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Lopez

H.B. No. 3247

A BILL TO BE ENTITLED

AN ACT

relating to 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 Subdivisions (4), (5), (8), (10), and (11-a) and adding Subdivisions (6-a), (6-b), (8-a), (8-b), and (10-a) to read as follows:

(4) "Dependent" means an unmarried child, natural or adopted, who:

(A) is less than 18 years of age;

(B) is less than 19 years of age and a full-time student at an elementary or secondary school; or

(C) became permanently disabled before the child's 22nd birthday, as determined by the executive director [~~and remains disabled~~].

(5) "Emergency services" means only those services relating to fire, rescue, [~~and~~] emergency medical services, and emergency response services [~~including support services for those duties, performed by a volunteer or auxiliary employee of a participating department~~].

(6-a) "Governing body of a department" or "governing body of a participating department" means:

(A) the board of trustees or other governing body of the department; or

1 (B) if the department does not have a governing
2 body, the governing body of the political subdivision.

3 (6-b) "Governing body of a political subdivision"
4 means the governing body of the political subdivision or unit of
5 government of which the department is a part.

6 (8) "Member" means a person having membership
7 ~~[volunteer or auxiliary employee who participates]~~ in the pension
8 system under Section 862.002.

9 (8-a) "Participating department" means a department
10 that elects to participate in the pension system under Section
11 862.001.

12 (8-b) "Participating department head" means the
13 person designated as a participating department head under Section
14 865.0115.

15 (10) "Qualified service" means service performed:

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

20 (B) ~~[that is performed]~~ by a member in good
21 standing in the department who:

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

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

1 (iii) does not attend because the member is
2 absent because of military duty.

3 (10-a) "Retiree" means a person who receives a service
4 or disability retirement benefit from the pension system.

5 (11-a) "Support services" means services that
6 directly assist in the delivery of emergency services. The term
7 includes:

8 (A) directing traffic at an emergency scene;

9 (B) [] dispatching emergency services
10 personnel;

11 (C) [] driving an emergency services vehicle;

12 (D) [] supplying or maintaining equipment at an
13 emergency scene;

14 (E) [] providing essential recordkeeping for a
15 participating department; [] and

16 (F) other similar services as determined by a
17 participating department.

18 SECTION 2. Section 861.008, Government Code, is amended to
19 read as follows:

20 Sec. 861.008. IMMUNITY FROM LIABILITY. The state board,
21 the executive director, a local board, each participating
22 department head, and employees of the pension system are not liable
23 for any action taken or omission made or suffered by them in good
24 faith in the performance of any duty or prerogative in connection
25 with the administration of the pension system.

26 SECTION 3. Section 862.001, Government Code, is amended to
27 read as follows:

1 Sec. 862.001. PARTICIPATION BY DEPARTMENT. (a) For
2 purposes of this section, "department" means a department or other
3 organization that:

4 (1) performs emergency services, including a
5 volunteer fire department, as defined by Section 614.101; and

6 (2) is not a for-profit entity.

7 (a-1) The governing body of a department [~~that performs~~
8 ~~emergency services~~] may, in the manner provided for taking official
9 action by the body, elect to participate in the pension system. The
10 [A] governing body of a department shall notify the executive
11 director as soon as practicable of an election made under this
12 subsection. Except as provided by Subsection (b), an election to
13 participate under this subsection is irrevocable.

14 (b) The state board may adopt rules that allow the governing
15 body of a participating department to revoke its [~~that makes an~~
16 election to participate in the pension system under Subsection
17 (a-1) in a manner that maintains an actuarially sound [~~(a) may~~
18 ~~terminate participation in the~~] pension system [~~not later than the~~
19 ~~fifth anniversary of the date of the election to participate,~~
20 ~~except that a department that begins participation after September~~
21 ~~1, 2005, may not terminate that participation~~].

22 SECTION 4. Section 862.002, Government Code, is amended to
23 read as follows:

24 Sec. 862.002. MEMBERSHIP BY INDIVIDUAL. (a) Except as
25 otherwise provided by this section and Section 862.0021, each
26 person who performs emergency services or, subject to Section
27 862.0025, support services [~~service~~] as a volunteer or [~~auxiliary~~]

1 employee of a participating department, regardless of whether the
2 person receives compensation from the participating department for
3 the services, is a member of the pension system.

