PANEL DISCUSSION: HOW MANY BENEFITS TRULY ARE AVAILABLE TO INJURED EMPLOYEES? (INCLUDING THE ILLINOIS PUBLIC EMPLOYEE DISABILITY ACT (PEDA) AND THE ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT (PSEBA)

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I. PUBLIC EMPLOYEE DISABILITY ACT (PEDA) ................................................................. F-3

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The cases and materials presented here are in summary and outline form. To be certain of their applicability and use for specific claims, we recommend the entire opinions and statutes be read and counsel consulted.
Daily activities of police men and women and firefighters across the State of Illinois face an increased risk of injury as a result of the nature of their occupation. The recognition of that fact by the Illinois legislature led to the development and the enactment of the Illinois Public Employee Disability Act (PEDA), as well as the Illinois Public Safety Employee Benefits Act (PSEBA). Both Acts are designed to minimize the negative impact of the increased risk of injury by offering generous benefits to the injured public employees that qualify under those Acts.

I. **PUBLIC EMPLOYEE DISABILITY ACT (PEDA)**

The Public Employee Disability Act can be found at 5 ILCS 345/1. The substance of that statute is as follows:

Sec. 1. Disability benefit.

(a) For the purposes of this Section, "eligible employee" means any part-time or full-time State correctional officer or any other full or part-time employee of the Department of Corrections, any full or part-time employee of the Prisoner Review Board, any full or part-time employee of the Department of Human Services working within a penal institution or a State mental health or developmental disabilities facility operated by the Department of Human Services, and any full-time law enforcement officer or full-time firefighter who is employed by the State of Illinois, any unit of local government (including any home rule unit), any State supported college or university, or any other public entity granted the power to employ persons for such purposes by law.

(b) Whenever an eligible employee suffers any injury in the line of duty which causes him to be unable to perform his duties, he shall continue to be paid by the employing public entity on the same basis as he was paid before the injury, with no deduction from his sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund during the time he is unable to perform his duties due to the result of the injury, but not longer than one year in relation to the same injury. However, no injury to an employee of the Department of Corrections or the Prisoner Review Board working within a penal institution or an employee of the Department of Human Services working within a departmental mental health or developmental disabilities facility shall qualify the employee for benefits under this Section unless the injury is the direct or indirect result of violence by inmates of the penal institution or residents of the mental health or developmental disabilities facility.
(c) At any time during the period for which continuing compensation is required by this Act, the employing public entity may order at the expense of that entity physical or medical examinations of the injured person to determine the degree of disability.

(d) During this period of disability, the injured person shall not be employed in any other manner, with or without monetary compensation. Any person who is employed in violation of this paragraph forfeits the continuing compensation provided by this Act from the time such employment begins. Any salary compensation due the injured person from workers’ compensation or any salary due him from any type of insurance which may be carried by the employing public entity shall revert to that entity during the time for which continuing compensation is paid to him under this Act. Any person with a disability receiving compensation under the provisions of this Act shall not be entitled to any benefits for which he would qualify because of his disability under the provisions of the Illinois Pension Code.

(e) Any employee of the State of Illinois, as defined in Section 14-103.05 of the Illinois Pension Code, who becomes permanently unable to perform the duties of such employment due to an injury received in the active performance of his duties as a State employee as a result of a willful act of violence by another employee of the State of Illinois, as so defined, committed during such other employee's course of employment and after January 1, 1988, shall be eligible for benefits pursuant to the provisions of this Section. For purposes of this Section, permanent disability is defined as a diagnosis or prognosis of an inability to return to current job duties by a physician licensed to practice medicine in all of its branches.

(f) The compensation and other benefits provided to part-time employees covered by this Section shall be calculated based on the percentage of time the part-time employee was scheduled to work pursuant to his or her status as a part-time employee.

(g) Pursuant to paragraphs (h) and (i) of Section 6 of Article VII of the Illinois Constitution, this Act specifically denies and limits the exercise by home rule units of any power which is inconsistent herewith, and all existing laws and ordinances which are inconsistent herewith are hereby superseded. This Act does not preempt the concurrent exercise by home rule units of powers consistent herewith.

This Act does not apply to any home rule unit with a population of over 1,000,000.

(h) In those cases where the injury to a State employee for which a benefit is payable under this Act was caused under circumstances creating a legal liability for damages on the part of some person other than the State employer, all of the rights and privileges, including the right to notice of suit brought against such other person and the right to commence or join in such suit, as given the employer, together with the conditions or obligations imposed under paragraph (b) of Section 5 of the Workers’ Compensation Act, are also given and granted to
the State, to the end that, with respect to State employees only, the State may be paid or reimbursed for the amount of benefit paid or to be paid by the State to the injured employee or his or her personal representative out of any judgment, settlement, or payment for such injury obtained by such injured employee or his or her personal representative from such other person by virtue of the injury.

One of the first determinations that needs to be made under the Act is whether a public employee qualifies for the benefits under this Act. The Act applies to a broad range of workers in the public sector, including the following: law enforcement personnel, correctional officers, firefighters, and perhaps employees who work in facilities as medical care providers to prisoners as well as detainees. In the case of correctional officers, employees that are responsible for working inside a detention facility and/or those medical care providers that provide medical care services to either prisoners or detainees, any injury that is alleged to qualify the employee for coverage under the Act must be linked to an assault or other harmful action committed by a resident or an inmate of the relevant jail, prison and/or detention center. Under the Act, those employees are known as “eligible employees.”

One of the key factors for qualifying under the statute is that the employee suffers an injury while in the line of duty which causes the employee to be unable to perform his duties. In that case, this law requires that the employee continue to be paid by the employing public entity on the same basis as he was paid before the injury, with no deduction from his sick leave credits, compensatory time for overtime accumulations or vacation, or service credits in a public employee pension fund during the time that the employee is unable to perform his duties due to the result of the injury.

The fact that the Act mandates that the eligible employee receive their full regular earnings for up to a year constitutes a more generous provision than the standard Illinois Workers’ Compensation provisions which usually offer only two-thirds of an employee’s previous wage for temporary total disability.

One of the issues that exists as a result of the language in the statute is what exactly it means to be paid on the same basis as he was paid before the injury. Given that the PEDA statute mandates that an employee must be paid by the employing public entity on the same basis as he was paid before the injury, it is not unreasonable that reading the PEDA statute in a vacuum would lead one to the conclusion that it would be acceptable to continue to pay an employee his normal net salary with all income taxes withheld. However, the IRS has issued opinions that mandate that no taxes be withheld from an employee’s gross pay.

Under Rev. Rul. 68-10 C.B. 50, the IRS issued a revenue ruling evaluating a California statute analogous to Illinois’ PEDA statute. The language of Section 4850 Subsection (a) of the California Labor Code is as follows:
§ 4850. Leave of absence without loss of salary in lieu of disability payments or maintenance allowance payments

(a) Whenever any person listed in subdivision (b) [a police officer was one of the occupations listed in (b)], who is employed on a regular, full-time basis, and is disabled, whether temporarily or permanently, by injury or illness arising out of and in the course of his or her duties, he or she shall become entitled, regardless of his or her period of service with the city, county, or district, to a leave of absence while so disabled without loss of salary in lieu of temporary disability payments or maintenance allowance payments, if any, that would be payable under this chapter, for the period of the disability, but not exceeding one year, or until that earlier date as he or she is retired on permanent disability pension, and is actually receiving disability pension payments, or advanced disability pension payments pursuant to Section 4850.3.

The language of the statute above and Illinois’ PEDA statute are analogous. The Revenue Ruling held that Section 1/104(a)(1) of the Tax Code provides for the "exclusion from gross income of amounts received under workman’s compensation acts as compensation for personal injuries or sickness." 1968 IRB LEXIS 476, at *3. (Emphasis added).

The ruling goes on to find that Section 1.104-1(b) of the Income Tax Regulations states that "[S]ection 104(a)(1) of the [Tax] Code excludes from gross income amounts which are received by an individual under a workmen’s compensation act or under a statute in the nature of a workmen’s compensation act which provides compensation to the employees for personal injuries or sickness incurred in the course of employment." Id. (Emphasis added).

