

**ILLINOIS  
PUBLIC  
PENSION  
FUND  
ASSOCIATION**

**(IPPFA)**

**POLICE PARTICIPANT  
and  
SURVIVOR HANDBOOK**

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**OVERVIEW OF BENEFITS AND PROVISIONS  
OF ARTICLE 3  
OF THE ILLINOIS PENSION CODE**

**I. NATURE OF POLICE PENSION FUND**

A Defined benefit program under IRC  
Officers hired after 02/01/01 have option  
of participating in self-managed plan.

B Provisions set by statute -Article 3 of  
Illinois Pension Code (40 ILCS §5/3-101 et seq.)<sup>1</sup>

C Provides the following benefits:

Retirement -(§5/3-111)

Disability

Duty -(§5/3-114.1)

Non-Duty -(§5/3-114.2)

Heart attack or stroke (§5/3-114.3)

Occupational disease §5/3-114.6

Survivors Benefits -(§5/3-112)

**II. FUNDING OF POLICE PENSION FUND**

A Officer's required contributions -(§5/3-125.1)  
9.91% of salary.

1) Included as part of salary (50 Ill Adm.  
Code §6302.35)<sup>2</sup>

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<sup>1</sup> References are to Article 3 of the Illinois Pension Code.

<sup>2</sup> References are to the Illinois Administrative Code.

- Base pay
- Education pay
- Holiday pay if paid regardless of whether officer works
- Longevity pay
- Temporary pay if assigned for

2) Excluded as salary for pension purposes (50 Ill. Adm. Code §6302.35)

- Accumulated unused time
- Cash awards
- Clothing allowance
- Food allowance
- Housing allowance
- Merit pay if not added to salary for next increases
- Overtime pay
- Shift differential
- Temporary pay -ASC
- Uniform allowance

B Municipal annual tax levy (§5/3-125)

C Interest income on pension fund Investments

D Donations (§5/3-125(4))

### **III. ADMISSION INTO PENSION FUND**

- A. Police officer must be appointed, sworn and commissioned to perform police duties and;
  - 1) Within three (3) months of appointments, make written application for admission into the pension fund
  - 2) Admission is automatic- pension board has no discretion -- (§5/3-106)
- B. Persons excluded -(§5/3-109)
  - 1) Part-time, auxiliary police, temporary employees
  - 2) Officer who fails to make required contributions - (§5/125.1)3-
- C. Re-admission into pension fund  
if re-appointed, the officer must repay all refunds received under §5/3-124 and 2% per annum from date of refund to date of repayment

### **IV. CREDITABLE SERVICE -(§5/3-110)**

- A. Time spent by police officer as a member of police department

- B. Any periods of disability or leave of absence for which no disability pension payments received is included**
- C. Furloughs without pay exceeding 30 days not counted i. e., disciplinary suspension, leave of absence**
- D. Service in military while employed as police officer if either**
  - 1) Declaration of war by U. S.**
  - 2) Draft**
  - 3) Police officer must pay 9.91% contributions before retirement**
  - 4) Not to exceed 5 years total credible service**
- E. Police officer on leave of absence to serve as executive of an organization representing police officers if;**
  - 1) Officer must have at least 10 years credible service**
  - 2) Officer doesn't receive credit for service, in any other retirement system**

- 3) Officer pays, required 9.91% contribution equal to municipality's normal cost for that period.
  - 4) The organization pays contributions required to municipality's normal cost for that period
- F. Up to three years time spent on disability pension if:
- 1) Officer returns to active service for period at least equal to period for which credible service is sought; and
  - 2) Officer makes required contributions as per §5/3-125.1;
  - 3) Can be paid prior to retirement and
  - 4) Can elect installment payments at 6% per annum to be deducted from disability benefits.