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

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

7 (2) is subject to ~~[in]~~ a waiting ~~[probationary]~~ period
8 under Section 862.0021 ~~[of service before becoming a regular member~~
9 ~~of a participating department]~~ for which the governing body of the
10 political subdivision ~~[department]~~ is not making contributions
11 during the waiting period ~~[for the service]~~;

12 (3) does not receive a certification of physical
13 fitness or assignment to perform support services under Section
14 862.003; or

15 (4) is a retiree ~~[retired under this subtitle]~~,
16 regardless of whether the person continues to perform emergency or
17 support services ~~[participate in emergency service-related~~
18 ~~functions]~~ for a department ~~[from which the person retired]~~.

19 SECTION 5. Section 862.0021, Government Code, is amended to
20 read as follows:

21 Sec. 862.0021. WAITING ~~[PROBATIONARY]~~ PERIOD BEFORE
22 MEMBERSHIP. (a) A participating department may impose a waiting
23 ~~[probationary]~~ period for a person who is eligible to perform or who
24 is training to perform emergency services or, subject to Section
25 862.0025, support services as a volunteer or ~~[auxiliary]~~ employee
26 of the department during which time the department is not required
27 to enroll the person as a member of the pension system.

1 (b) A waiting [~~probationary~~] period imposed under this
2 section must end not later than six months after the date the person
3 begins service or training with the participating department.

4 (c) The governing body of a political subdivision may, but
5 [~~participating department~~] is not required to, pay contributions
6 for the person during the waiting [~~probationary~~] period.

7 (d) A person's membership in the pension system begins on
8 the date that the governing body of a political subdivision
9 [~~department~~] begins payment of contributions for that person,
10 without regard to whether the:

11 (1) person's membership in the pension system
12 [~~service~~] is subject to a waiting [~~probationary~~] period under this
13 section; or

14 (2) person is subject to a probationary period imposed
15 by a participating department for other purposes.

16 SECTION 6. Sections 862.0025(a) and (c), Government Code,
17 are amended to read as follows:

18 (a) Except as provided by Subsection (b), the governing body
19 of a participating department may, at any time, make an election to
20 include all persons who provide support services for the department
21 as members of the pension system [~~on the same terms as all other~~
22 ~~volunteers of the department~~]. An election under this section
23 takes effect on the first day of the calendar month that begins
24 after the month in which the election is made and communicated to
25 the executive director. Once made, an election under this section
26 is irrevocable.

27 (c) After an election under this section, a participating

1 department that previously did not enroll its support staff as
2 members of the pension system may purchase service credit for
3 service performed before the date of the election under the terms
4 required for prior service credit for service before departmental
5 participation under Section 863.004.

6 SECTION 7. Section 862.003, Government Code, is amended to
7 read as follows:

8 Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A
9 person who performs emergency services for a participating
10 department [~~prospective member~~] shall present to the participating
11 department [~~local~~] head [~~of the department, for delivery to the~~
12 ~~local board,~~] a certification of physical fitness by a qualified
13 physician. [~~The person becomes a member of the pension system if~~
14 ~~the local board accepts the certification or if the local board~~
15 ~~assigns the person to perform support services and enrolls its~~
16 ~~support staff as members of the system.~~]

17 (b) If a participating department provides membership to a
18 person who performs support services under Section 862.0025, the
19 participating department head [~~A local board~~] shall assign a person
20 to perform support services if the person:

21 (1) does not present an acceptable certification under
22 Subsection (a); or

23 (2) will only perform support services for the
24 department [~~and the person is at least 18 years of age, is not~~
25 ~~retired from the pension system, and is not serving a probationary~~
26 ~~period before becoming a regular member of a participating~~
27 ~~department~~].