The California District Court of Appeals, Second District, addressed whether payments made under the California statute cited above are to be considered worker’s compensation benefits. In Hawthorne v. City of Beverly Hills, 111 Cal. App. 2d 723 (2d Dist. 1952), the court held that any salary paid to an employee in lieu of temporary disability payments under Section 4850 is not salary as such, but is compensation within the meaning of the workmen’s compensation act.

The Hawthorne court also found that any amounts that were paid by the employer in excess of the normal disability benefits under the usual schedules for determining worker’s compensation were still to be considered benefit pay as opposed to salary. Hawthorne, 111 Cal. App. 2d at 728.

Rev. Rul. 68-10 C.B. 50 adopted the above findings and further found that payments made under Section 4850 of the California Labor Code are made because of injuries or illness arising out of and in the course of employee’s duties. The fact that the amount received is equal to the employee’s salary does not prevent such payments from being compensation within the meaning of worker’s compensation. Significantly, the Revenue Ruling also found that since those payments are compensation within the meaning of the worker’s compensation act, they cannot be considered payments provided by a wage continuation plan. Thus, Section 105(d) of the Tax Code is not applicable.
In conclusion, the IRS Tax Revenue Ruling held as follows:

_The total payments made by a California County to an employee under section 4850 *** because of an occupational injury or illness arising out of and in the course of the employee’s duties are in the nature of and in lieu of workmen’s compensation, and such payments are excludable from the employee’s gross income under section 104(a)(1) of the Code. The payments are excludable even if they are in excess of the normal disability benefits payable under a workmen’s compensation act._


It does not appear as though there have been any Illinois state court and/or federal court cases evaluating Illinois’ PEDA statute in the same way as the Hawthorne court evaluated California’s Section 4850. However, the similarity of the language of the two statutes and what appears to be similar motivating public policy for both statutes yields the above analysis a fair indicator of how the courts and the IRS would rule if asked to do so specifically for Illinois’ PEDA.

Based on the foregoing, it is reasonable for an employer to pay the eligible employee his or her gross salary throughout the time that he or she was off work pursuant to PEDA with no taxes withheld and with all benefits continued as set forth in the statute. In other words, the eligible employee should be paid his or her gross salary with NO tax withholding and reporting for any hours not worked during the one-year timeframe authorized by Illinois’ PEDA. On the other hand, the eligible employee should be paid his normal salary with normal tax withholding or reporting for any hours that were worked during the same time frame.

Under the Act, the employer for the eligible employee should continue to pay its share of the eligible employee’s health care benefits and should facilitate the collection of the eligible employee’s share of those contributions and make payment of them as it did before the injury for the full 52-week period described in more detail below. In addition, the eligible employee’s credit service time and the pension fund should be maintained as though he or she was working and his or her vacation and sick time should be preserved.

Another issue under PEDA is how long should the PEDA benefit be maintained. While the language of the PEDA statute appears clear on its face regarding how long the PEDA benefit shall last, there are ambiguities and issues related thereto. Under the PEDA statute, the eligible employee shall not receive payments pursuant to PEDA any longer than one year from the date of the eligible employee’s injury. 5 ILCS 345/1(b).

In what appears to have been a case of first impression, the Illinois Appellate Court, Fourth District, faced the issue of deciding whether the “one year” period under PEDA referred to one calendar year, or one year of benefits. In Albee v. City of Bloomington, 365 Ill. App. 3d 526 (4th Dist. 2006), the court decided that “one year” under PEDA meant a full year of incapacity, so
that where the employee’s disability is interrupted by intermittent returns to work, the employee is still entitled to one full year of PEDA payments and benefits related to that injury even if the disability extends beyond one straight calendar year.

For example, if an eligible employee police officer is injured on January 1, off work for six months, then on July 1 ordered to return to work for a light-duty assignment the officer is capable of performing, which ends on December 31 of that same year, the officer is still entitled to an additional six months of payments under PEDA for any future disability resulting from the January 1 injury.

The public policy announced by the court in support of their ruling was that an employee ought to be encouraged to come back to work if they are able. If it was a straight 365 days from the date of the injury with no qualification, then any return to work (prior to the 365 days expiring) would cut off the employee’s access to the balance of the year under the Act. Thus, the benefit would be eliminated even though there was disability related to the original injury. The court did not want to promote employees staying off work the full 365 days simply to secure the full benefit if they didn’t need it. They concluded that would be bad public policy and wanted to promote employees returning to work as soon as possible to the extent that they were able.

The Albee court did not go into detail on how far they would go into breaking down the actual time the employee was incapable of performing his/her job-related duties. However, given the strong public policy set forth above, it is not inconsistent to allow the employee’s time to be broken down into hours worked as opposed to full days worked.

Given that analysis, it is reasonable to calculate the hours that an eligible employee was not able to work in any given week as a result of that injury and pay that employee pursuant to PEDA for those hours until the eligible employee accumulated an aggregate of a year’s worth of off-work hours.

Having said that, it would be much easier from an accounting and record-keeping standpoint if the employer and the employee were able to break that down into weeks or at the minimum, full days.

There are additional related issues/complications that might arise under the statute depending on whether the employed is paid appropriately from the minute that he is paid under PEDA. For example, if an employer was to have paid an eligible employee for the full 52 weeks (with the 52 weeks defined as total hours of incapacity aggregating to a total of 52 weeks) with all normal withholdings taking place, the eligible employer would have underpaid the eligible employee. An eligible employee under PEDA would need to receive a check retroactively for any and all taxes that were withheld from his paychecks during the period of incapacity. In theory, the payment of those dollars would make the eligible employee whole with respect to what may be termed “back-pay” owed under the statute. However, it does not take into account the time value of money (i.e., the fact that the eligible employee was without those dollars going back to the date of the injury).
Whether an employer needs to pay the eligible employee interest on those dollars is a complicated question. However, the failure to pay those dollars to an eligible employee may implicate a couple of other important statutes; namely: the Fair Labor Standards Act (FLSA); and, the Illinois Wage Payment and Collections Act (IWPCA), 820 ILCS 115/1 et seq.

Whether the dollars owed to the eligible employee (i.e., the difference between the eligible employee’s gross salary and his net salary for hours off work) constitute “wages” and therefore, “back-pay” under the FSLA and the IWPCA is a real concern. Since those dollars are part of his gross salary, there is some possibility that the government or courts might consider them wages under both Acts. Both the FLSA and the IWPCA limit the parties’ ability to conclusively negotiate any deal to resolve outstanding back-pay issues; and, both statutes include penalty provisions and the right for the employee’s attorney to recover attorney’s fees.

Another characterization of that same “back-pay” that should have been paid to the eligible employee, is that those monies are simply additional benefit payments (as payments made in lieu of and in the nature of a worker’s compensation benefits) and not wages. Under that characterization, those monies would not constitute wages under either the FLSA or the IWPCA. If that is the case, then those statutes would not be implicated.

If the dollars are considered wages and therefore “back-pay” owed to the eligible employee, then there is a very real possibility that the eligible employee may be entitled to liquidated damages. The following is an overview of those statutes and how they operate if they were to be implicated.

**FLSA:** Under Section 216(b) of the FLSA, an employee has a private right of action to recover overtime compensation and/or minimum wages that were not properly paid. Under the Act, an employee can recover attorney’s fees and costs in addition to the unpaid wages. The FLSA also allows the employee to recover an additional equal amount as liquidated damages. See 29 U.S.C. § 216(b); 29 C.F.R. 790.22. Generally, when an employer is found to have violated the FLSA, liquidated damages in an equal amount are awarded. Walton v. United Consumers Club, Inc., 786 F.2d 303, 310 (7th Cir. 1986) (“Double damages are the norm, single damages the exception, the burden on the employer.”) See also Tamas v. Family Video Movie Club, Inc., No. 11 C 1024, 2013 U.S. Dist. LEXIS 44313, at *24 (N.D. Ill. March 28, 2013) (citations omitted). However, a court can, in its discretion, decide against an award of liquidated damages if the court is satisfied that the employer’s act or omission was (1) in good faith; and (2) the employer had reasonable grounds for believing that its act or omission was not a violation of the FLSA. 29 U.S.C. § 260.

