

By: Anchia

H.B. No. 3148

Substitute the following for H.B. No. 3148:

By: Callegari

C.S.H.B. No. 3148

A BILL TO BE ENTITLED

1

AN ACT

2 relating to the abolition of the office of the fire fighters'
3 pension commissioner and the transfer and disposition of its
4 functions relating to the Texas Emergency Services Retirement
5 System and the Texas local firefighters retirement systems.

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

7 ARTICLE 1. AMENDMENTS TO SUBTITLE H, TITLE 8, GOVERNMENT CODE

8 SECTION 1.01. Section 861.001, Government Code, is amended
9 by adding Subdivision (5-a) to read as follows:

10 (5-a) "Executive director" means the person appointed
11 executive director under Section 865.0095.

12 SECTION 1.02. Section 861.008, Government Code, is amended
13 to read as follows:

14 Sec. 861.008. IMMUNITY FROM LIABILITY. The state board,
15 executive director [~~commissioner~~], and employees of the pension
16 system are not liable for any action taken or omission made or
17 suffered by them in good faith in the performance of any duty or
18 prerogative in connection with the administration of the pension
19 system.

20 SECTION 1.03. Section 862.001(a), Government Code, is
21 amended to read as follows:

22 (a) The governing body of a department that performs
23 emergency services may, in the manner provided for taking official
24 action by the body, elect to participate in the pension system. A

1 governing body shall notify the executive director [~~commissioner~~]
2 as soon as practicable of an election made under this subsection.
3 Except as provided by Subsection (b), an election to participate
4 under this subsection is irrevocable.

5 SECTION 1.04. Section 862.0025(a), Government Code, is
6 amended to read as follows:

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

16 SECTION 1.05. Sections 864.005(a), (d), and (f), Government
17 Code, are amended to read as follows:

18 (a) A local board shall require a member who is receiving
19 temporary disability benefits to file a disability rating report
20 every three months from a physician chosen by the local board. If a
21 report indicates a significant improvement in condition, the local
22 board, after notice and a hearing, may adopt an order to terminate
23 payments. The local board shall send a copy of each order adopted
24 under this subsection to the executive director [~~commissioner~~].

25 (d) If the local board has reason to believe that a ground
26 for termination of temporary disability benefits exists, the local
27 board may set a date for a hearing on the matter. The local board,

1 after notice and a hearing, may adopt an order terminating
2 temporary disability benefits if the local board determines that a
3 ground for termination exists. The local board may not adopt an
4 order under this subsection on the basis of a physician's
5 previously submitted statement as to the likely duration of the
6 disability if the local board determines, after a hearing, that the
7 disability continues. The local board shall send a copy of each
8 order adopted under this subsection to the executive director
9 [~~commissioner~~].

10 (f) If the state board [~~commissioner~~] has reason to believe
11 that a ground for termination of a continuing disability retirement
12 annuity exists, the state board [~~commissioner~~] shall set a date for
13 a hearing on continuation or termination of the annuity. The state
14 board [~~commissioner~~], after notice and a hearing, shall adopt an
15 order terminating the continuing disability retirement annuity if
16 the state board [~~commissioner~~] determines that a ground for
17 termination exists.

18 SECTION 1.06. Section 864.010(a), Government Code, is
19 amended to read as follows:

20 (a) The executive director [~~commissioner~~] shall continue to
21 administer benefits of the pension system for members and retirees
22 who perform service for a formerly participating department that
23 has withdrawn from participation in the pension system or has
24 ceased to exist.

25 SECTION 1.07. Sections 864.016(a), (b), (c), (e), (f), and
26 (g), Government Code, are amended to read as follows:

27 (a) A claim for disability retirement benefits or a lump-sum

1 death benefit must be filed with the local board. A claim for
2 service retirement benefits must be filed with the executive
3 director [~~commissioner~~], who shall forward the claim to the
4 appropriate local board for a hearing. A claim for a death benefit
5 annuity must be filed with the executive director. The executive
6 director [~~commissioner, who~~] shall make a determination of the
7 merits of the claim for a death benefit annuity and issue a decision
8 to the claimant. On receiving a claim under this section, the local
9 board shall hold a hearing to decide the claim. The local board
10 shall send a written copy of its decision to the claimant and the
11 executive director [~~commissioner~~]. If a local board does not
12 determine a claim for service retirement benefits and file its
13 determination with the executive director [~~commissioner~~] before
14 the 16th day after the date the local board receives the claim, the
15 executive director [~~commissioner~~] may determine the merits of the
16 claim.

17 (b) A person aggrieved by a decision of a local board
18 relating to eligibility for or the amount of benefits under this
19 subtitle may appeal the decision to the state board [~~commissioner~~].

20 (c) An appeal of a local board decision under this section
21 is begun by delivering a notice of appeal to the presiding officer
22 or secretary of the local board that made the decision. The notice
23 must be delivered not later than the 20th day after the date of the
24 decision and contain a brief description of the reasons for the
25 appeal. The aggrieved person must file a copy of the notice with
26 the state board [~~commissioner~~].

