



## **“Downstate” Fire Pensions under Article 4 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. All rights reserved. Used with permission by the IPPFA.

#### **OVERVIEW**

Although called the “downstate” fire pension system, the pension plan delineated in Article 4 of the Illinois Pension Code covers all municipal firefighters except for the largest city (whose firefighters are in a separate Chicago Fire plan under Article 6) and the smallest cities under 5,000 in population (whose firefighters are in the Article 7 Illinois Municipal Retirement Fund). So, while firefighters in Decatur are actually downstate, so too are Freeport and Rockford at least as their fire pensions are concerned.

This chapter explains the pension benefits payable to fire retirees and survivors covered under the Article 4 systems. Thanks to the pension “reform” law that created two tiers of benefits in 2011, there is a different level of benefits for firefighters who were in Article 4 service prior to January 1, 2011, and those first hired into Article 4 after that date. This chapter provides an overview of Tier I benefits; for firefighters hired into any Article 4 system before January 1, 2011.

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

A Tier 1 firefighter is eligible for benefits at retirement 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**

A firefighter 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 fire department at the time of retirement. For years of service over 20 years, the firefighter will receive an additional 2.5% of salary for each year over 20 years, to a maximum pension of 75% of salary. For example, a firefighter retiring after 26 years would receive a pension at age 50 or older of 65% of salary. Note that the formula also recognizes partial years of service, so a firefighter who worked 28 1/2 years would receive a pension of 71.25% of salary. This latter employee, if his salary was \$80,000, would receive a monthly pension of \$4,750.

**TIER 1—PENSIONS WITH LESS THAN 20 YEARS OF SERVICE**

A firefighter age 60 or older having at least 10, but less than 20 years of service, is entitled to a pension detailed in Section 4-109(b) as follows:

10 Years of Service	15.0% of salary
11 Years of Service	17.6% of salary
12 Years of Service	20.4% of salary
13 Years of Service	23.4% of salary
14 Years of Service	26.6% of salary
15 Years of Service	30.0% of salary
16 Years of Service	33.6% of salary
17 Years of Service	37.4% of salary
18 Years of Service	41.4% of salary
19 Years of Service	45.6% of salary

**TIER 1—INCREASES IN PENSIONS AFTER RETIREMENT**

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

Thus, a firefighter receiving a pension of \$4,750 commencing at age 53 would see a 6% increase on that pension upon attainment of age 55 (to \$5,035), and then an additional 3% each January 1.

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

## **DOWNSTATE FIRE - DISABILITY PENSIONS**

A pension will be paid to a firefighter, regardless of age, if the firefighter is physically or mentally disabled for service in the fire department. Different levels of benefits are paid depending upon whether or not the medical condition is the result of a line-of-duty disability. There is no age requirement for a disability pension.

### **Line-of-Duty Disability Pensions**

A firefighter 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 firefighter has earned by virtue of his or her years of service, whichever is higher. Examples: A firefighter with 10 years of service who is disabled in the line-of-duty would receive a pension of 65% of salary. A firefighter with 28 years of service similarly disabled would receive a pension of 70% of pay (the amount he or she would receive if retired under normal circumstances). An additional payment is made in the amount of \$20 per month for each unwed child under age 18 or each disabled child, as long as the total payment to the disabled firefighter does not exceed 75% of salary.

### **Occupational Disease Disability Pension**

For firefighters who have completed five years of credited service, Article 4 pension benefits for line-of-duty disability are expanded under Section 4-110.1 of the code to include disabilities that result from heart disease, stroke, tuberculosis, any disease of the lungs or respiratory tract, and cancers caused by exposure to heat, radiation, or a known carcinogen as defined by the International Agency for Research on Cancer.

### **Disability Pension—Not in Line of Duty**

A firefighter with seven years of service 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 a firefighter who retires on disability pension is increased each January 1 of the year following his or her 60<sup>th</sup> birthday, by 3% of the original pension for each completed year since the pension began. If a firefighter is receiving an additional dependent benefit for a line-of-duty or occupational disease disability, the dependent payment is increased 3%, compounded every January following the start of the dependent benefit, regardless of the age of the firefighter.