The normal statute of limitations applicable to FLSA claims is two years. 29 U.S.C. § 255(a). The statute of limitations can be extended to three years upon a showing of willfulness. 29 U.S.C. § 255(a). For purposes of establishing the proper statute of limitations, an employer acts willfully where it “knows or shows reckless disregard for whether [its] actions are unlawful under the FLSA.” Matt v. ECO-Green International, 12 C 1021, 2013 U.S. Dist. LEXIS 14255, at *6 (E.D. Wisc. Jan. 31, 2013) (quoting Bankston v. State of Ill., 60 F.3d 1249, 1253 (7th Cir. 1995)). It is plaintiff’s
burden to prove willfulness in order to establish that a three-year statute of limitations period applies. This is a closer question than whether liquidated damages will be awarded.

The FLSA limits the ability to settle wage claims. As a general principle of law, disputes can be settled between two parties and this resolution can act as a bar to a later filed lawsuit. However, the FLSA is designed to prevent consenting adults from transacting about minimum wages and overtime pay. There is some dispute about whether private settlements can be entered into. However, in Illinois and in the Seventh Circuit, the law is clear, wholly private settlements are unenforceable. An employee cannot waive or release his rights to overtime pay or liquidated damages under Section 16(b) of the FLSA without Department of Labor supervision or court approval. 29 U.S.C. § 216(c); Walton v. United Consumers Club, Inc., 786 F.2d 303, 306 (7th Cir. 1986).

The FLSA provides that the Secretary of Labor is authorized to supervise/approve of an agreement between an employer and employee to resolve claims for unpaid overtime compensation. 29 U.S.C. § 216(c); Walton, 687 F.2d at 306. Payment by the employer and cashing the check by the employee is not enough. To bar litigation, an agreement must be reached with the assent of both the employee and the Secretary of Labor. Walton, 687 F.2d at 306-307.

Alternatively, the employer could seek to resolve the wage and liquidated damages issues with its employees/former employees without involving the Secretary of Labor. As outlined above, a private settlement will not bar an employee/former employee from hiring an attorney and bringing a claim under the FLSA. The FLSA does provide for attorney’s fees and costs. Even if there is a settlement and a release signed by the employee, a challenge could be brought seeking to set aside the release/agreement as unenforceable, challenging the amount of back wages and liquidated damages owed, and the employer’s recordkeeping.

**IWPCA:** Under Section 4 of the Illinois Wage Payment and Collections Act (IWPCA):

> All wages earned by any employee during a semi-monthly or bi-weekly pay period shall be paid to such employee not later than 13 days after the end of the pay period in which such wages were earned. All wages earned by any employee during a weekly pay period shall be paid not later than 7 days after the end of the weekly pay period in which the wages were earned. All wages paid on a daily basis shall be paid insofar as possible on the same day as the wages were earned, or not later in any event than 24 hours after the day on which the wages were earned. Wages of executive, administrative and professional employees, as defined in the Federal Fair Labor Standards Act of 1938, may be paid on or before 21 calendar days after the period during which they are earned.

820 ILCS 115/4.

Given the foregoing, an employee not timely paid wages by his/her employer as required by the IWPCA can file a claim with the Department of Labor or a civil action. The employee can recover
the amount of underpayments and “damages of 2% of the amount of any such underpayments for each month following the date of payment which such underpayments remain unpaid.” 820 ILCS 115/14(a). If a lawsuit is filed, the employee is also entitled to recover costs and reasonable attorney’s fees.

Like the FLSA, releases obtained from current and former employees regarding alleged violations of the Illinois Wage Payment and Collection Act are void as a matter of law and unenforceable. Lewis v. Giordano’s Enterprises, Inc., 397 Ill. App. 3d 581 (1st Dist. 2009).

The PEDA statute explicitly excludes any employees of home rule units with a population of over one million in the State of Illinois. This would obviously exclude any police officers, firefighters or other eligible employees employed by the City of Chicago.

II. ILLINOIS PUBLIC SAFETY EMPLOYEE BENEFITS ACT (PSEBA)

The Public Safety Employee Benefits Act can be found at 820 ILCS 320 et seq. That statute states as follows:

(820 ILCS 320/1)
Sec. 1. Short title. This Act may be cited as the Public Safety Employee Benefits Act.
(Source: P.A. 90-535, eff. 11-14-97.)

(820 ILCS 320/3)
Sec. 3. Definition. For the purposes of this Act, the term "firefighter" includes, without limitation, a licensed emergency medical technician (EMT) who is a sworn member of a public fire department.
(Source: P.A. 93-569, eff. 8-20-03.)

(820 ILCS 320/5)
Sec. 5. Declaration of State interest. The General Assembly determines and declares that the provisions of this Act fulfill an important State interest.
(Source: P.A. 90-535, eff. 11-14-97.)

(820 ILCS 320/10)
Sec. 10. Required health coverage benefits.
(a) An employer who employs a full-time law enforcement, correctional or correctional probation officer, or firefighter, who, on or after the effective date of this Act suffers a catastrophic injury or is killed in the line of duty shall pay the entire premium of the employer’s health insurance plan for the injured employee, the injured employee’s spouse, and for each dependent child of the injured employee until the child reaches the age of majority or until the end of the calendar year in which the child reaches the age of 25 if the child continues to be
dependent for support or the child is a full-time or part-time student and is
dependent for support. The term "health insurance plan" does not include
supplemental benefits that are not part of the basic group health insurance plan.
If the injured employee subsequently dies, the employer shall continue to pay the
entire health insurance premium for the surviving spouse until remarried and for
the dependent children under the conditions established in this Section. However:

(1) Health insurance benefits payable from any other source shall reduce
benefits payable under this Section.
(2) It is unlawful for a person to willfully and knowingly make, or cause to
be made, or to assist, conspire with, or urge another to make, or cause to
be made, any false, fraudulent, or misleading oral or written statement to
obtain health insurance coverage as provided under this Section. A
violation of this item is a Class A misdemeanor.
(3) Upon conviction for a violation described in item (2), a law
enforcement, correctional or correctional probation officer, or other
beneficiary who receives or seeks to receive health insurance benefits
under this Section shall forfeit the right to receive health insurance
benefits and shall reimburse the employer for all benefits paid due to the
fraud or other prohibited activity. For purposes of this item, "conviction"
means a determination of guilt that is the result of a plea or trial,
regardless of whether adjudication is withheld.

(b) In order for the law enforcement, correctional or correctional probation
officer, firefighter, spouse, or dependent children to be eligible for insurance
coverage under this Act, the injury or death must have occurred as the result of
the officer's response to fresh pursuit, the officer or firefighter'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. Nothing in this Section shall
be construed to limit health insurance coverage or pension benefits for which the
officer, firefighter, spouse, or dependent children may otherwise be eligible.
(Source: P.A. 90-535, eff. 11-14-97.)

(820 ILCS 320/15)
Sec. 15. Required educational benefits. If a firefighter, law enforcement, or
correctional or correctional probation officer is accidentally or unlawfully and
intentionally killed as specified in subsection (b) of Section 10 on or after July 1,
1980, the State shall waive certain educational expenses which children of the
deceased incur while obtaining a vocational-technical certificate or an
undergraduate education at a State supported institution. The amount waived by
the State shall be an amount equal to the cost of tuition and matriculation and
registration fees for a total of 120 credit hours. The child may attend a State
vocational-technical school, a public community college, or a State university. The
child may attend any or all of the institutions specified in this Section, on either a
full-time or part-time basis. The benefits provided under this Section shall continue to the child until the child's 25th birthday.

(1) Upon failure of any child benefited by the provisions of this Section to comply with the ordinary and minimum requirements of the institution attended, both as to discipline and scholarship, the benefits shall be withdrawn as to the child and no further moneys may be expended for the child's benefits so long as the failure or delinquency continues.

(2) Only a student in good standing in his or her respective institution may receive the benefits under this Section.

(3) A child receiving benefits under this Section must be enrolled according to the customary rules and requirements of the institution attended.