## **V. RETIREMENT BENEFITS - (§5/3-111)**

- A 0-7 years of credible service equals no Pension--*refund of contributions only*
- B 8-19 years of credible service equals pension based on 2.5% for each full year of credible service, payable at age 60 (*deferred pensioner*)

- C 20 years of credible service equals 50% of salary at date of retirement at age 50  
*(must have 20 full years and attained age 50)*
- D Over 20 years an additional 2.5% for each full year up to 30 years, to maximum of 75% salary

## **VI. DISABILITY BENEFITS**

- A Non duty disability benefits -(§5/3-114.2)
  - 1) Vested at time of entry into pension fund
  - 2) 50% of salary attached to rank on date of suspension from duty  
*(removed from payrolls)*
  - 3) Requirements for non-duty disability<sup>3</sup>
    - Must be police officer at time of application
    - Suffer from an accident, illness or sickness as a result of any cause
    - Found to be physically or mentally disabled
    - Renders necessary suspension from police service

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<sup>3</sup> Batka v. Orland Park Pension Board 186 Ill App 3d 715 542 N E 2d 839  
(1<sup>st</sup> Dist 1989)

**B. Duty related disability benefits - (§5/3-114.1)**

- 1) Vested at time of entry into pension fund
- 2) 65% of salary attached to rank on date of suspension from *duty (removed from payrolls)* or amount officer would be eligible to receive if retired, whichever is greater.
- 3) Requirements for duty-related pension<sup>4</sup> must be a police officer at time of application
  - Accident, injury or sickness was incurred from the performance of "act of duty":
  - Found to be physically or mentally disabled
  - Disability renders necessary officer's suspension from duty
- 4) Robbin's test for what constitutes "act of duty"<sup>5</sup>  
"Act of Duty" Any act of police duty inherently involving special risk, not ordinarily assumed by a citizen in the ordinary walks of life, imposed

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<sup>4</sup> Wall v. Schaumburg Police Pension Board, 178 Ill.App.3d438,533 N.E.2d 458 (1<sup>st</sup> Dist. 1989)

<sup>5</sup> Robbins v. Carbondale Police Pension Board, 117Ill 2d533, 687N E 2d 39 (Ill Sup. Ct 1997)

on a policeman by the statutes of this State or by the ordinances or police regulations of the city in which this Article is in effect or by a special assignment; or any act of heroism, performed in the city having for its direct purpose the saving of the life or property of a person other than the policeman.

- 5) Must be "causal connection" between "act of duty" and disability
- 6) Possible aggravation of pre-existing non-duty condition

C. Heart attacks or stroke - (§5/3-114.3)

If suffered as a result of the performance of "act of duty" 65% of salary attached to rank.

D. Occupational disease disability pension (§5/3-114.6)

- 1) Applies only if combined police/fire department with regular firefighting duties
- 2) 65% of salary attached to range or amount eligible for regular retirement, whichever is greater

- 3) Heart, lung disease or cancer, creates reputable presumption that arose out of service as officer.

**E. Determining eligibility for disability benefits - (§5/3-115)**

Requires that three physicians selected by the pension board certify the applicant's disability

**F. Examination and emergency service (§5/3-116)**

- 1) Disabled officer is examined at least once per year to verify disability until age 50
- 2) If recovered from disability, pension board certifies to chief of police that officer is no longer disabled, and can return to duty
- 3) Open question - does Department have to take you back?
- 4) This is only time disability counts toward credible service

**G. Non-resident pensioner - (§5/3-123)**

Pension Board can require affidavits as proof as determined

by the Pension Board or require the officer to return to Illinois for annual exam.

**H. Disability conversion option –**  
(§5/3-116.1)

- 1) If 50 years old and have total of 20 years service including active and disability time, officer can convert to regular pension
- 2) If hired prior to October 1, 1973, officer can convert to 50% of salary attached to rank on date of conversion
- 3) If hired after October 1, 1973, officer can convert to 50% of salary attached to rank on date of disability
- 4) Only time off on disability

**I. Re-entry into active service after disability**  
(§5/3-114.4)

If officer receives disability pension for more than two (2) years and returns to active service, the officer must remain in service for at least five (5) years before becoming eligible for increased disability pension benefits

