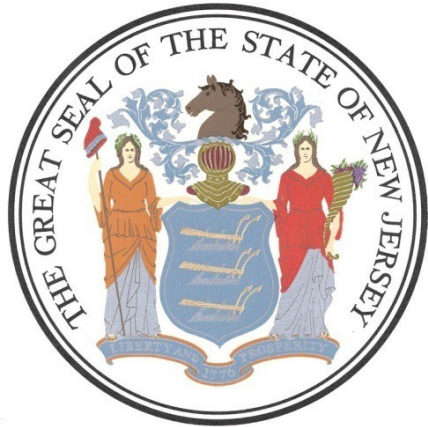


**State of New Jersey
Office of the State Comptroller**



***INVESTIGATIVE REPORT:
ADMINISTRATION OF BENEFIT FUNDS
BY THE NEW JERSEY
STATE FIREMEN'S ASSOCIATION***

**PHILIP JAMES DEGNAN
State Comptroller**

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I. INTRODUCTION AND EXECUTIVE SUMMARY

The New Jersey State Firemen’s Association (NJSFA) is a nonprofit organization that provides burial benefits and financial assistance to qualified firefighters and their dependents. As part of its statutory responsibilities, NJSFA oversees the 538 separately incorporated local relief associations (LRAs) throughout the state whose mission it is to provide financial relief to needy firefighters and their families. NJSFA and the LRAs are funded by a two percent tax levied on the premiums of fire insurance policies written by non-New Jersey insurers on New Jersey properties (hereinafter “foreign fire tax”). Since 2013, NJSFA has received approximately \$30 million annually in foreign fire tax revenue, nearly half of which it distributes to the LRAs.

The Office of the State Comptroller (OSC) received a complaint identifying concerns with an LRA located in Bergen County. Specifically, the complaint alleged that members of this LRA were improperly receiving financial relief benefits despite not having a need or hardship, which is the established criteria for receiving such benefits.

OSC initiated a comprehensive investigation into NJSFA and the relief assistance program, including its history, purpose, funding, structure, and oversight. OSC’s investigation revealed a substantial accumulation of funds due, in part, to antiquated statutes that severely limit how the funds can be spent. OSC’s investigation also uncovered instances of questionable use of money by the LRAs, attributable to a lack of comprehensive oversight and training by NJSFA, the public entity charged with such responsibility. The accumulation of substantial money, combined with a lack of appropriate oversight, has resulted in waste, and could lead to fraud or theft.

Specifically, OSC’s investigation found an accumulation of nearly \$245 million in combined total assets by NJSFA and the LRAs (approximately \$65 million held by NJSFA

and \$180 million held by the LRAs). This buildup of assets appears to be the result of governing statutes that date back to the 1880s, which limit the use of funds to burial benefits and financial assistance for “needy” firefighters and their families. Although legislative hearings were held in 1994 concerning criticisms of the activities of NJSFA that were remarkably similar to the findings uncovered by OSC’s current investigation, including the accumulation of assets, the resulting statutory amendments did not include an expansion of the use of these funds.

OSC’s investigation also found a lack of oversight in the administration of the funds by NJSFA. NJSFA does not require training of the officers or trustees of the LRAs with regard to reviewing or processing relief applications, resulting in disparity in how each LRA defines need and issues relief. Further, NJSFA’s audits of the LRAs were conducted too infrequently and, when conducted, were perfunctory at best. The lack of internal controls and inadequate oversight increases the risk of fraud and misuse.

It is axiomatic that, under these circumstances, only state lawmakers have the ability to consider and affect change within this statutory structure. Based upon the findings detailed herein, OSC respectfully requests lawmakers consider whether the governing statutes, *N.J.S.A.* 43:17-1 to -47, should be updated and revised. In assessing the need for and the extent of the change that may be required, OSC recommends that lawmakers consider whether the statutes should be changed to allow for an expanded use of the funds to further benefit firefighters and their families, while ensuring the continued availability of funds to provide death and relief benefits to eligible members and their families. State lawmakers should also consider whether the statutes should be amended to increase NJSFA’s oversight and internal control over the LRAs. Legislation should also be considered to increase state oversight by the Department of Banking and Insurance

(DOBI) or, alternatively, some other state agency that could perform routine audits of NJSFA and the 538 LRAs. Finally, legislation permitting the foreign fire tax funds to be allocated more equitably among the LRAs should be considered.

II. BACKGROUND

A. Brief History of Volunteer Fire Service in New Jersey

Since the early days of our state, communities in New Jersey organized and formed volunteer fire companies, some of which date back to the mid-18th century. The City of Trenton's volunteer fire department, for example, organized in 1747, making it one of the earliest in the state. As cities grew, some communities hired full-time firefighters. Trenton transitioned from volunteer to career firefighters in 1892, and has continued as a paid department since that time. The City of Elizabeth was established as a volunteer department in 1837, and reorganized as a paid fire department in 1902.

To date, however, the majority of New Jersey firefighters continue to serve in a volunteer capacity. According to records maintained by the New Jersey Department of Community Affairs, as of March 2018, there were 730 fire departments in the state consisting of 37,683 firefighters.¹ Of those firefighters, 30,372, or 80.6 percent, are volunteers, and 7,311, or 19.4 percent, are career.

Organizations aimed at assisting firefighters and their families, such as NJSFA, have existed for nearly as long as fire companies have been established. In more recent years, in view of the important and dangerous commitment they make to their communities, volunteer firefighters also have state and federal resources to draw upon,

¹ Membership in NJSFA is not automatic or required of New Jersey's firefighters, an application must be submitted. NJSFA consists of current and inactive firefighters in the state who remain eligible for relief and burial benefits. As of the writing of this Report, there are 56,057 members of NJSFA.

particularly in the event of injury or death in the line of duty. These benefits may include, but are not limited to:

- worker's compensation benefits, *N.J.S.A.* 34:15-43;
- volunteer firefighter compensation for loss and life insurance (appropriated through municipality), *N.J.S.A.* 40A:14-36, -37;
- accidental death benefits (for Police and Fireman's Retirement System members who die as the result of an accident in the performance of their duties as a volunteer fireman), *N.J.S.A.* 43:16A-10(1);
- scholarships for undergraduate education for surviving spouses and children; *N.J.S.A.* 18A:71B-23;
- Emergency Services Volunteer Length of Service Award Program (LOSAP), *N.J.S.A.* 40A:14-183 to -194.1; and
- line of duty death benefits under the federal public safety officers' benefits program.

Since the advent of NJSFA, the availability of state and federal resources has increased for New Jersey's firefighters. In light of that, the use of the foreign fire tax funds could be expanded to benefit the firefighter community. Through the following findings and conclusions, this Report underlines the need to consider the thoughtful expansion of the use of tax revenue and widen benefits to the state's firefighters without endangering benefits currently provided by the fund, such as the burial benefit and relief to those in need. A critical component of this expansion, however, is OSC's belief that these foreign fire tax funds must continue to be used exclusively to benefit New Jersey's firefighters.

B. The Origins of NJSFA and the Local Relief Associations

In the mid-1800's, prior to the statutory enactment establishing NJSFA, New Jersey funded the LRAs with the foreign fire tax. The fire tax proceeds were initially collected and distributed by the state but, following a statutory amendment, the LRA

treasurers were permitted to directly receive the fire tax proceeds. This statutory change resulted in an increase in funding to the firefighters which, in turn, engendered a belief among the firefighters that a state organization, NJSFA, should be formed to oversee and protect the firefighter's interests.

The first documented meeting of NJSFA was held in 1879 and attended by 19 fire departments. It was at this meeting that NJSFA was organized. The object of the association was to provide for the protection of the widows and orphans of the members, and firemen in general.

