate Court determined that the Village's due process rights had not been violated by the Circuit Court prohibiting the Village from presenting any evidence related to the nature, extent, and causes of Heelan's injuries. Accordingly, all evidence related to Heelan's injuries was irrelevant.

The Appellate Court also affirmed the Circuit Court's ruling that the Village had filed its complaint in an effort to change existing law (PSEBA) and did not act in bad faith. ❖

First District Appellate Court Affirms Village's Denial of PSEBA Benefits

Whited v. Village of Hoffman Estates,
2014 IL App (1st) 131662-U

In a recent unpublished opinion, the First District Appellate Court affirmed the Village of Hoffman Estates decision denying health insurance benefits under the Public Safety Employee Benefits Act ("PSEBA"). Specifically, that Court determined the municipality's finding was not against the manifest weight of the evidence because the record showed the plaintiff did not suffer a catastrophic injury while responding to an emergency.

Plaintiff Deborah Whited claimed she suffered a catastrophic injury on April 24, 2010. The record showed Whited had been employed with the Village since October 1989. On March 12, 2004, she sustained an injury to her right knee during a mandatory police training session. Between 2004 and 2010, she underwent three arthroscopic knee surgeries. In 2011, plaintiff applied for and was awarded a line-of-duty disability pension based on the March 2004 injury. Subsequent to the granting of her disability pension, plaintiff asked the Village to determine whether she was eligible for PSEBA benefits.

Section 10 of PSEBA provides, in part, that a full-time law enforcement officer is eligible to receive health insurance benefits if two conditions are met. First, the officer must have suffered a catastrophic injury in the line of duty. Second, the injury must have occurred as the result of the officer's response to fresh pursuit, or the officer's response to what is reasonably believed to be an emergency, an unlawful act by another, or during the investigation of a criminal act. Both requirements must be satisfied for an officer to be eligible for benefits.

At a hearing on the issue, plaintiff testified that on April 24, 2010, she felt her knee buckle while descending stairs at the police station, on the way to a domestic call. Even though she was in pain, she continued to the call, where he knee gave out again. Three days later, a doctor placed her on light duty, where she remained until 2011. Plaintiff further testified she was entitled to benefits as a result of both the March 2004 and April 2010 injuries.

After a thorough review of the record, the Appellate Court found the Village's determination that plaintiff was not injured in April 2010 as not against the manifest weight of the evidence. Plaintiff's disability pension, awarded in 2011, was based on the 2004 injury and made no reference whatsoever to an April 2010 injury. The Court noted that if such an injury had occurred, it would have been included in her disability pension application. In addition, the Court found that, as the trier of fact, the hearing officer is charged with determining credibility of witnesses at the hearing. Judgment of the Circuit Court of Cook County affirmed. ❖

Suggested Agenda Items for January (or 1st Quarter)

- Approval of annual COLA increases.
- Semi-annual review of closed executive session minutes to determine if needs to remain confidential.
- Determine need for election of beneficiary and active Trustees and/or re-appointment of appointed Trustees – request for request for re-appointment of appointed Trustees.
- Schedule annual examinations for disabled firefighters/police officers under age 50.
- Annual verifications of eligibility for beneficiaries.
- Review/update contracts with vendors (accountants, actuaries, attorneys, investment managers/advisors or consultants).
- Obtain predatory lending certification forms from Illinois regulated banks.

