“Downstate” Police Pensions Under Article 3
TIER I Benefits

ILLINOIS PUBLIC PENSION FUND ASSOCIATION
PUBLIC SAFETY FINANCIAL AND INVESTMENT TRAINING
(*IPPFA PS-FIT*)

NOTE: This Section is excerpted from *Retirement Income for Illinois Fire and Police: Pensions, Social Security and Deferred Compensation*, by Daniel W. Ryan. Used with permission by the IPPFA.

OVERVIEW

Although called the “downstate” police pension system, the pension plan delineated in Article 3 of the Illinois Pension Code covers all municipal police officers except for the largest city (whose officers are in a separate Chicago Police plan under Article 5) and the smallest cities under 5,000 in population (whose officers are in the Article 7 Illinois Municipal Retirement Fund). So while police in Carbondale are actually downstate, so too are Waukegan and Galena, at least as far as their police pensions are concerned.

This chapter explains the pension benefits payable to police retirees and survivors covered under the Article 3 systems. Thanks to the pension “reform” law that created two tiers of benefits in 2011, there is a different level of benefits for officers who were in Article 3 service prior to January 1, 2011, and those first hired into Article 3 after that date. This chapter provides an overview of Tier I benefits; for officers hired into any Article 3 system prior to January 1, 2011.

DOWNSTATE POLICE - SERVICE RETIREMENT BENEFITS—TIER 1
(IN SERVICE PRIOR TO JANUARY 1, 2011)

A Tier 1 officer is eligible for retirement benefits at age 50 if he or she has earned 20 years of creditable service, or retirement at age 60 if between 8 and 20 years have been earned.

Tier 1—Pension with 20 Years of Service

An officer age 50 or more with 20 years of creditable service is entitled to a pension equal to 50% of the salary attached to the rank on the police force at the time of retirement (or the average salary over the last year, if higher). For years of service over 20 years, the officer will receive an additional 2.5% of salary for each year over 20 years, to a maximum pension of 75% of salary. For example, an officer at age 50 or older, retiring after 26 years of service, would receive a pension of 65% of salary. If his annual salary was $80,000, the resulting pension of 65% would be $4,333 per month. At 30 years of service the 75% maximum pension would be $5,000 monthly.

A pension formula that is based on essentially your last day's rate of salary is extremely favorable to the retiring officer. But remember that this amount does not include overtime. You might retire at 75% of your base salary but this pension will not include any consideration of overtime. If you work a lot of overtime, you will not experience a replacement of 75% of your wages.

Tier 1—Pensions with Less than 20 Years of Service

An officer age 60 or older having at least 8, but less than 20 years of service, is entitled to a pension equal to 2.5% of salary for each year of service. An officer with at least 1 year, but less than 8 years of service, is also entitled to this benefit if he or she is receiving a retirement pension based on at least 8 years of service from another Illinois police pension fund, excluding Chicago. However, in 2019 restrictions will be in place that do not allow a newly hired police chief to participate in an Article 3 fund (or IMRF) if he or she is receiving a pension from another Article 3 pension plan.

Tier 1—Increases in Pensions after Retirement

An officer who retires before age 55 is entitled, upon the month after attaining age 55, to an increase in pension equal to 3% for each year the officer has been receiving pension (or a prorated portion of 3% for partial years). For example, an officer retiring on his 52nd birthday would receive an increase of 9% the month after he turns 55 (calculated as 1/12 of 3% for the 36 month his pension has been paid). Then, on each subsequent January 1, the officer will receive an additional increase of 3% of the pension then being received (*i.e.*, a compounded increase).

An officer who is already age 55 or older at the time of retirement will receive a 3% pension increase the month after one year of retirement, and then each January 1 thereafter.

DOWNSTATE POLICE - DISABILITY PENSIONS

A pension will be paid to an officer, regardless of age, if the officer is physically or mentally disabled for service in the police department. Different levels of benefits are paid depending upon whether or not the medical condition is the result of a line-of-duty disability.

