

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of the Application)	
for Redetermination of)	
)	
Arkansas City FRA; Grainfield FRA;)	Docket No. 4928-FR
Hays FRA; Johnson Co. #1 FRA)	
Johnson Co. #2 Consolidated FRA;)	
Kinsley FRA; Leavenworth FRA;)	
Lincoln Co. #1 FRA; McPherson FRA;)	
Nemaha Co. #1 FRA; Osage Co. #1 FRA)	
Sharon Springs FRA; Topeka FRA;)	
Wallace Co. FRA)	

FINAL ORDER

After due and proper notice, this matter was called for hearing on November 16, 2016, 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 **Arkansas City Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Grainfield Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Hays Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Johnson CO #1 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Johnson CO #2 Consolidated Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Kinsley Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Leavenworth Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Lincoln CO #1 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **McPherson CO #2 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Nemaha CO #1 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Osage CO #1 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Sharon Springs Firefighters Relief Association** applied for redetermination by sworn electronic

affidavit. The **Topeka Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Wallace CO Firefighters Relief Association** applied for redetermination by sworn electronic affidavit.

John Wine, Assistant Commissioner, was the Presiding Officer duly appointed by Commissioner Selzer. The Kansas Insurance Department was represented by Elizabeth Hickert-Fike, Staff Attorney, and John Boyd, Administrator, Firefighter Relief Act. 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 2016 and future distributions of the Firefighters Relief Fund to firefighter 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 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. Mr. Boyd researched the 2016 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: Research on the Arkansas City Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 15,962 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$54,123,449.

EXHIBIT 2: Research on the Grainfield Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 635 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$14,791,086.

EXHIBIT 3: Research on the Hays Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 21,092 persons within the boundaries of the fire

district and a 2016 Kansas Assessed Tangible Property Report valuation of \$216,897,714.

EXHIBIT 4: Research on the Johnson CO #1 Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 26,606 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$266,242,053.

EXHIBIT 5: Research on the Johnson CO #2 Cons Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 48,031 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$834,672,900.

EXHIBIT 6: Research on the Kinsley Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 1,731 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$19,652,291.

EXHIBIT 7: Research on the Leavenworth Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 35,980 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$204,925,437.

EXHIBIT 8: Research on the Lincoln CO #1 Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 266 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$12,074,413.

EXHIBIT 9: Research on the McPherson CO #2 Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 1,248 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$223,313,892.

EXHIBIT 10: Research on the Nemaha CO #1 Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 379 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$5,147,617.

EXHIBIT 11: Research on the Osage CO #1 Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 3,461 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$26,170,602.

EXHIBIT 12: Research on the Sharon Springs Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 915 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$22,488,483.

EXHIBIT 13: Research on the Topeka Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 127,265 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$1,070,085,707.

EXHIBIT 14: Research on the Wallace CO Firefighters Relief Association's July 1, 2016 Kansas Certified Population revealed 226 persons within the boundaries of the fire district and a 2016 Kansas Assessed Tangible Property Report valuation of \$10,624,039.

The presiding officer therefore makes findings of fact consistent with the above evidence.

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 firefighter relief

associations from the Firefighters Relief Fund for 2016 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 relief associations.

Determination of Public Policy

The presiding officer previously ordered that from 2009 and forward that the distribution to the firefighter relief associations 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 firefighter relief association 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 firefighter relief association 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 firefighter relief associations 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. The changed population and assessed tangible property valuation of each applying firefighter 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 relief association shall receive their 2016 distribution amount calculated in accordance with K.S.A. 40-1706 on or about July 2017.

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 11th DAY OF APRIL, 2017, 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 11th day of April, 2017, to the following:

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