In 1885, NJSFA and the LRAs were formally established by statute. According to the original statutes, the LRAs maintained a fund for the relief, support, and burial of "indigent" firemen and their families. NJSFA was established to oversee the LRAs, although its responsibilities were not explicitly detailed, other than ensuring that each LRA's Constitution and by-laws complied with the law and to conduct examinations of the LRA's financial statements. The statutes also required the LRAs to equally fund NJSFA, and authorized the convening of an annual convention.

As discussed more fully below in Section E, these statutes remained largely unchanged for over 100 years until 1996.

C. NJSFA: Statutory Responsibilities and Oversight of the Local Relief Associations

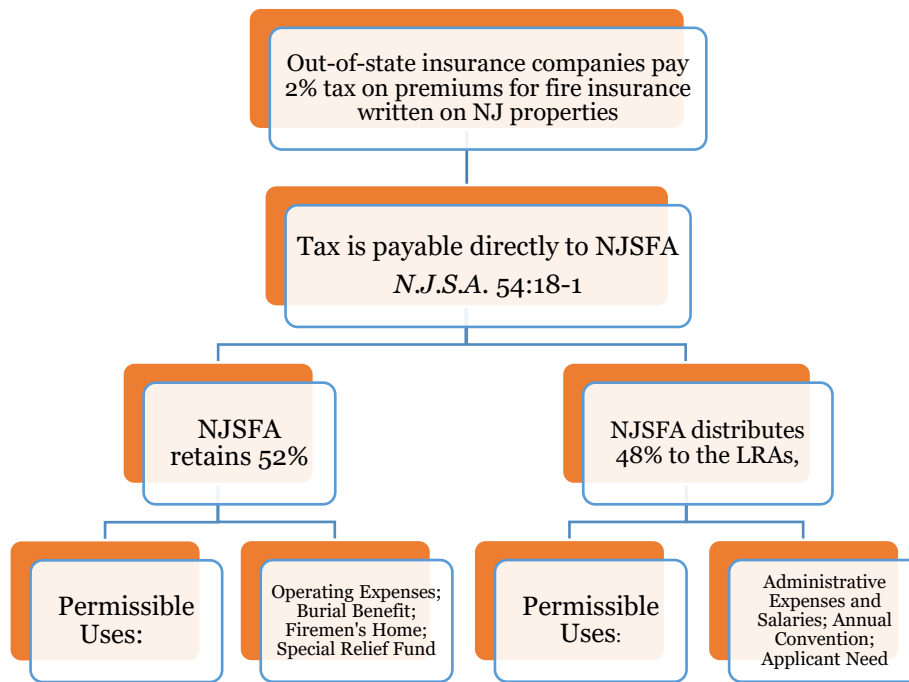
1. Distribution of the Foreign Fire Tax Funds By NJSFA

Under its governing statutes, NJSFA receives the foreign fire tax funds from non-New Jersey insurance companies, *N.J.S.A.* 54:18-1, and ensures the appropriate distribution of this money to the 538 LRAs. NJSFA distributes the foreign fire tax to the

LRAs based upon the amount of revenue derived from the insurance policies written in that municipality. *N.J.S.A. 54:8-2; N.J.A.C. 11:1-5.4.*

NJSFA’s distribution of the tax money is illustrated below.

Figure 1: Flow of 2% Tax on Fire Insurance



By statute, NJSFA retains a percentage of the tax funds.² At present, NJSFA retains 52 percent of the annual tax revenue which can be used towards burial benefits,³

² NJSFA is also statutorily obligated to fund the operational expenses of the New Jersey Firemen’s Home. Funding for the Firemen’s Home is derived, in part, from the fire tax funds collected in municipalities that do not have an LRA. NJSFA, in response to OSC’s discussion draft, emphasized that in 2016 it distributed over \$8 million to the Firemen’s Home and that the current budget contemplates a payment of over \$12.5 million. The Firemen’s Home has been in existence since 1898 and funding it has not materially impacted NJSFA’s assets since that time. The Firemen’s Home was not part of OSC’s investigation and is not discussed further in this Report.

³ The administration of the burial benefit by NJSFA was not part of OSC’s investigation.

the special relief fund,⁴ administrative costs, and other expenses. NJSFA also funds a newly implemented Health Care Program.⁵ The LRAs receive the remaining 48 percent of the tax funds. The LRAs' use of the funds is also dictated by statute, and limited to paying relief benefits, convention expenses, and administrative expenses such as salaries of the LRA officers and trustees. In 2016, one of the years OSC examined, NJSFA received approximately \$32 million in annual tax revenue and distributed approximately \$16 million of those funds to the LRAs.

An LRA's share of the tax funds is determined by the premiums paid on fire insurance policies written in the municipality in which the LRA is located. Thus, a more populous municipality (*e.g.*, more properties to be insured against fire damage) or affluent municipality (*e.g.*, higher property values lead to higher premiums), will likely receive a higher distribution of fire tax funds. By way of contrast, a less densely populated or distressed municipality will likely receive a smaller distribution of fire tax funds because there are fewer or lesser-valued properties to be insured. For example, of the LRAs reviewed by OSC, the 2016 fire tax distribution ranged from approximately \$317,600 for an LRA located in Union County to \$9,000 for an LRA located in Cumberland County. The distribution is also impacted by whether the insurance is written by an in-state or out-of-state carrier, since only out-of-state carriers are assessed the foreign fire tax.

⁴ The "special relief fund" is explained in greater detail in Section C(2), *infra*.

⁵ The Health Care Program was recently established by NJSFA and is aimed at providing financial assistance to firefighters in need of in-home care.

2. Oversight of the LRAs and Their Administration of the Funds They Receive

The object of the LRAs, much the same as it was in 1885, is to “provide for and maintain a fund for the relief, support, or burial of needy firefighters and their families.” *N.J.S.A.* 43:17-3. The LRAs are separate and independent corporations, and their activities are governed by statutes, regulations, and NJSFA’s Constitution and by-laws. NJSFA is vested with the sole responsibility to oversee the LRAs’ administration of the relief funds.

A needy firefighter can apply for three separate levels of relief, referred to as: local, special and supplemental relief. Although the criteria for receiving all three levels of relief is substantially the same, an applicant must first apply for local relief through an application to his or her LRA, which reviews, approves or denies, and ultimately pays out relief to the applicant. If a financial need still exists after receipt of local relief, the firefighter can then apply for additional relief in the form of special and supplemental relief. Such applications are reviewed and approved by NJSFA, although only special relief is paid by an NJSFA fund. Supplemental relief is paid from the local relief fund. The maximum combined relief a member can receive is based upon the total assets of the member’s LRA, which is dictated by NJSFA’s sliding scale, a copy of which is replicated below:

Figure 2: NJSFA's Relief Assistance Scale

LOCAL RELIEF ASSOCIATION ASSET RANGE (DOLLARS)	*	**	*
	LOCAL RELIEF LIMIT	SPECIAL RELIEF FUND	SUPPLEMENTARY RELIEF LIMIT
	STEP 1	STEP 2	STEP 3
\$ 0 TO \$ 10,000	\$ 750.00	\$ 4,250.00	\$ 2,250.00
\$ 10,001 TO \$ 20,000	\$ 1,000.00	\$ 4,000.00	\$ 3,000.00
\$ 20,001 TO \$ 50,000	\$ 1,250.00	\$ 3,750.00	\$ 3,750.00
\$ 50,001 TO \$ 80,000	\$ 1,500.00	\$ 3,500.00	\$ 4,500.00
\$ 80,001 TO \$ 120,000	\$ 2,000.00	\$ 3,000.00	\$ 6,000.00
\$ 120,001 TO \$ 160,000	\$ 2,250.00	\$ 2,750.00	\$ 6,750.00
\$ 160,001 TO \$ 200,000	\$ 2,500.00	\$ 2,500.00	\$ 7,500.00
\$ 200,001 TO \$ 250,000	\$ 2,750.00	\$ 2,250.00	\$ 8,250.00
\$ 250,001 TO \$ 350,000	\$ 3,000.00	\$ 2,000.00	\$ 9,000.00
\$ 350,001 TO \$ 500,000	\$ 3,250.00	\$ 1,750.00	\$ 9,750.00
\$ 500,001 TO \$ 750,000	\$ 3,500.00	\$ 1,500.00	\$ 10,500.00
\$ 750,001 TO \$ 1,000,000	\$ 3,750.00	\$ 1,250.00	\$ 11,250.00
\$ 1,000,001 TO \$ ABOVE	\$ 5,000.00	Not Applicable	\$ 15,000.00

* Funded by the Local Relief Association.