1 SECTION 8. Section 863.003, Government Code, is amended to
2 read as follows:

3 Sec. 863.003. RECOGNITION [~~TRANSFER~~] OF PRIOR SERVICE
4 CREDIT. A member who terminates service, except by service
5 retirement under Chapter 864, and later resumes service with the
6 same participating department or begins service with another
7 participating department may receive service credit for [~~transfer~~]
8 all previously accrued service credit in the pension system earned
9 for service with any participating [~~to the new~~] department.

10 SECTION 9. Chapter 863, Government Code, is amended by
11 adding Section 863.0045 to read as follows:

12 Sec. 863.0045. SERVICE CREDIT AND MEMBERSHIP IN MULTIPLE
13 PUBLIC RETIREMENT SYSTEMS. In accordance with Section 67(a)(2),
14 Article XVI, Texas Constitution, a person may not earn service
15 credit for the same service with the pension system and another
16 public retirement system.

17 SECTION 10. Section 863.005, Government Code, is amended to
18 read as follows:

19 Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS.
20 The state board by rule may impose an interest charge on
21 contributions due because of a correction of an error [~~by a local~~
22 ~~board~~] related to enrollment or qualified service. The charge must
23 be based on the pension system's current assumed rate of return.
24 Charges collected shall be deposited in the fund.

25 SECTION 11. Section 864.001(b), Government Code, is amended
26 to read as follows:

27 (b) The state board may change the benefit formula for any

1 person who is not a retiree [~~an annuitant~~] of the pension system.

2 SECTION 12. Section 864.002(a), Government Code, is amended
3 to read as follows:

4 (a) A service retirement annuity is payable in monthly
5 installments based on:

6 (1) the [~~governing body's~~] average monthly
7 contribution during the member's term of qualified service with all
8 participating departments under this subtitle, not including a
9 contribution to reduce the unfunded accrued actuarial liability of
10 the pension system; and

11 (2) a formula adopted by the state board by rule that
12 allows the pension system, assuming maximum state contributions are
13 provided under Section 865.015, to be maintained as actuarially
14 sound.

15 SECTION 13. Section 864.004, Government Code, is amended to
16 read as follows:

17 Sec. 864.004. TEMPORARY DISABILITY RETIREMENT BENEFITS.

18 (a) A member is entitled to disability retirement benefits from the
19 pension system only if a local board determines that the member
20 became disabled during the performance of emergency services or
21 support services [~~service duties~~] and is unable to return to work at
22 the member's regular occupation or, if the member is a student, is
23 unable to return to the member's scholastic studies. A disabled
24 member must, at the time of disability, elect between a service
25 retirement annuity or disability retirement benefits, if eligible
26 for both.

27 (b) Subject to Subsection (c), a [~~A disabled~~] member

1 described by Subsection (a) who does not elect to receive a service
2 retirement annuity is entitled to a temporary disability retirement
3 benefit [~~benefits~~] of:

4 (1) \$300 per [~~a~~] month; or

5 (2) a greater amount that the state board by rule
6 adopts based on the monthly contributions made for the members by
7 the governing body of the political subdivision [~~of a participating~~
8 ~~department for its members~~].

9 (c) Except as provided by Section 864.005, a temporary [~~To~~
10 ~~continue to receive~~] disability retirement benefit under [~~benefits~~
11 ~~in the form of a continuing annuity, computed in the manner~~
12 ~~described by~~] Subsection (b) must cease on the expiration of a
13 period, not to exceed one year, determined to be the likely duration
14 of the disability by a physician in a written statement to the local
15 board. The local board shall select the physician making a
16 determination under this subsection [~~, a person who is determined by~~
17 ~~a local board to be temporarily disabled must:~~

18 [~~(1) apply to the medical board appointed by the state~~
19 ~~board, and~~

20 [~~(2) not later than the first anniversary of the date~~
21 ~~the person was determined to be temporarily disabled, be certified~~
22 ~~by the medical board as permanently disabled for the performance of~~
23 ~~the duties of the person's regular occupation~~].

24 SECTION 14. Sections 864.005(a), (b), (d), and (h),
25 Government Code, are amended to read as follows:

26 (a) A local board may [~~shall~~] require a member who is
27 receiving a temporary disability retirement benefit [~~benefits~~] to

1 file a disability rating report every three months from a physician
2 chosen by the local board. If a report indicates a significant
3 improvement in condition, the local board, after notice and a
4 hearing, may adopt an order to terminate temporary disability
5 retirement benefit payments. The local board shall send a copy of
6 each order adopted under this subsection to the executive director.