27 (e) After a hearing under Subsection (d), the state board

1 ~~[commissioner]~~ shall decide each appeal from a local board
2 decision, issue a written opinion, and notify the local board and
3 the claimant if the state board ~~[commissioner]~~ overrules the local
4 board's decision.

5 (f) ~~[A person aggrieved by a decision of the commissioner~~
6 ~~under this section may appeal the decision to the state board. The~~
7 ~~state board shall decide each appeal based on the hearing record.~~

8 ~~[(g)]~~ A final decision of the state board under this section
9 is subject to judicial review under Chapter 2001. The standard of
10 review is by substantial evidence. Venue of the appeal is only in a
11 district court in Travis County ~~[may not be appealed to a court or~~
12 ~~be subject to any other legal process].~~

13 SECTION 1.08. Section 865.001, Government Code, is amended
14 by amending Subsection (b) and adding Subsection (c) to read as
15 follows:

16 (b) At least five ~~[Six]~~ trustees must be active members of
17 the pension system, one of whom must represent emergency medical
18 services personnel.

19 (c) One trustee may be a retiree of the pension system.

20 SECTION 1.09. Chapter 865, Government Code, is amended by
21 adding Section 865.0011 to read as follows:

22 Sec. 865.0011. SUNSET REVIEW. The state board of the
23 pension system is subject to review under Chapter 325 (Texas Sunset
24 Act) but is not abolished under that chapter. The state board shall
25 be reviewed during the period in which state agencies scheduled to
26 be abolished in 2025, and every 12th year after that year, are
27 reviewed.

1 SECTION 1.10. Section 865.002, Government Code, is amended
2 by adding Subsections (c), (d), and (e) to read as follows:

3 (c) A person may not be a trustee or an employee of the
4 pension system employed in a "bona fide executive, administrative,
5 or professional capacity," as that phrase is used for purposes of
6 establishing an exemption to the overtime provisions of the federal
7 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
8 if:

9 (1) the person is an officer, employee, or paid
10 consultant of a Texas trade association in the field of emergency
11 services, including firefighting, or public retirement systems; or

12 (2) the person's spouse is an officer, manager, or paid
13 consultant of a Texas trade association in the field of emergency
14 services, including firefighting, or public retirement systems.

15 (d) In this section, a Texas trade association means a
16 cooperative and voluntarily joined statewide association of
17 business or professional competitors in this state designed to
18 assist its members and its industry or profession in dealing with
19 mutual business or professional problems and in promoting their
20 common interest.

21 (e) A person may not serve as a trustee or act as the general
22 counsel to the state board or the pension system if the person is
23 required to register as a lobbyist under Chapter 305 because of the
24 person's activities for compensation on behalf of a business or an
25 association related to the operation of the state board.

26 SECTION 1.11. Chapter 865, Government Code, is amended by
27 adding Section 865.0035 to read as follows:

1 Sec. 865.0035. STATE BOARD MEMBER TRAINING. (a) A person
2 who is appointed to and qualifies for office as a member of the
3 state board may not vote, deliberate, or be counted as a member in
4 attendance at a meeting of the state board until the person
5 completes a training program that complies with this section.

6 (b) A training program must provide the person with
7 information regarding:

8 (1) this subtitle;

9 (2) the programs, functions, rules, and budget of the
10 pension system;

11 (3) the results of the most recent formal audit of the
12 system;

13 (4) the requirements of laws relating to open
14 meetings, public information, administrative procedure, and
15 conflicts of interest; and

16 (5) any applicable ethics policies adopted by the
17 system or the Texas Ethics Commission.

18 (c) A person appointed to the state board is entitled to
19 reimbursement, as provided by the General Appropriations Act, for
20 the travel expenses incurred in attending the training program
21 regardless of whether the attendance at the program occurs before
22 or after the person qualifies for office.

23 SECTION 1.12. Section 865.005(c), Government Code, is
24 amended to read as follows:

25 (c) If the executive director [~~commissioner~~] has knowledge
26 that a potential ground for removal exists, the executive director
27 [~~commissioner~~] shall notify the presiding officer of the state

1 board of the ground. The presiding officer shall then notify the
2 governor that a potential ground for removal exists.

3 SECTION 1.13. Section 865.006, Government Code, is amended
4 by adding Subsection (c) to read as follows:

5 (c) The state board shall develop and implement policies
6 that:

7 (1) clearly separate the policy-making
8 responsibilities of the state board and the management
9 responsibilities of the executive director and the staff of the
10 pension system; and

11 (2) provide the public with a reasonable opportunity
12 to appear before the state board and to speak on any issue under the
13 jurisdiction of the state board.

14 SECTION 1.14. Chapter 865, Government Code, is amended by
15 adding Section 865.0061 to read as follows:

16 Sec. 865.0061. WRITTEN POLICY ON MANAGING AND ADMINISTERING
17 CONTRACTS. The state board shall adopt a written policy, including
18 procedures, to guide staff in managing and administering contracts
19 entered into by or on behalf of the pension system. The written
20 policy adopted under this section must, at a minimum:

21 (1) address how the pension system:

22 (A) plans for contracting needs and develops
23 solicitation documents;

24 (B) reviews, evaluates, and awards contract
25 proposals;

26 (C) manages and approves contract changes;

27 (D) identifies performance issues and resolves

1 contract disputes;

2 (E) monitors contract expenditures; and

3 (F) closes out contracts; and

4 (2) require the pension system to maintain a central
5 location for filing contracts and information related to contracts
6 entered into by or on behalf of the pension system.