** Funded by the N.J.S.F.A. office.

For instance, if an LRA has total assets ranging from \$80,001 to \$120,000, an applicant can receive up to \$2,000 from the LRA in local relief, an additional \$3,000 in special relief fund payments (funded by NJSFA), and up to \$6,000 in supplemental relief (funded by the LRA).⁶ The focus of this Report is on the administration and oversight of local relief.⁷

⁶ NJSFA informed OSC that all members are entitled to apply for relief totaling \$5,000, regardless of the LRA's total assets.

⁷ Although OSC reviewed some special and supplemental relief applications as part of its investigation, the primary focus of this Report is NJSFA's role and oversight of the LRAs and their processing of local relief applications and payments for relief.

Relief is intended to assist “needy”⁸ firefighters and their families. *N.J.S.A.* 43:17-3. The grant of relief by the LRAs, and the determination of who is qualified to receive such relief, is governed by standardized rules set by NJSFA, although the LRAs are afforded broad discretion in making such a determination.

As part of their reporting process, LRAs are required to submit annual financial reports to NJSFA. *See N.J.S.A.* 43:17-31 and *N.J.A.C.* 11:1-38.3.⁹ These reports include the names of each relief recipient and the amount of relief awarded, LRA officer salaries, along with the amount of the LRA’s assets, and how those assets are invested. *N.J.A.C.* 11:1-38.3. As an added internal control, NJSFA recently began requiring quarterly reports from the LRAs, in which the LRAs report all payments for local relief. In addition, NJSFA receives duplicate bank statements for all checking, savings, and money market accounts mailed directly from the LRAs’ financial institution(s).

NJSFA also has the statutory authority to review the books and records of the LRAs, and to perform field examinations. *N.J.S.A.* 43:17-46.

⁸ Among other changes, the statutes were amended in 1996 to change the term “indigent” to “needy” although neither term has been defined by statute. *See* Section II(E), *infra*.

⁹ Although this regulation also seems to require the LRAs to file such documents with DOBI and the Secretary of State, it appears that NJSFA files these documents on behalf of the LRAs with DOBI. Further, NJSFA informed OSC that it was directed by the Secretary of State to file its financial reports and those of the LRAs with the Business Services Office, Division of Revenue and Enterprise Services, rather than with the Secretary of State. OSC confirmed with the Business Services Office that it does in fact receive NJSFA’s financial reports, but stated it does not examine or review the reports, and merely keeps them on file.

D. Local Relief Application Process

A review of the local relief application process is helpful to understanding the issues OSC identified in its investigation. A member of the LRA seeking financial assistance can apply for relief by filling out an Application for Local Relief (Relief Application). The Relief Application is submitted to and approved by the LRA. NJSFA does not review or approve applications for local relief at the time they are submitted.¹⁰

In January 2018, following OSC's investigation, NJSFA made significant updates to the Relief Application. Documents reviewed by OSC in connection with this investigation, however, included hundreds of relief applications that predated the 2018 amendment. Earlier versions of the relief application were much less robust. Thus, references to "Relief Application" in this Report, unless otherwise noted, refer to versions of the application that existed prior to NJSFA's January 2018 amendments. A more detailed explanation of some of the 2018 amendments are discussed in Section IV(B)(1), *infra*. OSC makes no findings with regard to the new application and its effectiveness, except as otherwise noted herein.

The Relief Application is a standardized application prepared by NJSFA that all LRAs are required to use. The Relief Application is also accompanied by a one-page set of instructions and one-page set of "rules and guidelines."

An applicant is required to fully complete, sign, and attest to the accuracy of the relief application. This requires full disclosure of personal financial information, including income, assets and household expenses. An applicant is required to submit

¹⁰ As discussed above, applications for special and supplemental relief are reviewed by NJSFA.

recent documentation supporting each itemized expense, including but not limited to mortgage statements, utility bills, credit card statements, and car loans.

The applicant is also required to submit a statement of need, setting forth the basis for the financial request. The instructions define “need” as:

- an “imperative demand”
- a “time of great difficulty”
- a “crisis”
- an “urgency.”

The instructions explain that financial loss and financial need are not necessarily the same thing. The instructions state “[t]he person may have a financial loss, but have financial means and can afford to cover the financial loss without the use of local relief, thus no ‘NEED’ would then exist.” During an interview with OSC, NJSFA’s President went further, describing need as existing when an applicant’s monthly expenses exceed monthly income by a substantial amount and the relief provided would be used to cover basic necessities such as food, utilities, mortgage or rent, and medical expenses.

A completed application is to be thoroughly reviewed by three trustees, who are elected officers of the LRA. Trustees, like other elected LRA officers, are permitted to receive a salary which is paid out of the fire tax funds. The trustees are required to report their findings to the LRA board of representatives which may adopt or approve the recommendation, or make its own determination. *N.J.S.A. 43:17-24*. According to the statute, the standard by which the board shall assess a relief application is as follows:

No person shall be given assistance if the cause of the need or the reason for the disability or the nature or cause of the injury or sickness is not in the opinion of the board of representatives such as to entitle the applicant to assistance, or if the applicant is deemed financially unworthy of assistance.

N.J.S.A. 43:17:24. If relief is awarded, a check is remitted. According to NJSFA, how and to whom the relief is paid is left to the discretion of the LRA. The relief can be paid in a lump sum or installments. The relief check must be signed by three LRA officers.

E. Legislative History of Governing Statutes

Since their enactment over 130 years ago, the governing statutes, *N.J.S.A.* 43:17-1, *et seq.*, have limited the use of the foreign fire tax funds to burial benefits and the support of needy firefighters. A review of the relevant legislative history is detailed below.

In 1885, the statutes establishing NJSFA and the LRAs were enacted. Then, much like today, the object of the LRAs were to maintain a fund for “the relief, support, or burial” of indigent firemen and their families. NJSFA was vested with the same rights, powers, and privileges as the LRAs, and vested with oversight responsibilities that required NJSFA to conduct an examination of the LRAs’ financial statements. These responsibilities, however, were not explicitly detailed by statute.

It appears that the role and powers of NJSFA went largely unchanged for nearly 100 years until a 1988 decision of the New Jersey Superior Court, Chancery Division, in which the plaintiff challenged the constitutionality of the statutes authorizing the receipt and use of the fire tax funds by NJSFA and the LRAs. *Szabo v. NJSFA*, 230 N.J. Super. 265 (Ch. Div. 1988). The court interpreted the statutes to avoid reaching the constitutional challenge and made certain findings. Specifically, the court required NJSFA to adopt rules governing the LRAs’ benefit decisions, which the court held NJSFA had failed to do despite its obligation under *N.J.S.A.* 43:17-35. *Id.* at 275, 290-91.

Interestingly, the *Szabo* court noted that,

[t]here is no definition or test for “need.” There are no limits or guidelines respecting income or assets. There is no list of eligible or ineligible

expenses, or any indication as to what criteria is to be applied in deciding whether to accept or reject a claim.