Supreme Court to Again Weigh in on Retiree Healthcare

As a follow up to a case reported in the April edition of *Legal and Legislative Update,* the Illinois Supreme Court has accepted review of *Matthews v. CTA et al.* 2014 IL App (1st) 1123348. That case involved retired CTA employees who filed suit to contest the diminishment of their healthcare benefits by legislation passed in 2008 as an unconstitutional diminishment of their pension benefits. The Appellate Court found the union contract vested the retirees healthcare benefits and therefore did not address the Constitutional issue. It noted the *Kanerva* case pending before the Illinois Supreme Court at the time and remanded the matter to the trial court with instructions to await the Illinois Supreme Court's determination. In contrast to the *Kanerva* case dealing with state retiree healthcare benefits, the *Matthews* case involved health care benefits vesting under the collective bargaining agreement. It will be interesting to see how the Illinois Supreme Court treats the difference between contracted for healthcare benefits compared to statutorily granted benefits.❖

Compliance Reminder

When a police officer or firefighter who is otherwise eligible for retirement applies for a disability pension, the issue of whether the applicant can receive the retirement benefit during the pendency of their disability application often comes up. The reasoning behind this desire is, assuming the application for disability is denied, the applicant will be entitled to their regular pension benefit anyway. Why not allow them to collect it while the disability application is pending?

The DOI has weighed in on this issue and advises pension boards cannot grant these interim benefits. The Department reasons once a disability applicant is in receipt of a retirement pension benefit, that individual is no longer in active service and not eligible to receive disability pension benefits. It further notes that there is no statutory mechanism to convert from regular retirement to disability. Therefore, the DOI takes the position that pension board cannot grant interim retirement benefits while an application for disability is pending before a pension board.❖

REIMER & KARLSON News

- R&K partners Richard J. Reimer and Keith A. Karlson taught at the IPPFA Midwest Training Conference, held September 30 – October 3 in Lake Geneva, Wisconsin. Topics covered included the new trustee orientation, the annual legal update, and the underfunding of pension systems.
- R&K partners Richard J. Reimer and Keith A. Karlson taught about use of force and internal departmental discipline at the MAP Annual Union Stewards Training Conference.
- R&K is pleased to announce the addition of associate Evan J. Haim. Prior to joining Reimer & Karlson, Mr. Haim was a partner at Hogan Marren, Ltd. Mr. Haim earned B.A. from Ohio Wesleyan University, and his Juris Doctor, *cum laude*, from the DePaul University College of Law.
- To better serve our central and southern Illinois clients and to better monitor legislative developments, R&K is pleased to announce the opening of a Springfield office on October 1, 2014.
- To receive updated news throughout the quarter, visit www.rklaborlaw.com or follow us on Twitter: @ReimerKarlson.

Legal and Legislative Update
Volume 12, Issue 4 October 2014

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CITY OF MOLINE FIRE AND PENSION BOARD DISABILITY EXAMINATIONS
RATE STRUCTURE FOR HOSPITAL AND PHYSICIAN SERVICES

Effective Date: 7/1/2011
Termination Date: 6/30/2012

Contracting Parties City of Moline Fire and Pension Board ("MFPB")
University of Iowa Hospitals and Clinics ("UIHC")
Carver College of Medicine, University of Iowa Physicians ("UIP")

Rates: For all MFPB members receiving the services identified below during the rate effective period, the UIHC and the UIP will provide such services at the stated rates.

A fee increase will be applied on July 1, 2012 consistent with the CPI for Medical Care Services, Midwest Urban, 12 months percent change as of May 2012.

