



Rhode Island League of Cities and Towns

Testimony from Brian M. Daniels, Executive Director

Article 3 – Relating to Government Reform

Section 11 – Relief of Injured and Deceased Fire Fighter and Police Officer

Senate Committee on Finance – February 15, 2018

Thank you for the opportunity to testify. The League of Cities and Towns supports the Governor's efforts to close existing loopholes in statute regarding Injured on Duty benefits for public safety employees. However, we believe that those reforms should also extend to cities and towns – not just state employees. IOD is an important benefit for our public safety officers who sustain workplace injuries, but we need to make sure the law does not incentivize the inappropriate use of taxpayer dollars.

I serve on the State Retirement Board and on its Disability Subcommittee. The Disability Subcommittee is charged with reviewing and approving or denying disability pension applications from state employees, teachers and municipal employees in the state-run Municipal Employees' Retirement System. Also, because of my contact with mayors and town managers, I have heard many of the challenges they face with employees who are out on IOD for extended periods of time as they apply for disability benefits.

Public safety employees may apply for disability retirement while they are out of work on IOD. During that time, they are collecting full salary and benefits. The employer often has a vacancy that has to be filled with overtime from the existing workforce. Current law (RIGL 45-19-1) allows IOD payments for up to 18 months from the date of injury or 6 months from reaching maximum medical improvement, whichever is later. Further, the applicant may continue to collect IOD payments throughout the application disability process – which may take a year or longer, depending on the outcome. Municipal employees that are denied benefits from the Retirement Board may appeal to the Workers Compensation Court for *de novo* review and a final determination.

The problem with current law is that it allows employers to terminate IOD payments only if a disability retirement application is **approved**, as seen in the highlighted text below.

45-19-1 (j)(2) A person who so applies shall continue to receive injured on duty payments, and the right to continue to receive IOD payments of a person who so applies shall terminate in the event of the final ruling of the workers' compensation court **allowing accidental disability benefits**. Nothing herein shall be construed to limit or alter any and all rights of the parties with respect to independent medical examination or otherwise, as set forth in the applicable collective bargaining agreement.

This language was changed in law in 2013. Previously, an employer could terminate IOD benefits if an accidental disability application was approved or denied. When this language was changed in 2013, it opened up two loopholes:

1. A public safety employee may remain on IOD if he or she is denied a disability pension by the Retirement Board and then denied by the Worker's Compensation Court on appeal; or
2. A public safety employee may remain on IOD if he or she is denied a disability pension by the Retirement Board and chooses not to appeal to the Worker's Compensation Court.

In both of these cases, a final determination has been reached on a disability pension application, but the law does not explicitly allow employers to terminate IOD. This ambiguity has led to costly arbitration proceedings and workforce challenges, all while the employee is collecting full salary and benefits.

IOD provides valuable support to public safety employees who have experienced an injury while serving. However, we must ensure that our laws do not incentivize the abuse of this benefit. The League appreciates the Governor's efforts to address existing loopholes, though we believe that any IOD reform that does not include cities and towns is incomplete and insufficient.