7 SECTION 1.15. Section 865.007(c), Government Code, is
8 amended to read as follows:

9 (c) The state board or the executive director
10 [~~commissioner~~] may accept on behalf of the pension system gifts of
11 money or other property from any public or private source.

12 SECTION 1.16. Chapter 865, Government Code, is amended by
13 adding Section 865.0095 to read as follows:

14 Sec. 865.0095. EXECUTIVE DIRECTOR. (a) The state board, by
15 a majority vote of all members, shall appoint a person other than a
16 member of the board to serve at the board's will as executive
17 director.

18 (b) To be eligible to serve as the executive director, a
19 person must:

20 (1) be a citizen of the United States; and

21 (2) have executive ability and experience necessary to
22 conduct the duties of executive director.

23 SECTION 1.17. Sections 865.010, 865.011, and 865.013,
24 Government Code, are amended to read as follows:

25 Sec. 865.010. EXECUTIVE DIRECTOR'S [~~COMMISSIONER'S~~]
26 DUTIES. (a) The executive director [~~commissioner~~] shall oversee
27 the distribution of all benefits.

1 (b) The executive director [~~commissioner~~] shall collect the
2 revenues for the fund from the governing bodies of participating
3 departments.

4 (c) The executive director [~~commissioner~~] may request and
5 administer state funds appropriated by the legislature in addition
6 to those required by this subtitle.

7 (d) The state board [~~commissioner~~] is responsible for
8 recovering any fraudulently acquired benefits. If it appears that
9 fraud has occurred, the state board [~~commissioner~~] shall notify the
10 appropriate local board and the claimant and hold a hearing. If
11 after the hearing the state board [~~commissioner~~] determines that
12 benefits have been or are being fraudulently acquired, the state
13 board [~~commissioner~~] shall seek action in a court.

14 Sec. 865.011. RECORDS AND REPORTS. (a) The executive
15 director [~~commissioner~~] may at any reasonable time examine the
16 records and accounts of local boards.

17 (b) The executive director [~~commissioner~~] shall require in
18 a timely manner periodic reports from the local boards and shall
19 prepare necessary forms for use by local boards.

20 (c) The executive director [~~commissioner~~] shall prepare an
21 annual report on the activity and status of the fund and submit the
22 report to the governor, the lieutenant governor, and the speaker of
23 the house of representatives.

24 (d) The state board shall electronically submit a report to
25 the governor, the lieutenant governor, the speaker of the house of
26 representatives, the Legislative Budget Board, and the State
27 Pension Review Board if:

1 (1) as a result of an event or action, there is a
2 significant change to the actuarial valuation of the pension
3 system's assets or liabilities, including the extent to which the
4 system's liabilities are unfunded;

5 (2) there is any change to the contributions made to or
6 benefits paid from the system; or

7 (3) an actuarial valuation must be corrected or
8 repeated because of the use of erroneous information or assumptions
9 used in the valuation.

10 (e) A report submitted under Subsection (d)(1) must include
11 and consider the effect alternative contributions and benefit
12 structures would have on the actuarial valuation of the system,
13 including changes in the state's contribution under Section
14 865.015, as well as state funding of administrative expenses.

15 (f) The state board shall determine the meaning of
16 "significant change" for purposes of Subsection (d)(1), which must
17 include circumstances in which there is an increase in the time
18 required to amortize the unfunded liabilities of the pension system
19 to a period that exceeds 30 years, assuming a maximum state
20 contribution under Section 865.015.

21 (g) A report required under Subsection (d) may be combined
22 with any other report required by this chapter or other law.

23 Sec. 865.013. MONITORING OF CONTRIBUTION SUBMISSION. A
24 local board shall monitor the timely submission of required
25 contributions to the executive director [~~commissioner~~].

26 SECTION 1.18. Section 865.014(c), Government Code, is
27 amended to read as follows:

1 (c) Contributions required as provided by this section
2 shall be paid at the times and in the manner that the state board
3 prescribes by rule. Contributions required by this section shall
4 be submitted by electronic funds transfer unless the executive
5 director [~~commissioner~~] grants an exception based on the difficulty
6 of a participating department's use of that payment method.
7 Contributions that are not paid within the time required by the
8 state board accrue interest at the most recent assumed actuarial
9 rate of return on investments of the fund.

10 SECTION 1.19. Section 865.017(a), Government Code, is
11 amended to read as follows:

12 (a) The pension system shall withhold payment of a monthly
13 retirement annuity if a participating department attempts to
14 provide information to the executive director [~~commissioner~~]
15 relating to continued eligibility to receive the payments and the
16 recipient fails to cooperate or provide the requested information.
17 The state board may adopt rules to enforce this subsection.

