

1-1 By: Martinez, et al. (Senate Sponsor - Alvarado) H.B. No. 3247
 1-2 (In the Senate - Received from the House May 6, 2019;
 1-3 May 7, 2019, read first time and referred to Committee on State
 1-4 Affairs; May 19, 2019, reported favorably by the following vote:
 1-5 Yeas 8, Nays 0; May 19, 2019, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Huffman	X			
1-8 Hughes			X	
1-9 Birdwell	X			
1-10 Creighton	X			
1-11 Fallon	X			
1-12 Hall	X			
1-13 Lucio	X			
1-14 Nelson	X			
1-15 Zaffirini	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the Texas Emergency Services Retirement System.
 1-20 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-21 SECTION 1. Section 861.001, Government Code, is amended by
 1-22 amending Subdivisions (4), (5), (8), (10), and (11-a) and adding
 1-23 Subdivisions (6-a), (6-b), (8-a), (8-b), and (10-a) to read as
 1-24 follows:
 1-25 (4) "Dependent" means an unmarried child, natural or
 1-26 adopted, who:
 1-27 (A) is less than 18 years of age;
 1-28 (B) is less than 19 years of age and a full-time
 1-29 student at an elementary or secondary school; or
 1-30 (C) became permanently disabled before the
 1-31 child's 22nd birthday, as determined by the executive director ~~and~~
 1-32 ~~remains disabled~~.
 1-33 (5) "Emergency services" means only those services
 1-34 relating to fire, rescue, ~~and~~ emergency medical services, and
 1-35 emergency response services ~~[including support services for those~~
 1-36 ~~duties, performed by a volunteer or auxiliary employee of a~~
 1-37 ~~participating department]~~.
 1-38 (6-a) "Governing body of a department" or "governing
 1-39 body of a participating department" means:
 1-40 (A) the board of trustees or other governing body
 1-41 of the department; or
 1-42 (B) if the department does not have a governing
 1-43 body, the governing body of the political subdivision.
 1-44 (6-b) "Governing body of a political subdivision"
 1-45 means the governing body of the political subdivision or unit of
 1-46 government of which the department is a part.
 1-47 (8) "Member" means a person having membership
 1-48 ~~[volunteer or auxiliary employee who participates]~~ in the pension
 1-49 system under Section 862.002.
 1-50 (8-a) "Participating department" means a department
 1-51 that elects to participate in the pension system under Section
 1-52 862.001.
 1-53 (8-b) "Participating department head" means the
 1-54 person designated as a participating department head under Section
 1-55 865.0115.
 1-56 (10) "Qualified service" means service performed:
 1-57 (A) for a participating department that ~~[is~~
 1-58 ~~recognized as an emergency services department by its governing~~
 1-59 ~~body and that]~~ conducts at least 48 hours of training in a calendar
 1-60 year; and
 1-61 (B) ~~[that is performed]~~ by a member in good

2-1 standing in the department who:

2-2 (i) attends at least 20 hours of annual
2-3 training and at least 25 percent of the department's emergencies in
2-4 a calendar year;

2-5 (ii) attends at least 20 hours of annual
2-6 training and provides support services for at least 25 percent of
2-7 the department's emergencies in a calendar year; or

2-8 (iii) does not attend because the member is
2-9 absent because of military duty.

2-10 (10-a) "Retiree" means a person who receives a service
2-11 or disability retirement benefit from the pension system.

2-12 (11-a) "Support services" means services that
2-13 directly assist in the delivery of emergency services. The term
2-14 includes:

2-15 (A) directing traffic at an emergency scene;

2-16 (B) ~~dispatching emergency services~~
2-17 personnel;

2-18 (C) ~~driving an emergency services vehicle;~~

2-19 (D) ~~supplying or maintaining equipment at an~~
2-20 emergency scene;

2-21 (E) ~~providing essential recordkeeping for a~~
2-22 participating department; ~~and~~

2-23 (F) other similar services as determined by a
2-24 participating department.

2-25 SECTION 2. Section 861.008, Government Code, is amended to
2-26 read as follows:

2-27 Sec. 861.008. IMMUNITY FROM LIABILITY. The state board,
2-28 the executive director, a local board, each participating
2-29 department head, and employees of the pension system are not liable
2-30 for any action taken or omission made or suffered by them in good
2-31 faith in the performance of any duty or prerogative in connection
2-32 with the administration of the pension system.