Id. at 275. The court also required greater state involvement by DOBI and the Secretary of State, the two state entities with which NJSFA was already statutorily required to file its financial records. *Id.* at 294.

In response to the *Szabo* decision, DOBI codified regulations for filing requirements for NJSFA and the LRAs and the manner in which tax payments are to be made by out-of-state insurers. *See generally N.J.A.C. 11:1-38.1 to 38.6.* NJSFA, also in response to the *Szabo* case, established auditing requirements for the NJSFA field examiner, and adopted standardized relief application forms and manuals.

Thereafter, in 1994, State Senator Louis F. Kosco raised concerns during Legislative Committee hearings about the accumulation of funds by NJSFA and the LRAs, which totaled approximately \$90 million at the time. In his opening remarks, Senator Kosco stated:

A major question is the future of almost \$90 million under Association control. The ability of this private, nonprofit organization to build a large reserve could mean it has long been overfunded, or it could mean that it is not using the money properly, or it is not giving it out to where it should be given out, or the money has to be redirected to a better use that will help firefighters.

[Senate Law and Public Safety Committee, Public Hearing Tr., p. 4 (June 23, 1994)].

Senator Kosco raised other concerns, including but not limited to: whether there should be some type of consolidation of the over 500 LRAs; why some LRAs paid out no relief; and why convention expenses exceeded relief payments. Two days of hearings were held in June and July 1994, during which time representatives from NJSFA, DOBI, Treasury and Taxation testified.

In response to Senator Kosco's concerns, NJSFA emphatically denied that it was overfunded. In fact, NJSFA submitted an actuarial study which suggested that the General Fund, which is the fund maintained by NJSFA and from which the burial claims are paid, would start to decline after 4 years and would be depleted in 12 years.

In response to these legislative hearings, the governing statutes were substantively amended for the first time in over a century. The 1996 amendments, *inter alia*, changed the term "indigent" to "needy" throughout the statutes, improved and clarified the requirements for investigating and approving relief applications, clarified the responsibilities of the board of representatives, and set forth NJSFA's and the LRAs' filing requirements. *See generally N.J.S.A. 43:17-1, et seq.* These amendments, however, did not address all of the concerns raised by Senator Kosco during the legislative hearings and, most notably, did not remedy the accumulation of the foreign fire tax funds or allow for a more expanded use of the funds.

F. More Expansive Use of Fire Tax is Permitted in Other States

New Jersey is not unique in its collection of the foreign fire tax. Other states also collect this tax and utilize at least a portion of it to benefit firefighters. As part of this investigation, OSC examined the distribution and use of fire insurance tax revenue in three other states where the fire tax is allowed to be used for more expansive purposes: Pennsylvania, North Carolina, and New York. Some of the more notable points from this examination are set forth below.

1. Pennsylvania

In Pennsylvania, like New Jersey, relief associations are funded by the two percent foreign fire tax. Notably different from New Jersey, however, is the fact that the relief associations in Pennsylvania are primarily comprised of volunteer firefighters. The

distribution of the fire tax is such that the portion allocated to municipalities with paid fire departments is transferred to the municipal pension systems, which benefit the paid firefighters.¹¹ The volunteer allocation is paid to the local associations, through the municipalities.¹²

Unlike New Jersey, there is no state firefighter's association that oversees the Pennsylvania local relief associations. Rather, the Pennsylvania Department of the Auditor General, Bureau of Fire Relief, conducts compliance audits of the approximately 2,000 relief associations throughout the state. Routine compliance audits are conducted on a 2 to 3 year cycle, averaging approximately 750-to-850 per year. And, unlike New Jersey, the permissible uses for which the funds may be spent is much broader. Although relief to a firefighter in need is one of the permissible uses, the Pennsylvania Auditor explained to OSC that the majority of expenditures are for equipment and training, which is permissible under the statute. 35 *Pa.C.S.* 7416.

2. North Carolina

North Carolina's governing statutes also allow for a more expansive use of the tax funds. *N.C. Gen. Stat.* 58-84-35. For instance, the fire tax funding is available for volunteer firefighters to pay not only relief, but also insurance premiums, educational benefits, and annual physicals. *Id.* After a 2013 report by the North Carolina General Assembly's Program Evaluation Division (Evaluation Division) found the firefighter relief fund had accumulated a \$67.1 million balance, legislators expanded the use of the funds

¹¹ Similarly, taxes paid by foreign insurance companies for casualty insurance written in Pennsylvania do not go to the relief funds, but instead are applied towards the municipal pension fund that benefits paid firefighters.

¹² The amount of funds due to each municipality is based upon a statutory formula that takes into account the population and market value of real estate.

to also include annual physicals. *N.C. Session Law 2014-64*. Among other recommendations, the Evaluation Division recommended that maximum fund balances be set to encourage use of relief funds.

3. New York

In New York, the two percent foreign fire tax is collected by the State from non-New York insurers and distributed to fire departments, fire companies, benevolent associations, and the like. Unless a special act or law restricts the use of money, use of the funds is broad and permits the membership of the fire department or company to use the money towards any purpose they deem appropriate, as long as it is “used for the benefit of” the fire company or department as a whole. *N.Y. Ins. Law 9104(f) and 9105*.

The Office of the New York State Comptroller, Division of Local Government and School Accountability, has conducted audits of fire departments’ use of the money.

III. METHODOLOGY

OSC’s investigation was initiated as a result of a complaint concerning the misuse of funds by members of an LRA located in Bergen County. The complaint alleged that certain members of this LRA were using their local relief funds as a “personal bank” account. The complaint further stated that relief was being awarded to cover medical expenses not paid through insurance without regard to whether the applicant financially qualified for relief. While OSC’s investigation did not substantiate the claims made in this complaint, this initial review sparked what became the substance of this Report.

OSC conducted interviews of current and former officers of the Bergen County LRA referenced in the complaint, and performed detailed file reviews of relevant documents including the applications for relief for the time period 2013 to 2016. OSC then conducted a comprehensive examination of 10 additional LRAs located in Atlantic, Bergen, Essex,

Middlesex, and Union Counties. These LRAs were selected by OSC using random and judgmental selection techniques. Officers from each of these 10 LRAs were interviewed by OSC. OSC engaged in a detailed file review of 417 local and supplemental relief applications from these LRAs for the period January 2013 through June 2017.¹³

OSC also selected four LRAs that had not paid out relief in the past 18 months or longer, located in Somerset, Union and Cumberland Counties. Officers from these four LRAs were interviewed.

OSC interviewed the President, Vice President, and Field Examiner of NJSFA. OSC requested and reviewed records from NJSFA regarding NJSFA's finances, as well as its training, field examinations, and oversight of the LRAs.

Additionally, OSC interviewed representatives from the following agencies located outside of New Jersey: the Pennsylvania Department of the Auditor General, Bureau of Fire Relief Audits; the Office of the New York State Comptroller, Division of Local Government and School Accountability; and the North Carolina General Assembly Legislative Services Office.

A draft of this Report was sent to NJSFA, DOBI, and other entities and individuals referenced in this Report to provide them with an opportunity to comment on the issues identified during the course of our investigation. Any written responses received were considered in preparing this final Report and have been incorporated herein where appropriate.

¹³ Of the files reviewed, 340 were local relief applications and 77 were supplemental relief applications.