(Source: P.A. 92-651, eff. 7-11-02.)

(820 ILCS 320/17)
Sec. 17. Reporting forms.

(a) A person who qualified for benefits under subsections (a) and (b) of Section 10 of this Act (hereinafter referred to as "PSEBA recipient") shall be required to file a form with his or her employer as prescribed in this Section. The Commission on Government Forecasting and Accountability (COGFA) shall use the form created in this Act and prescribe the content of the report in cooperation with one statewide labor organization representing police, one statewide law enforcement organization, one statewide labor organization representing firefighters employed by at least 100 municipalities in this State that is affiliated with the Illinois State Federation of Labor, one statewide labor organization representing correctional officers and parole agents that is affiliated with the Illinois State Federation of Labor, one statewide organization representing municipalities, and one regional organization representing municipalities. COGFA may accept comment from any source, but shall not be required to solicit public comment. Within 60 days after the effective date of this amendatory Act of the 98th General Assembly, COGFA shall remit a copy of the form contained in this subsection to all employers subject to this Act and shall make a copy available on its website.

"PSEBA RECIPIENT REPORTING FORM:

Under Section 17 of the Public Safety Employee Benefits Act (820 ILCS 320/17), the Commission on Government Forecasting and Accountability (COGFA) is charged with creating and submitting a report to the Governor and the General Assembly setting forth information regarding recipients and benefits payable under the Public Safety Employee Benefits Act (Act). The Act requires employers providing PSEBA benefits to distribute this form to any former peace officer, firefighter, or correctional officer currently in receipt of PSEBA benefits.
The responses to the questions below will be used by COGFA to compile information regarding the PSEBA benefit for its report. The Act prohibits the release of any personal information concerning the PSEBA recipient and exempts the reported information from the requirements of the Freedom of Information Act (FOIA).

The Act requires the PSEBA recipient to complete this form and submit it to the employer providing PSEBA benefits within 60 days of receipt. If the PSEBA recipient fails to submit this form within 60 days of receipt, the employer is required to notify the PSEBA recipient of non-compliance and provide an additional 30 days to submit the required form. Failure to submit the form in a timely manner will result in the PSEBA recipient incurring responsibility for reimbursing the employer for premiums paid during the period the form is due and not filed.

(1) PSEBA recipient’s name:
(2) PSEBA recipient’s date of birth:
(3) Name of the employer providing PSEBA benefits:
(4) Date the PSEBA benefit first became payable:
(5) What was the medical diagnosis of the injury that qualified you for the PSEBA benefit?
(6) Are you currently employed with compensation?
(7) If so, what is the name(s) of your current employer(s)?
(8) Are you or your spouse enrolled in a health insurance plan provided by your current employer or another source?
(9) Have you or your spouse been offered or provided access to health insurance from your current employer(s)?
If you answered yes to question 8 or 9, please provide the name of the employer, the name of the insurance provider(s), and a general description of the type(s) of insurance offered (HMO, PPO, HSA, etc.):
(10) Are you or your spouse enrolled in a health insurance plan provided by a current employer of your spouse?
(11) Have you or your spouse been offered or provided access to health insurance provided by a current employer of your spouse?
If you answered yes to question 10 or 11, please provide the name of the employer, the name of the insurance provider, and a general description of the type of insurance offered (HMO, PPO, HSA, etc.) by an employer of your spouse:

COGFA shall notify an employer of its obligation to notify any PSEBA recipient receiving benefits under this Act of that recipient’s obligation to file a report under this Section. A PSEBA recipient receiving benefits under this Act must complete and return this form to the employer within 60 days of receipt of such form. Any PSEBA recipient who has been given notice as provided under this Section and who fails to timely file a report under this Section within 60 days after receipt of this form shall be notified by the employer that he or she has 30
days to submit the report or risk incurring the cost of his or her benefits provided under this Act. An employer may seek reimbursement for premium payments for a PSEBA recipient who fails to file this report with the employer 30 days after receiving this notice. The PSEBA recipient is responsible for reimbursing the employer for premiums paid during the period the report is due and not filed. Employers shall return this form to COGFA within 30 days after receiving the form from the PSEBA recipient.

Any information collected by the employer under this Section shall be exempt from the requirements of the Freedom of Information Act except for data collected in the aggregate that does not reveal any personal information concerning the PSEBA recipient.

By July 1 of every even-numbered year, beginning in 2016, employers subject to this Act must send the form contained in this subsection to all PSEBA recipients eligible for benefits under this Act. The PSEBA recipient must complete and return this form by September 1 of that year. Any PSEBA recipient who has been given notice as provided under this Section and who fails to timely file a completed form under this Section within 60 days after receipt of this form shall be notified by the employer that he or she has 30 days to submit the form or risk incurring the costs of his or her benefits provided under this Act. The PSEBA recipient is responsible for reimbursing the employer for premiums paid during the period the report is due and not filed. The employer shall resume premium payments upon receipt of the completed form. Employers shall return this form to COGFA within 30 days after receiving the form from the PSEBA recipient.

(b) An employer subject to this Act shall complete and file the form contained in this subsection.

"EMPLOYER SUBJECT TO PSEBA REPORTING FORM:
Under Section 17 of the Public Safety Employee Benefits Act (820 ILCS 320/17), the Commission on Government Forecasting and Accountability (COGFA) is charged with creating and submitting a report to the Governor and General Assembly setting forth information regarding recipients and benefits payable under the Public Safety Employee Benefits Act (Act).

The responses to the questions below will be used by COGFA to compile information regarding the PSEBA benefit for its report.

The Act requires all employers subject to the PSEBA Act to submit the following information within 120 days after receipt of this form.

(1) Name of the employer:
(2) The number of PSEBA benefit applications filed under the Act during the reporting period provided in the aggregate and listed individually by name of applicant and date of application:
(3) The number of PSEBA benefits and names of PSEBA recipients receiving benefits awarded under the Act during the reporting period provided in the aggregate and listed individually by name of applicant and date of application:
(4) The cost of the health insurance premiums paid due to PSEBA benefits awarded under the Act during the reporting period provided in the aggregate and listed individually by name of PSEBA recipient:
(5) The number of PSEBA benefit applications filed under the Act since the inception of the Act provided in the aggregate and listed individually by name of applicant and date of application:
(6) The number of PSEBA benefits awarded under the Act since the inception of the Act provided in the aggregate and listed individually by name of applicant and date of application:
(7) The cost of health insurance premiums paid due to PSEBA benefits awarded under the Act since the inception of the Act provided in the aggregate and listed individually by name of PSEBA recipient:
(8) The current annual cost of health insurance premiums paid for PSEBA benefits awarded under the Act provided in the aggregate and listed individually by name of PSEBA recipient:
(9) The annual cost of health insurance premiums paid for PSEBA benefits awarded under the Act listed by year since the inception of the Act provided in annual aggregate amounts and listed individually by name of PSEBA recipient:
(10) A description of health insurance benefit levels currently provided by the employer to the PSEBA recipient:
(11) The total cost of the monthly health insurance premium currently provided to the PSEBA recipient:
(12) The other costs of the health insurance benefit currently provided to the PSEBA recipient including, but not limited to:
   (i) the co-pay requirements of the health insurance policy provided to the PSEBA recipient;
   (ii) the out-of-pocket deductibles of the health insurance policy provided to the PSEBA recipient;
   (iii) any pharmaceutical benefits and co-pays provided in the insurance policy; and
   (iv) any policy limits of the health insurance policy provided to the PSEBA recipient."

An employer covered under this Act shall file copies of the PSEBA Recipient Reporting Form and the Employer Subject to the PSEBA Act Reporting Form with COGFA within 120 days after receipt of the Employer Subject to the PSEBA Act Reporting Form.

The first form filed with COGFA under this Section shall contain all information required by this Section. All forms filed by the employer thereafter shall set forth the required information for the 24-month period ending on June 30 preceding the deadline date for filing the report.

