

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION**

**March 20, 2007**

**TO:** Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

**FROM:** John S. O'Brien, Director, Legislative Budget Board

**IN RE: HB2400** by Keffer, Jim (Relating to membership in, contributions to, benefits from, and administration of the Texas Emergency Services Retirement System; providing a penalty.),  
**As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Chapter 861 of the Government Code to establish that the state board appointed to administer the Texas Emergency Services Retirement System, the Firefighters Pension Commissioner, and employees of the pension system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty or prerogative in connection with the administration of the Texas Emergency Services Retirement System. An action in state court by or against the pension system would be required to be brought in Travis County.

The bill would amend Chapter 862, Government Code, to authorize a participating department to impose a probationary period for a volunteer or auxiliary employee, not to exceed six months. The participating department would not be required to pay contributions for the person during the probationary period.

The bill would amend Chapter 864, Government Code, to entitle a member to disability retirement benefits only upon a determination of eligibility by the local board. Payments of a continuing disability annuity to a retiree certified by the medical board as permanently disabled would cease if the retiree returns to work at the retiree's regular employment or performs emergency service duties. With certain exceptions, under the provisions of the bill a continuing disability retirement annuity would terminate on the fifth anniversary of the date payment began unless the retiree is recertified by the medical board as being permanently disabled as specified in the statute.

Other proposed changes to Chapter 864 would affect benefits for surviving spouses and dependents and would include responsibilities of the state board appointed to oversee the pension system. In addition, the state board by rule would be able to authorize a participating department to make one or more supplemental payments to retirees and other beneficiaries of the pension system or provide an increase in the amount of annuities paid to retirees and other beneficiaries of the pension system. A participating department that elects an option under a rule under the proposed Section 864.0135 would be required to fund all increased benefits that are provided to retirees and other beneficiaries of the department under the option. A claim for service retirement benefits must be filed with the Firefighters Pension Commissioner, who must forward the claim to the appropriate local board for a hearing.

The Firefighters Pension Commissioner indicates that provisions within the bill that are applicable to the commissioner could be implemented using existing resources. Any savings realized as a result of protection from liability would depend on claims filed and what findings might otherwise have occurred as a result. It is anticipated that there would be no significant fiscal impact on the Texas Emergency Services Retirement System as a result of implementing provisions of the bill.

## **Local Government Impact**

Fiscal impact on local departments that participate in the Texas Emergency Services Retirement System and on local boards would vary depending on the number of employees in each department, the number of employees seeking disability retirement benefits, and whether a participating department were to elect to fund increased benefits for retirees and other beneficiaries of the department.

**Source Agencies:** 325 Fire Fighters' Pension Commissioner, 338 Pension Review Board

**LBB Staff:** JOB, KJG, DB