IV. INVESTIGATIVE FINDINGS

A. There is an Underutilization of the Relief Fund Money Due to Statutory Restrictions That Limit How the Funds Can be Spent

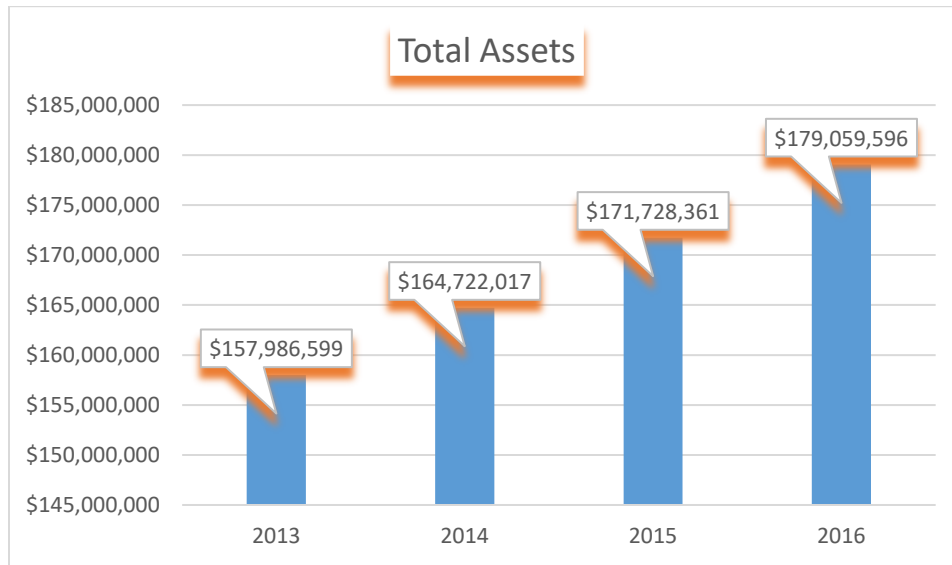
The LRAs have amassed a combined total of approximately \$180 million, due to statutory restrictions that severely limit how the money can be spent. According to the governing statutes, the local relief funds can only be used for statutorily prescribed purposes, to include financial aid to firefighters in “need,” convention expenses, and administrative expenses. Consequently, millions of dollars go unused each year.

For the years OSC reviewed, the 538 LRAs in New Jersey, collectively, only spent 15.3 percent of their annual tax revenue on relief payments to needy firefighters or their families. Consequently, each year the unspent assets of the collective LRAs grew anywhere between \$5.2 and \$7.3 million.¹⁴ For instance, in 2016, the LRAs received approximately \$16 million in foreign fire tax revenue (after NJSFA’s assessment),¹⁵ yet only spent \$10.2 million, or 63.9 percent. Of the amount spent, \$4,985,456 was used for relief payments, and \$5,221,179 was used for convention costs and administrative and miscellaneous expenses. Over \$5.7 million of the annual tax revenue went unused in 2016 which, again, does not account for other sources of income that allow the LRA’s total assets to continue to grow. A similar trend was seen for other years reviewed by OSC, as depicted in Figure 3.

¹⁴ This figure includes income from foreign tax revenue, interest, subsidy and other sources of income.

¹⁵ This figure does not include other sources of income (interest, subsidy, and other) which could increase the total combined annual income by over \$1 million.

Figure 3: Growth in Total Assets Held by LRAs from 2013 to 2016

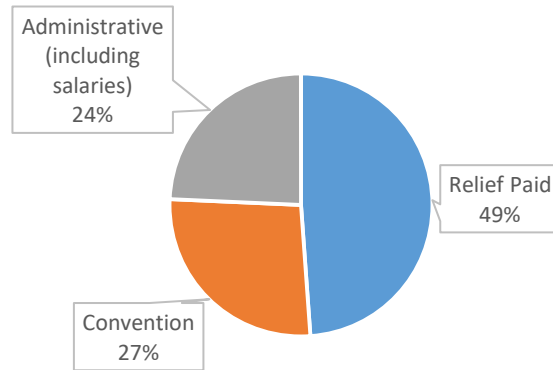


The share of total assets spent on local relief payments is consistent, but miniscule relative to the funds on hand. For example, in 2013 local relief payments were approximately \$4.78 million or 3.03 percent of the LRAs’ total assets on hand. Over the years studied, 2013’s 3.03 percent was the high water mark for assets used on relief payments, and subsequently in 2016, approximately \$5 million or 2.78 percent of total assets on hand were used to pay for firefighter relief.

OSC’s investigation also revealed that the 538 LRAs, collectively, spent more on administrative and convention expenses than they spent on relief payments for the years reviewed.¹⁶ These figures are similar for 2014 and 2015.

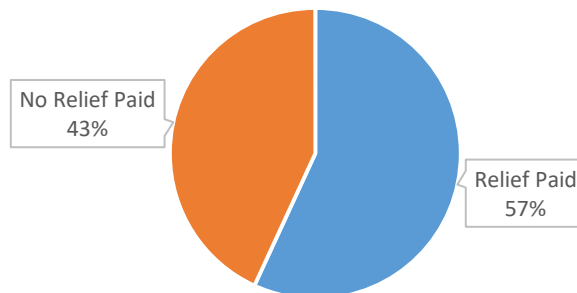
¹⁶ These figures do not include the local relief associations’ assessment to NJSFA.

Figure 4: 2016 LRAs Expense Breakdown



OSC’s review also revealed that over 40 percent of the LRAs paid no relief in years 2014, 2015, and 2016.

Figure 5: 2016 Percentage of LRAs That Paid Relief



Similar concerns were raised by Senator Kosco during the 1994 Committee hearings, but did not result in statutory amendments expanding the permissible uses of the funds. Hearing Tr., p. 43 (June 23, 1994). For instance, during one hearing, Senator Kosco remarked that there were “a number of associations who gave out zero in the amount of relief.” The response by the then-President of NJSFA was simply that “if someone doesn’t apply for it, then they’re just not going to go out and hand it out” because an applicant must be qualified. Hearing Tr., p. 43 (June 23, 1994).

Although the then-President described an outreach plan to try to reach more “need” applicants,¹⁷ the fund continues to grow. This tremendous growth of funds since these hearings demonstrate that the “need” benefits contemplated by the Legislature in 1885 do not reflect “need” for most firefighters in 2018, and, consequently, the money is not being fully utilized. In fact, since the conclusion of the 1994 hearings, the combined total assets of NJSFA and the LRAs has grown by \$155 million.

In recent years, NJSFA implemented a Health Care Program as an additional means of providing relief to firefighters. Specifically, this program provides financial assistance to firefighters who want to remain in their homes in order to receive in-home medical care. According to NJSFA, a showing of financial need is not required for a firefighter to qualify for this benefit. This new program is consistent with OSC’s recommendation to consider expanded use of the foreign fire tax funds to further benefit the firefighter community.

NJSFA disagrees that the funds are under-utilized, stating instead that they are being “safeguarded for those firefighters and their families who need those funds.” NJSFA cited hypothetical and past examples as evidence for the need to safeguard the money. NJSFA posited that the potential impact of an event similar to the September 11 terror attacks or the widespread and sudden deaths of a large section of the membership population would be a devastating financial blow to the Association and the LRAs. NJSFA further pointed to Superstorm Sandy, stating that LRAs in communities impacted by the storm were called upon to provide relief to firefighter families in need. NJSFA provided

¹⁷ NJSFA stated it continues to send notices of the relief program to widows, widowers, and dependent children with each burial payment it makes.

no evidentiary support for Sandy's impact on relief funds or the amount paid in this time frame.

OSC recognizes and agrees that efforts should be made to ensure funds exist for current and future members' burial and relief benefits. For decades, however, millions of dollars in public money has sat idle in anticipation of wide-spread tragic events among the firefighter community. The continued accumulation of surplus funds by NJSFA is evidence that relief and burial benefits can continue to be paid while new and innovative uses of the funds are contemplated.