18 SECTION 1.20. Section 865.018, Government Code, is amended
19 by amending Subsection (b) and adding Subsections (c), (d), and (e)
20 to read as follows:

21 (b) The executive director [~~commissioner~~] and the state
22 board shall certify the actuarial and financial soundness of the
23 fund every two years with the assistance of a qualified actuary.

24 (c) An actuarial valuation conducted under this section
25 must include:

26 (1) an analysis clearly shown in the valuation based
27 on each of the following assumptions:

1 (A) no state contribution to the fund, including
2 no state funding of administrative expenses; and

3 (B) a maximum state contribution to the fund,
4 including state funding of administrative expenses; and

5 (2) the number of years required to amortize the
6 unfunded actuarial liabilities of the pension system under each
7 assumption under Subdivision (1).

8 (d) At least once every five years, the state board, with
9 the assistance of the actuary, shall:

10 (1) audit the actuarial valuation required under this
11 section; and

12 (2) conduct an actuarial experience study, the
13 contents of which are determined by the state board in consultation
14 with the actuary.

15 (e) The actuarial valuation and experience study required
16 under Subsection (d) are not required to be conducted concurrently.

17 SECTION 1.21. Sections 865.019(a) and (c), Government Code,
18 are amended to read as follows:

19 (a) Information contained in records that are in the custody
20 of the pension system concerning an individual member, annuitant,
21 or beneficiary is confidential under Section 552.101 and may not be
22 disclosed in a form identifiable with a specific individual unless:

23 (1) the information is disclosed to:

24 (A) the individual or the individual's attorney,
25 guardian, executor, administrator, conservator, or other person
26 who the executive director [~~commissioner~~] determines is acting in
27 the interest of the individual or the individual's estate;

1 (B) a spouse or former spouse of the individual
2 after the executive director [~~commissioner~~] determines that the
3 information is relevant to the spouse's or former spouse's interest
4 in member accounts, benefits, or other amounts payable by the
5 pension system;

6 (C) a governmental official or employee after the
7 executive director [~~commissioner~~] determines that disclosure of
8 the information requested is reasonably necessary to the
9 performance of the duties of the official or employee; or

10 (D) a person authorized by the individual in
11 writing to receive the information; or

12 (2) the information is disclosed under a subpoena and
13 the executive director [~~commissioner~~] determines that the
14 individual will have a reasonable opportunity to contest the
15 subpoena.

16 (c) The executive director [~~commissioner~~] may designate
17 other employees of the pension system to make the necessary
18 determinations under Subsection (a).

19 SECTION 1.22. Sections 865.020(c) and (d), Government Code,
20 are amended to read as follows:

21 (c) The medical board shall:

22 (1) investigate essential statements and certificates
23 made by or on behalf of a member of the pension system in connection
24 with an application for disability retirement or, as requested by
25 the executive director [~~commissioner~~], with an application for an
26 on-duty death benefit; and

27 (2) report in writing to the executive director

1 ~~[commissioner]~~ its conclusions and recommendations on all matters
2 referred to it.

3 (d) The medical board is not subject to subpoena regarding
4 findings it makes in assisting the executive director
5 ~~[commissioner]~~ under this section, and its members may not be held
6 liable for any opinions, conclusions, or recommendations made under
7 this section.

8 SECTION 1.23. Chapter 865, Government Code, is amended by
9 adding Section 865.021 to read as follows:

10 Sec. 865.021. COMPLAINT FILES. (a) The pension system
11 shall maintain a system to promptly and efficiently act on
12 complaints filed with the system. The system shall maintain
13 information about:

- 14 (1) parties to the complaint;
15 (2) the subject matter of the complaint;
16 (3) a summary of the results of the review or
17 investigation of the complaint; and
18 (4) the disposition of the complaint.

19 (b) The pension system shall make information available
20 describing its procedures for complaint investigation and
21 resolution.

22 (c) The pension system shall periodically notify the
23 complaint parties of the status of the complaint until final
24 disposition.

25 ARTICLE 2. AMENDMENTS TO CIVIL STATUTES

26 SECTION 2.01. The Texas Local Fire Fighters Retirement Act
27 (Article 6243e, Vernon's Texas Civil Statutes) is amended by adding

1 Section 18B to read as follows:

2 Sec. 18B. TECHNICAL ASSISTANCE, TRAINING, AND INFORMATION
3 FOR BOARDS OF TRUSTEES. (a) The State Pension Review Board shall
4 provide technical assistance, training, and information to members
5 of the boards of trustees established under this Act. The training
6 required by this section must be designed to meet the specific needs
7 of members of boards of trustees administering benefit plans for
8 local fire fighters, including small-to-medium-sized benefit
9 plans.

10 (b) To the extent resources are available, the board shall
11 designate one person who specializes in providing the technical
12 assistance, training, and information required under Subsection
13 (a).

14 SECTION 2.02. Sections 22 and 22A, Texas Local Fire
15 Fighters Retirement Act (Article 6243e, Vernon's Texas Civil
16 Statutes), are amended to read as follows:

17 Sec. 22. APPEALS FROM LOCAL BOARD DECISIONS. (a) A person
18 aggrieved by a decision of a board of trustees relating to
19 eligibility for or amount of benefits payable by a retirement
20 system may appeal the decision to the State Office of
21 Administrative Hearings [~~fire fighters' pension commissioner~~].