		July 1, 2010 Physician Fee	Increase	July 1, 2011 Physician Fee	July 1, 2010 Hospital Fee	Increase	July 1, 2011 Hospital Fee
Provide Consultation for Temporary Disability Case:		421.55	3.1%	434.62	N/A	3.1%	N/A
Conduct Examination for Permanent Disability Determinations							
Single Physician Examination (includes moderate file review: 30 minutes review time.)	99456	421.55	3.1%	434.62	N/A		N/A
Single Forensic Psychiatric Examination (includes file review)	90801	528.40	3.1%	544.78	N/A		N/A
Basal Metabolic Rate	94681	75.56	3.1%	77.90	185.32	3.1%	191.06
Blood Gases	82803	90.06	3.1%	92.86	55.59	3.1%	57.32
Exercise Test for Bronchospasm	94620	232.79	3.1%	240.01	238.59	3.1%	245.99
Bronchodilator Study	94060	114.49	3.1%	118.04	193.04	3.1%	199.02
Exercise Test of O2 Desaturation	94620	232.79	3.1%	240.01	238.59	3.1%	245.99
Pulmonary Exercise Testing	94621, 93016, 93018	766.30	3.1%	790.06	463.29	3.1%	477.65
Spirometry	94010	67.17	3.1%	69.25	104.24	3.1%	107.47
Lung Volumes	94260	48.08	3.1%	49.58	169.87	3.1%	175.14
Diffusion Capacity Single Breath (DLCO)	94720	90.83	3.1%	93.64	139.76	3.1%	144.09
Chest PA & Lateral X-ray	71020	37.40	3.1%	38.56	115.82	3.1%	119.41
Ankle X-ray	73610	30.53	3.1%	31.48	115.82	3.1%	119.41
Knee X-ray	73562	32.06	3.1%	33.05	117.37	3.1%	121.01
Shoulder X-ray	73030	36.64	3.1%	37.77	127.40	3.1%	131.35
Lumbar Spine X-ray	72100	37.40	3.1%	38.56	115.82	3.1%	119.41
Thoracic Spine X-ray	72070	37.40	3.1%	38.56	127.40	3.1%	131.35
EKG	93010, 93005	58.01	3.1%	59.81	76.44	3.1%	78.81
Program Director and Administrative Service Charges per case (1) Includes moderate record review: 30 minutes review time.		1,144.87	3.1%	1,180.36	N/A		N/A
Additional Record Review: Each addtl increment of up to 1 inch of records or each addtl 30 minutes review time.		234.85	3.1%	242.13	N/A		N/A
File review in lieu of full appointment for temporary or permanent disability determination per case (including 30 minutes of record review)		322.61	3.1%	332.61	N/A		N/A
All other clinical services not identified above.		90% of provider's standard rate of charge.		90% of provider's standard rate of charge.	90% of provider's standard rate of charge.		90% of provider's standard rate of charge.

	July 1, 2010 Physician Fee	Increase	July 1, 2011 Physician Fee	July 1, 2010 Hospital Fee	Increase	July 1, 2011 Hospital Fee
Re-examinations of permanently disabled members for return to work.	Same as rates identified above for initial disability determination.		Same as rates identified above for initial disability determination.	Same as rates identified above for initial disability determination.		Same as rates identified above for initial disability determination.
Provision of Education Workshops upon Request of Board of Trustees	$336.16 per hour (physician) $183.36 per hour (non-physician) Plus expenses associated with travel and accomodations.		$346.58 per hour (physician) $189.04 per hour (non-physician) Plus expenses associated with travel and accomodations.	N/A		N/A

(1) Includes all services of the Program Director and applicable administrative services. If a "Single Physician Examination" is provided by the Program Director, the charge will be included within the above stated fee and will not be billed separately. The charge for such services shall not be adjusted prospectively without the endorsement of the MFPB.

Other Services

The UIHC and UIP shall provide all other reasonable and necessary hospital and outpatient services and physician services to MFPB members during the rate effective period at the rate of 90 percent of standard rates of charge.

Consumer Price Index - All Urban Consumers
12-Month Percent Change

Series Id: CUUR0200SAM,CUUS0200SAM
Not Seasonally Adjusted
Area: Midwest urban
Item: Medical care
Base Period: 1982-84=100
Years: 2001 to 2011

