

By: Truitt

H.B. No. 2751

A BILL TO BE ENTITLED

AN ACT

relating to participation and credit in, benefits from, and the administration of the Texas Emergency Services Retirement System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 861.001, Government Code, is amended by amending Subdivision (10) and adding Subdivision (11-a) to read as follows:

(10) "Qualified service" means service:

(A) for a participating department that is recognized as an emergency services department by its governing body and that conducts at least 48 hours of training in a calendar year; and

(B) that is performed by a member in good standing in the department who:

(i) attends at least 20 hours of annual training and at least 25 percent of the department's emergencies in a calendar year;

(ii) attends at least 20 hours of annual training and provides support services for at least 25 percent of the department's emergencies in a calendar year; or

(iii) ~~or who~~ does not attend because the member is absent because of military duty.

(11-a) "Support services" means services that directly assist in the delivery of emergency services. The term

1 includes directing traffic at an emergency scene, dispatching
2 emergency services personnel, driving an emergency services
3 vehicle, supplying or maintaining equipment at an emergency scene,
4 providing essential recordkeeping for a participating department,
5 and other similar services as determined by a department.

6 SECTION 2. Section 862.002(b), Government Code, is amended
7 to read as follows:

8 (b) A person is not a member of the pension system if the
9 person:

10 (1) is less than 18 years of age;

11 (2) is in a probationary period of service before
12 becoming a regular member of a participating department for which
13 the department is not making contributions for the service;

14 (3) does not receive a certification of physical
15 fitness or assignment to perform support services [~~duties~~] under
16 Section 862.003; or

17 (4) is retired under this subtitle, regardless of
18 whether the person continues to participate in emergency
19 service-related functions for a department from which the person
20 retired.

21 SECTION 3. Chapter 862, Government Code, is amended by
22 adding Section 862.0025 to read as follows:

23 Sec. 862.0025. MEMBERSHIP BY SUPPORT STAFF. (a) Except as
24 provided by Subsection (b), the governing body of a participating
25 department may make an election to include all persons who provide
26 support services for the department as members of the pension
27 system on the same terms as all other volunteers of the department.

1 An election under this section takes effect on the first day of the
2 calendar month that begins after the month in which the election is
3 made and communicated to the commissioner. Once made, an election
4 under this section is irrevocable.

5 (b) If a participating department has, before September 1,
6 2009, enrolled persons who perform support services for the
7 department as members of the pension system, all persons who
8 perform those services for the department are members of the
9 system.

10 (c) After an election under this section, a participating
11 department that previously did not enroll its support staff as
12 members of the pension system may purchase service credit performed
13 before the date of the election under the terms required for prior
14 service credit for service before departmental participation.

15 SECTION 4. Section 862.003, Government Code, is amended to
16 read as follows:

17 Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A
18 prospective member shall present to the local head of the
19 department, for delivery to the local board, a certification of
20 physical fitness by a qualified physician. The person becomes a
21 member of the pension system if the local board accepts the
22 certification or if the local board assigns the person to perform
23 support services and enrolls its support staff as members of the
24 system [~~duties~~].

25 (b) A local board shall assign a person to perform support
26 services [~~duties~~] if the person does not present an acceptable
27 certification and the person is at least 18 years of age, is not

1 retired from the pension system, and is not serving a probationary
2 period before becoming a regular member of a participating
3 department.

4 SECTION 5. Chapter 863, Government Code, is amended by
5 adding Section 863.005 to read as follows:

6 Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS.
7 The state board by rule may impose an interest charge on
8 contributions due because of a correction of an error by a local
9 board related to enrollment or qualified service. The charge must
10 be based on the pension system's current assumed rate of return.
11 Charges collected shall be deposited in the fund.

12 SECTION 6. Section 864.007, Government Code, is amended to
13 read as follows:

14 Sec. 864.007. MEMBER NONSERVICE DEATH BENEFIT. (a) The
15 state board by rule may provide one or more beneficiaries [~~the~~
16 ~~beneficiary~~] of a deceased member whose death did not result from
17 the performance of emergency service duties a benefit, which may be
18 a lump-sum amount or an annuity.

19 (b) A rule adopted under this section must include the type
20 of eligible recipient of the benefit, including any service or age
21 requirement, and the method of calculating the amount of the
22 benefit. A rule may include any other terms the board considers
23 appropriate.

24 SECTION 7. Chapter 864, Government Code, is amended by
25 adding Section 864.015 to read as follows:

26 Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR
27 ANNUITANT. (a) A benefit payable on the death of a member or

1 annuitant may not be paid to a person convicted of causing that
2 death but instead is payable as if the convicted person had
3 predeceased the decedent.

4 (b) The pension system is not required to change the
5 recipient of benefits under this section unless it receives actual
6 notice of the conviction of a beneficiary. The system may delay
7 payment of a benefit payable on the death of a member or annuitant
8 pending the results of a criminal investigation and of legal
9 proceedings relating to the cause of death.

10 (c) The pension system is not liable for any benefit paid to
11 a convicted person before the date the system receives actual
12 notice of the conviction, and any payment made before that date is a
13 complete discharge of the system's obligation with regard to that
14 benefit payment. The convicted person holds all payments received
15 in constructive trust for the rightful recipient.

16 (d) For the purposes of this section, a person has been
17 convicted of causing the death of a member or annuitant if the
18 person:

19 (1) pleads guilty or nolo contendere to, or is found
20 guilty by a court of, an offense at the trial of which it is
21 established that the person's intentional, knowing, or reckless act
22 or omission resulted in the death of a person who was a member or
23 annuitant, regardless of whether sentence is imposed or probated;
24 and

25 (2) has no appeal of the conviction pending and the
26 time provided for appeal has expired.

27 SECTION 8. Chapter 865, Government Code, is amended by

1 adding Section 865.020 to read as follows:

2 Sec. 865.020. MEDICAL BOARD. (a) The state board shall
3 designate a medical board composed of three physicians.

4 (b) To be eligible to serve as a member of the medical board,
5 a physician must be licensed to practice medicine in the state and
6 be of good standing in the medical profession. A physician who is
7 eligible to participate in the pension system may not be a member of
8 the medical board.

9 (c) The medical board shall:

10 (1) investigate essential statements and certificates
11 made by or on behalf of a member of the pension system in connection
12 with an application for disability retirement or, as requested by
13 the commissioner, with an application for an on-duty death benefit;
14 and

15 (2) report in writing to the commissioner its
16 conclusions and recommendations on all matters referred to it.

17 (d) The medical board is not subject to subpoena regarding
18 findings it makes in assisting the commissioner under this section,
19 and its members may not be held liable for any opinions,
20 conclusions, or recommendations made under this section.

21 SECTION 9. Section 864.008, Government Code, is repealed.

22 SECTION 10. This Act takes effect September 1, 2009.