be annuity-survivor within the period of 9 months prior to the effective date of said option, the designation shall be deemed to have been cancelled, and the member's annuity shall remain as though such option had not been elected.

"The amount of the optional annuity to be payable to any annuitant from and after the effective date of a designation of annuity-survivor shall be based upon the ages of the annuitant and the designated annuity-survivor at the said effective date, and shall be determined by or under the supervision of the Executive Secretary of the fund, in accordance with tables adopted by the board upon recommendation of the actuary; and no death benefit shall be payable in the account of any annuitant whose designation of an annuity-survivor becomes effective under this rule, other than the continuation of the optional form of annuity to the designated annuity-survivor, if living."

Since the above rule does not prohibit a withdrawal of her prior request for Co-survivorship, and since there has been nothing transpire that would as a matter of equity interfere with the restoration of the payment of her annuities, to the same that they were prior to the time of such election, I am of the opinion she may cancel such election of joint survivor.

OFFICIAL OPINION NO. 6

April 12, 1955

Mr. R. R. Wickersham
State Examiner
State Board of Accounts
304 State House
Indianapolis, Indiana

Dear Mr. Wickersham:

This is in reply to your letter of March 8, 1955, in which you inquire as to the following:

"Your opinion regarding the matter of Workmen's Compensation Insurance for Volunteer Firemen as set out in the following is requested:

"(1) Burns' 48-6140 fixes the nominal compensation for a volunteer fireman at an amount not in excess of three hundred dollars ($300.00) per annum. In the case of City of Kendallville v. Twining, 224 Ind. 228 Supreme Court held that the actual wages of such volunteer firemen must be used for computing the premium.

"(2) The insurance rating bureau manual at page C-26 instructs the insuring companies to use the compensation referred to above in the amount of $300.00 as a minimum in billing the insured fire departments. There is further a minimum premium fixed by and for the insuring company in the amount of $50.00 (same manual on page 5, code 7704, footnote C).

"Is the premium on workmen's compensation covering volunteer firemen to be computed on the actual wages paid to such volunteer firemen?"

The Acts of 1939, Ch. 163, Secs. 3, 4, 5, and 6, as found in Burns' Indiana Statutes (1950 Repl.), Sections 48-6136 to 48-6141 provide in essence that all cities, towns or townships of the state having a volunteer fire company shall for the benefit of each member provide insurance policies of specified types and benefits as more particularly set out in the aforesaid sections of the 1939 Acts. Section 6 of said 1939 Acts, *supra,* further provides for the payment of the premiums from the general fund of such city, town or township.

The Acts of 1935, Ch. 323, Sec. 3, as found in Burns' Indiana Statutes (1952 Repl.), Section 39-3008 establishes a Workmen's Compensation Rating Bureau of Indiana. Said bureau is charged in Sec. 10 of said Ch. 323 with the classification for compensation insurance of all risks. The bureau is further charged by Sec. 4 of said Ch. 323 with the establishment of minimum premiums to be charged for workmen's compensation. The Department of Insurance has the authority to approve a maximum premium rate by virtue of Sec. 13 of said Ch. 323.

In 1941 O. A. G., page 427, the Attorney General construed the aforesaid provisions to permit the Department of Insur-

ance to fix minimum rates for all classifications as well as maximum rates.

In the computation of premium rates to be charged for workmen's compensation insurance many elements are taken into consideration, such as past experience as to accidents, past experience as to fatalities, time spent in hazardous occupations, *et cetera.* In the case of City of Kendallville v. Twining (1946), 224 Ind. 228, 65 N. E. (2d) 846, the Supreme Court of Indiana set forth the rule that the Industrial Board must make its award of compensation based on the average weekly wage. It did not refer to the amount of premium to be charged for said insurance.

The Workmen's Compensation Rating Bureau of Indiana has, in accordance with Ch. 323 of the Acts of 1935, *supra,* adopted premium rates which are set out in their official publication known as "The Workmen's Compensation and Employees' Liability Manual."

On page C-26, 8th Reprint of the Workmen's Compensation & Employees' Liability Insurance Manual, the rule stated is that when part-time or volunteer firemen are employed, the actual remuneration of all such men shall be included with the payroll of regular firemen in computing the premium. In no case, however, shall the remuneration of any such fireman be taken at less than $300.00 per annum. The classification number for said firemen is 7704.

On page 5 of the 1st Reprint issued October 1, 1954, of the Workmen's Compensation & Employees' Liability Insurance Manual, the rates for said classification are set forth subject to a minimum charge of $50.00 per fire company.

It is, therefore, my opinion that the premium on workmen's compensation governing volunteer firemen is to be computed on the actual wages paid to said volunteer firemen subject to the rule that the minimum wage to be considered for any said fireman is $300.00 per annum and also subject to the rule that the minimum charge per company is $50.00.