Whenever possible, communication between COGFA and employers as required by this Act shall be through electronic means.
(c) For the purpose of creating the report required under subsection (d), upon receipt of each PSEBA Benefit Recipient Form, or as soon as reasonably practicable, COGFA shall make a determination of whether the PSEBA benefit recipient or the PSEBA benefit recipient's spouse meets one of the following criteria:

1. the PSEBA benefit recipient or the PSEBA benefit recipient's spouse is receiving health insurance from a current employer, a current employer of his or her spouse, or another source;
2. the PSEBA benefit recipient or the PSEBA benefit recipient's spouse has been offered or provided access to health insurance from a current employer or employers.

If one or both of the criteria are met, COGFA shall make the following determinations of the associated costs and benefit levels of health insurance provided or offered to the PSEBA benefit recipient or the PSEBA benefit recipient's spouse:

A. a description of health insurance benefit levels offered to or received by the PSEBA benefit recipient or the PSEBA benefit recipient's spouse from a current employer or a current employer of the PSEBA benefit recipient's spouse;

B. the monthly premium cost of health insurance benefits offered to or received by the PSEBA benefit recipient or the PSEBA benefit recipient's spouse from a current employer or a current employer of the PSEBA benefit recipient's spouse including, but not limited to:
   i. the total monthly cost of the health insurance premium;
   ii. the monthly amount of the health insurance premium to be paid by the employer;
   iii. the monthly amount of the health insurance premium to be paid by the PSEBA benefit recipient or the PSEBA benefit recipient's spouse;
   iv. the co-pay requirements of the health insurance policy;
   v. the out-of-pocket deductibles of the health insurance policy;
   vi. any pharmaceutical benefits and co-pays provided in the insurance policy;
   vii. any policy limits of the health insurance policy.

COGFA shall summarize the related costs and benefit levels of health insurance provided or available to the PSEBA benefit recipient or the PSEBA benefit recipient's spouse and contrast the results to the cost and benefit levels of health insurance currently provided by the employer subject to this Act. This information shall be included in the report required in subsection (d).

(d) By June 1, 2014, and by January 1 of every odd-numbered year thereafter beginning in 2017, COGFA shall submit a report to the Governor and the General Assembly setting forth the information received under subsections
(a) and (b). The report shall aggregate data in such a way as to not reveal the identity of any single beneficiary. The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, Minority Leader, and Clerk of the House of Representatives, the President, Minority Leader, and Secretary of the Senate, the Legislative Research Unit as required under Section 3.1 of the General Assembly Organization Act, and the State Government Report Distribution Center for the General Assembly as required under paragraph (t) of Section 7 of the State Library Act. COGFA shall make this report available electronically on a publicly accessible website.
(Source: P.A. 98-561, eff. 8-27-13; 99-239, eff. 8-3-15.)

(820 ILCS 320/20)
Sec. 20. Home rule. An employer, including a home rule unit, that employs a full-time law enforcement, correctional or correctional probation officer, or firefighter may not provide benefits to persons covered under this Act in a manner inconsistent with the requirements of this Act. This Act is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise of powers and functions exercised by the State.
(Source: P.A. 90-535, eff. 11-14-97.)

(820 ILCS 320/95)
Sec. 95. (Amendatory provisions; text omitted).
(Source: P.A. 90-535, eff. 11-14-97; text omitted.)

(820 ILCS 320/99)
Sec. 99. Effective date. This Act takes effect upon becoming law.
(Source: P.A. 90-535, eff. 11-14-97.)

* * * * * * * * * * *

Under the Illinois Public Safety Employee Benefits Act (PSEBA), police officers, firefighters, EMTs, correctional or correctional probation officers who suffer a “catastrophic” injury in the line of duty are entitled to lifetime health insurance from their employer covering the injured employee and his or her family. These benefits are payable only if the catastrophic injury or death “occurred as the result of the [eligible employee’s] response to fresh pursuit, the officer or firefighter’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.” 820 ILCS 320/10(b)

One might expect that PSEBA would not create significant exposure to municipalities, because truly catastrophic injuries to police officers and firefighters in the line of duty are relatively rare. That is, however, only if the term “catastrophic” is defined using the common understanding of that word. Webster’s Dictionary defines catastrophic as “momentous,” involving “utter overthrow or ruin.”
In Villarreal v. Village of Schaumburg, 325 Ill. App. 3d 1157 (1st Dist. 2001), the appellate court found that a “catastrophic” injury is one that is “financially ruinous.” In Villarreal, the injured police officer was unable to continue to work as a police officer due to his serious knee injury. While the injury prevented him from working as a police officer, it was not so bad as to prevent him from operating a small contracting company. Since the injury was not so catastrophic as to cause the employee to be completely unable to work and earn a salary, the Villarreal court ruled that he was not entitled to post-retirement health insurance under PSEBA.

Two years later, the Illinois Supreme Court addressed the same issue. In Krohe v. City of Bloomington, 204 Ill. 2d 392 (2003), the Illinois Supreme Court took a different approach. The court found “catastrophic” as used in PSEBA to be ambiguous, and referred to legislative history to conclude that the General Assembly meant the term to mean that the police officer or firefighter is no longer able to perform the job of police officer or firefighter. Specifically, the Illinois Supreme Court held the term “catastrophic injury” in Section 10(a) of the Act is a term of art meaning an injury resulting in the award of a line-of-duty disability pension. Thus, after Krohe, even if the officer or firefighter could perform some job other than police or firefighting work, the officer still qualifies for the benefits under PSEBA.

Just this year, in the Village of Vernon Hills v. Heelan, 2015 IL 118170, the Illinois Supreme Court revisited the court’s definition of “catastrophic injury” as used in Section 10(a) of PSEBA. As expressed above, the purpose of PSEBA is to provide employer-sponsored health insurance coverage for police and firefighters, and other eligible employees (and their families) who are either killed or catastrophically injured in the line of duty.

The PSEBA statute does not contain a definition of “catastrophic injury,” so the courts have defined its meaning. As stated above, the Supreme Court visited the issue in Krohe v. City of Bloomington. As stated above, they held that the catastrophic injury was synonymous with an injury resulting in a line-of-duty disability under the Illinois Pension Code. However, in the Vernon Hills case, Heelan was awarded a line-of-duty disability pension related to an injury he suffered when he slipped on ice responding to an emergency call. He subsequently filed for PSEBA benefits, but the Village denied the benefits and filed a complaint seeking a declaratory judgment as to whether it was responsible for paying health insurance premiums.

Although the Village acknowledged the holding in Krohe, it argued that the facts and circumstances of Heelan’s injury were distinguishable. Both the circuit court and the appellate court applied the holding of Krohe to Heelan’s injury and held that the Village was required to pay PSEBA benefits. The Illinois Supreme Court agreed, holding that a catastrophic injury under PSEBA is synonymous to a line-of-duty disability under the Pension Code. As a result, once Heelan was awarded a line-of-duty disability pension, he was entitled to PSEBA benefits. The court declined to depart from its decision in Krohe, and supported that decision by noting that the legislature could have, but has not, amended PSEBA after Krohe.
Kevin J. Luther  
- Partner

Kevin concentrates his practice in the areas of workers’ compensation, employment and labor law, and employer liability. He supervises the Workers’ Compensation and Employment & Labor Practices in the firm’s Rockford and Chicago offices. He is the immediate past chair of the firm’s statewide workers’ compensation practice group.

Kevin has represented numerous employers before the Illinois Human Rights Commission and has arbitrated hundreds of workers’ compensation claims in many Illinois Industrial Commission venues. He has also tried numerous liability cases to jury verdict.

In the area of labor law, Kevin has represented employers in collective bargaining agreement negotiation and preparation, union grievances and arbitrations, and NLRB proceedings.

Kevin has authored a law review article on Illinois employment law and he is a co-author of “Illinois Workers’ Compensation Law, 2015-2016 Edition,” published by Thomson Reuters. The book provides a comprehensive, up-to-date assessment of workers’ compensation law in Illinois. Kevin also frequently speaks to industry and legal professional groups.