7 (b) Temporary disability benefits cease if:

8 (1) the recipient returns to work at the person's
9 regular occupation, resumes scholastic studies, or performs
10 emergency services or support services [~~service duties~~] for any
11 participating department or other entity; or

12 (2) [~~agency, or if~~] the local board adopts an order
13 under Subsection (d).

14 (d) If the local board has reason to believe that a ground
15 for termination of temporary disability retirement benefits
16 exists, the local board may set a date for a hearing on the matter.
17 The local board, after notice and a hearing, may adopt an order
18 terminating temporary disability retirement benefits if the local
19 board determines that a ground for termination exists. The local
20 board may not adopt an order under this subsection on the basis of a
21 physician's previously submitted statement as to the likely
22 duration of the disability if the local board determines, after a
23 hearing, that the disability continues. The local board shall send
24 a copy of each order adopted under this subsection to the executive
25 director.

26 (h) A [~~The state board or a~~] local board may require
27 financial information from a person as a condition to the continued

1 receipt of temporary disability retirement benefits, including
2 federal income tax returns and wage earning forms. Failure to
3 timely provide requested information is a ground for terminating
4 benefits.

5 SECTION 15. Chapter 864, Government Code, is amended by
6 adding Section 864.0051 to read as follows:

7 Sec. 864.0051. CONTINUING DISABILITY RETIREMENT BENEFITS.

8 (a) To receive disability retirement benefits in the form of a
9 continuing annuity provided beyond the time prescribed under
10 Section 864.005, a person who has been determined by a local board
11 to be temporarily disabled must:

12 (1) not later than the first anniversary of the date
13 the person was determined to be temporarily disabled, apply to the
14 state board in the manner and form prescribed by the state board;
15 and

16 (2) be certified by the medical board designated by
17 the state board under Section 865.020 as permanently disabled for
18 the performance of the duties of any occupation:

19 (A) for which the person is reasonably suited by
20 education, training, and experience; and

21 (B) that could reasonably be expected to provide
22 the person with at least 75 percent of the salary the person was
23 earning at the time the disability occurred.

24 (b) The amount of a continuing disability retirement
25 annuity under this section is determined in the same manner as for a
26 temporary disability retirement benefit under Section 864.004(b).

27 (c) Except as otherwise provided by this section, a

1 continuing disability retirement annuity terminates on the fifth
2 anniversary of the date that payment of the continuing disability
3 retirement annuity begins following the certification of the
4 continuation of the disability under Subsection (a).

5 (d) To continue receiving payments of a continuing
6 disability retirement annuity after the fifth anniversary, the
7 retiree must be recertified as permanently disabled by the medical
8 board every five years using the same standard prescribed by
9 Subsection (a)(2).

10 (e) Payments of a continuing disability retirement annuity
11 to a retiree certified by the medical board as permanently disabled
12 under Subsection (a) or (d) shall cease if the retiree:

13 (1) returns to work at any occupation that provides
14 the person with at least 75 percent of the salary the person was
15 earning at the time the disability occurred;

16 (2) performs emergency services or support services
17 for any participating department; or

18 (3) rejects a suitable offer of employment, as
19 determined by the local board.

20 (f) If the state board has reason to believe that a ground
21 for termination of a continuing disability retirement annuity
22 exists, the state board shall set a date for a hearing on the
23 continuation or termination of the annuity. If the state board
24 determines that a ground for termination exists, the state board,
25 after notice and a hearing, shall adopt an order terminating the
26 continuing disability retirement annuity.

27 (g) The state board may require financial information,

1 including federal income tax returns and wage earning forms, from a
2 retiree as a condition of the continued receipt of continuing
3 disability retirement benefits. Failure to timely provide
4 requested information is a ground for terminating benefits.