22 (b) An appeal under this section is begun by delivering a
23 notice of appeal with the chairman, secretary, or
24 secretary-treasurer of the board of trustees that made the
25 decision. The notice must be delivered not later than the 20th day
26 after the date of the decision and contain a brief description of
27 the reasons or grounds for appeal. The aggrieved person must file a

1 copy of the notice with the State Office of Administrative Hearings
2 [~~fire fighters' pension commissioner~~].

3 (b-1) As soon as practicable after receiving a notice of
4 appeal under Subsection (b) of this section, the board of trustees
5 shall refer the matter to the State Office of Administrative
6 Hearings by submitting notice of the appeal to that office.

7 (c) An appeal under this section [~~to the fire fighters'~~
8 ~~pension commissioner~~] is held in Austin and is a contested case
9 under Chapter 2001, Government Code, [~~the Administrative Procedure~~
10 ~~and Texas Register Act (Article 6252-13a, Vernon's Texas Civil~~
11 ~~Statutes)~~] conducted as a de novo hearing by the State Office of
12 Administrative Hearings.

13 Sec. 22A. ATTORNEY. A board of trustees may employ an
14 attorney to represent the board in one or all legal matters,
15 including a hearing on appeal to the State Office of Administrative
16 Hearings [~~fire fighters' pension commissioner~~]. At the request of
17 a board of trustees, the city attorney of the municipality of which
18 the board is a part shall, without additional compensation,
19 represent the board in one or all legal matters.

20 SECTION 2.03. Section 27(d), Texas Local Fire Fighters
21 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
22 amended to read as follows:

23 (d) A board of trustees established under this Act shall
24 adopt formal investment policies that emphasize safety and
25 diversity as well as liquidity for benefit payments. In developing
26 those policies, the board of trustees shall give special
27 consideration to the preferred investment practices of the

1 Government Financial Officers Association. [~~Not later than~~
2 ~~December 31 of each year, the board of trustees shall submit to the~~
3 ~~fire fighters' pension commissioner a copy of the investment~~
4 ~~policies adopted by the board.~~]

5 SECTION 2.04. Section 28(h), Texas Local Fire Fighters
6 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
7 amended to read as follows:

8 (h) A retirement system established under this Act is exempt
9 from Subchapter C, Chapter 802, Government Code, except Sections
10 802.202, 802.205, and 802.207.

11 SECTION 2.05. Sections 30(b) and (c), Texas Local Fire
12 Fighters Retirement Act (Article 6243e, Vernon's Texas Civil
13 Statutes), are amended to read as follows:

14 (b) Contributions picked up as provided by this section
15 shall be treated as employer contributions in determining tax
16 treatment of the amounts under the Internal Revenue Code of 1986.
17 Each municipality or other political subdivision picking up
18 contributions shall continue, however, to compute federal income
19 tax withholding as if these contributions were employee wages until
20 the first payroll period that begins after the date the [~~fire~~
21 ~~fighters' pension commissioner files with the secretary of state a~~
22 ~~notice stating that the~~] United States Internal Revenue Service
23 determines [~~has determined~~] or a federal court rules [~~has ruled~~]
24 that under Section 414(h), Internal Revenue Code of 1986 (26 U.S.C.
25 Section 414(h)), the contributions are not includable in the gross
26 income of a member until they are distributed or made available.
27 Employee contributions picked up as provided by this section shall

1 be deposited to the credit of the individual account of each
2 affected member and shall be treated for all other purposes of this
3 Act as if the contributions had been deducted from the compensation
4 of members. Picked up contributions are not includable in a
5 computation of contribution rates of the municipality or other
6 political subdivision.

7 (c) A pick up of employee contributions takes effect in a
8 municipality or other political subdivision on January 1 of the
9 year following the year in which:

10 (1) the governing body of the municipality or other
11 political subdivision by ordinance has adopted the pick up;

12 (2) the pick up has been approved by majority vote of
13 the participating members of the retirement system at an election
14 by secret ballot at which at least 50 percent of the participating
15 members vote; and

16 (3) the ~~[fire fighters' pension commissioner has filed~~
17 ~~with the secretary of state a notice stating that the]~~ United States
18 Internal Revenue Service issues ~~[has issued]~~ a determination that
19 the plan covering employees of the municipality or other political
20 subdivision is a qualified retirement plan under Section 401(a),
21 Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)), and that
22 its related trust is tax exempt under Section 501(a) of that code
23 (26 U.S.C. Section 501(a)).

