

Disability Retirement for Public Safety Officers

By Steven R. Pingel, Esq.



If you are a safety member of the Public Employees' Retirement System (PERS) or are a deputy in a county governed by the County Employees' Retirement Law, you and your family have a valuable safety net in the event you become permanently disabled from *your usual* law enforcement duties at *your* agency.

Regardless of age or years of service, an Industrial Disability Retirement (IDR) will pay 50 percent of your compensation, tax free, for life. If you are eligible for a higher percentage service retirement at age 50 or above and you also qualify for an IDR, you would receive the higher percentage but the equivalent of the first 50 percent of your salary would be tax free.

Disability pensions are generally not easily obtained, especially in today's political climate. Getting one requires precise, evidence-based doctor's work restrictions which cannot be accommodated (by mod-

ifying your job) by your agency. Your attorneys may have to educate your doctor about the differences between workers' compensation and disability retirement. Pension law is complicated and usually overlaps with workers' compensation and disability discrimination (reasonable accommodation) law. Sadly, disability retirement issues also come up in the context of an internal affairs problem. Your various attorneys will coordinate their efforts when you're involved in such situations.

Application for disability retirement must be made, generally, within four months of separation from employment, but there are exceptions. Determination of permanent disability is made by your agency if you are a local safety member of PERS; state safety member determinations are made by PERS.

If your city decides you're disabled, but it's not "industrial," an

appeal goes to the Workers' Compensation Appeals Board, in a special (i.e., not workers' compensation) proceeding to prove job causation or aggravation. The good news is that the "causation" issue in disability retirement is not particularly burdensome. In one of our cases, *Bowen v. Board of Retirement*, the Supreme Court held that in order to qualify for a service-connected (industrial) disability retirement allowance, the employee need only establish that the weight of the evidence demonstrates a real and measurable connection between the disability and the employment. The dissent in that case made the point that the "real and measurable" connection of a disability to the job could be as little as 10 percent.

You didn't enter law enforcement hoping to get a disability pension. For most, it's a disappointing, sometimes bitter, end to a career. We recognize this and take a personal interest in each case. Our job is to help the disabled officer successfully transition into the next phase of life.

The law office of Steven R. Pingel has been representing disabled officers statewide for 35 years. For more information about the firm, call 562-432-0302 or visit www.pingellaw.com.



Pursuant to Labor Code Section 5432(a), making a false or fraudulent workers' compensation claim is a felony subject to up to 5 years in prison or a fine of up to \$50,000 or double the value of the fraud, whichever is greater, or by both imprisonment and fine.