5 SECTION 16. Section 864.006, Government Code, is amended to
6 read as follows:

7 Sec. 864.006. MEMBER SERVICE DEATH BENEFITS. (a) The
8 surviving spouse and dependents of a member who dies as a result of
9 performing emergency services or support services [~~service duties~~]
10 are entitled to receive in equal shares a death benefit annuity
11 equal to the service retirement annuity that the decedent would
12 have been entitled to receive if the decedent had been able to
13 retire, vested at 100 percent, on the date of the decedent's death.

14 (b) The beneficiary of a member who dies as a result of
15 performing emergency services or support services [~~service duties~~]
16 is entitled to a lump-sum benefit of \$5,000 or a greater amount that
17 the state board provides by rule.

18 SECTION 17. Sections 864.007(a) and (b), Government Code,
19 are amended to read as follows:

20 (a) The state board by rule may provide one or more
21 beneficiaries of a deceased member whose death did not result from
22 the performance of emergency services or support services [~~service~~
23 ~~duties~~] a benefit, which may be a lump-sum amount or an annuity.

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

1 considers appropriate.

2 SECTION 18. Section 864.010, Government Code, is amended to
3 read as follows:

4 Sec. 864.010. BENEFITS FOR MEMBERS AND RETIREES OF
5 DEPARTMENT THAT WITHDRAWS FROM PARTICIPATION OR CEASES TO EXIST.

6 (a) The executive director shall continue to administer benefits
7 of the pension system for members and retirees who performed
8 emergency services or support services [~~perform service~~] for a
9 formerly participating department that has withdrawn from
10 participation in the pension system or has ceased to exist.

11 (b) The governing body of a political subdivision [~~in which~~
12 ~~a department described by Subsection (a) is or was located~~] shall
13 perform the duties required of a local board for the members and
14 retirees who served for the formerly participating department. The
15 state board may by rule:

16 (1) provide a procedure under which the governing body
17 of a department may delegate its duties under this subsection to the
18 executive director; or

19 (2) appoint the executive director to perform the
20 duties of a governing body of a political subdivision if the
21 governing body fails to perform or delegate its duties under this
22 subsection within a prescribed period of time.

23 SECTION 19. Section 864.011, Government Code, is amended to
24 read as follows:

25 Sec. 864.011. FIRST PAYMENT OF RETIREMENT OR DEATH BENEFIT
26 ANNUITY. The cashing or depositing of the first payment of a
27 service retirement annuity, disability retirement annuity, or

1 death benefit annuity by a person entitled to it, or the receipt by
2 a financial institution for credit to that person's account of a
3 transfer of funds by the pension system through electronic means,
4 is considered acceptance of the amount of the annuity and of the
5 amount of qualified service of the person on whose service the
6 annuity is based.

7 SECTION 20. Section [864.013](#), Government Code, is amended to
8 read as follows:

9 Sec. 864.013. COST-OF-LIVING INCREASE. The state board by
10 rule may provide a cost-of-living increase for any benefit provided
11 by the pension system. If benefits are increased, the state board
12 shall require an increase in monthly [~~governing body~~] contributions
13 if necessary to maintain an actuarially sound pension system.

14 SECTION 21. Section [864.0135](#), Government Code, is amended
15 to read as follows:

16 Sec. 864.0135. OPTIONAL ANNUITY INCREASE OR SUPPLEMENTAL
17 PAYMENTS. (a) The state board by rule may authorize the governing
18 body of a participating department to:

19 (1) make one or more supplemental payments to its
20 retirees and [~~other~~] beneficiaries of the pension system; or

21 (2) provide an increase in the amount of annuities
22 paid to retirees and [~~other~~] beneficiaries of the pension system.

23 (b) The governing body of a [A] participating department
24 that elects an option under a rule adopted under this section shall
25 fund all increased benefits that are provided to its retirees and
26 [~~other~~] beneficiaries of the pension system [~~department~~] under the
27 option.

1 SECTION 22. The heading to Section 864.015, Government
2 Code, is amended to read as follows:

3 Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR
4 RETIREE [~~ANNUITANT~~].

5 SECTION 23. Sections 864.015(a), (b), and (d), Government
6 Code, are amended to read as follows:

7 (a) A benefit payable on the death of a member or retiree
8 [~~annuitant~~] may not be paid to a person convicted of causing that
9 death but instead is payable as if the convicted person had
10 predeceased the decedent.