Line-of-Duty Pensions

An officer who becomes disabled as a result of sickness, accident, or injury incurred in or resulting from the performance of an act of duty is entitled to either (a) a pension equal to 65% of salary, or (b) the service retirement pension that the officer has earned by virtue of his or her years of service, whichever is higher. Examples: An officer with 10 years of service who is disabled in the line-of-duty would receive a pension of 65% of salary. An officer with 28 years of service similarly disabled would receive a pension of 70% of pay (the amount he would receive if he retired under normal circumstances). The act of duty that disabled an officer must involve a special risk in which an ordinary citizen would not participate.

These line-of-duty benefits are also payable if the disability is the result of certain occupational diseases for officers who work in combined police and fire departments.

Disability Pension—Not in Line of Duty

An officer who becomes disabled as a result of a cause other than performance of duty is entitled to a pension of 50% of salary.

Increases in Disability Pension

The monthly pension of an officer who retires on disability is increased each January 1 of the year following his or her 60th birthday by 3% of the original pension for each completed year since the pension began. Subsequent increases of 3% of the original amount of pension occur each January 1 thereafter.

Qualifying for Disability Pension

An officer must be found to be disabled by the Board of Trustees upon examination by three (3) physicians selected by the Board, and the examination of other evidence of disability as determined to be necessary by the Trustees. The Board of Trustees will review the evidence of disability at a formal hearing with legal counsel to the Board present. An applicant also is entitled to have legal counsel present and may introduce any other relevant evidence of disability. Once retired on disability, the retiree must produce evidence of continuing disability each year, until attainment of age 50.

The burden of proving eligibility for a disability pension lies with the applicant.

NOTE: Under certain circumstances, disability pensions may be reduced if the officer receives certain benefits under the worker compensation laws of the State.

Benefits for Short-Term Disability

Benefits for disabling conditions which are not expected to result in permanent and total disability are payable under their employer's sick leave policy. Questions on these benefits should be referred to the Village or City Hall Personnel Office. However, female officers are entitled to non-duty disability pension benefits for pregnancy.

Re-entry to police work from disability pension

An Article 3 officer who returns to police work following a period on disability pension will not be eligible for a higher disability pension amount unless he or she accrues a least five years of creditable service during the period of re-entered service.

DOWNSTATE POLICE - PENSIONS PAID TO SURVIVORS—TIER 1
(OFFICER IN SERVICE PRIOR TO JANUARY 1, 2011)

Pensions are payable to the surviving spouse of a retiree or active employee (unless the marriage occurred after retirement, in which case no survivor benefits are paid to a spouse). Also, although benefits are described below as Surviving Spouse benefits, survivor benefits may be payable to unwed natural or legally adopted children up to age 18, handicapped children regardless of age, or legally dependent parents when there is no surviving spouse. Note that there is no minimum age requirement for a survivor pension. Also, there is no continuing requirement that a surviving spouse remain single in order to receive a pension.

TIER 1—SPOUSE SURVIVING A SERVICE OR DISABILITY PENSION RECIPIENT

When an officer who is receiving a pension dies, the surviving spouse is entitled to receive the pension that the officer was then receiving at the time of death. If the retired officer was not yet 50 years old at the time of death, the survivor is entitled to the pension that the officer would have received upon attaining age 50.

TIER 1—SPOUSE SURVIVING AN ACTIVE POLICE OFFICER/DEATH NOT IN THE LINE-OF-DUTY

Upon the death of an active officer who has earned at least 20 years of creditable service, the survivor will receive a pension equal to the amount that the officer had earned by virtue of his or her years of service. For example, the spouse of an officer who died after 22 years of service would receive a pension of 55% of salary.

Upon the death of an officer having at least 8, but less than 20 years of service, a pension of 50% of salary is payable.

Upon the death of an inactive participant (*i.e.*, a person who has worked long enough to vest for a benefit and has left the police department before retirement age), a pension is payable to the survivor in the amount that the officer had earned by virtue of years of service.