2-33 SECTION 3. Section 862.001, Government Code, is amended to
2-34 read as follows:

2-35 Sec. 862.001. PARTICIPATION BY DEPARTMENT. (a) For
2-36 purposes of this section, "department" means a department or other
2-37 organization that:

2-38 (1) performs emergency services, including a
2-39 volunteer fire department, as defined by Section 614.101; and

2-40 (2) is not a for-profit entity.

2-41 (a-1) The governing body of a department ~~[that performs~~
2-42 ~~emergency services]~~ may, in the manner provided for taking official
2-43 action by the body, elect to participate in the pension system. The
2-44 [A] governing body of a department shall notify the executive
2-45 director as soon as practicable of an election made under this
2-46 subsection. Except as provided by Subsection (b), an election to
2-47 participate under this subsection is irrevocable.

2-48 (b) The state board may adopt rules that allow the governing
2-49 body of a participating department to revoke its ~~[that makes an]~~
2-50 election to participate in the pension system under Subsection
2-51 (a-1) in a manner that maintains an actuarially sound ~~[(a) may~~
2-52 ~~terminate participation in the]~~ pension system ~~[not later than the~~
2-53 ~~fifth anniversary of the date of the election to participate,~~
2-54 ~~except that a department that begins participation after September~~
2-55 ~~1, 2005, may not terminate that participation].~~

2-56 SECTION 4. Section 862.002, Government Code, is amended to
2-57 read as follows:

2-58 Sec. 862.002. MEMBERSHIP BY INDIVIDUAL. (a) Except as
2-59 otherwise provided by this section and Section 862.0021, each
2-60 person who performs emergency services or, subject to Section
2-61 862.0025, support services ~~[service]~~ as a volunteer or ~~[auxiliary]~~
2-62 employee of a participating department, regardless of whether the
2-63 person receives compensation from the participating department for
2-64 the services, is a member of the pension system.

2-65 (b) A person is not a member of the pension system if the
2-66 person:

2-67 (1) is less than 18 years of age;

2-68 (2) is subject to ~~[in]~~ a waiting ~~[probationary]~~ period
2-69 under Section 862.0021 ~~[of service before becoming a regular member]~~

3-1 ~~of a participating department]~~ for which the governing body of the
 3-2 political subdivision [department] is not making contributions
 3-3 during the waiting period [for the service];

3-4 (3) does not receive a certification of physical
 3-5 fitness or assignment to perform support services under Section
 3-6 862.003; or

3-7 (4) is a retiree [retired under this subtitle],
 3-8 regardless of whether the person continues to perform emergency or
 3-9 support services [participate in emergency service-related
 3-10 functions] for a department [from which the person retired].

3-11 SECTION 5. Section 862.0021, Government Code, is amended to
 3-12 read as follows:

3-13 Sec. 862.0021. WAITING [PROBATIONARY] PERIOD BEFORE
 3-14 MEMBERSHIP. (a) A participating department may impose a waiting
 3-15 [probationary] period for a person who is eligible to perform or who
 3-16 is training to perform emergency services or, subject to Section
 3-17 862.0025, support services as a volunteer or [auxiliary] employee
 3-18 of the department during which time the department is not required
 3-19 to enroll the person as a member of the pension system.

3-20 (b) A waiting [probationary] period imposed under this
 3-21 section must end not later than six months after the date the person
 3-22 begins service or training with the participating department.

3-23 (c) The governing body of a political subdivision may, but
 3-24 [participating department] is not required to, pay contributions
 3-25 for the person during the waiting [probationary] period.

3-26 (d) A person's membership in the pension system begins on
 3-27 the date that the governing body of a political subdivision
 3-28 [department] begins payment of contributions for that person,
 3-29 without regard to whether the:

3-30 (1) person's membership in the pension system
 3-31 [service] is subject to a waiting [probationary] period under this
 3-32 section; or

3-33 (2) person is subject to a probationary period imposed
 3-34 by a participating department for other purposes.