11 (b) The pension system is not required to change the
12 recipient of benefits under this section unless it receives actual
13 notice of the conviction of a beneficiary. The system may delay
14 payment of a benefit payable on the death of a member or retiree
15 [~~annuitant~~] pending the results of a criminal investigation and of
16 legal proceedings relating to the cause of death.

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

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

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

1 SECTION 24. Section 864.016, Government Code, is amended by
2 amending Subsections (a), (b), (c), (d), and (e) and adding
3 Subsection (a-1) to read as follows:

4 (a) An application [~~A claim~~] for disability retirement
5 benefits or a [~~lump-sum~~] death benefit must be filed with the local
6 board. [~~A claim for service retirement benefits must be filed with~~
7 ~~the executive director, who shall forward the claim to the~~
8 ~~appropriate local board for a hearing. A claim for a death benefit~~
9 ~~annuity must be filed with the executive director. The executive~~
10 ~~director shall make a determination of the merits of the claim for a~~
11 ~~death benefit annuity and issue a decision to the claimant.] On~~

12 receiving an application [~~a claim~~] under this subsection [~~section~~],
13 the local board shall hold a hearing to decide the merits of the
14 application and whether to approve or deny the application [~~claim~~].
15 The local board shall send a written copy of its decision to the
16 claimant, ~~and~~ the applicant, and the executive director. [~~If a~~
17 ~~local board does not determine a claim for service retirement~~
18 ~~benefits and file its determination with the executive director~~
19 ~~before the 16th day after the date the local board receives the~~
20 ~~claim, the executive director may determine the merits of the~~
21 ~~claim.~~]

22 (a-1) A claim for a service retirement annuity must be filed
23 with the executive director.

24 (b) A person aggrieved by a decision of a local board or of
25 the executive director relating to eligibility for or the amount of
26 benefits under this subtitle may appeal the decision to the state
27 board.

1 (c) An appeal of a local board or executive director
2 decision under this section is begun by delivering a notice of
3 appeal to the presiding officer or secretary of the local board that
4 made the decision or to the executive director, as applicable. The
5 notice must be delivered not later than the 20th day after the date
6 of the decision and contain a brief description of the reasons for
7 the appeal. The aggrieved person must file a copy of the notice
8 with the state board.

9 (d) An appeal of a local board or executive director
10 decision under this section is held in Austin and is a contested
11 case under Chapter 2001, conducted as a de novo hearing by the State
12 Office of Administrative Hearings.

13 (e) After a hearing under Subsection (d), the state board
14 shall decide each appeal from a local board or executive director
15 decision, issue a written opinion, and notify the local board or
16 executive director, as applicable, and the claimant if the state
17 board overrules the [~~local board's~~] decision.

18 SECTION 25. Section 865.001, Government Code, is amended by
19 amending Subsection (b) and adding Subsection (b-1) to read as
20 follows:

21 (b) Except as provided by Subsection (b-1), at [At] least
22 five trustees must be active members of the pension system, one of
23 whom must represent emergency medical services personnel.

24 (b-1) If there are no participating departments in the
25 pension system that provide emergency medical services, the
26 governor is not required to appoint a trustee to represent
27 emergency medical services personnel.

1 SECTION 26. Section 865.006, Government Code, is amended by
2 amending Subsection (a) and adding Subsection (d) to read as
3 follows:

4 (a) The state board shall employ a certified public
5 accountant, an actuary, and an investment consultant for the fund
6 and may acquire computer, custodial, or investment management
7 services for the fund. The costs of accounting, actuarial,
8 investment consulting, computer, custodial, or investment
9 management services and other administrative expenses may be paid
10 from income earned by investment of the fund. No portion of the
11 corpus or income of the fund may be used for purposes other than the
12 benefit of members, retirees [~~retired emergency services~~
13 ~~personnel~~], and their beneficiaries.