**VII. SURVIVORSHIP BENEFITS - (§5/3-112)**

**A. Death of a police officer receiving pension**

benefits – surviving spouse is entitled to officer's pension. If no surviving spouse:

- 1) Dependent children guardianship - under 18 or under legal guardianship with disability
  - 2) If no surviving spouse or children, pension goes to dependent parents
- B. Death of a police officer either in or out of service with at least 20 years of credible service - spouse or dependent receives whichever pension officer earned under §5/3-111
- C. Death of a police officer with at least 10 years of credible service but less than 20 - spouse dependents eligible for 50% of officer's salary (*note: 10 year vesting period*)
- D. Death of police officer incurred in or resulting from performance of act of duty, regardless of credible service, 100% of officer's salary (*note: 10 year minimum doesn't apply*)
- E. Death of police officer with less than 10 years credible service - not on duty - no survivorship pension - estate entitled to refund of contributions only

**VIII. INCREASES IN RETIREMENT AND DISABILITY PENSION (§5/3-111.1)**

- A. Officers on retirement receive a cost of living (COLA) raise of 1/12 of 3% for each full month on retirement upon attainment of age 55 and an additional 3% each year, in January compounded each year thereafter
- B. Disabled officers receive a COLA raise of 3% for each full year on disability at age 60, and an additional 3% each year, in January, compounded each year thereafter

**IX. REFUND OF CONTRIBUTIONS - (§5/3-124)**

- A. Upon separation from service, officers with less than 20 years of credible service may receive full refund of contributions
- B. After attainment of 20 years -no refund
- C. Acceptance of refund bars receipt of any further benefits under Article 3
- D. Death of officer with less than 10 years (*not on duty*) surviving spouse receives refund
- E. Re-entry to active service – officer must pay full amount of refund plus 2%per annum from date of repayment until date of repayment

**X. TRANSFER OF CREDITABLE SERVICE  
BETWEEN OTHER ARTICLE 3 FUNDS  
"PENSION PORTABILITY" - (§5/3-110.7)**

- A. Allows for transfer of creditable service between article 3 funds under the following criteria:
- 1) The officer is an active member of an Article 3 pension fund
  - 2) The officer actively served in the previous police department including IMRF for at least 2 years, unless;
  - 3) Voluntary separation from department through no fault of the officer i.e. layoff
- B. Officer can repay amount of refund from previous pension fund to reinstate previous creditable service
- C. Steps for transfer of credible service
- 1) Officer makes application to current fund of intention to transfer from previous fund;
  - 2) Officer repays the amount of refund from previous fund, plus 6% per annum per year compounded annually, from the date of refund to date of repayment
  - 3) Previous pension fund notifies current fund of total years of credible service and

transfers the amount of monies to the current pension fund consisting of the following:

- The police officer's contributions
  - The municipalities' contributions
  - Interest on the above
  - Any contribution repayments
- 4) The current pension fund determines any additional "true cost"
  - 5) The officer must pay the additional "true cost" either lump sum or payment plan, if approved by the Pension Board, within 5 years
  - 6) If officer dies before repayment is made, the surviving spouse can elect to pay the remaining amount within 6 months of death to receive credit
  - 7) If officer doesn't pay within required time period, refund is received under formula set by §5/3-110.7

**XI. TRANSFER OF CREDITABLE SERVICE BETWEEN OTHER PUBLIC EMPLOYEE PENSION FUNDS IN ILLINOIS**

Creditable service earned by a police officer under Article 3 of the Pension Code may be transferred to

any of the following Illinois public employee pension funds, however the rules for transferring are not uniform;

- A. General Assembly Retirement System –  
(§5/3-110.2)
- B. Illinois Municipal Retirement Fund –  
(§5/3-110.3)
- C. State Employee's Retirement System –  
(§5/3-110.5)
- D. County Employees Benefit Fund –  
(§5/3-110.4)
- E. Sanitary District Employees' Benefit  
Fund –(§5/3-110.4)
- F. Other Article 3 Police Pension Funds –  
(§5/3-110.7)

**XI. DIVESTITURE OF PENSION BENEFITS –**  
**(§5/3-147)**

Under §5/3-147 a police officer convicted of a felony that is:

- A. Related to;
- B. Arising out of, or
- C. In connection with service as a police officer, the officer can receive no benefits under Article 3 and is entitled to a refund of contributions only

### **XIII. DEDUCTION FOR GROUP HEALTH INSURANCE PLANS (§5/3-124.2)**

If municipality provides group hospitalization and medical plans that included retired police officers and spouses, officers can make written requests that monthly premium be deducted from monthly pension check, at expense of officer.

