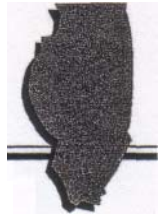


ILLINOIS PUBLIC PENSION ADVISOR



Official Newsletter of the Illinois Public Pension Advisory Committee

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A BUSY 94TH GENERAL ASSEMBLY

The 94th General Assembly was busy this past year with new legislation involving Firefighter 's and Police Officers Pension Plans.

House Bill 1403

The legislature enacted legislation changing the make up of Article 4 (down-state) Firefighters Pension Boards.

In legislation passed by both the House and Senate and sent to the Governor on June 17, 2005 for his signature, Firefighters Pension Boards will be reduced to five (5) members effective the Third Monday in April 2006.

Two members of the Board shall be appointed to the Board by the Mayor or President of the Municipality or Fire Protection District. Two members of the Board shall be active participants (firefighters) of the fund elected by active participants (firefighters of the fund) and one shall be a person who is retired under the Firemen's Pension Act of 1919 elected by persons retired under the Firefighter's Pension Fund Act of 1919 (a disabled firefighter is considered a retired firefighter).

In the event a retired firefighter is not available an active firefighter shall be elected in lieu of the retired firefighter. The term of the firefighters remains at three (3) years as it appears it is unchanged in the legislation. The Firefighters Pension Board will have essentially the same makeup as does the Downstate Police Pension Boards. The legislation will be effective unless it is vetoed by the Governor which seems unlikely at this point. The effects of this legislation could be far reaching on such issues as tax levies and disability mat-

ters with the majority of the Pension Board being either active or retired Firefighters.

House Bill 373

The legislature both House and Senate passed legislation on May 11, 2005 which was sent to the Governor on June 9, 2005 which enables the transfer of up to eight (8) years of creditable to a Down-state Police Pension Fund. The legislation permits the repurchase of past contributions to IMRF and the transfer to Article 3 Police Pension Plans. There is a catch 40ILCS 5/3-110 (e) (2) provides that if the amount transferred under 40 ILCS 5/7-139.11 is less than the true cost to the pension fund of allowing the creditable service to be established, then the amount of creditable service to be established shall be reduced by an amount equal to the difference.

The formula for calculating the reduction will be determined by the Pension Division of the Department of Financial and Professional Regulation throughout the establishment of rules to calculate those amounts.

House Bill 3267

The legislature has amended the QILDRO section of the statute 40 JILCS 5/1-119. The new legislations passed both House and Senate on May 29, 2005. The new act will be effective July 1, 2006 and makes sweeping changes in the QILDRO procedure and QILDRO format.

All Police and Firefighter Pension Boards are advised to establish QILDRO procedures and to prepare appropriate forms for QILDRO matters. This will be followed up in a future article.

This article has been submitted by:

Cary Collins

Disabling Injury To Police Officer In The Course Of Pedaling His Bicycle On Patrol

In *Aim v. Lincolnshire Police Pension Board*, 352 D1.App.3d 595, 816 N.C.2d 389 (2nd Dist. 2004), on June 17, 2000, plaintiff was employed by the Village of Lincolnshire as a sworn police officer and was assigned to the police department's bicycle patrol unit. Plaintiff's shift was from 11:00p.m. to 6:30a.m. At the hearing on his application for line-of-duty disability benefits before the Lincolnshire Police Pension Board, plaintiff testified that his job on the date in question "was to do premise checks, check buildings in our industrial park, patrol the parking lots of businesses that are open, the downtown area, and then later on in the night head over to the residential area." The assignment involved riding on a variety of terrain—up on curbs, through grass, and behind buildings. Additionally, plaintiff carried approximately 20 pounds of gear on his person and another 5 to 10 pounds of gear in a police bag attached to the back of the bicycle. As a member of the bicycle patrol unit, plaintiff had performed such duties as making drug arrests, conducting traffic stops, and issuing both parking tickets and tickets for moving violations.

Plaintiff also testified that during bike patrol training he was taught to stay on his bicycle as much as possible because the bicycle gave him a mechanical advantage over people on foot. At about 2:00 a.m. on June 17, 2000, while pedaling his bicycle, plaintiff experienced significant pain in his right knee and noticed swelling. He had not fallen or had any other sort of accident. Plaintiff immediately sought treatment and was

