

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

In the Matter of the Application of)	
)	
Almena FRA; Concordia FRA;)	
Dodge City FRA; Dwight FRA; Great Bend FRA;)	
Hope FRA; Hunter Rural FRA; Kansas City FRA;)	
Larned FRA; Marshall Co. #7 FRA;)	Docket No. 4783-FR
Medicine Lodge FRA; Mitchell Cloud Ottawa)	
FD #1 FRA; Morrill FRA; Olathe FRA;)	
Reno Co. #7 FRA; Reno Township FRA;)	
Russell County Fire District #5 FRA;)	
Wakefield FRA;)	

FINAL ORDER

After due and proper notice, this matter was called for hearing on November 17, 2015, 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 ("Applicants") were: The Almena Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Concordia Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Dodge City Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Dwight Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Great Bend Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Hope Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Hunter Rural Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Kansas City Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Larned Firefighters Relief Association

applied for redetermination by sworn electronic affidavit. The Marshall Co. #7 Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Medicine Lodge Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Mitchell Cloud Ottawa FD #1 Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Morrill Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Olathe Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Reno Co. #7 Firefighters Relief applied for redetermination by sworn electronic affidavit. The Reno Township Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Russell County Fire District #5 Firefighters Relief Association applied for redetermination by sworn electronic affidavit. The Wakefield Firefighters Relief Association applied for redetermination by sworn electronic affidavit.

John R. Wine, Jr., Assistant Commissioner, was the Presiding Officer duly appointed by Commissioner Ken Selzer.

The Kansas Insurance Department was represented by John Dowell, Staff Attorney, and John Boyd, administering the Firefighter Relief Association regulatory activities for the Kansas Insurance Department.

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 determination of public policy:

Findings of Fact

At issue is the 2015 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 firefighter's relief associations from the Firefighters Relief Fund pursuant to K.S.A. 40-1706. Exempt property was not included in the evidence or used for computation of assessed tangible property valuations in accordance with K.S.A. 40-1706(c)(6) and K.A.R. 40-10-2(d) excluding exempt property. John Boyd researched the 2015 Kansas Certified Population and the Kansas Assessed Tangible Property Report in order to verify the population and valuation data submitted. After reviewing this additional evidence the Presiding Officer makes the following findings of fact:

EXHIBIT 1: The Almena Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 552 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$8,006,390.

EXHIBIT 2: The Concordia Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 5,261 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$27,245,705.

EXHIBIT 3. The Dodge City Firefighters Relief Association researched concluded that the July 1, 2014 Kansas Certified Population revealed 28,159 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$154,468,266.

EXHIBIT 4. The Dwight Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 871 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$7,790,921.

EXHIBIT 5. The Great Bend Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 18,572 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$140,673,695.

EXHIBIT 6. The Hope Firefighters Relief Association application for Redetermination request was withdrawn on January 20, 2016 by John Boyd, FRA Administrator, due to the Hope fire district consolidating into Dickinson County #2 fire district.

EXHIBIT 7. The Hunter Rural Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 682 persons residing within their fire district and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$11,465,557.

EXHIBIT 8. The Kansas City Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 149,636 persons residing with their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$1,062,959,438.

EXHIBIT 9. The Larned Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 5,988 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$54,226,002.

EXHIBIT 10. The Marshall Co. #7 Firefighters Relief Association application for Redetermination was denied due to a mistake by new FRA Treasurer. The Application was withdrawn on January 20, 2016, by John Boyd, FRA Administrator.

EXHIBIT 11. The Medicine Lodge Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 2,041 persons residing with their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$10,344,468.

EXHIBIT 12. The Mitchell Cloud Ottawa FD #1 Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 387 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$9,791,691.

EXHIBIT 13. The Morrill Firefighters Relief researched concluded that the July 1, 2014 Kansas Certified Population revealed 723 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$16,167,409.

EXHIBIT 14. The Olathe Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 133,062 persons residing with in their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$1,458,844,972.

EXHIBIT 15. The Reno Co. #7 Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 578 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$11,817,627.

EXHIBIT 16. The Reno Township Firefighters Relief research concluded that the July 1, 2014 Kansas Certified Population revealed 1,433 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$17,532,335.

