

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

SENATE VERSION

Same as House version.

CONFERENCE

Same as House version.

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

- (1) is less than 18 years of age;
- (2) is in a probationary period of service before becoming a regular member of a participating department for which the department is not making contributions for the service;
- (3) does not receive a certification of physical fitness or assignment to perform support services [~~duties~~] under Section 862.003; or
- (4) is retired under this subtitle, regardless of whether the person continues to participate in emergency service-related functions for a department from which the person retired.

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

Sec. 862.0025. MEMBERSHIP BY SUPPORT STAFF.

(a) Except as provided by Subsection (b), the governing body of a participating department may make an election to include all persons who provide support services for the department as members of the pension system on the same terms as all other volunteers of the department. An election under this section takes effect on the first day of the calendar month that begins after the month in which the election is made and communicated to the commissioner. Once made, an election under this section is irrevocable.

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

Same as House version.

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

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

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

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

(b) A local board shall assign a person to perform support services [~~duties~~] if the person does not present an acceptable certification and the person is at least 18 years of age, is not retired from the pension system, and is not serving a probationary period before becoming a regular member of a participating department.

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

Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS. The state board by rule may impose an interest charge on contributions due because

Same as House version.

Same as House version.

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION

CONFERENCE

of a correction of an error by a local board related to enrollment or qualified service. The charge must be based on the pension system's current assumed rate of return. Charges collected shall be deposited in the fund

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

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

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

Same as House version.

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

Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable as if the convicted person had predeceased the decedent.

(b) The pension system is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. The system may delay payment of a benefit payable on the

Same as House version.

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

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

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

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

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

SECTION 8. Chapter 865, Government Code, is amended by adding Section 865.020 to read as follows:

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

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in

SENATE VERSION

Same as House version.

CONFERENCE

House Bill 2751
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

the pension system may not be a member of the medical board.

(c) The medical board shall:

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

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

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

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

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

SENATE VERSION

SECTION 9. Sections 864.008 and 865.001(c), Government Code, are repealed.

Same as House version.

CONFERENCE