### **XIV. TAXATION OF PENSION BENEFITS**

- A. Taxation of retirement benefits under §5/3-111 - taxed as income under I. R. C. when received. However, retirement benefits are not taxed in Illinois (35 ILCS §5/203).
- B. Taxation of duty disability benefits under §5/3-114.1 - I. R. C. excluded from gross income, compensation for personal injuries or sickness under a workers' compensation act or a statute "in the nature of a worker's compensation act".<sup>6</sup>
- D. Taxation of non-duty disability benefits under §5/3-114.2 benefits received under §5/3-114.2 are taxable because not under a statute "in the nature of workers compensation act" and does not result from injury

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<sup>6</sup> 28 W S C 9104(a)(1); Reg §1 104(b)

occurred in line of duty.<sup>7</sup>

- E. Taxation of survivorship benefits under §5/3-112 – survivorship benefits for line of duty death of officer are not taxable as income. If a disabled police officer dies before converting a duty disability pension to a regular retirement pension, the benefits are still excludable when paid to surviving spouse.

#### **XV. NON-ALIENATION OF PENSION BENEFITS** **(§5/3-144.1)**

Article 3 of the Pension Code provides that pension benefits are exempt from garnishment, attachment, assignment or levy on account of any debts, judgments, court orders or damage awards that may have been entered against the police officer. Thus, these benefits are for the exclusive payment to participants and beneficiaries and the pension board cannot be forced to pay these benefits to any creditors.

#### **XVI. CONSEQUENCES OF DIVORCE ON** **PENSION BENEFITS**

- A. Police officer's pension benefits are a form of deferred compensation and considered to be marital property.

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<sup>7</sup> Matter of Dwyer, 71 TC560(A)(1979); Rev Ruling BO-14(1980)

B. A police officer's beneficial interests acquired during marriage are subject to distribution when marriage is dissolved.

C. Qualified Illinois Domestic Relations order (QILDRO)- (§5/3-119)

Effective July 1, 1999 all public pensions are subject to QILDRO, a court order requiring the Pension Board to pay portions of officer's pension benefits for third party i. e. ex-spouse

- 1) If hired prior to 7/1/99 must sign "irrevocable consent" to issue QILDRO

#### **XVII MARRIAGE AFTER RETIREMENT** **(§5/3-120)**

If a police officer who marries subsequent to retirement on any pension under this Article, the surviving spouse and children of such surviving spouse are not entitled to survivorship benefits.

#### **XVIII MARRIAGE AND REMARRIAGE OF SURVIVING SPOUSE** **(§5/3-121)**

If the surviving spouse of a police officer remarries after November 15, 1995, the spouse continues to receive the survivorship benefits. If remarriage occurred prior to November 15 1995 the marriage terminates the entitlement to surviving spouse benefits. ■

**RELATED  
ILLINOIS STATUTORY PROVISIONS**

**I. PUBLIC EMPLOYEE DISABILITY ACT –  
(5 ILCS §345/0.01)**

- A. Applicable to any full-time law enforcement officer, correctional officer, fireman;
- B. Who suffers any injury in the line of duty that causes him to be unable to perform his duties;
- C. Eligible for up to one (1) year full compensation from date of injury, without deduction from accumulated, sick, vacation or compensatory time
- D. Employer can require independent medical examination
- E. Cannot be employed in any other capacity, i.e. side jobs
- F. Not eligible for pension benefits -but in credible service
- G. Must make separate application to municipality / employer ■