Upon the death of an officer having less than 8 years of service, no pension is payable. The estate of the officer is entitled to a refund of the officer's pension contributions to the Fund.

Tier 1—Spouse Surviving an Active Police Officer/Line-of-Duty Death

Upon the death of an active officer who dies as a result of sickness, accident, or injury incurred and resulting from the performance of an act of duty on or after January 1, 2002, who without having begun to receive either a retirement pension or disability pension, is entitled to 100% of salary attached to the rank held by the deceased police officer on the last date of service. There is no service requirement to earn this benefit.

Tier 1—Increases in Survivor Pensions

The law does not provide for an annual increase to the pension received by a survivor of a Tier 1 officer. However, from time to time, the Illinois General Assembly and Governor may approve legislation to increase the minimum pension paid to survivors.

Downstate Police - Employee Contributions

The pension benefits are partially funded by contributions made by active officers. As discussed elsewhere in this book, public employees, particularly fire and police, pay for a good portion of their own pension.

The Article 3 contribution rate in 2018 is 9.91% of pensionable salary. Many cities and villages have adopted a so-called "employer pick-up" of contributions, a rule allowed under the Internal Revenue Code. This rule allows the contributions to be made on a tax-deferred basis, so the officer's taxable income goes down by 9.91%. When a pension is eventually paid, the pension is taxed and the IRS then gets its money.

If your pension fund does not use "employer pick up" or did not use it earlier in your career, a small portion of your pension will be exempt from federal taxation in accordance with IRS regulations at the time your pension is paid.

An officer who does not earn a pension based on 20 years of service is entitled to a refund of contributions made. If the employee is rehired by the same police department and re-enters the pension fund, he or she must repay the contribution refund plus 2% annual interest in order to count the prior employment period as creditable service towards a pension benefit.

Refunds are eligible for a tax-deferred "rollover" to an Individual Retirement Account or other qualified pension plan that accepts such contributions. This allowance for a tax-deferred rollover was confirmed when the Illinois Public Pension Fund Association led a group of Illinois funds (yours probably included) to successfully petition the IRS for "qualified" status for Illinois Article 3 (police) and Article 4 (fire) pension funds.

TAXATION OF PENSION BENEFITS

Service and survivor pensions are taxed under the federal tax law. Retirees may elect to have federal tax withheld from their pension checks. Taxation of pensions by state governments is governed by state law and Illinois does not currently tax pension payments. If you retire and move to another state that does tax pensions, it is probable that your Illinois pension fund will not provide for tax withholding for another state. You will have to make other arrangements for paying any non-Illinois state tax, such as making quarterly deposits.

The portion of a line-of-duty or occupational disease pension in excess of 65% of salary is subject to federal tax withholding, but most of these pension payments are not taxable. The non-taxability of the member's original duty-disability pension transfers to a survivor. Line-of-duty death pensions are not taxed.

CREDITABLE SERVICE

Generally, creditable service is time served as an officer in your community. Furloughs and suspensions of less than 30 days are counted, and leaves of absence of any length due to a personal accident, illness, or injury are counted. If a disabled officer returns to active service, up to 3 years of the period during which a disability pension was received are counted towards creditable service (if the officer makes the required contributions and works in active service for a period at least as long as the service being reinstated).

Under any circumstances, earning of creditable service requires that the officer pay to the Fund the contributions that would have been paid had he or she been in actual police service.

Creditable service also includes service in the military forces of the United States entered into while an officer is on active police duty. Such military service is limited to 5 years. There is also an opportunity for officers to purchase two years of credit for military service prior to entering police work. If this military service is to be counted as police pension creditable service, the officer needs to pay the employee contribution, interest, and an amount that represents the employer's cost.

Creditable service may also include time served as an officer in a police-related association.

