

By: Guillen

H.B. No. 2369

A BILL TO BE ENTITLED

1 AN ACT
2 relating to participation by certain volunteer fire departments in
3 the Texas Emergency Services Retirement System instead of a Texas
4 local firefighters retirement system.

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

6 SECTION 1. Sections 861.001(10) and (12), Government Code,
7 are amended to read as follows:

8 (10) "Qualified service" means service:

9 (A) for a participating department, other than a
10 department described by Paragraph (B), that:

11 (i) is recognized as an emergency services
12 department by its governing body and that conducts at least 48 hours
13 of training in a calendar year; and

14 (ii) [~~(B) that~~] is performed by a member in
15 good standing in the department who:

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

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

22 (c) [~~(iii)~~] does not attend training
23 or emergencies because the member is absent because of military
24 duty; or

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

3 (i) is a volunteer;

4 (ii) answers at least 25 percent of all fire
5 alarms in a calendar year, as determined by the local board; and

6 (iii) attends at least 40 percent of all
7 drills held by the department in a calendar year.

8 (12) "Volunteer" means a person who:

9 (A) performs emergency services for civic,
10 charitable, or humanitarian reasons;

11 (B) [] receives no monetary compensation from a
12 participating department or who regularly receives compensation
13 for those services of less than \$200 a month; [] and

14 (C) is not subject to the compensation
15 requirements provided for employees by the Fair Labor Standards Act
16 of 1938 (29 U.S.C. Section 201 et seq.).

17 SECTION 2. Section 862.001, Government Code, is amended by
18 adding Subsections (c) and (d) to read as follows:

19 (c) The fire department of each municipality in the state
20 shall participate in the pension system if the department:

21 (1) consists exclusively of volunteers; and

22 (2) was organized before September 1, 1989, and
23 remains a regularly organized department.

24 (d) If a municipality's fire department consists partly of
25 employees participating in the Texas Municipal Retirement System
26 and partly of volunteers not participating in that retirement
27 system, the municipality's fire department shall participate in the

1 pension system and this subtitle applies only with respect to the
2 persons who are not participating in the Texas Municipal Retirement
3 System.

4 SECTION 3. Section 865.012, Government Code, is amended by
5 amending Subsections (a) and (b) and adding Subsections (a-1) and
6 (a-2) to read as follows:

7 (a) Except as provided by Subsection (a-1), a [A] local
8 board is composed of:

9 (1) one trustee selected by the governing body of the
10 political subdivision of which a participating department is a
11 part;

12 (2) three trustees who are active members representing
13 a participating department chosen by a majority of the emergency
14 services personnel in the department who are eligible to
15 participate in the pension system; and

16 (3) two trustees who are representatives of the
17 political subdivision who are chosen by the other members of the
18 local board.

19 (a-1) A local board of a participating department described
20 by Section 862.001(c) or (d) is composed of:

21 (1) the mayor of the municipality or the mayor's
22 designated representative or the chief operating officer of the
23 political subdivision or the chief operating officer's designated
24 representative, as applicable;

25 (2) the chief financial officer of the municipality or
26 other political subdivision or, if there is no officer denominated
27 as chief financial officer, the person who performs the duties of

1 chief financial officer or a person designated by the chief
2 financial officer or by the person performing the duties of chief
3 financial officer;

4 (3) three members of the pension system elected by
5 active members as provided by Subsection (a-2); and

6 (4) two persons who reside in the municipality or
7 other political subdivision or within the extraterritorial
8 jurisdiction of the municipality, who are not officers or employees
9 of the municipality or other political subdivision, and who are
10 elected by a majority vote of the members of the local board
11 determined as provided by Subdivisions (1), (2), and (3).

12 (a-2) During each period that begins on December 1 of one
13 year and ends on January 31 of the following year, the active
14 members in a municipality or other political subdivision subject to
15 Subsection (a-1) shall elect by secret ballot and certify to the
16 governing body of the municipality or other political subdivision a
17 member to the local board to serve a term of three years. To be
18 elected a member of a local board under this subsection, a person
19 must be an active member of the pension system and receive a
20 majority of the votes cast in the election, and at least 50 percent
21 of all active members of the pension system must vote in the
22 election.

23 (b) Trustees of a local board subject to Subsection (a)
24 serve staggered two-year terms. At the first meeting of a local
25 board, the trustees shall draw lots to determine the length of the
26 term to be served, with the terms of two trustees to be two years and
27 the terms of two trustees to be one year. The first appointments of

1 trustees appointed by other members of the local board are to be one
2 trustee for a two-year term and one trustee for a one-year term.