**II. POLICE OFFICER'S INSURANCE CONTINUANCE PRIVILEGE - (215 ILCS §5/367g)**

- A Provides for an officer's right to continue in municipality's group health insurance policy, including self-insured municipalities at officer's expense
- B Eligibility commences on either the "retirement or disability period," includes:
  - 1. Officer retires as a deferred pensioner
  - 2. Officer retires on regular retirement pension
  - 3. The officer is awarded a disability pension
- C. Continuance privilege terminates on occurrence of any one of the following events;
  - 1. Officer's reinstatement or re-entry to active service
  - 2. Officer's acceptance of a refund of contributions
  - 3. Officer's felony conviction for service related felony (§5/3-147)

4. Officer's death, however qualified surviving spouse is eligible until death or remarriage of spouse
- D. Continuance privilege must be accepted or waived, if waived, continuance privilege is lost ■

### **III. PUBLIC SAFETY EMPLOYEE BENEFITS ACT - (820 ILCS §315/4)**

A. Applies to full-time law enforcement, correctional or correctional probation officer, or firefighter who is;

- 1). Killed in line of duty, or
- 2) Is catastrophically injured

B. Provides two (2) types of benefits to officer and/or his family

- 1) Health insurance premium - municipality must pay 100% of health insurance premium for officer and or his family or

Upon death of officer, municipality must pay health insurance premium for surviving spouse and dependent children until 25 years old if a dependent student

- 2) Required educational benefits - if officer is killed, children entitled to free tuition at State supported institution, includes technical school, public community college or State University, total of 120 credit hours

**C. Eligibility**

**Death or injury must have occurred as a result of officer's fresh pursuit, or the officer's response to what is reasonably believed to be an emergency, an unlawful act perpetrated by another, or during the investigation of a criminal act,  
on or after November 14, 1997 ■**

**IV. LAW ENFORCEMENT OFFICERS,  
CIVIL DEFENSE WORKERS, CIVIL  
AIR PATROL MEMBERS, PARA-  
MEDICS, FIREMEN, CHAPLAINS,  
AND STATE EMPLOYEES COMPEN-  
SATION ACT - (820 ILCS .§315/1)**

- A. Applicable to policeman, police officer and auxiliary policemen
- B. Killed in the line of duty means loss of life in the active performance of duties as a law enforcement officer, if death occurs one (1) year from date injury was received. Excludes death resulting from willful misconduct or intoxication of the officer. Burden is on attorney general to prove willful misconduct or intoxication, includes;
- 1) Injury is received as a result of willful act of violence, other than officer, and relationship exists between commission of act and officer's performance of duties as law enforcement officer, whether or not injury is received by officer on duty or off-duty
  - 2) Injury is received by officer while he is attempting to prevent the commission

of a criminal act of another or attempting to apprehend an individual the officer suspects has committed a crime, whether on or off-duty

- 3) the injury is received by the officer while the officer is traveling to/from his employment or during a breach, which takes place during period the officer is on duty

#### C. Benefits

- 1) \$125,000 death benefit to;
  - Surviving spouse or;
  - Surviving descendent per stirpes or
  - Surviving parents of descendent
  - Burial benefit up to \$10,000

#### D. Claim procedure

- Must file claim within 1 year of date of death with Illinois Court of Claims ■

## **FEDERAL STATUTORY PROVISION**

### **I. PUBLIC SAFETY OFFICERS' DEATH BENEFITS - (42 U. S. C. §3796)**

- A.** Death benefit of \$259,038 if public safety officer dies as the direct and proximate result of a personal injury in the line of duty

Benefits available for permanent and total disability pursuant to Bureau of Justice Assistance, may be eligible for additional benefits, prorated annually among eligible parties for each year

#### **B. Limitations in benefits**

- 1) If death or catastrophic injury was caused by the intentional misconduct of public safety officer or by such officer's intentions to bring about his death or catastrophic injury
- 2) If public safety officer was voluntarily intoxicated at time of his death or catastrophic injury
- 3) If public safety officer was performing his duties in a grossly negligent manner ■

## NOTES

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