PORTABILITY OF SERVICE FROM ANOTHER FUND

Transfer from One Illinois Police Fund to another Fund

The pension laws allow creditable service for service in another Illinois police pension fund (excluding Chicago) under 40 ILCS5/3-110-d. In explaining the opportunity to transfer credit from one Article 3 pension fund to another, I will use the phrase "current" to describe the department and pension fund to which the officer desires to transfer credit. Likewise, the "previous" department or fund is the pension plan covering the officer at his or her previous police department employer.

If an officer has at least two years of service in another department prior to transferring to the current department, the officer may arrange for that previous service to be transferred for credit into his or her current pension fund. The two-year requirement is waived if the officer left due to a layoff, or prior to the effective date of the act (August 17, 1997). The previous pension fund from which the officer is transferring will make a payment to the current pension fund in the amount of the officer's contributions made to the previous fund, 6% annual interest on those contributions, and a second amount that is also equal to the officer's contributions and interest (which is assumed to represent the municipality's share).

However, if the current police pension fund finds that the amount transferred is less than the true cost of the credited service being transferred, then either (a) the officer must pay the difference between the true cost and the amount being sent by the prior fund, or (b) the officer must accept a reduced period of service, prorated based upon the amount of the true cost paid by the prior fund.

Most pension funds allow an officer wishing to transfer credit to defer his or her decision until such time as a determination is made as to whether the officer will have to pay money to the current pension plan from his or her personal funds. Note that a calculation of the true cost must be performed by an enrolled actuary retained by the current pension fund.

Transfer of service from the Illinois Municipal Retirement Fund

For some brief periods, Illinois law allowed transfer of service between the Illinois Municipal Retirement Fund (IMRF) and an Article 3 police pension fund. The opportunity for transfer of service last terminated at the end of 2011. Officers who transferred service from the IMRF to a local Article 3 fund were given credit in the police fund commensurate with the amount of service earned in the IMRF and the amount of money transferred to the police fund.

PORTABILITY OF SERVICE TO ANOTHER FUND OUTSIDE ARTICLE 3

In addition to within the Article 3 funds, Illinois law includes provisions for transfer of service from a police pension fund to certain other Illinois funds. I'm not sure of the history of this allowance, but my thoughts are drawn to the idea that someone somewhere wanted to help somebody out. Why do I say this? Take a look at the list of funds that allow transfer of service from your Article 3 pension fund.

Those funds are:

- General Assembly Retirement System
- Illinois Municipal Retirement Fund
- State Employee's Retirement System
- Cook County Employee's Benefit Fund
- Sanitary District Employee's Benefit Fund

WHAT NEXT?

You may wish to go to the statute for more detailed information. Put "Illinois Pension Code" in a Google search and then pick Article 3 from the listings that result.

If your local or regional police training agency offers a retirement seminar, such as the one offered by NEMRT, this would be a really good value for your training dollar. Also, pension plans that retain professional firms for fund administration may have access to that company's training programs on Article 3 pension benefits.

Attending a board meeting of your Article 3 fund is always a good idea, along with voting on the active or retired trustee positions.

Some of the larger pension systems in the state assist the retiree with retiree health insurance. Very few of the Article 3 (police) and Article 4 (fire) systems provide any relief for the high cost of retiree health insurance. Some communities have tax-advantaged savings plans through a structure known as a "VEBA" to assist in this expense. See the IPPFA PS*fit* module on this important subject.

INFORMATION APPEARING ELSEWHERE

The information on the police and fire pension systems, Social Security and deferred compensation plans is substantially the same as material that is presented in the paperback book, *Retirement Income for Illinois Fire and Police: Pensions, Social Security and Deferred Compensation* used by IPPFA with permission from the author. In addition, the reader may see some of the information and even exact wording on Downstate/Suburban police pension benefits appearing on local Illinois pension fund or police department websites. This is because when the author originally wrote some of this content in the form of the Skokie Police Pension Fund's *Guide to Retirement*, permission was given for any police department or pension fund to use the material. This permission remains in place, but any material duplicated was solely created by the author and permitted for use by him and IPPFA.

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