3-35 SECTION 6. Sections 862.0025(a) and (c), Government Code,
 3-36 are amended to read as follows:

3-37 (a) Except as provided by Subsection (b), the governing body
 3-38 of a participating department may, at any time, make an election to
 3-39 include all persons who provide support services for the department
 3-40 as members of the pension system [on the same terms as all other
 3-41 volunteers of the department]. An election under this section
 3-42 takes effect on the first day of the calendar month that begins
 3-43 after the month in which the election is made and communicated to
 3-44 the executive director. Once made, an election under this section
 3-45 is irrevocable.

3-46 (c) After an election under this section, a participating
 3-47 department that previously did not enroll its support staff as
 3-48 members of the pension system may purchase service credit for
 3-49 service performed before the date of the election under the terms
 3-50 required for prior service credit for service before departmental
 3-51 participation under Section 863.004.

3-52 SECTION 7. Section 862.003, Government Code, is amended to
 3-53 read as follows:

3-54 Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A
 3-55 person who performs emergency services for a participating
 3-56 department [prospective member] shall present to the participating
 3-57 department [local] head [of the department, for delivery to the
 3-58 local board,] a certification of physical fitness by a qualified
 3-59 physician. [The person becomes a member of the pension system if
 3-60 the local board accepts the certification or if the local board
 3-61 assigns the person to perform support services and enrolls its
 3-62 support staff as members of the system.]

3-63 (b) If a participating department provides membership to a
 3-64 person who performs support services under Section 862.0025, the
 3-65 participating department head [A local board] shall assign a person
 3-66 to perform support services if the person:

3-67 (1) does not present an acceptable certification under
 3-68 Subsection (a); or

3-69 (2) will only perform support services for the

4-1 ~~department [and the person is at least 18 years of age, is not~~
 4-2 ~~retired from the pension system, and is not serving a probationary~~
 4-3 ~~period before becoming a regular member of a participating~~
 4-4 ~~department].~~

4-5 SECTION 8. Section 863.003, Government Code, is amended to
 4-6 read as follows:

4-7 Sec. 863.003. RECOGNITION [TRANSFER] OF PRIOR SERVICE
 4-8 CREDIT. A member who terminates service, except by service
 4-9 retirement under Chapter 864, and later resumes service with the
 4-10 same participating department or begins service with another
 4-11 participating department may receive service credit for [transfer]
 4-12 all previously accrued service credit in the pension system earned
 4-13 for service with any participating [to the new] department.

4-14 SECTION 9. Chapter 863, Government Code, is amended by
 4-15 adding Section 863.0045 to read as follows:

4-16 Sec. 863.0045. SERVICE CREDIT AND MEMBERSHIP IN MULTIPLE
 4-17 PUBLIC RETIREMENT SYSTEMS. In accordance with Section 67(a)(2),
 4-18 Article XVI, Texas Constitution, a person may not earn service
 4-19 credit for the same service with the pension system and another
 4-20 public retirement system.

4-21 SECTION 10. Section 863.005, Government Code, is amended to
 4-22 read as follows:

4-23 Sec. 863.005. CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS.
 4-24 The state board by rule may impose an interest charge on
 4-25 contributions due because of a correction of an error [~~by a local~~
 4-26 ~~board~~] related to enrollment or qualified service. The charge must
 4-27 be based on the pension system's current assumed rate of return.
 4-28 Charges collected shall be deposited in the fund.

4-29 SECTION 11. Section 864.001(b), Government Code, is amended
 4-30 to read as follows:

4-31 (b) The state board may change the benefit formula for any
 4-32 person who is not a retiree [~~an annuitant~~] of the pension system.

4-33 SECTION 12. Section 864.002(a), Government Code, is amended
 4-34 to read as follows:

4-35 (a) A service retirement annuity is payable in monthly
 4-36 installments based on:

4-37 (1) the [~~governing body's~~] average monthly
 4-38 contribution during the member's term of qualified service with all
 4-39 participating departments under this subtitle, not including a
 4-40 contribution to reduce the unfunded accrued actuarial liability of
 4-41 the pension system; and

4-42 (2) a formula adopted by the state board by rule that
 4-43 allows the pension system, assuming maximum state contributions are
 4-44 provided under Section 865.015, to be maintained as actuarially
 4-45 sound.

4-46 SECTION 13. Section 864.004, Government Code, is amended to
 4-47 read as follows:

4-48 Sec. 864.004. TEMPORARY DISABILITY RETIREMENT BENEFITS.