ultimately diagnosed as suffering from, *inter alia*, a tear in the medial meniscus of his right knee. Plaintiff underwent several surgical procedures, but his condition restricted his ability to perform various physical activities, such as running, kneeling, and crawling. Plaintiff had no prior history of knee problems. As pertinent here, Section 5-113 defines "act of duty" as "any act of police duty inherently involving special risk, not ordinarily assumed by a citizen in ordinary walks of life, imposed on a policeman by the statutes of this State or by the ordinances or police regulations of the city in which the Article in effect of by a special assignment." 40 ILCS 5/5-113. Our Supreme Court has expressly rejected the notion that the term "special risk" encompasses only inherently dangerous activities. *Johnson v. Retirement Board of the Policemen's Annuity & Benefit Fund* 114 JJ1.2d 518, 521, 104 JJ1Dec. 221, 502 N.E.2d 718 (1986). *Johnson* noted that officers discharging their duties to protect citizens perform many tasks, such as driving automobiles, climbing stairs, and even crossing streets, that are similar to those involved in civilian occupations. *Johnson*, 114 B1.2d at 521-22, 104 ULDec221, 502N.E.2d718, Jo&K On teaches that in determining whether an officer is entitled to a line-of-duty benefit, "the crux is the capacity in which the police officer is acting" rather than the precise mechanism of injury. *Johnson*, 114 H1.2d at 522, 104 HLDec. 221, 502N.E.2d 718. As such, an officer performing duties involving special risks will be entitled to line-of-duty benefits even if the immediate cause of injury is an act

involving only an ordinary risk.

The injury to Aim in this case is unlike those in *Johnson*, *Morgan*, *Wagner*, and *White*, in that it was not the result of any specific, unidentifiable, physical trauma. Rather, the injury may have developed over the course of time. The only police work referenced by the Board's decision is the plaintiff's job as a bicycle patrol officer. Plaintiff established that he incurred a disabling injury in the course of pedaling his bicycle. The real question, therefore, is whether pedaling the bicycle was an act of duty. Mindful of the principles discussed above, the Appellate Court in *Aim v. Lincolnshire Police Pension Board* concluded that it was. While on patrol, plaintiff faced risk not ordinarily encountered by civilians. He was required to ride his bicycle at night over varying terrain, looking after his own personal safety while also remaining vigilant in the performance of his patrol duties. Plaintiff was also carrying a significant amount of additional weight. Under these conditions, risks include falls and collisions as well as dangerous encounters with unsavory elements of society. This particular duty has no clear counterpart in civilian life. Therefore, the Appellate Court in *Aim v. Lincolnshire Police Pension Board* determined that the bicycle patrol performed by plaintiff involved special risk. Consequently, he was performing in a capacity that amounted to an act of duty such that he was entitled to line of duty benefits.

This article has been submitted by:
Daniel Jakala

Hiring Managers: The Search for Skill



Submitted by: Jeff Kowalczyk

Rowe Consulting Group of Raymond James & Assoc., Inc.-formerly of Morgan Stanley

Many investors select investment managers simply by looking for those with the best recent returns. Unfortunately, hiring good investments managers is far more complicated. In order to budget risk effectively, three primary questions must be answered before an investment manager is hired.

- * *Is the manager adding value relative to the appropriate benchmark?*
- * *How is the manager adding value?*
- * *How much risk is the manager taking to add value?*

The goal of active management is to generate excess return over and above a specific benchmark. Benchmarks are passive market indexes, such as the S&P 500 (large cap) or the Russell 2000 (small cap). Comparing a manager's returns to the index returns for their particular style provides a much clearer picture of performance than looking at returns in isolation. Suppose a large cap manager returned 10% when the S&P returned 8%, and a small cap manager returned 12% when the Russell 2000 returned 14%. The small cap manager "beat" the large cap manager in terms of total return generated, but the large cap manager added value (i.e., generated excess returns) while the small cap manager did not.

A manager can generate excess returns one of two ways. The first method is to take on greater risk than the benchmark. How the value of a portfolio behaves relative to a benchmark is measured by "beta." A manager with a beta of 1.25 should generate returns that are 125% of the market's returns. Adding value through beta depends wholly on the direction of the market. High beta managers tend to out perform when the market goes up and under perform when the market goes down. The second method is simply to pick good stocks in good sectors. Once the impact of beta is taken into account, the remaining excess return (called "alpha") is due to stock selection and sector allocation. Managers with positive alpha will generally out perform regardless of the overall direction of the market.

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If a manager is generating excess returns relative to the appropriate benchmark and doing so primarily through alpha rather than beta, the question remains of how much risk the manager is taking to generate those returns. When one uses alpha as the primary measure of the value added by a particular manager, one can also use the volatility of alpha, called "residual risk," as the relevant measure of the risk taken. The ratio of alpha to residual risk, also called the "information ratio," allows one to compare managers of different styles with different betas and determine which managers are truly compensating investors for the risks taken.

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