

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of the Application of ASSARIA FIREFIGHTERS)
RELIEF ASSOCIATION, BIRD CITY FIREFIGHTERS RELIEF)
ASSOCIATION, BUTLER COUNTY #1 FIREFIGHTERS)
RELIEF ASSOCIATION, BUTLER COUNTY #8)
FIREFIGHTERS RELIEF ASSOCIATION, CENTER TOWNSHIP)
FIREFIGHTERS RELIEF ASSOCIATION, CHEYENNE)
COUNTY #1 FIREFIGHTERS RELIEF ASSOCIATION,)
CLYDE FIREFIGHTERS RELIEF ASSOCIATION, CONWAY)
SPRINGS FIREFIGHTERS RELIEF ASSOCIATION, COWLEY)
COUNTY #4 FIREFIGHTERS RELIEF ASSOCIATION,)
EDWARDSVILLE FIREFIGHTERS RELIEF ASSOCIATION)
ELLIS FIREFIGHTERS RELIEF ASSOCIATION, FAIRVIEW)
FIREFIGHTERS RELIEF ASSOCIATION, FORT SCOTT)
FIREFIGHTERS RELIEF ASSOCIATION, KANOPOLIS)
FIREFIGHTERS RELIEF ASSOCIATION, KIRWIN)
FIREFIGHTERS RELIEF ASSOCIATION, MINNEAPOLIS)
FIREFIGHTERS RELIEF ASSOCIATION, NEMAHA COUNTY)
#2 FIREFIGHTERS RELIEF ASSOCIATION, OSAWATOMIE)
FIREFIGHTERS RELIEF ASSOCIATION, PARSONS)
FIREFIGHTERS RELIEF ASSOCIATION, PITTSBURG)
FIREFIGHTERS RELIEF ASSOCIATION, POTTAWATOMIE)
COUNTY #5 FIREFIGHTERS RELIEF ASSOCIATION,)
SALINE COUNTY #3 FIREFIGHTERS RELIEF ASSOCIATION,))
SALINE COUNTY #7 FIREFIGHTERS RELIEF ASSOCIATION,))
SHERMAN TOWNSHIP CRAWFORD COUNTY)
FIREFIGHTERS RELIEF ASSOCIATION, ST FRANCIS)
FIREFIGHTERS RELIEF ASSOCIATION, TOPEKA-)
TECUMSEH FIREFIGHTERS RELIEF ASSOCIATION,)
WHITING TOWNSHIP FIREFIGHTERS RELIEF)
ASSOCIATION)

Docket No. 3226-FR

ORDER

After due and proper notice, this matter was called for hearing on November 18, 2003, pursuant to Kansas Statutes Annotated (K.S.A.) 40-1706(c)(6) and the Kansas Administrative Procedure Act, K.S.A. 77-501, *et seq.* Those Firefighter Relief Associations applying for a

redetermination were Assaria Firefighters Relief Association, Bird City Firefighters Relief Association, Butler County #1 Firefighters Relief Association, Center Township Firefighters Relief Association, Cheyenne County #1 Firefighters Relief Association, Clyde Firefighters Relief Association, Conway Springs Firefighters Relief Association, Cowley County #4 Firefighters Relief Association, Edwardsville Firefighters Relief Association, Ellis Firefighters Relief Association, Fairview Firefighters Relief Association, Fort Scott Firefighters Relief Association, Kanopolis Firefighters Relief Association, Kirwin Firefighters Relief Association, Minneapolis Firefighters Relief Association, Nemaha County #2 Firefighters Relief Association, Osawatomie Firefighters Relief Association, Parsons Firefighters Relief Association, and Pittsburg Firefighters Relief Association, Pottawatomie County Firefighters Relief Association, Saline County #3 Firefighters Relief Association, Saline County #7 Firefighters Relief Association, Sherman Township Crawford County Firefighters Relief Association, St Francis Firefighters Relief Association, Topeka-Tecumseh Firefighters Relief Association, Whiting Township Firefighters Relief Association.