Kevin has spent his entire legal career at Heyl Royster, beginning in 1984 in the Peoria office. He has practiced in the Rockford office since it opened in 1985. He is a member of the Winnebago County Bar Association in its Workers’ Compensation and Trial sections. He is a member of the State Bar of Wisconsin, Illinois State Bar Association, and the American Bar Association, and has actively participated in sections relevant to his practice areas. He is a member of the Illinois Association of Defense Trial Counsel, formerly on the Board of Directors.

Significant Cases


Publications


Public Speaking

- “Case Law Update” Winnebago County Bar Association (2015)
- “HIPAA: Legal Background and Current State of the Law” City of Rockford Fire 911 Division (2014)
- “Utilization Review and Section 8 Medical Bill Issues” Heyl Royster 29th Annual Claims Handling Seminar (2014)
• “Ethics of Social Media”
  Illinois Workers’ Compensation Commission
  Judicial Training, Chicago (2012)
• “A Program on the Extent to Which Employers
  May Monitor/Restrict Employees”
  St. Mary’s Occupational Health & Wellness
  (2012)
• “Workers’ Compensation, HIPAA and
  Employment Retaliatory Discharge Issues”
  St. Mary’s Occupational Health & Wellness
  (2011)
• “Workers’ Comp Reform - What Does it Mean to
  You?”
  Williams Manny (2011)
• “Workers’ Compensation Case Law Update”
  Winnebago County Bar Association (2011)

Professional Recognition
• Martindale-Hubbell AV Preeminent
• Selected as a Leading Lawyer in Illinois. Only
  five percent of lawyers in the state are named
  as Leading Lawyers.
• Named to the Illinois Super Lawyers list (2013-
  2015). The Super Lawyers selection process is
  based on peer recognition and professional
  achievement. Only five percent of the lawyers
  in each state earn this designation.

Professional Associations
• Winnebago County Bar Association
• Illinois State Bar Association
• State Bar of Wisconsin
• American Bar Association
• Illinois Association of Defense Trial Counsel

Court Admissions
• State Courts of Illinois and Wisconsin
• United States District Court, Northern and
  Central Districts of Illinois
• United States Court of Appeals, Seventh Circuit

Education
• Juris Doctor, Washington University School of
  Law, 1984
• Bachelor of Arts-Economics and Mathematics
  (summa cum laude), Blackburn University, 1981
Bruce is a past Chair of our state-wide workers’ compensation practice group and has spent his entire legal career with Heyl Royster beginning in 1982 in the Peoria office. He concentrates his expertise in the area of workers’ compensation, third-party defense of employers, and employment law. He served as a technical advisor to the combined employers group in the negotiations which culminated in the 2005 revisions to the Illinois Workers’ Compensation Act. More recently, Bruce worked as a technical advisor to the Illinois Chamber of Commerce as well as a number of Illinois legislators and State agencies in the process that resulted in the 2011 Amendments to the Illinois Workers’ Compensation Act.

Bruce was appointed by Mitch Weiss, Chairman of the Illinois Workers’ Compensation Commission, to a committee of attorneys who reviewed and made recommendations for revisions to the Rules Governing Practice before the Workers’ Compensation Commission.

With extensive experience before the Illinois Workers’ Compensation Commission, Bruce has defended employers in thousands of cases during the course of his career. As a result of his experience and success, his services are sought by self-insureds, insurance carriers, and TPAs.

Bruce is an Adjunct Professor of law at the University of Illinois College of Law where he has taught Workers’ Compensation Law to upper-level students since 1998.

Bruce has co-authored a book with Kevin Luther of the firm’s Rockford office entitled Illinois Workers’ Compensation Law, 2015-2016 Edition, which was published by Thomson Reuters. The book provides a comprehensive, up-to-date assessment of workers’ compensation law in Illinois.

Bruce is a frequent speaker on workers’ compensation issues at bar association and industry-sponsored seminars.

Bruce has served as Vice-Chair of the ABA Committee on Employment, Chair of the Illinois State Bar Association Section Council on Workers’ Compensation, and currently serves on the Employment Law Committee of the Chicagoland Chamber of Commerce and the Illinois Chamber of Commerce Workers’ Compensation Committee. He has been designated as one of the “Leading Lawyers” in Illinois as a result of a survey of Illinois attorneys conducted by the Chicago Daily Law Bulletin; another survey published by Chicago magazine named Bruce one of the “Best Lawyers in Illinois” for 2008.

Publications


Public Speaking

- “Workers Compensation and the Government Employer: Where We Are, How We Got Here and What We Can Do About It” Illinois County Governing Conference (2015)
- “Defending High Exposure and Catastrophic Workers’ Compensation Cases” Heyl Royster 29th Annual Claims Handling Seminar (2014)
- “Proven Tactics for Successfully Defending High Exposure Workers’ Compensation Claims and
Keeping Them From Spiraling Out Of Control”
Illinois Workers’ Compensation Forum (2014)
- “Workers’ Compensation Reform in Illinois – The Political and Legal Process: A Case Study for the Nation”
DRI Annual Meeting (2013)
- “The 2011 Amendments to the Illinois Workers’ Compensation Act”
- “AMA Guides – Seize the Moment to Reduce PPD Awards”
Heyl Royster 27th Annual Claims Handling Seminar (2012)
- “What Every Employer Should Know About the 2011 Amendments to the Illinois Workers’ Compensation Act”
- “Investigating the Suspicious Claim”
Danville Area Dental Society (2012)
- “2011 Amendments to the Illinois Workers’ Compensation Act: One Year Later”
- “Use of AMA Ratings to Evaluate Permanent Partial Disability”
- “Workers’ Compensation Reform in Illinois”
Illinois Association of Defense Trial Counsel Webinar (2011)
- “2005 Amendments to the Workers’ Compensation Act: Yesterday, Today and Tomorrow”
- “The 2005 Amendments, 3 Years Later: The Respondent”
- “Update on the Illinois Workers’ Compensation Act and Medical Fee Schedule”
- “Recent Changes to the Illinois Workers’ Compensation Statutes”
Illinois Manufacturers Association (2005)

Professional Recognition
- Martindale-Hubbell AV Preeminent
- Inducted as a Fellow in the College of Workers’ Compensation Lawyers
- Named as one of the “50 Most Influential People In Workers’ Compensation” by SEAK, Inc. in 2014.
- Selected as a Leading Lawyer in Illinois. Only five percent of lawyers in the state are named as Leading Lawyers.
- Named to the Illinois Super Lawyers list (2012-2015). The Super Lawyers selection process is based on peer recognition and professional achievement. Only five percent of the lawyers in each state earn this designation.

Professional Associations
- Illinois State Bar Association (Past Chair Workers’ Compensation Law Section Council)
- Champaign County Bar Association
- Illinois Association of Defense Trial Counsel (Member, Workers’ Compensation Committee)
- Defense Research Institute
- Illinois Self-Insurers Association

Court Admissions
- State Courts of Illinois
- United States District Court, Central District of Illinois
- United States Court of Appeals, Seventh Circuit
- United States Supreme Court

Education
- Juris Doctor, Washington University School of Law, 1982
- Bachelor of Arts-Finance, University of Illinois, 1979
John M. Redlingshafer
- Partner

John is chair of the firm's Governmental Practice and a member of the Business & Commercial Litigation Practice. In the area of governmental law, he represents numerous townships, villages, fire districts, road districts, and other governmental entities in a broad range of areas, including litigation, negotiations on intergovernmental agreements, compliance with statutory regulations, and consultation on infrastructure and construction projects (including project financing and debt management). He also works with governmental bodies and private developers/corporations in various aspects of zoning, annexation, and eminent domain law. In addition, John represents corporate clients in general tort defense and landlord/tenant issues. John also serves as an Administrative Adjudication Hearing Officer for municipal ordinance violations involving alleged violations of ordinances related to real and personal property.

John is a frequent statewide speaker on government-related issues at both conventions and educational seminars. He was a contributing author and General Editor for a publication related to special district law for the Illinois Institute for Continuing Legal Education, and also wrote for the Institute on publications regarding the Illinois Open Meetings Act, Freedom of Information Act, and municipal contracts in the Institute's "Illinois Municipal Law" series. He has also been a regular, contributing author to the official publication of the Township Officials of Illinois, the Perspective, and the Illinois Township Attorneys Association newsletter.