### **Qualifying for Disability Pension**

A firefighter 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, usually with legal counsel to the Board present. An applicant is entitled to have legal counsel present also 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 firefighter 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 or Fire Protection District Personnel Office.

### **Re-entry to fire work from disability pension**

A firefighter who returns to work following a period on disability pension will not be eligible for a higher disability pension amount unless he or she accrues at least three years of creditable service during the period of re-entered service.

### **DOWNSTATE FIRE - PENSIONS PAID TO SURVIVORS—TIER 1 (FIREFIGHTER IN SERVICE PRIOR TO JANUARY 1, 2011)**

Pensions are payable to the surviving spouse of a retiree or active employee. If the marriage occurred after retirement, the couple must have been married for at least one year in order for a surviving spouse to be eligible for benefits. Although benefits are described below as Surviving Spouse benefits, survivor benefits may be payable to natural or legally adopted (and unwed) 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 a firefighter who is receiving a pension dies, the surviving spouse is entitled to receive a benefit equal to the greater of 100% of the monthly pension that the retiree was receiving at the time of death or 54% of the pensionable salary used to calculate the pension. If the retired firefighter was not yet 50 years old at the time of death, the survivor is entitled to the pension that the firefighter would have received upon attaining age 50 (or 54% of the pensionable salary if that amount would be higher).

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

Upon the death of an active firefighter who has earned at least 20 years of creditable service, the survivor will receive a pension equal to the amount that the firefighter had earned by virtue of his or her years of service (but at least 54% of the firefighter's pensionable salary).

Upon the death of a firefighter having at least 10, but less than 20 years of service, a pension of 54% 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 fire department before retirement age), a pension is payable to the survivor in the amount that the firefighter had earned by virtue of years of service.

#### TIER 1—SPOUSE SURVIVING AN ACTIVE FIREFIGHTER/LINE-OF-DUTY DEATH

Upon the death of an active firefighter 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 firefighter on the last date of service. There is no 10-year 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 firefighter. However, from time to time, the Illinois General Assembly and Governor may approve legislation to increase the minimum pension paid to survivors.

#### **DOWNSTATE FIRE - EMPLOYEE CONTRIBUTIONS**

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

The Article 4 contribution rate in 2015 is 9.445% of pensionable salary (excluding overtime). 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 firefighter's taxable income goes down 9.455%. 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.

A firefighter 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 fire 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 as creditable service towards a fire 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 in 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 to pay non-Illinois state tax, such as making quarterly payments.

Line-of-duty disability pensions are not taxed at the federal level, nor are benefits paid to survivors of line-of-duty disability pensioners. Line-of-duty death pensions are not taxed.

### **DOWNSTATE FIRE - CREDITABLE SERVICE**

Generally, creditable service is time served as a firefighter 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 firefighter 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 firefighter 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 firefighter pay to the Fund the contributions that would have been paid had he or she been in actual fire service.

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

There are numerous provisions of Article 4 that award credited service or allow transfer of service to the benefit of one person or a small group of people. For example, credited service is awarded for duty as a fire inspector between 1976 and 1988 if the service was in a municipality of under 10,000 in population located in a county with a population over 3 million. Another example: until 1989 an active member of the Illinois Municipal Retirement Fund who is a county sheriff could transfer service from an Article 4 fire fund to the IMRF.

These examples are not important to anyone reading this book other than showcasing what can happen when the legislature is in session!

## **Re-Entry**

The pension laws contain provisions under which retirees may re-enter fire service and earn additional creditable service in your Article 4 fire pension fund.

### **RECIPROCITY BETWEEN ARTICLE 4 FIRE PENSION FUNDS**

The state law includes a provision allowing so-called “reciprocity” between Article 4 pension funds. This is different than the Article 3 police funds allowance for “portability.” Using portability, a police officer moves his or her service and money from one police pension fund to another. Under fire fund *reciprocity*, the firefighter leaves his or her service in each pension fund in which they participated and ultimately receives a pension from multiple funds. Why weren’t the two systems set up the same way? I think it was to confuse me.