The Assaria Firefighters Relief Association presented evidence by Sworn Affidavit. The Bird City Firefighters Relief Association presented evidence by Sworn Affidavit. Butler County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. Butler County #8 Firefighters Relief Association presented evidence by Sworn Affidavit. Center Township Firefighters Relief Association presented evidence by Sworn Affidavit. Cheyenne County #1 Firefighters Relief Association presented evidence by Sworn Affidavit. Clyde Firefighters Relief Association presented evidence by Sworn Affidavit. Conway Springs Firefighters Relief Association presented evidence by Sworn Affidavit. Cowley County #4 Firefighters Relief Association presented evidence by Sworn Affidavit. Edwardsville Firefighters Relief

Association presented evidence by Sworn Affidavit. Ellis Firefighters Relief Association presented evidence by Sworn Affidavit. Fairview Firefighters Relief Association presented evidence by Sworn Affidavit. Fort Scott Firefighters Relief Association presented evidence by Sworn Affidavit. Kanopolis Firefighters Relief Association presented evidence by Sworn Affidavit. Kirwin Firefighters Relief Association presented evidence by Sworn Affidavit. Minneapolis Firefighters Relief Association presented evidence by Sworn Affidavit. Nemaha County #2 Firefighters Relief Association presented evidence by Sworn Affidavit. Osawatomie Firefighters Relief Association presented evidence by Sworn Affidavit. Parsons Firefighters Relief Association presented evidence by Sworn Affidavit. Pittsburg Firefighters Relief Association presented evidence by Sworn Affidavit. Pottawatomie County #5 Firefighters Relief Association presented evidence by Sworn Affidavit. Saline County #3 Firefighters Relief Association presented evidence by Sworn Affidavit. Saline County #7 Firefighters Relief Association presented evidence by Sworn Affidavit. Sherman Township Crawford County Firefighters Relief Association presented evidence by Sworn Affidavit. St Francis Firefighters Relief Association presented evidence by Sworn Affidavit. Topeka-Tecumseh Firefighters Relief Association presented evidence by Sworn Affidavit. Whiting Township Firefighters Relief Association presented evidence by Sworn Affidavit.

The Kansas Insurance Department was represented by Keri Kish, Counsel, and John Washburn, Fire & Casualty Division Policy Examiner assigned to Firefighter Relief Association regulatory activities.

Bob Tomlinson, Assistant Insurance Commissioner, is the Presiding Officer duly appointed by Commissioner Praeger.

Said Presiding Officer, being fully advised in the premises and giving due consideration to the evidence presented, makes the following findings of fact, conclusions of law, and order, to wit:

Findings of Fact

1. At issue is the 2004 and future distributions of the Firefighters Relief Fund to firefighters relief associations throughout the State of Kansas pursuant to the Firefighters Relief Act, K.S.A. 40-1701, *et seq.* Applicants are contending that changed circumstances exist to warrant a redetermination of proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund pursuant to K.S.A. 40-1706.

2. Under the Firefighters Relief Act, every insurance company doing business in the State of Kansas is required to pay an annual two percent (2%) tax based on the amount of premium written on fire and lightening insurance covering risks located within the State of Kansas during the previous calendar year. The Firefighters Relief Act provides for the money collected to be distributed for the purposes outlined in K.S.A. 40-1706.

3. In 1984, K.S.A. 40-1706 was amended by the Kansas Legislature through the enactment of House Bill No. 3090. Part of that amendment dealt with the method by which distribution determinations were to be made to the various firefighter's relief associations in the State. This statute was further amended in 1987, 1988, and 1990. Specifically, the relevant provisions of the law are found in K.S.A. 40-1706(c)(4) and (5), which provide:

“(c) Prior to August 1, 1987, and each August 1 thereafter, except as provided in subsections (b) and (d), of the total amount of moneys credited to the State Firefighters Relief Fund as of July 1 of the same year the amounts determined as prescribed in subsection (c)(1) through (c)(6) shall be paid as provided therein ...