4-49 (a) A member is entitled to disability retirement benefits from the
 4-50 pension system only if a local board determines that the member
 4-51 became disabled during the performance of emergency services or
 4-52 support services [service duties] and is unable to return to work at
 4-53 the member's regular occupation or, if the member is a student, is
 4-54 unable to return to the member's scholastic studies. A disabled
 4-55 member must, at the time of disability, elect between a service
 4-56 retirement annuity or disability retirement benefits, if eligible
 4-57 for both.

4-58 (b) Subject to Subsection (c), a [A disabled] member
 4-59 described by Subsection (a) who does not elect to receive a service
 4-60 retirement annuity is entitled to a temporary disability retirement
 4-61 benefit [benefits] of:

4-62 (1) \$300 per [a] month; or

4-63 (2) a greater amount that the state board by rule
 4-64 adopts based on the monthly contributions made for the members by
 4-65 the governing body of the political subdivision [of a participating
 4-66 department for its members].

4-67 (c) Except as provided by Section 864.005, a temporary [To
 4-68 continue to receive] disability retirement benefit under [benefits
 4-69 in the form of a continuing annuity, computed in the manner

5-1 ~~described by~~ Subsection (b) must cease on the expiration of a
 5-2 period, not to exceed one year, determined to be the likely duration
 5-3 of the disability by a physician in a written statement to the local
 5-4 board. The local board shall select the physician making a
 5-5 determination under this subsection~~[, a person who is determined by~~
 5-6 ~~a local board to be temporarily disabled must:~~

5-7 ~~[(1) apply to the medical board appointed by the state~~
 5-8 ~~board; and~~

5-9 ~~[(2) not later than the first anniversary of the date~~
 5-10 ~~the person was determined to be temporarily disabled, be certified~~
 5-11 ~~by the medical board as permanently disabled for the performance of~~
 5-12 ~~the duties of the person's regular occupation].~~

5-13 SECTION 14. Sections 864.005(a), (b), (d), and (h),
 5-14 Government Code, are amended to read as follows:

5-15 (a) A local board may ~~[shall]~~ require a member who is
 5-16 receiving a temporary disability retirement benefit ~~[benefits]~~ to
 5-17 file a disability rating report every three months from a physician
 5-18 chosen by the local board. If a report indicates a significant
 5-19 improvement in condition, the local board, after notice and a
 5-20 hearing, may adopt an order to terminate temporary disability
 5-21 retirement benefit payments. The local board shall send a copy of
 5-22 each order adopted under this subsection to the executive director.

5-23 (b) Temporary disability benefits cease if:

5-24 (1) the recipient returns to work at the person's
 5-25 regular occupation, resumes scholastic studies, or performs
 5-26 emergency services or support services ~~[service duties]~~ for any
 5-27 participating department or other entity; or

5-28 (2) ~~[agency, or if]~~ the local board adopts an order
 5-29 under Subsection (d).

5-30 (d) If the local board has reason to believe that a ground
 5-31 for termination of temporary disability retirement benefits
 5-32 exists, the local board may set a date for a hearing on the matter.
 5-33 The local board, after notice and a hearing, may adopt an order
 5-34 terminating temporary disability retirement benefits if the local
 5-35 board determines that a ground for termination exists. The local
 5-36 board may not adopt an order under this subsection on the basis of a
 5-37 physician's previously submitted statement as to the likely
 5-38 duration of the disability if the local board determines, after a
 5-39 hearing, that the disability continues. The local board shall send
 5-40 a copy of each order adopted under this subsection to the executive
 5-41 director.

5-42 (h) A ~~[The state board or a]~~ local board may require
 5-43 financial information from a person as a condition to the continued
 5-44 receipt of temporary disability retirement benefits, including
 5-45 federal income tax returns and wage earning forms. Failure to
 5-46 timely provide requested information is a ground for terminating
 5-47 benefits.

5-48 SECTION 15. Chapter 864, Government Code, is amended by
 5-49 adding Section 864.0051 to read as follows:

5-50 Sec. 864.0051. CONTINUING DISABILITY RETIREMENT BENEFITS.