24 ARTICLE 3. CONFORMING CHANGES TO OTHER LAW

25 SECTION 3.01. (a) Sections 54.353 and 54.3531, Education
26 Code, which were added by Section 17, Chapter 359 (S.B. 32), Acts of
27 the 82nd Legislature, Regular Session, 2011, as a nonsubstantive

1 redesignation of the two versions of Section 54.208, Education
2 Code, as amended by Chapters 1285 (H.B. 2013) and 1299 (H.B. 2347),
3 Acts of the 81st Legislature, Regular Session, 2009, are reenacted
4 to conform to the reenactment of Section 54.208, Education Code,
5 and the addition of Section 54.2081, Education Code, by Chapter 959
6 (H.B. 1163), Acts of the 82nd Legislature, Regular Session, 2011,
7 and Section 54.353, Education Code, is amended to read as follows:

8 Sec. 54.353. FIREFIGHTERS ENROLLED IN FIRE SCIENCE COURSES.

9 (a) The governing board of an institution of higher education shall
10 exempt from the payment of tuition and laboratory fees any student
11 enrolled in one or more courses offered as part of a fire science
12 curriculum who:

13 (1) is employed as a firefighter by a political
14 subdivision of this state; or

15 (2) is currently, and has been for at least one year,
16 an active member of an organized volunteer fire department
17 participating in the Texas Emergency Services Retirement System or
18 a retirement system established under the Texas Local Fire Fighters
19 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes) and
20 ~~[in this state, as defined by the fire fighters' pension~~
21 ~~commissioner,]~~ who holds:

22 (A) an Accredited Advanced level of
23 certification, or an equivalent successor certification, under the
24 State Firemen's and Fire Marshals' Association of Texas volunteer
25 certification program; or

26 (B) Phase V (Firefighter II) certification, or an
27 equivalent successor certification, under the Texas Commission on

1 Fire Protection's voluntary certification program under Section
2 419.071, Government Code.

3 (b) An exemption provided under this section does not apply
4 to deposits that may be required in the nature of security for the
5 return or proper care of property loaned for the use of students.

6 (c) Notwithstanding Subsection (a), a student who for a
7 semester or term at an institution of higher education receives an
8 exemption under this section may continue to receive the exemption
9 for a subsequent semester or term at any institution only if the
10 student makes satisfactory academic progress toward a degree or
11 certificate at that institution as determined by the institution
12 for purposes of financial aid.

13 (d) Notwithstanding Subsection (a), the exemption provided
14 under this section does not apply to any amount of additional
15 tuition the institution elects to charge a resident undergraduate
16 student under Section 54.014(a) or (f).

17 (e) Notwithstanding Subsection (a), the exemption provided
18 under this section does not apply to any amount of tuition the
19 institution charges a graduate student in excess of the amount of
20 tuition charged to similarly situated graduate students because the
21 student has a number of semester credit hours of doctoral work in
22 excess of the applicable number provided by Section 61.059(1)(1) or
23 (2).

24 (f) The Texas Higher Education Coordinating Board shall
25 adopt:

26 (1) rules governing the granting or denial of an
27 exemption under this section, including rules relating to the

1 determination of a student's eligibility for an exemption; and

2 (2) a uniform listing of degree programs covered by
3 the exemption under this section.

4 Sec. 54.3531. PEACE OFFICERS ENROLLED IN CERTAIN COURSES.

5 (a) The governing board of an institution of higher education shall
6 exempt from the payment of tuition and laboratory fees charged by
7 the institution for a criminal justice or law enforcement course or
8 courses an undergraduate student who:

9 (1) is employed as a peace officer by this state or by
10 a political subdivision of this state;

11 (2) is enrolled in a criminal justice or law
12 enforcement-related degree program at the institution;

13 (3) is making satisfactory academic progress toward
14 the student's degree as determined by the institution; and

15 (4) applies for the exemption at least one week before
16 the last date of the institution's regular registration period for
17 the applicable semester or other term.

18 (b) Notwithstanding Subsection (a), a student may not
19 receive an exemption under this section for any course if the
20 student has previously attempted a number of semester credit hours
21 for courses taken at any institution of higher education while
22 classified as a resident student for tuition purposes in excess of
23 the maximum number of those hours specified by Section 61.0595(a)
24 as eligible for funding under the formulas established under
25 Section 61.059.

26 (c) Notwithstanding Subsection (a), the governing board of
27 an institution of higher education may not provide exemptions under

1 this section to students enrolled in a specific class in a number
2 that exceeds 20 percent of the maximum student enrollment
3 designated by the institution for that class.

4 (d) An exemption provided under this section does not apply
5 to deposits that may be required in the nature of security for the
6 return or proper care of property loaned for the use of students.

7 (e) The Texas Higher Education Coordinating Board shall
8 adopt:

9 (1) rules governing the granting or denial of an
10 exemption under this section, including rules relating to the
11 determination of a student's eligibility for an exemption; and

12 (2) a uniform listing of degree programs covered by
13 the exemption under this section.

14 (f) If the legislature does not specifically appropriate
15 funds to an institution of higher education in an amount sufficient
16 to pay the institution's costs in complying with this section for a
17 semester, the governing board of the institution of higher
18 education shall report to the Senate Finance Committee and the
19 House Appropriations Committee the cost to the institution of
20 complying with this section for that semester.

21 (b) Sections 54.208 and 54.2081, Education Code, are
22 repealed.