(4) The remaining amount of the moneys credited to the state firefighters relief fund, after the amounts are reserved or paid for the purposes authorized by subsection (b)(2), (c)(1), (c)(2) and (c)(3), shall be paid by the Commissioner of Insurance to firefighters relief associations so that the amount received by each firefighters relief association bears the same proportion to the total amount to be

paid as received from the amounts collected from the tax received from the amounts collected from the tax imposed by K.S.A. 40-1703 and amendments thereto for all of calendar year 1983, years to the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983, subject to adjustments made to correct for errors in the payments distributed and as otherwise provided pursuant to this subsection (c)(4), adjustments made pursuant to subsection (c)(5) for firefighters relief associations that did not receive a payment from taxes paid for all of calendar year 1983 and adjustments pursuant to subsection (c)(6) for redeterminations based upon changed circumstances. The Commissioner of Insurance may make adjustments in the amounts of payments for the current year made under this subsection (c)(4) for error in the payments distributed for the prior year, except that adjustments may be made in the payments to be distributed by August 1, 1987, for any errors in the payments distributed during the period from July 1, 1984 through June 30, 1987, and an adjustment shall be made in the payment to be distributed by August 1, 1987, for each firefighters relief association which was in existence for only part of calendar year 1983 and which received a payment for calendar year 1987 based on taxes received for only part of calendar year 1983, to reflect the total of the payments that would most probably have been received by such firefighters relief association during the period from August 1, 1984 through June 30, 1987, if such firefighters relief association had been in existence for all of calendar year 1983, reduced by the payments actually received by such firefighters relief association during the period from August 1, 1984 through June 30, 1987. For purposes of all payments under subsection (c)(4) after the adjusted payment distributed by August 1, 1987, such firefighters relief association shall be considered to have received for calendar year 1983, the amount it most probably would have received if it had been in existence for all of calendar year 1987, which shall be the amount having the same proportional relationship to 365 days as the amount actually received for calendar year 1983 has to the number of days that such firefighters relief association was in existence during calendar year 1983, subject to adjustments pursuant to subsection (c)(6) for redetermination based upon changed circumstances.

(5) Whenever a firefighters relief association is to receive a payment under subsection (c)(4) but did not receive a payment from any of the taxes collected for the calendar year 1983, the commissioner of insurance shall determine for the nonreceiving association, from such information as is made available to the commissioner by the nonreceiving association, the amount the nonreceiving association would most probably have received if it had actually received such payment from the taxes collected for all of calendar year 1983, with appropriate adjustments based on payments to firefighters relief associations of fire departments providing fire protection services within geographic areas having similar populations and assessed tangible property valuation as the geographic area provided fire protection services by the fire department of each such nonreceiving association. The commissioner shall make such determination as follows:

(A) One-half of the amount due shall be determined based upon the population figure provided by the association pursuant to administrative rules and regulations adopted by the commissioner. The determination of this $\frac{1}{2}$ of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has a population similar to that of the nonreceiving association shall be ascertained;

(ii) The payment the comparable association received from the taxes collected for all of calendar year 1983 shall be divided by two;

(iii) The population of the area served by the nonreceiving association shall be divided by the population of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment factor reflecting the variance in population size; and

(iv) The amount received from taxes collected for all of the calendar year 1983 by the association with the comparable population shall be multiplied by the population adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(A).

(B) The remaining $\frac{1}{2}$ of the amount due shall be determined based upon the assessed tangible property valuation figure provided by the nonreceiving association pursuant to administrative rules and regulations adopted by the commissioner. The determination of the remaining $\frac{1}{2}$ of the amount due shall be made in accordance with the following formula:

(i) An association which received a payment from the taxes collected for all of calendar year 1983 and which has an assessed tangible property valuation as of November 1, 1989, similar to that of the nonreceiving association shall be ascertained;

(ii) The payment the comparable association received from taxes collected for all of calendar year 1983 shall be divided by two;

(iii) The assessed tangible property valuation of the area served by the nonreceiving association shall be divided by the assessed tangible property valuation of the area served by the association to which the nonreceiving association is being compared, to produce an adjustment factor reflecting the variance in assessed tangible property valuation; and

(iv) The amount received from taxes collected for all of calendar year 1983 by the association with the comparable assessed tangible property valuation shall be multiplied by the valuation adjustment factor obtained in paragraph (iii) of this subsection (c)(5)(B).