5-51 (a) To receive disability retirement benefits in the form of a
 5-52 continuing annuity provided beyond the time prescribed under
 5-53 Section 864.005, a person who has been determined by a local board
 5-54 to be temporarily disabled must:

5-55 (1) not later than the first anniversary of the date
 5-56 the person was determined to be temporarily disabled, apply to the
 5-57 state board in the manner and form prescribed by the state board;
 5-58 and

5-59 (2) be certified by the medical board designated by
 5-60 the state board under Section 865.020 as permanently disabled for
 5-61 the performance of the duties of any occupation:

5-62 (A) for which the person is reasonably suited by
 5-63 education, training, and experience; and

5-64 (B) that could reasonably be expected to provide
 5-65 the person with at least 75 percent of the salary the person was
 5-66 earning at the time the disability occurred.

5-67 (b) The amount of a continuing disability retirement
 5-68 annuity under this section is determined in the same manner as for a
 5-69 temporary disability retirement benefit under Section 864.004(b).

6-1 (c) Except as otherwise provided by this section, a
 6-2 continuing disability retirement annuity terminates on the fifth
 6-3 anniversary of the date that payment of the continuing disability
 6-4 retirement annuity begins following the certification of the
 6-5 continuation of the disability under Subsection (a).

6-6 (d) To continue receiving payments of a continuing
 6-7 disability retirement annuity after the fifth anniversary, the
 6-8 retiree must be recertified as permanently disabled by the medical
 6-9 board every five years using the same standard prescribed by
 6-10 Subsection (a)(2).

6-11 (e) Payments of a continuing disability retirement annuity
 6-12 to a retiree certified by the medical board as permanently disabled
 6-13 under Subsection (a) or (d) shall cease if the retiree:

6-14 (1) returns to work at any occupation that provides
 6-15 the person with at least 75 percent of the salary the person was
 6-16 earning at the time the disability occurred;

6-17 (2) performs emergency services or support services
 6-18 for any participating department; or

6-19 (3) rejects a suitable offer of employment, as
 6-20 determined by the local board.

6-21 (f) If the state board has reason to believe that a ground
 6-22 for termination of a continuing disability retirement annuity
 6-23 exists, the state board shall set a date for a hearing on the
 6-24 continuation or termination of the annuity. If the state board
 6-25 determines that a ground for termination exists, the state board,
 6-26 after notice and a hearing, shall adopt an order terminating the
 6-27 continuing disability retirement annuity.

6-28 (g) The state board may require financial information,
 6-29 including federal income tax returns and wage earning forms, from a
 6-30 retiree as a condition of the continued receipt of continuing
 6-31 disability retirement benefits. Failure to timely provide
 6-32 requested information is a ground for terminating benefits.

6-33 SECTION 16. Section 864.006, Government Code, is amended to
 6-34 read as follows:

6-35 Sec. 864.006. MEMBER SERVICE DEATH BENEFITS. (a) The
 6-36 surviving spouse and dependents of a member who dies as a result of
 6-37 performing emergency services or support services [~~service duties~~]
 6-38 are entitled to receive in equal shares a death benefit annuity
 6-39 equal to the service retirement annuity that the decedent would
 6-40 have been entitled to receive if the decedent had been able to
 6-41 retire, vested at 100 percent, on the date of the decedent's death.

6-42 (b) The beneficiary of a member who dies as a result of
 6-43 performing emergency services or support services [~~service duties~~]
 6-44 is entitled to a lump-sum benefit of \$5,000 or a greater amount that
 6-45 the state board provides by rule.

6-46 SECTION 17. Sections 864.007(a) and (b), Government Code,
 6-47 are amended to read as follows:

6-48 (a) The state board by rule may provide one or more
 6-49 beneficiaries of a deceased member whose death did not result from
 6-50 the performance of emergency services or support services [~~service~~
 6-51 ~~duties~~] a benefit, which may be a lump-sum amount or an annuity.

6-52 (b) A rule adopted under this section must include the type
 6-53 of eligible recipient of the benefit, including any service or age
 6-54 requirement, and the method of calculating the amount of the
 6-55 benefit. A rule may include any other terms the state board
 6-56 considers appropriate.

6-57 SECTION 18. Section 864.010, Government Code, is amended to
 6-58 read as follows:

6-59 Sec. 864.010. BENEFITS FOR MEMBERS AND RETIREES OF
 6-60 DEPARTMENT THAT WITHDRAWS FROM PARTICIPATION OR CEASES TO EXIST.