John is a past President of the Illinois Township Attorneys Association, and previously served as the Editor of its newsletter, the Talk of the Township. He has also served on the Board of Directors for the Peoria County Bar Association, and currently serves as a member of the Illinois State Bar Association's Local Government Law Section Council. In 2013, 2014 and 2015 he was named to the Illinois Super Lawyers Rising Stars list. Only 2.5 percent of Illinois lawyers who are 40 years old or younger, or who have been practicing 10 years or less, earn this designation.

John currently serves on the Tazewell County Board, and was appointed to its Land Use and Health Services Committees. He was also appointed to the East Peoria Fire and Police Commission by the Mayor, with consent of the East Peoria City Council. He has spent his entire legal career with Heyl Royster, beginning in 2004 in the Peoria office.

Transactions
- Represents governmental entities and developers in significant zoning changes.
- Represented township government in objecting to proposed mineral extraction facility.
- Assisted agricultural cooperative in objecting to special use (including related court trial) authorizing construction of grain storage facility.
- Drafts resolutions and ordinances for governmental entities.
- Represents landowners in eminent domain proceedings.
- Negotiated resolution for agricultural cooperation in eminent domain cases brought by state agency.
- Litigated "quick take" proceedings on behalf of private corporations contesting eminent domain offers.
- Represents governmental entities in property purchases and construction projects.
- Assisted numerous townships and road districts in real estate contracts with cities, park districts, and other governments.
- Negotiated agreement between fire protection district and private corporation for real estate to host new central station.

Publications
- General Editor, and author of "General Considerations," chapter in Special Districts, Illinois Institute for Continuing Legal Education (2014)
- "Introduction to the Open Meetings Act," chapter in Illinois' Freedom of Information and Learn more about our speakers at www.heylroyster.com

Public Speaking
• “General Assistance: Problems Township Attorneys Are Asked to Deal with” Illinois Township Attorneys Association 12th Annual Educational Seminar (2014)
• “Medical Cannabis: A Primer For Employers and Governmental Entities” Heyl Royster Lunch & Learn Seminar/Webinar (2014)
• “Determining Control of Rights-of-Way” East Central and Northwest Highway Commissioners Seminars (2014)
• “General Considerations for Township Supervisors” Township Officials of Illinois Conferences (2014)

Professional Recognition
• Named to the Leading Lawyers Emerging Lawyers list (2015). Only 2 percent of Illinois lawyers under the age of 40 or who have been licensed to practice for 10 years or less earn this distinction.
• Named to the Illinois Super Lawyers Rising Stars list (2013-2015). The Super Lawyers Rising Stars selection process is based on peer recognition and professional achievement. Only 2.5 percent of Illinois lawyers under the age of 40 or who have been practicing 10 years or less earn this designation.
• J. Bruce Scidmore Award, Township Attorney of the Year (2011)

Professional Associations
• Illinois Township Attorneys Association (Vice President 2007-09; President 2009-2011)
• Illinois State Bar Association (Local Government Law Section Council, 2011-Present)
• Peoria County Bar Association (Chair, Communications & Technology Committee, 2009-2012)

Court Admissions
• State Courts of Illinois
• United States District Court, Central and Northern Districts of Illinois (Trial Bar)

Education
• Juris Doctor, DePaul University College of Law, 2004
• Bachelor of Arts-International Relations (magna cum laude), Bradley University, 2001
Chrissie L. Peterson
- Of Counsel

Chrissie’s practice is focused on government law, representing municipalities and other public entities in a broad range of issues, including administrative and regulatory law, the operation and governance of critical services, infrastructure construction and financing, council procedures, tax increment financing and economic development. Before joining Heyl Royster, Chrissie served as the City Attorney for Canton, Illinois for seven years where she managed all legal aspects of a municipal corporation.

While at the City of Canton, Chrissie managed all of the municipal ordinance prosecutions, including code enforcement and demolition, was responsible for giving guidance on the Freedom of Information and Open Meetings Acts to all City departments, committees and subcommittees and drafted or structured construction contracts, franchise agreements and utility infrastructure contracts. She was responsible for drafting resolutions, ordinances and policy updates, collaborating with various City departments, as necessary. Chrissie also was responsible for managing the legal aspects of economic development, including real estate transactions, grant applications and agreements, tax increment finance agreements, utility extension agreements and development agreements. Chrissie handled matters before various state and federal administrative agencies on the City’s behalf, including the Illinois Commerce Commission, the Illinois Human Rights Commission and the Equal Employment Opportunity Commission.

Chrissie also practices in the environmental field and has experience negotiating Highway Authority Agreements and has defended claims before the Illinois Environmental Protection Agency. She has been successful negotiating Compliance Commitment Agreements and obtaining No Further Remediation letters on her client’s behalf. She has worked with the Illinois and United States E.P.A. on multiple aspects of Brownfield redevelopment. Most notably, Chrissie worked to help Canton ready a Brownfield site for the location of a multi-national medical manufacturing facility that opened in 2009 and a high-tech polymer facility that opened in 2010.

Her experience with the City of Canton has given Chrissie a comprehensive approach to municipal law.

Chrissie joined Heyl Royster in 2013. She began her legal career in 2003 with an insurance defense firm in Springfield, Illinois where she concentrated in worker’s compensation and civil litigation.

**Significant Cases**
- **City of Cuba v. City of Canton**, 2011 IL App (3d) 110066-U - Successfully defended a challenge by the Plaintiff municipality who sought to declare a water purchase agreement between the parties to be a buyer’s option rather than a requirements contract. The appellate court agreed with the defendant’s position that the plain language of the contract was clear and required the City of Cuba to purchase all of its water from the City of Canton for the duration of the Contract. The decision effectively guaranteed that the plaintiff would purchase all of its potable water from the City of Canton until 2047.
- **City of Canton v. Village of Banner**, 9th Judicial Circuit, 2007 - Successfully obtained an injunction against the Village of Banner to prevent the defendant from arbitrarily imposing seasonal weight limits on the roadway. The injunction allowed the City of Canton and its contractors to access construction site property along the Illinois River and proceed with a multi-million dollar collector well project.

**Transactions**
- Administrative Adjudication Hearing Officer for Municipal Ordinance Violations

**Public Speaking**
- “Medical Cannabis: A Primer For Employers and Governmental Entities” Heyl Royster Lunch & Learn Seminar/Webinar (2014)

Learn more about our speakers at www.heyloyster.com
• “Prevailing Wage and House Bill #924”
  American Public Works Association, Illinois
  Chapter Conference (2014)
• “Liability Issues Training”
  McDonough County, IL Sheriff’s Office (2014)
• “Bonds and Insurance in Public Construction
  Contracts”
  Lorman Public Contracts and Procurement, East
  Peoria and Springfield (2013)
• “Synthetic Drug Ordinances”
• “Perception vs. Reality: Economic Development
  of Brownfields”
  Brownfield Workshop, Pekin, Illinois (2011)

Professional Associations
• American Bar Association
• Illinois State Bar Association (Local Government
  Law Section Council, 2015-)
• Peoria County Bar Association

Court Admissions
• State Courts of Illinois
• United States District Court, Central District of
  Illinois

Education
• Juris Doctor, Southern Illinois University, 2003
• Bachelor of Arts-Political Science and
  Sociology, Knox College, 1998
Brian M. Smith  
- Associate

Brian concentrates his practice in the areas of civil rights, employment law, education, commercial litigation, professional liability and trucking/motor carrier litigation. Much of his practice entails defending government and law enforcement officials and medical professionals in cases alleging violations of constitutional rights. Brian also has experience defending employers, including educational institutions, in federal and state courts, and in administrative proceedings. He also defends clients in tort litigation, including cases arising from automobile and trucking accidents. Brian also represents businesses in commercial litigation.

Brian has extensive motion practice experience in both state and federal courts and has presented numerous successful motions to dismiss and motions for summary judgment. Brian has been a guest presenter at the University of Illinois College of Law’s Trial Advocacy class.