(C) The amount obtained in paragraph (iv) of subsection (c)(5)(A) shall be added to the amount obtained in paragraph (iv) of subsection (c)(5)(B) to determine the total amount the nonreceiving association most probably would have received if it had actually received a payment from the taxes collected for all of calendar year 1983. The amount a nonreceiving association most probably would have received if it had actually received a payment from taxes collected for all of calendar year 1983 shall be divided by the total amount paid to all firefighters relief associations from the taxes collected for all of calendar year 1983 to determine the proportionate amount due the nonreceiving association for the current and succeeding years and thereafter such association shall not be considered to be a nonreceiving association. The commissioner of insurance shall include the amount so determined within the computations prescribed by subsection (c)(4) for payments thereunder.”

4. K.S.A. 40-1706(c)(6) provides for a determination of the proportionate amount payable to all firefighters relief associations from the Firefighters Relief Fund. The statute provides:

“One or more firefighters relief associations may apply, prior to October 1, of any year, to the commissioner of insurance for a redetermination of the proportionate amounts payable to all firefighters relief associations under subsection (c)(4) and, upon receipt of such application, the commissioner of insurance shall hold one joint hearing in accordance with the provisions of the Kansas Administrative Procedure Act prior to December 1 of such year, at which all applicants shall be heard and may present information. The commissioner of insurance may redetermine such proportionate amounts based upon such information as is presented to or otherwise made available by the applicants to the commissioner and may make a finding of changed circumstances. However, increases in the assessed tangible property valuation resulting from a statewide reappraisal conducted pursuant to K.S.A. 79-1476, *et seq.*, and amendments thereto, shall not constitute a changed circumstance. Upon making such finding, the commissioner of insurance may include such redetermination within the computations prescribed by subsection (c)(4) for payments in subsequent years. Any increase or reduction in the amounts to be distributed as a result of a finding of changed circumstances by the commissioner shall be proportionately distributed among all firefighters relief associations. An application for redetermination shall not be made by any firefighters relief

association more than once every three years, but this restriction shall not apply with respect to applications for redetermination submitted in calendar year 1989 that were based in whole or in part on an increase in the assessed tangible property valuation resulting from statewide reappraisal.”

5. Presenting evidence of changed circumstances were the Assaria Firefighters Relief Association, the Bird City Firefighters Relief Association, the Butler County #1 Firefighters Relief Association, the Butler County #8 Firefighters Relief Association, the Center Township Firefighters Relief Association, the Cheyenne County #1 Firefighters Relief Association, the Clyde Firefighters Relief Association, and the Conway Springs Firefighters Relief Association, the Cowley County #4 Firefighters Relief Association, the Edwardsville Firefighters Relief Association, the Ellis Firefighters Relief Association, the Fairview Firefighters Relief Association, Fort Scott Firefighters Relief Association, the Kanopolis Firefighters Relief Association, the Kirwin Firefighters Relief Association, the Minneapolis Firefighters Relief Association, the Nemaha County #2 Firefighters Relief Association, the Osawatomie Firefighters Relief Association, the Parsons Firefighters Relief Association, the Pittsburg Firefighters Relief Association, the Pottawatomie County #5 Firefighters Relief Association, the Saline County #3 Firefighters Relief Association, the Saline County #7 Firefighters Relief Association, the Sherman Township Crawford County Firefighters Relief Association, the St Francis Firefighters Relief Association, the Topeka-Tecumseh Firefighters Relief Association, the Whiting Township Firefighters Relief Association.

6. Assaria Firefighters Relief Association offered evidence that the area served by the Assaria Fire Department has grown since 1983 in population and has increased by 39 and the assessed tangible property valuation for the fire protection area has increased by \$1,740,101 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to

recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

7. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 6 above, it appears that the Assaria Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional 39 in population and \$1,740,101 in assessed tangible property valuation, as enumerated in paragraph 6.

8. Bird City Firefighters Relief Association offered evidence, that the assessed tangible property valuation for the Bird City Fire Department had increased \$849,376 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

9. As a result of the increase in assessed tangible property valuation as outlined in paragraph 8 above, it appears that the Bird City Fire Department is currently providing fire protection to a more valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Bird City Fire Department has an increased assessed tangible property valuation in the amount of \$849,376, as enumerated in paragraph 8 above.

10. Butler County #1 Fire Department Firefighters Relief Association offered evidence, that the population and assessed tangible property valuation for the Butler County #1 Fire District protected has increased since 1983 and the population has increased by 2,306 and the assessed tangible property valuation increased by \$52,268,975 since 1983. Pursuant to K.S.A.