6-61 (a) The executive director shall continue to administer benefits
 6-62 of the pension system for members and retirees who performed
 6-63 emergency services or support services [~~perform service~~]
 6-64 formerly participating department that has withdrawn from
 6-65 participation in the pension system or has ceased to exist.

6-66 (b) The governing body of a political subdivision [~~in which~~
 6-67 ~~a department described by Subsection (a) is or was located~~] shall
 6-68 perform the duties required of a local board for the members and
 6-69 retirees who served for the formerly participating department. The

7-1 state board may by rule:

7-2 (1) provide a procedure under which the governing body
7-3 of a department may delegate its duties under this subsection to the
7-4 executive director; or

7-5 (2) appoint the executive director to perform the
7-6 duties of a governing body of a political subdivision if the
7-7 governing body fails to perform or delegate its duties under this
7-8 subsection within a prescribed period of time.

7-9 SECTION 19. Section 864.011, Government Code, is amended to
7-10 read as follows:

7-11 Sec. 864.011. FIRST PAYMENT OF RETIREMENT OR DEATH BENEFIT
7-12 ANNUITY. The cashing or depositing of the first payment of a
7-13 service retirement annuity, disability retirement annuity, or
7-14 death benefit annuity by a person entitled to it, or the receipt by
7-15 a financial institution for credit to that person's account of a
7-16 transfer of funds by the pension system through electronic means,
7-17 is considered acceptance of the amount of the annuity and of the
7-18 amount of qualified service of the person on whose service the
7-19 annuity is based.

7-20 SECTION 20. Section 864.013, Government Code, is amended to
7-21 read as follows:

7-22 Sec. 864.013. COST-OF-LIVING INCREASE. The state board by
7-23 rule may provide a cost-of-living increase for any benefit provided
7-24 by the pension system. If benefits are increased, the state board
7-25 shall require an increase in monthly [~~governing body~~] contributions
7-26 if necessary to maintain an actuarially sound pension system.

7-27 SECTION 21. Section 864.0135, Government Code, is amended
7-28 to read as follows:

7-29 Sec. 864.0135. OPTIONAL ANNUITY INCREASE OR SUPPLEMENTAL
7-30 PAYMENTS. (a) The state board by rule may authorize the governing
7-31 body of a participating department to:

7-32 (1) make one or more supplemental payments to its
7-33 retirees and [~~other~~] beneficiaries of the pension system; or

7-34 (2) provide an increase in the amount of annuities
7-35 paid to retirees and [~~other~~] beneficiaries of the pension system.

7-36 (b) The governing body of a [A] participating department
7-37 that elects an option under a rule adopted under this section shall
7-38 fund all increased benefits that are provided to its retirees and
7-39 [~~other~~] beneficiaries of the pension system [~~department~~] under the
7-40 option.

7-41 SECTION 22. The heading to Section 864.015, Government
7-42 Code, is amended to read as follows:

7-43 Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR
7-44 RETIREE [~~ANNUITANT~~].

7-45 SECTION 23. Sections 864.015(a), (b), and (d), Government
7-46 Code, are amended to read as follows:

7-47 (a) A benefit payable on the death of a member or retiree
7-48 [~~annuitant~~] may not be paid to a person convicted of causing that
7-49 death but instead is payable as if the convicted person had
7-50 predeceased the decedent.

7-51 (b) The pension system is not required to change the
7-52 recipient of benefits under this section unless it receives actual
7-53 notice of the conviction of a beneficiary. The system may delay
7-54 payment of a benefit payable on the death of a member or retiree
7-55 [~~annuitant~~] pending the results of a criminal investigation and of
7-56 legal proceedings relating to the cause of death.

7-57 (d) For the purposes of this section, a person has been
7-58 convicted of causing the death of a member or retiree [~~annuitant~~] if
7-59 the person:

7-60 (1) pleads guilty or nolo contendere to, or is found
7-61 guilty by a court of, an offense at the trial of which it is
7-62 established that the person's intentional, knowing, or reckless act
7-63 or omission resulted in the death of a person who was a member or
7-64 retiree [~~annuitant~~], regardless of whether sentence is imposed or
7-65 probated; and

7-66 (2) has no appeal of the conviction pending and the
7-67 time provided for appeal has expired.

