

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

In the Matter of the Application)
for Redetermination of)
)
Edna FRA; Holton FRA;)
Hoyt Rural FD #3 FRA; Kanwaka FRA)
Milford FRA; Mission Twp FRA)
Newton FRA; Norton Co. #2 FRA;)
Olpe Rural FD #1 FRA;)
Reno County Dist. #9 Haven FRA;)
Republic Co. #12 FRA; Saline Co. #6 FRA)
Saline Co. #7 FRA; Sedgwick FRA)
Shawnee Co. #4 FRA; Solomon FRA)
Wellington FRA; Winfield FRA)

Docket No. 5120-FR

FINAL ORDER

After due and proper notice, this matter was called for hearing on November 9, 2017, 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 **Edna Firefighter Relief Association** applied for redetermination by sworn electronic affidavit. The **Holton Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Hoyt Rural FD #3 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Kanwaka Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Milford Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Mission Township Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Newton Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Norton Co. #2 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Olpe Rural FD #1 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Reno County Dist. #9 Haven Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Republic Co. #12 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Saline Co. #6 Firefighters Relief**

Association applied for redetermination by sworn electronic affidavit. The **Saline Co. #7 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Sedgwick Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Shawnee Co. #4 Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Solomon Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Wellington Firefighters Relief Association** applied for redetermination by sworn electronic affidavit. The **Winfield Firefighters Relief Association** applied for redetermination by sworn electronic affidavit.

Clark Shultz, Assistant Commissioner, was the Presiding Officer duly appointed by Commissioner Selzer. The Kansas Insurance Department ("KID") was represented by Steven Lehwald, Staff Attorney. John Boyd, Administrator, Firefighter Relief Act, and Lisa Collette, Senior Administrative Specialist, Firefighter Relief Act, were present to provide evidence for KID. 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 2017 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 and Ms. Collette researched the 2017 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 Edna Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,295 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$9,553,673.

EXHIBIT 2: Research on the Holton Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 6,478 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$51,928,334.

EXHIBIT 3: Research on the Hoyt Rural FD #3 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 2,648 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$20,607,110.

EXHIBIT 4: Research on the Kanwaka Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,482 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$23,959,846.

EXHIBIT 5: Research on the Milford Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 594 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$3,182,109.

EXHIBIT 6: Research on the Mission Twp. Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 9,591 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$111,152,515.

EXHIBIT 7: Research on the Newton Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 22,643 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$163,254,353.

EXHIBIT 8: Research on the Norton Co. #2 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,562 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$20,794,432.

EXHIBIT 9: Research on the Olpe FD #1 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,959 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$20,506,180.

EXHIBIT 10: Research on the Reno County Dist. #9 Haven Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,631 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$26,125,514.

EXHIBIT 11: Research on the Republic Co. FD #12 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 192 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$9,318,361.

EXHIBIT 12: Research on the Saline Co. #6 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 583 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$12,179,564.

EXHIBIT 13: Research on the Saline Co. #7 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 910 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$16,614,508.

EXHIBIT 14: Research on the Sedgwick Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,513 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$7,969,478.

EXHIBIT 15: Research on the Shawnee County FD #4 Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,645 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$21,256,423.

EXHIBIT 16: Research on the Solomon Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 1,039 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$7,471,739.

EXHIBIT 17: Research on the Wellington Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 9,096 persons within the boundaries of the

fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$65,515,550.

EXHIBIT 18: Research on the Winfield Firefighters Relief Association's July 1, 2017 Kansas Certified Population revealed 14,806 persons within the boundaries of the fire district and a 2017 Kansas Assessed Tangible Property Report valuation of \$111,637,034.

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, with the exception of Saline Co. FD #6 Firefighters Relief Association, to support a redetermination of the proportionate amounts payable to all firefighter relief associations from the Firefighters Relief Fund for 2017 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.

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 believes that it would not be good public policy to redetermine firefighter relief associations that would see a decreased distribution because of redetermination. Saline Co. #6 Firefighters Relief Association would see a decrease in their distribution because 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 Saline Co. #6 Firefighters Relief Association. 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 2017 distribution amount calculated in accordance with K.S.A. 40-1706 on or about July 2018.

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 31 DAY OF MARCH, 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer
Commissioner of Insurance

BY:

Clark Shultz
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 __ day of April, 2018, to the following:

EDNA FRA 468
Elizabeth Wilmoth
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Edna, KS 67342

HOLTON FRA 246
John Motto
P.O. Box 88
Holton, KS 66436

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Jerry Harter
P.O. Box 196
Hoyt, KS 66440

KANWAKA FRA 759
Stephen Zahniser
1709 E. 400 Rd.
Lawrence, KS 66049

MILFORD FRA 621
Tim Himelick
P.O. Box 279
Milford, KS 66514

MISSION TWP FRA 545
Kenneth Dick
6301 S.W. 64th
Auburn, KS 66402

NEWTON FRA 329
Nathan Graber
200 E. 3rd
Newton, KS 67114

NORTON CO #2 FRA 526
Edward W. Witt
907 N. Norton
Norton, KS 67654

OLPE RURAL FD #1 FRA 510
Dean Hermesch
P.O. Box 3
Olpe, KS 66865

RENO COUNTY DIST #9
HAVEN FRA 235
Nick Schneider
207 S. Wichita
Haven, KS 67543

REPUBLIC CO #12 FRA 502
Mitch Wieszorek
1110 30th Rd.
Courtland, KS 66939

SALINE CO #6 FRA 648
Michael V. Dimitri
216 S. 3rd St.
Smolan, KS 67456

SALINE CO #7 FRA 741
Derek McKellips
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Salina, KS 67401

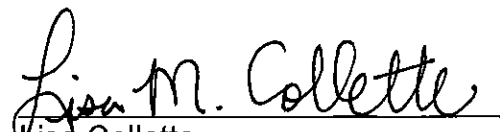
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SOLOMON FRA 405
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Jeremy Wiens
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Lisa Collette,
Senior Administrative Specialist