40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

11. As a result of the more populous and valuable area being served as outlined in paragraph 10 above, it appears that the Butler County #1 Fire Department is currently providing fire protection to a more populous and valuable area than reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Butler County #1 Fire Department has an additional population of 2,306 and an assessed tangible property valuation in the amount of \$52,268,975, as enumerated in paragraph 10 above.

12. Butler County #8 Firefighters Relief Association offered evidence of an increase in the assessed tangible property valuation. The increased assessed tangible property valuation for the area is \$3,648,671 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and the amendments thereto.

13. As a result of the increase assessed tangible property valuation as outlined in paragraph 12 above, it appears that the Butler County #8 Fire Department is currently providing fire protection to a valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area currently being protected by the Butler County #8 Fire Department has an additional assessed tangible property valuation in the amount of \$3,648,671, as enumerated in paragraph 12 above.

14. Center Township Firefighters Relief Association offered evidence that the area served by Center Township Fire Department has grown since 1999 in population and has increased by 167 and the assessed tangible property valuation for the fire protection area has

increased by \$4,599,946 since 1999. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

15. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 14 above, it appears that Center Township Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1999. The area now has an additional 167 in population and \$4,599,946 in assessed tangible property valuation, as enumerated in paragraph 14.

16. Cheyenne County #1 Firefighters Relief Association offered evidence, that the area served by the Cheyenne County #1 Fire Department has grown since 1989 in population and has increased by 1,717 and the assessed tangible property valuation for the fire protection area has increased by \$15,344,109 since 1989. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

17. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 16 above, it appears that the Cheyenne County #1 Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1989. The area now has an additional 1,717 in population and \$15,344,109 in assessed tangible property valuation, as enumerated in paragraph 16.

18. Clyde Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$597,109 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the

amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

19. As a result of the growth in assessed tangible property valuation as outlined in paragraph 18 above, it appears that the Clyde Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$597,109 in assessed tangible property valuation, as enumerated in paragraph 18 above.

20. Conway Springs Firefighters Relief Association offered evidence that the area served by the Conway Springs Fire Department has grown since 1983 in population and has increased by 315 and the assessed tangible property valuation for the fire protection area has increased by \$4,911,921 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

21. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 20 above, it appears that the Conway Springs Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional 315 in population and \$4,911,921 in assessed tangible property valuation, as enumerated in paragraph 20.

22. Cowley County #4 Firefighters Relief Association offered evidence, that the area served by the Cowley County #4 Fire Department has grown since 1998 in population and has increased by 19 and the assessed tangible property valuation for the fire protection area has increased by \$2,084,042 since 1998. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase

has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

23. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 22 above, it appears that the Cowley County #4 Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1998. The area now has an additional 19 in population and \$2,084,042 in assessed tangible property valuation, as enumerated in paragraph 22.

24. Edwardsville Firefighters Relief Association offered evidence that the area served by the Edwardsville Fire Department has grown since 1983 in population and has increased by 1,005 and the assessed tangible property valuation for the fire protection area has increased by \$28,035,505 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

25. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 24 above, it appears that the Edwardsville Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional 1,005 in population and \$28,035,505 in assessed tangible property valuation, as enumerated in paragraph 24.

26. Ellis Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$5,270,334 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the

amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

27. As a result of the growth in assessed tangible property valuation as outlined in paragraph 26 above, it appears that the Ellis Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$5,270,334 in assessed tangible property valuation, as enumerated in paragraph 26 above.

28. Fairview Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$8,342,428 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

29. As a result of the growth in assessed tangible property valuation as outlined in paragraph 28 above, it appears that the Fairview Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$8,342,428 in assessed tangible property valuation, as enumerated in paragraph 28 above.

30. Fort Scott Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$117,576,298 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

31. As a result of the growth in assessed tangible property valuation as outlined in paragraph 30 above, it appears that the Fort Scott Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$117,576,298 in assessed tangible property valuation, as enumerated in paragraph 30 above.

32. Kanopolis Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$2,665,623 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

33. As a result of the growth in assessed tangible property valuation as outlined in paragraph 32 above, it appears that the Kanopolis Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$2,665,623 in assessed tangible property valuation, as enumerated in paragraph 32 above.