7-68 SECTION 24. Section 864.016, Government Code, is amended by
7-69 amending Subsections (a), (b), (c), (d), and (e) and adding

8-1 Subsection (a-1) to read as follows:

8-2 (a) An application [~~A claim~~] for disability retirement
 8-3 benefits or a [~~lump-sum~~] death benefit must be filed with the local
 8-4 board. [~~A claim for service retirement benefits must be filed with~~
 8-5 ~~the executive director, who shall forward the claim to the~~
 8-6 ~~appropriate local board for a hearing. A claim for a death benefit~~
 8-7 ~~annuity must be filed with the executive director. The executive~~
 8-8 ~~director shall make a determination of the merits of the claim for a~~
 8-9 ~~death benefit annuity and issue a decision to the claimant.] On~~

8-10 receiving an application [~~a claim~~] under this subsection [~~section~~],
 8-11 the local board shall hold a hearing to decide the merits of the
 8-12 application and whether to approve or deny the application [~~claim~~].
 8-13 The local board shall send a written copy of its decision to the
 8-14 claimant, [~~and~~] the applicant, and the executive director. [~~If a~~
 8-15 ~~local board does not determine a claim for service retirement~~
 8-16 ~~benefits and file its determination with the executive director~~
 8-17 ~~before the 16th day after the date the local board receives the~~
 8-18 ~~claim, the executive director may determine the merits of the~~
 8-19 ~~claim.]~~

8-20 (a-1) A claim for a service retirement annuity must be filed
 8-21 with the executive director.

8-22 (b) A person aggrieved by a decision of a local board or of
 8-23 the executive director relating to eligibility for or the amount of
 8-24 benefits under this subtitle may appeal the decision to the state
 8-25 board.

8-26 (c) An appeal of a local board or executive director
 8-27 decision under this section is begun by delivering a notice of
 8-28 appeal to the presiding officer or secretary of the local board that
 8-29 made the decision or to the executive director, as applicable. The
 8-30 notice must be delivered not later than the 20th day after the date
 8-31 of the decision and contain a brief description of the reasons for
 8-32 the appeal. The aggrieved person must file a copy of the notice
 8-33 with the state board.

8-34 (d) An appeal of a local board or executive director
 8-35 decision under this section is held in Austin and is a contested
 8-36 case under Chapter 2001, conducted as a de novo hearing by the State
 8-37 Office of Administrative Hearings.

8-38 (e) After a hearing under Subsection (d), the state board
 8-39 shall decide each appeal from a local board or executive director
 8-40 decision, issue a written opinion, and notify the local board or
 8-41 executive director, as applicable, and the claimant if the state
 8-42 board overrules the [local board's] decision.

8-43 SECTION 25. Section 865.001, Government Code, is amended by
 8-44 amending Subsection (b) and adding Subsection (b-1) to read as
 8-45 follows:

8-46 (b) Except as provided by Subsection (b-1), at [At] least
 8-47 five trustees must be active members of the pension system, one of
 8-48 whom must represent emergency medical services personnel.

8-49 (b-1) If there are no participating departments in the
 8-50 pension system that provide emergency medical services, the
 8-51 governor is not required to appoint a trustee to represent
 8-52 emergency medical services personnel.

8-53 SECTION 26. Section 865.006, Government Code, is amended by
 8-54 amending Subsection (a) and adding Subsection (d) to read as
 8-55 follows:

8-56 (a) The state board shall employ a certified public
 8-57 accountant, an actuary, and an investment consultant for the fund
 8-58 and may acquire computer, custodial, or investment management
 8-59 services for the fund. The costs of accounting, actuarial,
 8-60 investment consulting, computer, custodial, or investment
 8-61 management services and other administrative expenses may be paid
 8-62 from income earned by investment of the fund. No portion of the
 8-63 corpus or income of the fund may be used for purposes other than the
 8-64 benefit of members, retirees [~~retired emergency services~~
 8-65 ~~personnel~~], and their beneficiaries.

8-66 (d) The state board is responsible for seeking and
 8-67 recovering any benefits fraudulently acquired from the pension
 8-68 system. If the state board suspects fraud has occurred, the state
 8-69 board shall notify the appropriate local board and the benefit

9-1 recipient and hold a hearing to determine whether fraud has
 9-2 occurred. If, after the hearing, the state board determines that
 9-3 benefits from the pension system have been or are being
 9-4 fraudulently acquired, the state board shall seek appropriate
 9-5 relief.