1. OSC's In-Depth Review of Select LRAs Revealed Minimal Relief Payments and Accumulation of Significant Assets

The 10 LRAs selected by OSC for a detailed review paid out more relief than they collectively spent on convention and administrative expenses, but the relief paid out was still a very small percentage of their combined total assets. In 2016, these 10 LRAs had combined total assets of \$4,855,258, paid administrative and convention expenses totaling \$207,845, and paid out relief totaling \$334,740. The relief paid out totals approximately seven percent of their combined total assets.

A Middlesex County LRA, which is one of the larger local relief associations that OSC examined in terms of assets, had over \$700,000 in total assets for the years reviewed, yet only paid out \$18,304, \$12,900, and \$23,813 in relief for years 2014, 2015, and 2016, respectively. Their annual foreign fire tax revenue was approximately \$143,756 each year. The officers of this LRA rejected the idea of using these funds for expanded purposes. Instead, the officers asserted the money should be retained for relief, if and when it is needed. Most other LRAs that were interviewed by OSC responded similarly when asked the same question.

An LRA located in Atlantic County and comprised of paid firefighters, averaged approximately \$375,000 in total assets for the years reviewed, yet only paid out \$9,000, \$9,750 and \$18,000 in relief for years 2014, 2015, and 2016, respectively. The annual foreign fire tax revenue collected averaged \$113,223 for each year of our review.

OSC also selected 4 LRAs that, according to their annual financial standing reports, had not paid out any relief for at least the past 18 months. Two of the LRAs were selected because they had assets over \$1 million, while the other two were selected because they had assets under \$50,000. OSC interviewed representatives from each of the four LRAs to find out why relief had not been paid out. Officers from three of the four LRAs told OSC that their members simply do not have a need for the relief. Officers from the LRA located in Somerset County, for instance, told OSC that their LRA had accumulated \$1 million because, for the most part, its members are financially well off and do not need the relief. They had not received an application for the past eight or nine years. By contrast, the fourth LRA explained that relief has not been paid out because no member has applied. An officer from this LRA told OSC that, although he would qualify for relief due to his financial hardship, he does not apply because he believes the limited assets should be reserved for those in dire need.¹⁸

A more expansive use of the funds that continues to benefit the firefighters, as is done in Pennsylvania, North Carolina, and New York, may prevent the continued accumulation of funds that are not being used for their intended purposes. Such expanded uses could include firefighter training, the purchase of safety equipment, or educational benefits for children of fallen firefighters. In so doing, however, measures

¹⁸ This LRA is located in a rural area of southern New Jersey and, in 2016, received under \$10,000 in foreign fire tax revenue.

can and should be put into place to ensure the continued availability of funds for burial and relief benefits. A more equitable distribution of the fire tax funds should also be considered so that all 538 LRAs can equally benefit from any such expanded use.

B. NJSFA Has Exhibited a Lack of Adequate Oversight and Internal Controls

NJSFA has the statutory responsibility to ensure that the LRAs appropriately expend the relief association money. Specifically, *N.J.S.A. 43:17-45* states:

The executive committee of the New Jersey State Firemen’s Association shall have the supervision and power of control of the funds and other property of all firemen’s relief associations, shall see that the same are properly guarded and legally invested and expended and shall examine the annual reports of each association.

OSC’s review, however, revealed: (1) great disparity among the LRAs with regard to the issuance of relief; (2) a lack of comprehensive or mandatory training of the LRA officers charged with the responsibility to review and approve relief applications; and (3) the perfunctory nature of the field examinations. These issues may have led to the deficiencies uncovered in the relief applications.

1. OSC’s Review of Relief Applications Revealed That the Issuance of Relief Varied Greatly Among the 10 Local Relief Associations

OSC reviewed 417 relief applications¹⁹ from the 10 selected LRAs for years 2013 through 2017, and interviewed officers from each LRA. Based upon this review, OSC concludes that there are material variations among the LRAs in how relief applications

¹⁹ OSC reviewed 340 local relief and 77 supplemental relief applications.

are processed and relief is awarded.²⁰ These variations appear to be the result of a lack of clear guidance from NJSFA, and may result in the improper issuance of relief awards.

a. How Need is Defined Varied Greatly Among the LRAs

Although governing statutes and NJSFA's Constitution state that relief is intended for "needy" firefighters, there is a lack of clarity in how "need" is defined by NJSFA, leaving the interpretation of "need" to the LRAs. OSC's review revealed that this lack of clarity could lead to the improper payment of relief benefits.

LRA officers interviewed by OSC differed in their understanding of how "need" was defined. For instance, some officers stated that the application itself defined "need." Other LRA officers believed that need was defined by whether an applicant's monthly expenses exceeded their monthly income. Another LRA officer believed that determining need was common sense while another defined it as an "unexpected financial burden."

OSC's review of applications revealed questionable instances where relief was awarded. For instance, one applicant who received relief over multiple years stated that the basis for need was due to "hav[ing] trouble making ends meet owning two homes." Another applicant who received relief during the time period reviewed by OSC, stated their need for relief was due to being a surviving spouse, yet their monthly income well exceeded monthly expenses. Moreover, this applicant listed on their application savings of nearly \$245,000, a home valued over \$625,000, and failed to submit complete documentation. Yet, this applicant was awarded the full amount of local relief. Another

²⁰ NJSFA's recent updates and amendments to its Application for Local Relief may remedy some of the concerns noted herein. OSC includes them for NJSFA's consideration and benefit going forward to ensure the current application process continues to address the concerns identified by OSC in its investigation. NJSFA's revised application, however, does not impact OSC's recommendations, which are set forth at the conclusion of this Report.

applicant, who is a paid firefighter, stated the need for relief was based upon loss of secondary income from the applicant's position as an officer with the LRA. That particular year, NJSFA precluded the officers from that LRA from receiving salaries or attending the convention for failure to submit timely reports. This applicant's LRA officer salary for the year would have likely been \$1,500, yet the applicant was awarded the maximum amount of local relief of \$3,250.

OSC's review revealed that the statements of need submitted by the applicants varied greatly in the level of detail provided. Some LRAs accepted and approved relief applications with no statement of need, or with minimal statements of need such as "medical and dental costs," while other LRAs required the applicants to submit a much lengthier explanation, via application and interview, as to why the relief was sought.

Since OSC commenced this investigation, NJSFA has issued additional guidance to the LRAs to assist in determining whether need exists. For instance, effective January 2018, NJSFA clarified that the applicant's statement of need "should be as complete and detailed as necessary to allow the reader to understand the circumstances surrounding the request for relief." NJSFA provided written guidance to the LRAs that, as a general matter, an applicant's expenses must exceed their income when examining their monthly income and expenses. Moreover, while an applicant is not expected to go into debt prior to applying for local relief, the applicant is expected to use checking account funds, emergency funds and cash on hand before applying for local relief.

b. Expenses Varied Greatly Among the LRAs

There was great disparity in the types of expenses itemized by relief applicants. This disparity can lead to artificially inflated monthly expenses, and paint a false picture of financial need.

The Relief Application contains a section that allows the applicant to itemize all monthly expenses, including mortgage, rent, utilities, car loans, credit card payments, food and clothing. It also contains a section titled “other” where the applicant can list any other monthly expenses they deem appropriate. OSC’s review of the relief applications found many questionable types of monthly expenses being itemized by the applicant, and that seemingly went unquestioned during review by the trustees of the LRAs.

For example, OSC reviewed applications that included the following monthly expenses: wholesale club memberships, bottled water, hair and nails, church donations, home security systems, dues for a crypt vase, safety deposit box fees, pest control, and AAA membership. Many of these monthly expenses are nonessential, and should be eliminated from one’s budget before seeking relief that is funded with public money. In some instances, eliminating such expenses may cause the applicant’s monthly income to exceed monthly expenses and, possibly, would render the applicant ineligible for relief.