In the Article 4 fire fund reciprocity arrangement, the pension code provides for the opportunity for a member to receive a pension from a community where he or she worked for a period of time short of the time required for **vesting** as long as the employee accumulates 20 years or more service in total in Article 4 funds. The best way to explain reciprocity is to use an example.

Robert is a firefighter in Easttown, IL for 4 years and then moves to Westtown, IL for 18 years. He has a total of twenty-two years of Article 4 fire fund service when he retires.

To maintain his service at Easttown, Robert either leaves his contributions in the Easttown Fire Pension Fund or pays back any refund he took. Either way, if he wants to reciprocate his service between the funds, he owes Easttown an additional 1% of pay in contributions plus 6% annual interest as well as 6% annual interest on any refund he took out.

Over at Westtown, his payroll contribution goes up 1% of pay for all Westtown pensionable salary if he wishes to combine Westtown service with another fire fund.

Robert elects reciprocity and at retirement he receives:

A pension from the Easttown Fire Pension Fund for his four years of service there, which will be 10% of the salary attached to his rank when he left Easttown. The 10% figure is based on 1/12 of 2.5% of his final salary for each month of service completed in Easttown (which is the standard Article 4 formula).

A pension from the Westtown Fire Pension Fund calculated as follows: (a) 55% of the salary attached to the rank when he left Westtown (55% is based on the total of twenty-two years at Easttown and Westtown combined times 2.5%) minus (b) the amount he is paid by the Easttown Fire Pension Fund.

A dollar example using the hypothetical service above follows based on Robert's salary as a firefighter being \$3,500 a month when he left Eastown and his salary when he left Westown eighteen years later as a lieutenant being \$6,500 a month.

**PENSION FROM EASTOWN:**

48 months x 1/12 x 2.5% (10%) times his  
monthly salary of \$3,500 \$ 350

**PENSION FROM WESTOWN**

Twenty-two years x 2.5% (55%) times his  
monthly salary of \$6,500, minus the \$350  
paid by the Eastown Fire Pension \$3,225

**Total Pension \$3,575**

Westown Fire Pension gets a little beat up in this process. They are paying Robert a pension based on \$6,500 in monthly salary including his four years at Eastown which is costing Westown \$650 a month. For that they only get to drop their total payment by the \$350 that Eastown is paying. But Westown *did* get a little higher payroll contribution from Robert (1% of salary), so that might compensate them. But if Robert retires as the Chief of Department at Westown, the Westown Fire Pension Fund will take a pretty good shellacking on reciprocity. Eastown is only going to pay \$350 a month of Robert's pension no matter what his final career salary.

If an active firefighter becomes entitled to a disability pension after all reciprocity costs have been paid, payment of disability benefits is handled as follows. First, a duty or non-duty disability is paid by the current fund. However, for an occupational disease benefit, a portion of the benefit is paid by each reciprocal fund, prorated based on the firefighter's service with each fund.

There are notice requirements related to reciprocity for any person first hired into Article 4 service after July 1, 2004. To obtain reciprocal credit, a person must notify his current employer, his previous Article 4 employers and the Illinois Department of Insurance (Public Pension Fund Section) of his or her intent to receive reciprocal benefits. Such notification must be made within twenty-one months of being hired.

There are some reciprocity rules that are not easily reflected in the example noted above. First, Article 4 participants must have at least one year of service in any fire department for which they wish to claim reciprocal service. Second, a person must have at least three years of service in his or her last fire department in order to make reciprocity work. Repayment of a refund to a fire pension fund may be made in installments for up to ten years, but must be fully paid prior to retirement.

**PORTABILITY OF SERVICE TO ANOTHER FUND**

Illinois law also includes provisions for transfer of service from a fire 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 4 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 4 from the listings that result.

Pension plans that retain professional firms for fund administration may have access to that company's training programs on Article 4 pension benefits.

Attending a board meeting of your Article 4 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 *PSfit* module on this important subject.

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