14 (d) The state board is responsible for seeking and
15 recovering any benefits fraudulently acquired from the pension
16 system. If the state board suspects fraud has occurred, the state
17 board shall notify the appropriate local board and the benefit
18 recipient and hold a hearing to determine whether fraud has
19 occurred. If, after the hearing, the state board determines that
20 benefits from the pension system have been or are being
21 fraudulently acquired, the state board shall seek appropriate
22 relief.

23 SECTION 27. Section 865.007(c), Government Code, is amended
24 to read as follows:

25 (c) The state board or the executive director may accept on
26 behalf of the pension system gifts of money or other property from
27 any public or private source. Money received under this subsection

1 shall be deposited into the fund.

2 SECTION 28. Section 865.0095(a), Government Code, is
3 amended to read as follows:

4 (a) The state board, by a majority vote of all members,
5 shall appoint a person other than a member of the state board to
6 serve at the state board's will as executive director.

7 SECTION 29. Section 865.010, Government Code, is amended by
8 adding Subsection (e) to read as follows:

9 (e) Not later than the 30th day after the date the executive
10 director receives from a participating department head notice of a
11 change in the membership records of the participating department,
12 the executive director shall notify the presiding officer of the
13 local board of the participating department of the change.

14 SECTION 30. Sections 865.011(a) and (b), Government Code,
15 are amended to read as follows:

16 (a) The executive director may at any reasonable time
17 examine the:

18 (1) records and accounts of a local board; and
19 (2) membership records of a participating department
20 head [boards].

21 (b) The executive director shall:

22 (1) require in a timely manner periodic reports from
23 participating department heads and [the] local boards; and

24 (2) [shall] prepare necessary forms for use by
25 participating departments and local boards.

26 SECTION 31. Chapter 865, Government Code, is amended by
27 adding Sections 865.0115 and 865.0116 to read as follows:

1 Sec. 865.0115. PARTICIPATING DEPARTMENT HEAD. (a) Except
2 as provided by Subsection (b), the chief, designated leader, or
3 other executive head of a participating department is the
4 participating department head.

5 (b) Subject to the approval of the executive director, the
6 governing body of a participating department may designate a
7 participating department head.

8 Sec. 865.0116. PARTICIPATING DEPARTMENT HEAD'S DUTIES. The
9 participating department head:

10 (1) is responsible for:

11 (A) enrolling new members in the pension system;
12 and

13 (B) maintaining current and accurate membership
14 records; and

15 (2) shall provide information to the pension system
16 related to changes in the membership records of the participating
17 department in the time and manner prescribed by the pension system.

18 SECTION 32. Sections [865.012](#)(a), (a-1), and (c), Government
19 Code, are amended to read as follows:

20 (a) A local board is composed of:

21 (1) one trustee selected by the governing body of the
22 political subdivision [~~of which a participating department is a~~
23 ~~part~~];

24 (2) except as provided by Subsection (a-1), three
25 trustees who are active members representing a participating
26 department chosen by a majority of the members [~~emergency services~~
27 ~~personnel~~] in the department [~~who are eligible to participate in~~

1 ~~the pension system~~]; and

2 (3) two trustees who are representatives of the
3 political subdivision or unit of government who are chosen by the
4 other members of the local board.

5 (a-1) If a participating department does not have a
6 sufficient number of active members to serve on a local board under
7 Subsection (a)(2), the other members of the local board, or if there
8 are no other members of the local board, the governing body of the
9 political subdivision [~~of which the department is a part~~] shall
10 select one or more trustees to serve under that subsection
11 [~~subdivision~~]. A person selected under this subsection to serve as
12 a trustee must be:

13 (1) a retiree of the pension system; or

14 (2) a beneficiary of the pension system who is the
15 surviving spouse of a former member or retiree.

16 (c) A local board shall hold not fewer than two [~~four~~]
17 meetings a year under Chapter 551.

18 SECTION 33. Chapter 865, Government Code, is amended by
19 adding Section 865.0121 to read as follows:

20 Sec. 865.0121. DELEGATION OF LOCAL BOARD DUTIES. The state
21 board by rule may adopt a procedure by which the duties of a local
22 board may be delegated to the executive director if:

23 (1) trustees of the local board have not been
24 appointed under Section 865.012(a) or (a-1); or

25 (2) the local board fails to perform its duties under
26 this subtitle within a reasonable time, as determined by the board,
27 including failure to hold the minimum number of meetings each year

1 required by Section 865.012(c).