34. Kirwin Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$116,534 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

35. As a result of the growth in assessed tangible property valuation as outlined in paragraph 34 above, it appears that the Kirwin Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department

indicated was served in 1983. The area now has an increased additional \$116,534 in assessed tangible property valuation, as enumerated in paragraph 34 above.

36. Minneapolis Firefighters Relief Association offered evidence that the area served by Minneapolis Fire Department has grown since 1983 in population and has increased by 459 and the assessed tangible property valuation for the fire protection area has increased by \$13,724,371 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

37. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 36 above, it appears that the Minneapolis Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an additional 459 in population and \$13,724,371 in assessed tangible property valuation, as enumerated in paragraph 36.

38. Nemaha County #2 Firefighters Relief Association offered evidence, by Sworn Affidavit, that the assessed tangible property valuation of the area served by the Nemaha County #2 Fire Department has the valuation increased by \$1,138,739 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

39. As a result of the increase in the assessed tangible property valuation as outlined in paragraph 38 above, it appears that the Nemaha County #2 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance

Department indicated was served in 1983. The area now has an additional \$1,138,739 in assessed tangible property valuation, as enumerated in paragraph 38 above.

40. Osawatomie Firefighters Relief Association offered evidence that the area served by the Osawatomie Fire Department has grown since 2000 in population and has increased by 54 and the assessed tangible property valuation for the fire protection area has increased by \$715,653 since 2000. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

41. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 40 above, it appears that the Osawatomie Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 2000. The area now has an additional 54 in population and \$715,653 in assessed tangible property valuation, as enumerated in paragraph 40.

42. Parsons Firefighters Relief Association offered evidence, by Sworn Affidavit, of an increase in assessed tangible property valuation. The increased assessed tangible property valuation for the enlarged area is \$71,407,005 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496 *et seq.*, and the amendments thereto.

43. As a result of the additional area being served as outlined in paragraph 42 above, it appears that the Parsons Fire Department is currently providing fire protection to a more valuable area than is reflected by the records maintained by the Kansas Insurance Department. The area

currently being protected by the Parsons Fire Department has an additional assessed tangible property valuation in the amount of \$71,407,005, as enumerated in paragraph 42 above.

44. Pittsburgh Firefighters Relief Association offered evidence that the area served by the Pittsburgh Fire Department has grown since 1999 in population and has increased by 339 and the assessed tangible property valuation for the fire protection area has increased by \$168,069,455 since 1999. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

45. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 44 above, it appears that the Pittsburgh Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1999. The area now has an additional 339 in population and \$168,069,455 in assessed tangible property valuation, as enumerated in paragraph 44.

46. Pottawatomie County #5 Firefighters Relief Association offered evidence, that the area served by the Pottawatomie County #5 Fire Department has grown since 1997 in population and has increased by 253 and the assessed tangible property valuation for the fire protection area has increased by \$4,180,387 since 1997. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

47. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 46 above, it appears that the Pottawatomie County #5 Fire Department is providing fire protection services to a more populous and valuable area than

records maintained by the Kansas Insurance Department indicated was served in 1997. The area now has an additional 253 in population and \$4,180,387 in assessed tangible property valuation, as enumerated in paragraph 46.

48. Saline County #3 Firefighters Relief Association offered evidence, that the area served by the Saline County #3 Fire Department has grown since 1985 in population and has increased by 30 and the assessed tangible property valuation for the fire protection area has increased by \$6,269,484 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

49. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 48 above, it appears that the Saline County #3 Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an additional 30 in population and \$6,269,484 in assessed tangible property valuation, as enumerated in paragraph 48.

50. Saline County #7 Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$5,186,273 since 1996. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

51. As a result of the growth in assessed tangible property valuation as outlined in paragraph 50 above, it appears that the Saline County #7 Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance

Department indicated was served in 1996. The area now has an increased additional \$5,186,273 in assessed tangible property valuation, as enumerated in paragraph 50 above.

52. Sherman Township Crawford County Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$1,745,161 since 1985. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

53. As a result of the growth in assessed tangible property valuation as outlined in paragraph 52 above, it appears that the Sherman Township Crawford County Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1985. The area now has an increased additional \$1,745,161 in assessed tangible property valuation, as enumerated in paragraph 52 above.