EXHIBIT 17. The Russell County Fire District #5 Firefighters Relief Association was denied due to a reduction in valuation of 50% caused by loss of tax revenue on oil and gas reserves. This was verified through the county clerk. The application for Redetermination was withdrawn by John Boyd on January 20, 2016.

EXHIBIT 18. The Wakefield Firefighters Relief Association research concluded that the July 1, 2014 Kansas Certified Population revealed 967 persons residing within their fire district boundaries and the 2015 Kansas Assessed Tangible Property Report revealed a valuation of \$6,020,812.

Conclusions of Law

As stated in K.S.A. 40-1706(d)(6), 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.

Based upon the evidence and subject to the limitations discussed herein, changed circumstances are found to exist for the Applicants as noted above, to support a redetermination of the proportionate amounts payable to all firefighters relief associations from the Firefighters Relief Fund for 2015 and future distributions pursuant to the Firefighters Relief Act, specifically K.S.A. 40-1706(c)(6).

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 after hearing. The statute gives the Commissioner the discretion to determine how the redetermination is to be made.

To redetermine the proportionate amount payable to all firefighters relief associations, the Commissioner has previously determined and continues to hold that the additional population and assessed tangible property valuation added above shall be treated separately, as a non-receiving 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 non-receiving associations, as contained in K.S.A. 40-1706(c)(6) and K.A.R. 40-10-16.

The procedure described above shall affect the proportionate amount payable to all firefighter's relief associations.

Determination of Public Policy

The presiding officer previously ordered that from 2009 and forward that the distribution to the FRAs that redetermine in the state of Kansas will be calculated by a formula based on the population and Assessed Tangible Property Valuation in accordance with K.S.A. 40-1706 (a) (5) (A) and K.A.R. 40-10-2 (d):

- 50% of the distribution is based on the population of the respective FRA in comparison to the entire population as certified to the secretary of state on July 1.
- 50% of the distribution is based on the assessed tangible property valuation of each FRA in proportion to the entire state of Kansas as reported by the County Clerks on the November 1 tax rolls. This formula has been codified in K.A.R. 40-10-16.

The presiding officer determined that it would not be good public policy to redetermine FRAs that would see a decrease in their distribution amount as a result of redetermination.

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

Changed circumstances exist as to all Applicants identified above, with the exception of Hope Firefighters Relief Association, Marshall Co. #7 Firefighters Relief Association and Russell County Fire District #5 Firefighters Relief Association.

The changed population and assessed tangible property valuation of each applying firefighters relief association shall be individually placed into the formula as described in the "Determination of Public Policy" paragraph used to calculate shares of distribution. The resulting amount will be added to the amount that the applying association would receive as a receiving association's proportionate share of future distributions.

Each firefighter's relief association shall receive their 2015 distribution amount calculated in accordance with K.S.A. 40-1706 on or about July, 2016.

The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action necessary to dispose of this matter.

IT IS SO ORDERED THIS 9th DAY OF FEBRUARY, 2016, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.

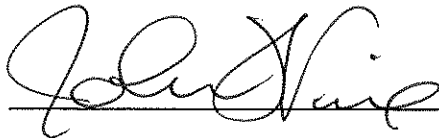




Ken Selzer

Commissioner of Insurance

BY:



John Wine

Assistant Commissioner

Presiding Officer

NOTICE OF RIGHTS

Pursuant to K.S.A. §77-601 et seq. any party is entitled to judicial review to the extent that this order constitutes final agency action. The petition for judicial review must be filed within thirty (30) days of service of this Order (Plus three (3) days for service by mail pursuant to K.S.A. §77-531). In the event a party files a petition for judicial review pursuant to K.S.A. §77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that the foregoing Notice of Formal Hearing was deposited in the United States Mail, first-class postage prepaid, on the 9th day of February, 2016, to the following:

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Charles E. Whitney
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Concordia, KS 66901

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Michael Reifschneider
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MEDICINE LODGE F R A 307
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Gary Carpenter
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