



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

May 19, 1953

Hon. Paul H. Brown
Fire Insurance Commissioner
Austin, Texas

Letter Opinion No. MS-37

Re: The authority of the
Board of Insurance
Commissioners to re-
duce fire insurance
rates in cities which
have contracts with
other municipalities
for fire fighting
services.

Dear Mr. Brown:

You have submitted a request for an opinion regarding the authority of the Board of Insurance Commissioners to reduce fire insurance rates in municipalities which have contracts with other cities whereby fire fighting services are furnished by these other cities. Specifically your question follows:

"Article 5.25 of the Texas Insurance Code specifically imposes upon this Division not only the duty of fixing and prescribing fire rates but, in substance, to take whatever action that may be legal and necessary to classify and reduce such rates for the State or subdivisions thereof. As stated in our original inquiry of April 14, it has been called to our attention that certain communities, which have heretofore been classed as unprotected because of the lack of fire fighting services, have entered into contracts with adjoining municipalities to furnish these facilities. It has been further proposed to us that the obtaining of such services, even by contractual methods, should entitle these communities to lower fire rates.

"We are not aware of any attempts on the part of any of the parties to such contracts to violate any of the terms or conditions thereof and in accordance with the provisions of our statutes dealing with fire insurance rating, particularly Article 5.25, we would

like your opinion as to whether or not it is within the authority of the Board of Insurance Commissioners to permit reductions in rates due to the existence of such contracts."

Article 5.25 of the Insurance Code, cited by you, places in the Board of Insurance Commissioners:

" . . . the sole and exclusive power and authority and it shall be its duty to prescribe, fix, determine and promulgate the rates of premiums to be charged and collected by fire insurance companies transacting business in this State. Said Board shall also have authority to alter or amend any and all such rates of premiums so fixed and determined and adopted by it, and to raise or lower the same, or any part thereof as herein provided. . . ."

Article 5.33 of the Insurance Code clothes the Board with authority to allow cities, towns, villages or localities credit for reduction of fire hazards. This Article follows:

"The Board shall have full authority and power to give each city, town, village or locality credit for each and every hazard they may reduce or entirely remove, and also for all added fire fighting equipment, increased police protection, or any other equipment or improvement that has a tendency to reduce the fire hazard of any such city, town, village or locality, and also to give credit for a good fire record made by any city, town, village or locality. Said Board shall also have the power and authority to compel any company to give any or all policyholders credit for any and all hazards that said policyholder or holders may reduce or remove. Said credit shall be in proportion to such reduction or removal of such hazard and said company or companies shall return to such policyholder or holders such proportional part of the unearned premium charged for such hazard that may be reduced or removed."


Article 5.34 of the Insurance Code gives the Board full authority to "alter, amend or revise any rates of premium fixed and determined by it in any schedules of such rates promulgated by it . . ."

It is our opinion that the Board of Insurance Commissioners may allow credit on fire insurance rates in any city, town, village or locality where fire hazards have been reduced. Whether hazards have been reduced in any given city, town, village or locality is a fact question and any decision of the Board as to the rate classification or credit of any city, town, village or locality is predicated upon a factual study and investigation of actual reduction of hazards. If such investigation shows that fire hazards have in fact been reduced, the city, town, village or locality may be reclassified or credit given. If agreements for services to be furnished by other cities have in fact reduced hazards, the city, town, village or locality receiving such benefits may be given such credit for reduction of hazards as the Board finds is justified.

The Board has full authority to revise or alter any credits or rates given a city, town, village or locality upon a change in conditions whereby the fire hazards of the city, town, village or locality are increased or the previous reduction of hazards no longer exists. Such authority is the Board's protection in a factual approach to the reduction of hazards.

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By 
Ed Reichelt
Assistant

ER/rt