54. St Francis Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$2,798,689 since 1983. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

55. As a result of the growth in assessed tangible property valuation as outlined in paragraph 54 above, it appears that the St Francis Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1983. The area now has an increased additional \$2,798,689 in assessed tangible property valuation, as enumerated in paragraph 54 above.

56. Topeka Tecumseh Firefighters Relief Association offered evidence, that the area served by the Topeka Tecumseh Fire Department has grown since 2000 in population and has increased by 74 and the assessed tangible property valuation for the fire protection area has increased by \$23,748,867 since 2000. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

57. As a result of the increase in population and in the assessed tangible property valuation as outlined in paragraph 56 above, it appears that the Topeka Tecumseh Fire Department is providing fire protection services to a more populous and valuable area than records maintained by the Kansas Insurance Department indicated was served in 2000. The area now has an additional 74 in population and \$23,748,867 in assessed tangible property valuation, as enumerated in paragraph 56.

58. Whiting Township Firefighters Relief Association offered evidence that the assessed tangible property valuation has increased by \$1,337,442 since 1990. Pursuant to K.S.A. 40-1706(c)(6), the amount of increase has been evaluated so as not to recognize the effects of the 1989 statewide reappraisal conducted pursuant to K.S.A. 79-1496, *et seq.*, and amendments thereto.

59. As a result of the growth in assessed tangible property valuation as outlined in paragraph 58 above, it appears that the Whiting Township Fire Department is providing fire protection services to a more valuable area than the records maintained by the Kansas Insurance Department indicated was served in 1990. The area now has an increased additional \$1,337,442 in assessed tangible property valuation, as enumerated in paragraph 58 above.

Conclusions of Law

60. Based upon the information presented by Applicants and available to the Commissioner of Insurance, changed circumstances are found to exist for all Applicants, to support a redetermination of the proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund for 2004 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

61. K.S.A. 40-1706(c)(6), which gives the Commissioner of Insurance the authority to redetermine the proportionate amounts payable to all firefighters relief associations, is silent as to the specific method by which the Commissioner is to make such a redetermination. The statute gives the Commissioner the discretion to determine how the redetermination is to be made.

62. Applicants presented evidence that the increased population and assessed tangible property valuation has resulted from either the addition of areas or through sheer growth, which was not a record with the Kansas Insurance Department in 1983.

63. To redetermine the proportionate amount payable to all firefighters relief associations for the 2004 and future distributions, the additional population and assessed tangible property valuation added by each applying association shall be treated separately, as a nonreceiving association, and these figures of the additional population and assessed tangible property valuation of each association will be placed into the formula used to determine the proportionate amounts payable to nonreceiving associations, as contained in K.S.A. 40-1706(c)(5).

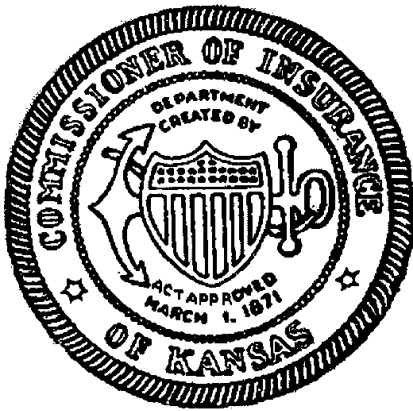
64. The procedure contained in paragraphs 62 and 63 above, shall affect the proportionate amount payable to all firefighters relief associations.

IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:

1. Changed circumstances exist as to all Applicants, to warrant a redetermination of the proportionate amounts payable to all firefighters relief associations.

2. The additional population and assessed tangible property valuation of each applying firefighters relief association, shall be individually placed into the formula found in K.S.A. 40-1706(c)(5) used to calculate that nonreceiving association's share of distribution. The resulting amount will be added to the amount that applying association would receive as a receiving association's proportionate share of future distributions.

**IT IS SO ORDERED THIS 17th DAY OF DECEMBER, 2003, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.**



_____/s/ Sandy Praeger_____
Sandy Praeger
Commissioner of Insurance
BY:

_____/s/ Robert Tomlinson_____
Robert Tomlinson
Presiding Officer

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Order was served by placing the same in the United States Mail, first class postage prepaid, on this 17th day of December 2003, addressed to the following:

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/s/ John Washburn
John Washburn
Fire and Casualty
Policy Examiner