3 SECTION 4. The heading to Section 19, Texas Local Fire
4 Fighters Retirement Act (Article 6243e, Vernon's Texas Civil
5 Statutes), is amended to read as follows:

6 Sec. 19. BOARDS [~~BOARD~~] OF TRUSTEES [~~FOR PAID OR PART-PAID~~
7 ~~FIRE DEPARTMENT~~].

8 SECTION 5. Section 19(a), Texas Local Fire Fighters
9 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
10 amended to read as follows:

11 (a) In each municipality and other political subdivision to
12 which this Act applies [~~and that has a fire department that does not~~
13 ~~consist exclusively of volunteers~~], the fire fighters' retirement
14 system is governed by a board of trustees consisting of:

15 (1) the mayor of the municipality or the mayor's
16 designated representative or the chief operating officer of the
17 political subdivision or the chief operating officer's designated
18 representative, as applicable;

19 (2) the chief financial officer of the municipality or
20 other political subdivision or, if there is no officer denominated
21 as chief financial officer, the person who performs the duties of
22 chief financial officer or a person designated by the chief
23 financial officer or by the person performing the duties of chief
24 financial officer;

25 (3) three members of the retirement system elected by
26 participating members as provided by Subsection (b) of this
27 section; and

1 (4) two persons who reside in this state in the
2 municipality or other political subdivision or within the
3 extraterritorial jurisdiction of the municipality, who are not
4 officers or employees of the municipality or other political
5 subdivision, and who are elected by a majority vote of the members
6 of the board of trustees determined as provided by Subdivisions
7 (1), (2), and (3) of this subsection.

8 SECTION 6. Section 31(b), Texas Local Fire Fighters
9 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
10 amended to read as follows:

11 (b) The board of trustees of a retirement system for a fire
12 department consisting partly of employees and partly of volunteers
13 may transfer assets actuarially attributable to the volunteers from
14 the retirement system under this Act to the Texas Emergency
15 Services Retirement System under Subtitle H, Title 8, Government
16 Code [~~statewide program provided by the Texas Statewide Volunteer~~
17 ~~Fire Fighters Retirement Act (Article 6243e.3, Vernon's Texas Civil~~
18 ~~Statutes)], if the board obtains approval as provided by Section 7
19 of this Act provided 51 percent of the volunteers first petition the
20 board for such change.~~

21 SECTION 7. Sections 3(b) and (d), 20, and 31(a) and (c),
22 Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's
23 Texas Civil Statutes), are repealed.

24 SECTION 8. (a) As soon as practicable after the effective
25 date of this Act, but not later than September 1, 2013, the office
26 of the fire fighters' pension commissioner and the state board of
27 the Texas Emergency Services Retirement System established under

1 Section 865.001, Government Code, shall enter into a memorandum of
2 understanding regarding the implementation of this Act.

3 (b) Effective January 1, 2014:

4 (1) a retirement system or trust fund established by a
5 municipality or other political subdivision under Section 4, Texas
6 Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas
7 Civil Statutes), and in existence immediately before January 1,
8 2014, that has a fire department consisting exclusively of
9 volunteers is abolished;

10 (2) the assets and obligations of a retirement system
11 or trust fund abolished under Subdivision (1) of this subsection
12 are transferred, as appropriate, to the Texas Emergency Services
13 Retirement System and Texas emergency services retirement fund, as
14 appropriate;

15 (3) members, retirees, or other beneficiaries of a
16 retirement system abolished under Subdivision (1) of this
17 subsection shall transfer to and become members, retirees, or other
18 beneficiaries, as appropriate, of the Texas Emergency Services
19 Retirement System; and

20 (4) the appropriate powers, duties, obligations, and
21 rights of action of a board of trustees of a retirement system
22 established under Section 20, Texas Local Fire Fighters Retirement
23 Act (Article 6243e, Vernon's Texas Civil Statutes), as that section
24 existed before the effective date of this Act, and abolished under
25 Subdivision (1) of this subsection are transferred, as appropriate,
26 to:

27 (A) the office of the fire fighters' pension

1 commissioner; or

2 (B) the state board of the Texas Emergency
3 Services Retirement System established under Section 865.001,
4 Government Code.

5 (c) In connection with the transfers required by Subsection
6 (b) of this section, the appropriate records or other property
7 relating to a retirement system or trust fund abolished under that
8 subsection are transferred, as appropriate, to:

9 (1) the office of the fire fighters' pension
10 commissioner; or

11 (2) the state board of the Texas Emergency Services
12 Retirement System established under Section 865.001, Government
13 Code.

14 (d) A rule adopted by the office of the fire fighters'
15 pension commissioner in connection with or relating to retirement
16 systems or trust funds abolished under Subsection (b)(1) of this
17 section is repealed.

18 (e) The attorney general shall continue any proceeding
19 involving a retirement system or trust fund abolished under
20 Subsection (b)(1) of this section.

21 (f) Effective January 1, 2014, the unobligated and
22 unexpended balance of any appropriation to the fire fighters'
23 pension commissioner in connection with or relating to a retirement
24 system or trust fund abolished under Subsection (b)(1) of this
25 section for the state fiscal biennium ending August 31, 2013, is
26 transferred and reappropriated to the Texas Emergency Services
27 Retirement System and Texas emergency services retirement fund, as

1 appropriate.

2 SECTION 9. A member serving on a board of trustees
3 established under Section 20, Texas Local Fire Fighters Retirement
4 Act (Article 6243e, Vernon's Texas Civil Statutes), as that section
5 existed before the effective date of this Act, immediately before
6 September 1, 2013, shall continue to serve and function as a member
7 of the applicable local board established under Section 865.012,
8 Government Code, as amended by this Act, for the remainder of the
9 member's term.

10 SECTION 10. This Act takes effect immediately if it
11 receives a vote of two-thirds of all the members elected to each
12 house, as provided by Section 39, Article III, Texas Constitution.
13 If this Act does not receive the vote necessary for immediate
14 effect, this Act takes effect September 1, 2013.