23 SECTION 3.02. Section 572.003(b), Government Code, is
24 amended to read as follows:

25 (b) The term means:

26 (1) the Banking Commissioner of The Banking Department
27 of Texas;

- 1 (2) [~~the fire fighters' pension commissioner,~~
2 [~~(3)~~] the administrative director of the Office of
3 Court Administration of the Texas Judicial System;
4 (3) [~~(4)~~] the chief executive of the Office of Public
5 Utility Counsel;
6 (4) [~~(5)~~] the executive director of the State Bar of
7 Texas;
8 (5) [~~(6)~~] the director of the lottery division of the
9 Texas Lottery Commission;
10 (6) [~~(7)~~] the deputy in charge of the department of
11 security in the lottery division of the Texas Lottery Commission;
12 (7) [~~(8)~~] the director of the bingo division of the
13 Texas Lottery Commission; or
14 (8) [~~(9)~~] the secretary of state.

15 SECTION 3.03. Section 614.152(3), Government Code, is
16 amended to read as follows:

- 17 (3) "State fire agency" means the:
18 (A) Office [~~firefighters' pension commissioner,~~
19 [~~(B) Texas Department~~] of Rural Affairs
20 established in the Department of Agriculture;
21 (B) [~~(C)~~] service;
22 (C) [~~(D)~~] Texas Commission on Fire Protection;
23 (D) [~~(E)~~] Texas A&M Engineering Extension
24 Service [~~of The Texas A&M University System~~]; and
25 (E) [~~(F)~~] Texas State Fire Marshal's Office of
26 the Texas Department of Insurance.

27 SECTION 3.04. Section 2155.148, Government Code, is amended

1 to read as follows:

2 Sec. 2155.148. CERTAIN PURCHASES FOR TEXAS [~~STATEWIDE~~]
3 EMERGENCY SERVICES [~~PERSONNEL~~] RETIREMENT SYSTEM [~~FUND~~]. (a) The
4 Texas Emergency Services Retirement System [~~fire fighters' pension~~
5 ~~commissioner~~] is delegated all purchasing functions relating to the
6 purchase of goods or services from funds other than general revenue
7 funds for a purpose the state board of trustees of the Texas
8 Emergency Services Retirement System [~~statewide emergency services~~
9 ~~personnel retirement fund~~] determines relates to the fiduciary
10 duties of the retirement system [~~fund~~].

11 (b) The Texas Emergency Services Retirement System [~~fire~~
12 ~~fighters' pension commissioner~~] shall acquire goods or services by
13 any procurement method approved by the state board of trustees of
14 the Texas Emergency Services Retirement System [~~statewide~~
15 ~~emergency services personnel retirement fund~~] that provides the
16 best value to the retirement system [~~fund~~]. The retirement system
17 [~~fire fighters' pension commissioner~~] shall consider the best value
18 standards provided by Section 2155.074.

19 (c) The commission shall procure goods or services for the
20 Texas Emergency Services Retirement System [~~fire fighters' pension~~
21 ~~commissioner~~] at the request of the retirement system [~~pension~~
22 ~~commissioner~~], and the retirement system [~~pension commissioner~~]
23 may use the services of the commission in procuring goods or
24 services.

25 ARTICLE 4. REPEALER

26 SECTION 4.01. The following statutes are repealed:

- 27 (1) Section 802.103(c), Government Code;

- 1 (2) Section 861.001(3), Government Code;
- 2 (3) Section 18(g), Texas Local Fire Fighters
3 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes);
- 4 (4) Section 18A, Texas Local Fire Fighters Retirement
5 Act (Article 6243e, Vernon's Texas Civil Statutes);
- 6 (5) Section 21, Texas Local Fire Fighters Retirement
7 Act (Article 6243e, Vernon's Texas Civil Statutes);
- 8 (6) Section 21A, Texas Local Fire Fighters Retirement
9 Act (Article 6243e, Vernon's Texas Civil Statutes); and
- 10 (7) Section 31(c), Texas Local Fire Fighters
11 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes).

12 ARTICLE 5. TRANSITION

13 SECTION 5.01. (a) Not later than September 1, 2013, the
14 state board of trustees of the Texas Emergency Services Retirement
15 System shall appoint an executive director under Section 865.0095,
16 Government Code, as added by this Act.

17 (b) Effective September 1, 2013:

18 (1) the office of the fire fighters' pension
19 commissioner is abolished and the term of the person holding that
20 position expires; and

21 (2) all powers, duties, obligations, and rights of
22 action of the fire fighters' pension commissioner under:

23 (A) Subtitle H, Title 8, Government Code, as
24 provided by Article 1 of this Act, are transferred to the:

25 (i) executive director of the Texas
26 Emergency Services Retirement System appointed under Section
27 865.0095, Government Code, as added by this Act; or

1 (ii) state board of trustees of the Texas
2 Emergency Services Retirement System established under Section
3 865.001, Government Code; and

4 (B) Section 2155.148, Government Code, are
5 transferred to the Texas Emergency Services Retirement System.

6 (c) In connection with the transfers required by Subsection
7 (b) of this section, the furniture, computers, other property and
8 equipment, files, and related materials used by the fire fighters'
9 pension commissioner are transferred to the executive director of
10 the Texas Emergency Services Retirement System.