Although an applicant is required to list all expenses on the application, NJSFA explained that it is up to the LRA to rule out any frivolous expenses during the course of the trustees’ review. NJSFA’s policy in this regard, however, was not documented. And, with respect to applications reviewed by OSC in which such expenses were listed by the applicants, there was no indication that trustees were ruling them out.

OSC’s review also revealed great discrepancy in whether an applicant could include past due balances as part of the monthly expenses. Although NJSFA told OSC that itemized expenses should not include past due balances, it had not issued written guidance to the LRAs.

With respect to credit card balances, applicants are supposed to only expense the monthly minimum, but OSC’s review found a number of applicants who expensed

significantly more than the monthly minimum, thereby inflating their monthly expenses. One applicant, who applied and was awarded relief each year reviewed by OSC, spent approximately \$1,500 per month on unidentified credit card expenditures. Based upon OSC's review of the file, it appears this applicant accumulated between \$1,000 and \$2,000 in credit card debt each month which was promptly paid off each month, and so the applicant expensed the full amount as a monthly expense. According to NJSFA, however, this applicant should have only expensed the minimum payment. Had the applicant done so, the expenses would not have exceeded the applicant's income and the applicant may not have been eligible for relief.

OSC's review also found that the LRAs differed greatly in requiring supporting documentation for itemized expenses. According to NJSFA, all expensed items are to be supported by a bill, invoice, or other documentation. Less than 10 percent of the relief applications OSC reviewed, however, contained complete supporting documentation.

NJSFA's updated Relief Application and accompanying instructions and guidelines now provide the applicant, trustees, and officers, with more comprehensive instructions and guidelines, including what expenses are considered inappropriate. For instance, NJSFA now makes clear that expenses related to second homes, club memberships, pet grooming, meals at restaurants, and union dues are not appropriate expenses and should not be included as itemized monthly expenses on the Relief Application.

These new guidelines also clarify that past due balances should be included with the supporting documentation and, as the NJSFA President stated, should not be itemized in an applicant's monthly expenses.

c. Recipient of Relief Checks Varied by LRA

NJSFA has not provided any guidelines or written policies to the LRAs with respect to whether the relief payments should be made to the applicant or creditor(s), but instead leaves it to the discretion of the LRAs. OSC's review revealed that while many relief payments were issued to the applicant, some LRAs found it beneficial to pay the creditors. For instance, one LRA located in Essex County advised that it always tries to pay the creditor(s) directly. First, it assures the LRA that the basis for the applicant's relief (*e.g.*, financial difficulty) has been addressed with the relief payment. Second, it assures the LRA the applicant's most important bills are being paid off (*e.g.*, mortgage or rent, heat, electric).

A policy favoring payment to the creditor(s) rather than the applicant could reduce the risk of repeat applicants, and would also ensure that the financial relief is being used to pay the debt that may be the basis for requesting the relief.

2. Mandatory Training and Updated Standardized Documents Will Reduce Disparate Treatment Among the LRAs

NJSFA does not require mandatory training for newly elected LRA officers, instead relying upon former officers to train new officers on the proper relief application processing procedures and protocol. OSC understands that NJSFA recently offered county-wide training seminars, during which the local relief application process was explained in detail. NJSFA also informed OSC in response to a discussion draft of this Report that it has held eight such training sessions in 2018. Such training, however, was not mandatory and therefore not necessarily attended by the trustees vested with the responsibility to review and investigate whether an applicant is entitled to local relief.

Although OSC requested all training and guidance materials provided to the LRAs since 2013 regarding the criteria to be considered when reviewing relief associations, NJSFA only produced a handful of documents. Moreover, when the same request was made of the LRAs, one LRA expressly responded that NJSFA provides no formal training, leading to concerns that not all LRAs are provided with the basic training and guidance that NJSFA does issue. Another LRA responded “N/A” and produced no documents, while another LRA produced a single document that contained one paragraph addressing relief applications. In response to a discussion draft of this Report, NJSFA indicated that all LRAs are provided with a Secretary / Treasurer’s Manual that contains “additional direction as to the operation of the LRA,” along with a “Compendium” which contains all of the governing statutes, rules, and regulations, and LRA by-laws.

NJSFA affords the LRAs broad discretion to determine whether and how much relief should be granted and expects LRAs to contact it when questions arise. All LRAs contacted as part of this review agreed NJSFA responds promptly when they have questions.

3. A More Robust Audit of the LRAs is Required

NJSFA reviews the books and records of the LRAs, referred to as field examinations, pursuant to its statutory authority. NJSFA employs one full-time Field Examiner who is responsible for reviewing the records of all 538 LRAs and reporting the findings to NJSFA’s Executive Committee.

Each LRA must submit to a field examination every four years. According to NJSFA’s Field Examiner, the field examinations were required every five years, but recently increased to every four years. The LRA is notified in writing by NJSFA in advance that a field examination will take place at a local fire company, along with other fire

companies in the county, and are instructed to bring bank records, and relief applications for the past 18 months. As such, approximately two and a half years of relief applications are never reviewed by NJSFA.

According to LRA officers interviewed by OSC, most field examinations take approximately 30 to 60 minutes, with none lasting more than 2 hours. Although NJSFA's Field Examiner is often present at the field examination, he does not always perform the field examination. Rather, the field examination can be performed by any NJSFA officer or Executive Committee member. The individual conducting the field examination uses a 10-question worksheet that, in essence, requires the reviewer to check off that the relief application was filled out and signed, that the check number and amount is shown on the application, and that supporting documentation was provided. A copy of the worksheet is attached as Exhibit A.

There is no indication that the field examiner is undertaking a critical examination that allows for an independent determination of whether relief was appropriately awarded, whether the amount of relief was proper, or whether the relief should have been issued to a creditor as compared to the applicant. This is particularly true if the field examination is conducted in less than an hour while dozens of relief applications are being reviewed, along with the LRA's other banking records.

Such a perfunctory review will not reveal instances of misuse. For instance, the LRA that was the subject of the initial complaint limited the use of its fund to unreimbursed medical expenses, but did not require applicants to submit documentation supporting itemized expenses (other than the unreimbursed medical expenses), and did not consider an applicant's income versus expenses in determining whether the applicant was entitled to relief. That LRA was subjected to an NJSFA field examination during the

period of OSC's review, and presumably during the years prior thereto. However, its practice was never detected by NJSFA, likely because of the superficial level of review that was being performed. NJSFA, however, told OSC that this practice is contrary to NJSFA guidelines and has since told this LRA that it cannot limit relief to unreimbursed medical expenses.

OSC's review also uncovered questionable applications and payments of relief during years that the LRAs were not subjected to NJSFA's field examination. For instance, one LRA awarded relief to two applicants with nearly no supporting documentation. These applications were never reviewed by NJSFA because they fell outside of the Field Examiner's 18 month look-back.

In 2017, during the course of OSC's investigation, NJSFA changed its field examination procedure whereby the Field Examiner now takes the local relief applications back to NJSFA headquarters for a more thorough review. When questioned by OSC, the President of NJSFA stated that this new process has been very beneficial and that NJSFA has been able to provide better guidance to the LRAs as a result.

C. OSC's Review Revealed That NJSFA Does Not Have a Written Recusal Policy in Place to Guard Against Abuse

OSC's investigation revealed that NJSFA does not have a written recusal or conflict of interest policy in place to guard against the scenario where an applicant is also involved in the application review process. Although NJSFA informed OSC that it instructs the LRAs that a trustee should recuse themselves if they are also the applicant, OSC's investigation revealed that NJSFA's informal recusal policy is not always being followed. NJSFA also told OSC that if a trustee is recused, that the vice president or other LRA

officer should stand in as an alternate trustee to perform the required three-person review of the relief application.