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2001	5.2	5.3	5.0	4.6	4.9	4.8	4.9	5.1	5.0	4.9	5.2	4.9	5.0	5.0	5.0
2002	4.9	4.7	4.8	4.7	4.6	4.6	5.0	4.6	4.3	4.5	4.5	4.6	4.6	4.7	4.6
2003	4.5	4.3	4.1	4.2	4.1	3.8	3.7	3.9	4.3	4.1	4.1	4.3	4.1	4.1	4.1
2004	4.0	4.9	5.1	5.4	5.4	5.5	5.2	5.4	5.4	5.1	5.3	5.2	5.2	5.0	5.3
2005	5.6	4.9	4.9	4.7	4.7	4.9	4.9	4.5	4.3	5.1	5.2	5.1	4.9	5.0	4.8
2006	4.7	4.9	4.5	4.6	4.5	4.1	4.3	4.6	4.6	4.3	4.1	4.0	4.4	4.5	4.3
2007	4.4	4.2	4.1	4.3	4.2	4.4	4.7	4.4	4.9	5.1	4.9	4.9	4.6	4.3	4.8
2008	4.9	4.1	3.9	3.3	3.4	3.1	2.3	2.4	2.2	2.3	2.3	2.3	3.0	3.8	2.3
2009	1.7	2.4	3.1	3.3	4.0	4.0	4.2	4.2	4.2	3.9	3.7	3.6	3.5	3.1	4.0
2010	4.0	4.3	3.8	3.7	2.9	3.1	3.2	3.3	3.2	2.9	3.1	3.1	3.4	3.6	3.1
2011	2.9	3.1	3.0	3.1	3.1	3.1	3.2	3.1	2.8	3.2	3.4			3.0	

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September 27, 2014

Moline Firefighters' Pension Fund

1630 8th Avenue
Moline, IL 61265

File #: 13-008

Attention: Brian Vyncke

Inv #: 1967

RE: Pension Matters

DATE	DESCRIPTION	HOURS	AMOUNT	LAWYER
Jul-28-14	Emails from Ms. Awbrey re Sottos final pensionable salary amount. Research cases and review emails. Phone conf with Allison Barrett re same. Email to Ms. Awbrey re final pensionable salary date.	1.00	200.00	JD
Aug-15-14	Email from Aubrey; phone conf with Atty Duda re dates for Rehearing. Email with Notices of Hearing attached as drafted to Aubrey.	1.50	300.00	JD
Aug-18-14	Various email and phone confs with Ms. Awbrey re setting for Notices of Hearing.	0.50	100.00	JD
Aug-26-14	Prepare draft order and phone conf with Board during hearing.	1.50	300.00	JD
	Phone conf with President Vyncke re questions about draft order and re documents to board members.	0.30	60.00	JD
Aug-29-14	Review of draft minutes from Ms. Awbrey. Suggest changes by email to Ms. Awbrey.	0.75	150.00	JD
Sep-15-14	Review file and documentation. Draft a Subpoena Duces Tecum for HR Director. Phone conf with Ms. Awbrey re same. Transmit Subpoena to Duda and Ms. Awbrey.	1.00	200.00	JD

	Review Draft of Minutes. Comment on same to Ms. Awbrey by email.	0.40	80.00	JD
Sep-21-14	Respond to email form Allsion Fleming regarding subpoena request.	0.30	60.00	JD
Sep-25-14	Travel to Moline.	3.50	350.00	JD
	Pick up subpoenaed documents from Finance office. Meet with Leah at HR to review materials, dates of payments, and amounts.	1.50	300.00	JD
Sep-27-14	Prepare for hearing. Draft Amended Order. Attend Hearing.	4.00	800.00	JD
	Travel to Champaign.	3.50	350.00	JD
	Totals	19.75	$3,250.00	

DISBURSEMENTS		**Disbursements**	**Receipts**
Sep-25-14	Mileage, Hotel, and Meals 185 @ 0.56	103.60	
Sep-26-14	Mileage, Hotel, and Meals 185 @ 0.56	103.60	
	Mileage, Hotel, and Meals	168.37	
	Mileage, Hotel, and Meals	26.00	
	Totals	$401.57	$0.00

Total Fees & Disbursements	**$3,651.57**
Previous Balance	$5,624.57
Previous Payments	$5,624.57
Balance Due Now	**$3,651.57**