Prior to law school, Brian worked for five years in campus ministry, where his duties included management of staff and volunteers. Brian began his career with Heyl Royster by clerking in the firm’s Urbana office. Following graduation from law school in 2007, Brian joined the firm in the Urbana office as an associate. During law school, he was a teaching assistant at the University of Illinois College of Law and a member of the University of Illinois Law Review.

Significant Cases
- **Topflight Grain Coop. v. RJW Williams Farms, Inc.** - We prevailed at trial on behalf of a local grain company. The grain company sought to compel a farmer to arbitrate a contract for the sale and delivery of corn. The farmer disputed the existence of the contract. The court concluded that a valid contract, which included a written arbitration provision, existed and compelled the farmer to arbitrate the dispute.
- **United States Securities and Exchange Commission v. Roth, et. al** - Acting as one of the attorneys for the federal court appointed Receiver in a case arising from a $16.5 million dollar securities fraud case.
- **U.S. v. Zabka, et. al** - Acting as attorney for the federal court appointed Receiver in a federal tax case.
- **Bond v. Atkinson, et. al** - We represented law enforcement officials in a civil rights lawsuit where plaintiff contended that the defendants violated her constitutional rights under the Fourteenth Amendment by treating requests from victims of domestic violence with less priority than other crimes, and failing to remove guns from her home without a court order. The federal claims were dismissed.

Publications

Public Speaking
- “Investigations”  
  How to Protect Your Company/Minimize Risks in the Workplace Heyl Royster Seminar (2014)
- “Medical Cannabis: A Primer For Employers and Governmental Entities”  
  Heyl Royster Lunch & Learn Seminar/Webinar (2014)
- “Medical Cannabis & Concealed Carry”  
  Springfield Chamber of Commerce (2015)

Professional Recognition
- Named to the Leading Lawyers Emerging Lawyers list (2015). Only 2 percent of Illinois lawyers under the age of 40 or who have been licensed to practice for 10 years or less earn this distinction.
• Named to the Illinois Super Lawyers Rising Stars list (2012-2015). The Super Lawyers Rising Stars selection process is based on peer recognition and professional achievement. Only 2.5 percent of Illinois lawyers under the age of 40 or who have been practicing 10 years or less earn this designation.

Professional Associations
• National Association of College and University Attorneys
• Illinois Association of Defense Trial Counsel
• Illinois State Bar Association
• Champaign County Bar Association
• Defense Research Institute

Court Admissions
• State Courts of Illinois
• United States District Court, Central and Southern Districts of Illinois
• United States Court of Appeals, Seventh Circuit

Education
• Juris Doctor (summa cum laude), Order of the Coif, University of Illinois College of Law, 2007
• Bachelor of Arts-Political Science and Portuguese, University of Illinois, 1999

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Keith E. Fruehling
- Partner

Keith Fruehling is a partner in our growing Urbana office. He is a highly successful litigator in many civil practice areas, including the defense of complex civil rights, medical malpractice, employment, construction, product liability and toxic tort/asbestos claims in federal and state courts. He has taught, lectured and published on federal and state civil practice issues.

Keith represents Fortune 500 companies, universities, sheriffs and municipal law enforcement officers, correctional officers, state and local governmental units, doctors, attorneys, veterinarians, real estate brokers/agents and other professionals, insurers and local businesses. He managed the trial preparation of large groups of asbestos cases set for trial in Madison County, Illinois in which he defended product manufacturers, fiber suppliers, equipment manufacturers, contractors and premises owners. Over his 20-year career, Keith has defended many cases in which damages were claimed in the millions of dollars and tried a number of cases to verdict. He has defended multiple, multi-million dollar cases to verdict in trials spanning up to eight weeks, including helping to secure a not-guilty verdict for a corporate client in an aviation wrongful death case.

He currently serves on the Illinois State Bar Association’s Board of Governors (ISBA), is the immediate past chair of the ISBA’s Task Force on the Unauthorized Practice of Law and has recently been appointed by the President of the Illinois State Bar Association (ISBA) and ISBA’s Assembly. He also served as the Chair of the Illinois Association of Defense Trial Counsel’s (IDC) Trial Academy and on the Defense Research Institute’s (DRI) Task Force on the Independence of the Judiciary. He is the past-President of the Champaign County Bar Association.

In 2002, Keith was recognized as a “Young Lawyer of the Year” by the ISBA. In 2007, Keith was named one of the “40 Illinois Attorneys Under Forty to Watch” by the Chicago Daily Law Bulletin Publishing Company. In 2013, he was selected as a Leading Lawyer in Illinois. The Leading Lawyers Network surveys lawyers, asking them which of their peers, indeed their competitors, they would recommend to a family member or friend if they could not take a case within their area of law or geographic region. To maintain the quality and credibility of the survey, lawyers cannot nominate themselves or anyone at their own law firm. Based upon survey nominations and approval by our Advisory Board, only the top 5% of lawyers are nominated and eligible for membership in the Leading Lawyers Network in the State of Illinois.

Significant Cases

- Estate of Leon Rademacher v. Teledyne Industries, Inc., Teledyne Continental Motor, et al. - Estate brought Wrongful Death and Survival Act case on behalf of successful farmer, young husband and father against aviation mechanic and other defendants alleging negligence and product liability caused plane operated by friend to crash land. Following a six-week trial, the jury returned a not-guilty verdict on behalf of our client.
system. In response, The American Federation of State, County and Municipal Employees (A.F.S.C.M.E.) and others filed suit against the Governor and other defendants claiming the Governor did not have the right to take that action and sought a writ of mandamus Order commanding the Governor to reverse his decision and to continue operating the prison. A.F.S.C.M.E. also sought a temporary restraining Order (T.R.O.) preventing the Governor or the Director of the Illinois Department of Corrections from taking any action consistent with closing the prison until the court ruled on the plaintiff’s request for the writ. We responded to the plaintiff’s T.R.O. asking the court to deny the issuance of the T.R.O. and filed a Motion to Dismiss the plaintiff’s Complaint for Writ of Mandamus. The court denied the request for the temporary restraining order. The court later dismissed the entire cause of action brought by plaintiffs.

Publications

Public Speaking
- “Medical Cannabis: A Primer For Employers and Governmental Entities” Heyl Royster Lunch & Learn Seminar/Webinar (2014)
- “Liability Issues Training” McDonough County, IL Sheriff’s Office (2014)

Professional Recognition
- Martindale-Hubbell AV Preeminent
- Selected as a Leading Lawyer in Illinois in the areas of Personal Injury Defense Law: General; Products Liability Defense Law; and Professional Malpractice Law: Including Legal/Technical/Financial. Only five percent of lawyers in the state are named as Leading Lawyers.
- “Young Lawyer of the Year” by the Illinois State Bar Association in 2002 in recognition of significant dedication and contribution in the legal profession.
- In 2007, the Chicago Daily Law Bulletin Publishing Company honored Keith by selecting him as one of “40 Illinois Attorneys Under Forty to Watch.” This prestigious award recognizes exceptional lawyering skills, significant contributions to the legal profession and substantial involvement in local community.

Professional Associations
- Illinois State Bar Association (Board of Governors 2013, 2002-2008; Chairman of the ISBA Task Force on the Unauthorized Practice of Law; Chair, Assembly Finance Committee; Advertising, Public Relations, Personnel and Scope and Correlation Committees; Former Board liaison to multiple Section Councils; Bar Leadership Conference Special Committee on selecting an electronic research provider; Member - Civil, Legislative and Health Care Law Sections)
- Illinois Association of Defense Trial Counsel (Chairman of the Trial Academy Committee 2002-2007)
- Defense Research Institute (recently served on the Judicial Task Force which drafted a report entitled “Without Fear or Fervor,” a basic overview of the issues currently facing the judiciary and how to begin constructively addressing long term solutions)
- American Bar Association (House of Delegates June 2000 - August 2007)
- Champaign County Bar Association (President 2001-2002)

Court Admissions
- State Courts of Illinois
- United States District Court, Central, Northern and Southern Districts of Illinois
- United States Court of Appeals, Seventh Circuit

Education
- Bachelor of Science-Finance, University of Illinois, 1990

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