For instance, the treasurer for one of the LRAs that OSC reviewed received the maximum local relief for each year reviewed (\$3,250). This treasurer signed the relief applications as both the applicant and LRA treasurer. In their capacity as treasurer, this applicant even signed their own relief check each year. Another application that OSC reviewed revealed that the LRA trustee signed the application as both the applicant and the trustee. Although OSC was advised that the trustee had abstained from reviewing their own application and that the signature was only on the application as a formality, it creates the appearance of impropriety. Moreover, it also suggests that two and not three trustees actually reviewed the application. A formal written recusal policy by NJSFA would have ensured that three independent trustees reviewed this application, and that the trustee who was the applicant did not sign their own application in any other capacity than as the applicant, thereby reducing the appearance of impropriety.

Another local relief applicant was also a trustee, but in this instance, they abstained from reviewing the application as a trustee and did not sign the application. Instead, the Secretary for this LRA informed OSC that this local relief application was reviewed by two trustees and an alternate was not selected. This is contrary to NJSFA's stated informal policy that the recused trustee should be replaced by the vice president or other LRA officer.

In short, a formal recusal policy will guard against the above described scenarios where LRA trustees and officers are signing their own applications in capacities other than as an applicant and signing their own relief fund checks. At minimum such conduct creates an appearance of impropriety and at worst can lead to abuse and possibly theft.

D. DOBI is Statutorily Limited From Performing Robust Oversight of the Day to Day Operations of the LRAs

DOBI is responsible for receiving annual filings from NJSFA, including the Financial Standing Reports of the LRAs, but DOBI is not responsible for overseeing the day to day activities of NJSFA or the LRAs. That responsibility is vested solely with NJSFA.

NJSFA is solely responsible for overseeing the day to day operations of 538 local relief associations and the approximately \$180 million in funds which they currently hold. Following the *Szabo* decision, DOBI published a handful of regulations governing the LRAs. One of the proposed regulations, *N.J.A.C. 11:1-38.4(a)*, contemplated audits of the LRAs by an independent auditor every two years. This proposed regulation, however, was met with objection from the LRAs due to the associated costs. 29 *N.J.R.* 1384(a). DOBI ultimately agreed to repeal the proposed regulation in view of pending statutory amendments that, seemingly, addressed the auditing of the LRAs' expenditures. 29 *N.J.R.* 1010(a). The statutory amendments related to NJSFA's election of a field examiner who would have supervision of the funds and property of the LRAs. As OSC's investigation revealed, however, the field examiner's review is inadequate and additional oversight is required, whether it's increased scrutiny by NJSFA, DOBI, or an outside auditor.

As stated, OSC reviewed other states where the audits of firefighter relief associations were conducted by independent state agencies. For instance, in New York, the audits were performed by the Office of the New York Comptroller, while in Pennsylvania the audits were performed by the Officer of the Auditor General.

V. CONCLUSIONS AND RECOMMENDATIONS

The death and relief benefits administered by NJSFA and the LRAs have long been recognized as means to assist firefighters who put themselves in harm's way to serve their communities. OSC's recommendations seek to ensure that these funds continue to benefit the firefighter community, while also exploring the possibility that these public funds could be spent in a way that better serves that community and the taxpayers of this State. Indeed, OSC recognizes that many volunteer fire departments rely upon fundraising to pay for some of the essential items needed to carry out their firefighting responsibilities. OSC's recommendations, if implemented, would allow the foreign fire tax funds to be used for these essential purposes.

To that end, state lawmakers should consider revising the statutes governing NJSFA and the LRAs to ensure that the funds are being best utilized, and done so with appropriate oversight to guard against fraud, waste and abuse. OSC can make the following specific recommendations to assist lawmakers in this regard:

1. Lawmakers should consider whether NJSFA's governing statutes, *N.J.S.A. 43:17-1, et seq.*, should be amended to expand the permissible uses of the funds by NJSFA and the LRAs to include not only relief and burial payments, but to also allow for:

- The purchase of safeguards for preserving life, health, and safety of firefighters to ensure their ability to effectively and safely participate in fire service;
- Reasonable expenses and costs associated with firefighter training;
- To establish a fund for educational benefits, such as a competitive scholarship fund awarded to members and their families, and/or monetary grants to children of NJSFA members killed in the line of duty;
- To offset municipal contributions towards LOSAP payments for those municipalities that participate in the LOSAP program; and

- Any other permissible purpose, with a distinct and clear connection to firefighting activities that lawmakers deem appropriate.

2. In the event the governing statutes are amended to permit the expanded use of the funds, OSC recommends that measures be considered to ensure that the burial and relief benefits are prioritized and adequately funded before any foreign tax funds are permitted to be used by NJSFA or the LRAs for other purposes.

3. Lawmakers should consider whether NJSFA is the appropriate entity to oversee the disbursement and use of the funds by the 538 LRAs. If so, any new legislation should consider ways in which NJSFA's internal controls can be improved upon, such as requiring mandatory audits by an outside independent auditor or other State agency, and mandating more frequent and robust field examinations of the LRAs.

4. Lawmakers should consider a more equitable distribution of the fire tax funds or, alternatively, to allow for more equitable access to the funds for all LRAs. This becomes particularly important in the event that the permissible uses for which the funds may be spent is expanded, so as to permit all LRAs to benefit from such expanded uses.

5. Lawmakers should consider whether those fire departments that consist entirely of career, or paid, firefighters should be required to utilize their distribution of the foreign fire tax proceeds to offset municipal contributions towards the Police and Fire Retirement System, as is done in other jurisdictions such as Pennsylvania. These contributions could help to ensure the pension system's solvency for future retirees.

Notwithstanding any actions undertaken by lawmakers as recommended above, OSC further recommends NJSFA make the following internal reforms:

1. OSC recommends that NJSFA conduct field examinations of the local relief associations on a more frequent basis. The field examinations should be robust, and

should be conducted by the Field Examiner or an NJSFA officer with similar expertise. The field examination should be conducted at the fire department being audited and not at a centralized location, as presently performed. NJSFA should consider hiring additional full-time field examiners for this purpose.

2. OSC recommends that NJSFA require mandatory training for all newly installed officers and trustees regarding their duties and responsibilities for reviewing relief applications, with an appropriate method of tracking attendance and penalizing LRAs who do not attend training sessions.

3. OSC recommends that NJSFA adopt a written recusal policy whereby any LRA officer or trustee who applies for relief on their own behalf, or who has a family member applying for relief, recuses themselves entirely from the relief application process. Any such recusal policy should ensure that the recused member is replaced by another trustee or officer to ensure that the requisite number of trustees are in place to investigate the relief application and/or sign any approved relief checks.

LOCAL RELIEF EXAMINATION WORKSHEET

ASSOCIATION NAME: _____ COUNTY: _____ NO _____

Check list for examination of Local Relief Applications:

- | | | |
|--|-----|----|
| 1. Are the latest application being used (Form 101A Rev 1/15) | Yes | No |
| 2. Is the Association, Company and Line Number on application | Yes | No |
| 3. Is Section 1, 2, 3, 4 & 5 on application complete | Yes | No |
| 4. In Section 6- Is the Applicants Statement of Need complete | Yes | No |
| 5. Is the Applicant's signature on the form | Yes | No |
| 6. In Section 7 Monthly Income & Expenses complete | Yes | No |
| 7. In Section 8, 9 & 10 are all the signatures of the Trustees
and Reps properly signed | Yes | No |
| 8. In Section 10 are check numbers and amounts shown | Yes | No |
| 9. Are there bills, vouchers and any supporting documentation
attached to application | Yes | No |
| 10. Do you feel that the Field Examiner should take a closer review
of the completed Local Relief Applications? | Yes | No |

RECOMMENDATIONS: _____

Date of Examination _____

Examination made by _____