2 SECTION 34. Sections 865.014(a), (c), and (d), Government
3 Code, are amended to read as follows:

4 (a) The ~~[Each]~~ governing body of a political subdivision ~~[of~~
5 ~~which a participating department is a part]~~ shall contribute for
6 each member performing emergency services or support services for
7 the participating department for each month of service beginning on
8 the date that the member enters the pension system at a rate
9 determined in accordance with Subsection (b) and may make
10 additional contributions as determined by the governing body of the
11 political subdivision. The pension system may collect from ~~[If the~~
12 ~~participating department is located in more than one political~~
13 ~~subdivision,~~ the governing body ~~[bodies]~~ of the political
14 subdivision any contributions the governing body fails to make
15 under this section and associated interest accrued in accordance
16 with Subsection (c). The pension system ~~[subdivisions]~~ shall
17 deposit interest collected under this section into the fund
18 ~~[contribute equally for each member for each month of service].~~

19 (c) Contributions required as provided by this section
20 shall be paid at the times and in the manner that the state board
21 prescribes by rule. Contributions required by this section shall
22 be submitted by electronic funds transfer, by wire transfer, or as
23 an automated clearinghouse withdrawal (ACH debit) unless the
24 executive director grants an exception based on the difficulty of
25 the ~~[a participating department's]~~ use of those payment methods.
26 Contributions that are not paid within the time required by the
27 state board accrue interest at the most recent assumed actuarial

1 rate of return on investments of the fund.

2 (d) The state board may by rule require a monthly
3 contribution be made by the governing bodies of ~~[from]~~ political
4 subdivisions that do not participate in the pension system but
5 whose employees or former employees are members or retirees of the
6 pension system in an amount necessary to pay the expenses of
7 administering benefits for those persons.

8 SECTION 35. Section 865.017(b), Government Code, is amended
9 to read as follows:

10 (b) The pension system may not begin service or disability
11 retirement annuity or death benefit payments based on the service
12 of a person whose local board or participating department head is
13 not current in its filing of a required periodic report.

14 SECTION 36. The heading to Section 865.019, Government
15 Code, is amended to read as follows:

16 Sec. 865.019. CONFIDENTIALITY OF INFORMATION ABOUT
17 MEMBERS, RETIREES ~~[ANNUITANTS]~~, AND BENEFICIARIES.

18 SECTION 37. Sections 865.019(a) and (d), Government Code,
19 are amended to read as follows:

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

25 (1) the information is disclosed to:

26 (A) the individual or the individual's attorney,
27 guardian, executor, administrator, conservator, or other person

1 who the executive director determines is acting in the interest of
2 the individual or the individual's estate;

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

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

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

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

16 (d) A determination and disclosure under Subsection (a) may
17 be made without notice to the individual member, retiree
18 [~~annuitant~~], or beneficiary.

19 SECTION 38. The following provisions of the Government Code
20 are repealed:

- 21 (1) Section 861.001(2);
22 (2) Section 864.003;
23 (3) Sections 864.005(c), (e), (f), and (g); and
24 (4) Section 865.010(d).

25 SECTION 39. Section 864.005, Government Code, as amended by
26 this Act, and Section 864.0051, Government Code, as added by this
27 Act, apply only to a claim for a disability retirement benefit that

1 is filed on or after the effective date of this Act. A claim for a
2 disability retirement benefit that is filed before the effective
3 date of this Act is governed by the law in effect immediately before
4 the effective date of this Act, and the former law is continued in
5 effect for that purpose.

6 SECTION 40. Section 864.016, Government Code, as amended by
7 this Act, applies only to an application for a disability
8 retirement or death benefit that is filed on or after the effective
9 date of this Act. A claim for a disability retirement or death
10 benefit that is filed before the effective date of this Act is
11 governed by the law in effect immediately before the effective date
12 of this Act, and the former law is continued in effect for that
13 purpose.

14 SECTION 41. This Act takes effect September 1, 2019.