11 (d) A rule adopted by or on behalf of the fire fighters'
12 pension commissioner in connection with or relating to Subtitle H,
13 Title 8, Government Code, in effect on September 1, 2013, continues
14 in effect until it is amended or repealed by the state board of
15 trustees of the Texas Emergency Services Retirement System.

16 (e) The unobligated and unexpended balance of any
17 appropriation made to the fire fighters' pension commissioner in
18 connection with or relating to Subtitle H, Title 8, Government
19 Code, for the state fiscal biennium ending August 31, 2013, is
20 transferred and reappropriated to the state board of trustees of
21 the Texas Emergency Services Retirement System for the purpose of
22 implementing the powers, duties, obligations, and rights of action
23 transferred to that system under Subsection (b) of this section.

24 (f) Notwithstanding the amendment by this Act of Section
25 572.003(b), Government Code, Section 572.003(d), Government Code,
26 does not apply to the abolition of the office of the fire fighters'
27 pension commissioner by this Act.

1 (g) Section 864.016(f), Government Code, as amended by this
2 Act, applies to a final decision of the state board of trustees of
3 the Texas Emergency Services Retirement System that is rendered on
4 or after the effective date of this Act. A decision of the state
5 board rendered before the effective date of this Act is governed by
6 the law in effect on the date the decision was rendered, and the
7 former law is continued in effect for that purpose.

8 SECTION 5.02. The change in law made by this Act to Section
9 865.002, Government Code, regarding prohibitions on members of the
10 state board of trustees of the Texas Emergency Services Retirement
11 System does not affect the entitlement of a member serving on the
12 board immediately before September 1, 2013, to continue to serve
13 and function as a member of the board for the remainder of the
14 member's term. The change in law made to that section applies only
15 to a member appointed on or after September 1, 2013.

16 SECTION 5.03. (a) Effective September 1, 2013, all powers,
17 duties, obligations, and rights of action of the fire fighters'
18 pension commissioner under the Texas Local Fire Fighters Retirement
19 Act (Article 6243e, Vernon's Texas Civil Statutes) are, except as
20 provided by Subsection (e) of this section, terminated as provided
21 by Article 2 of this Act.

22 (b) In connection with the requirements of Subsection (a) of
23 this section, property and records other than those described by
24 Section 5.01(c) of this article are transferred to the comptroller
25 in accordance with Section 325.017(e), Government Code.

26 (c) A rule adopted by the fire fighters' pension
27 commissioner in connection with or relating to the Texas Local Fire

1 Firefighters Retirement Act (Article 6243e, Vernon's Texas Civil
2 Statutes) expires on September 1, 2013.

3 (d) Effective September 1, 2013, the unobligated and
4 unexpended balance of any appropriations made to the fire fighters'
5 pension commissioner in connection with or relating to the Texas
6 Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas
7 Civil Statutes), for the state fiscal biennium ending August 31,
8 2013, is transferred to the general revenue fund in accordance with
9 Section 325.017(c), Government Code.

10 (e) Any administrative hearing on appeal to the fire
11 fighters' pension commissioner under Section 22, Texas Local Fire
12 Fighters Retirement Act (Article 6243e, Vernon's Texas Civil
13 Statutes), is transferred without change in status to the State
14 Office of Administrative Hearings.

15 SECTION 5.04. The attorney general shall continue any
16 proceeding involving the office of the fire fighters' pension
17 commissioner that is pending on the effective date of this Act in
18 accordance with the law in effect on the date the proceeding was
19 commenced, and the former law is continued in effect for that
20 purpose.

21 SECTION 5.05. The changes in law made by this Act apply only
22 to a proceeding involving an appeal under Section 864.016,
23 Government Code, as amended by this Act, or Section 22, Texas Local
24 Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil
25 Statutes), as amended by this Act, that is commenced on or after the
26 effective date of this Act. A proceeding involving an appeal
27 commenced before the effective date of this Act is governed by the

1 law as it existed immediately before the effective date of this Act,
2 and that law is continued in effect for that purpose.

3 SECTION 5.06. Sections 325.017 and 325.020, Government
4 Code, apply in relation to the abolition of the office of the fire
5 fighters' pension commissioner. In the event of a conflict between
6 those sections and a provision of this Act, this Act prevails.

7 SECTION 5.07. If the transfers required under Sections 5.01
8 and 5.03 of this article are not completed by September 1, 2013, the
9 governor shall appoint a person to complete the transfers.

10 SECTION 5.08. To the extent of any conflict, this Act
11 prevails over another Act of the 83rd Legislature, Regular Session,
12 2013, relating to nonsubstantive additions to and corrections in
13 enacted codes.

14 ARTICLE 6. EFFECTIVE DATE

15 SECTION 6.01. This Act takes effect immediately if it
16 receives a vote of two-thirds of all the members elected to each
17 house, as provided by Section 39, Article III, Texas Constitution.
18 If this Act does not receive the vote necessary for immediate
19 effect, this Act takes effect September 1, 2013.