9-6 SECTION 27. Section 865.007(c), Government Code, is amended
 9-7 to read as follows:

9-8 (c) The state board or the executive director may accept on
 9-9 behalf of the pension system gifts of money or other property from
 9-10 any public or private source. Money received under this subsection
 9-11 shall be deposited into the fund.

9-12 SECTION 28. Section 865.0095(a), Government Code, is
 9-13 amended to read as follows:

9-14 (a) The state board, by a majority vote of all members,
 9-15 shall appoint a person other than a member of the state board to
 9-16 serve at the state board's will as executive director.

9-17 SECTION 29. Section 865.010, Government Code, is amended by
 9-18 adding Subsection (e) to read as follows:

9-19 (e) Not later than the 30th day after the date the executive
 9-20 director receives from a participating department head notice of a
 9-21 change in the membership records of the participating department,
 9-22 the executive director shall notify the presiding officer of the
 9-23 local board of the participating department of the change.

9-24 SECTION 30. Sections 865.011(a) and (b), Government Code,
 9-25 are amended to read as follows:

9-26 (a) The executive director may at any reasonable time
 9-27 examine the:

- 9-28 (1) records and accounts of a local board; and
 9-29 (2) membership records of a participating department
 9-30 head [boards].

9-31 (b) The executive director shall:

- 9-32 (1) require in a timely manner periodic reports from
 9-33 participating department heads and [the] local boards; and
 9-34 (2) [shall] prepare necessary forms for use by
 9-35 participating departments and local boards.

9-36 SECTION 31. Chapter 865, Government Code, is amended by
 9-37 adding Sections 865.0115 and 865.0116 to read as follows:

9-38 Sec. 865.0115. PARTICIPATING DEPARTMENT HEAD. (a) Except
 9-39 as provided by Subsection (b), the chief, designated leader, or
 9-40 other executive head of a participating department is the
 9-41 participating department head.

9-42 (b) Subject to the approval of the executive director, the
 9-43 governing body of a participating department may designate a
 9-44 participating department head.

9-45 Sec. 865.0116. PARTICIPATING DEPARTMENT HEAD'S DUTIES. The
 9-46 participating department head:

- 9-47 (1) is responsible for:
 9-48 (A) enrolling new members in the pension system;

9-49 and

- 9-50 (B) maintaining current and accurate membership
 9-51 records; and

9-52 (2) shall provide information to the pension system
 9-53 related to changes in the membership records of the participating
 9-54 department in the time and manner prescribed by the pension system.

9-55 SECTION 32. Sections 865.012(a), (a-1), and (c), Government
 9-56 Code, are amended to read as follows:

9-57 (a) A local board is composed of:

9-58 (1) one trustee selected by the governing body of the
 9-59 political subdivision [~~of which a participating department is a~~
 9-60 ~~part~~];

9-61 (2) except as provided by Subsection (a-1), three
 9-62 trustees who are active members representing a participating
 9-63 department chosen by a majority of the members [~~emergency services~~
 9-64 ~~personnel~~] in the department [~~who are eligible to participate in~~
 9-65 ~~the pension system~~]; and

9-66 (3) two trustees who are representatives of the
 9-67 political subdivision or unit of government who are chosen by the
 9-68 other members of the local board.

9-69 (a-1) If a participating department does not have a

10-1 sufficient number of active members to serve on a local board under
 10-2 Subsection (a)(2), the other members of the local board, or if there
 10-3 are no other members of the local board, the governing body of the
 10-4 political subdivision [~~of which the department is a part~~] shall
 10-5 select one or more trustees to serve under that subsection
 10-6 [~~subdivision~~]. A person selected under this subsection to serve as
 10-7 a trustee must be:

10-8 (1) a retiree of the pension system; or

10-9 (2) a beneficiary of the pension system who is the
 10-10 surviving spouse of a former member or retiree.

10-11 (c) A local board shall hold not fewer than two [~~four~~]
 10-12 meetings a year under Chapter 551.

10-13 SECTION 33. Chapter 865, Government Code, is amended by
 10-14 adding Section 865.0121 to read as follows:

10-15 Sec. 865.0121. DELEGATION OF LOCAL BOARD DUTIES. The state
 10-16 board by rule may adopt a procedure by which the duties of a local
 10-17 board may be delegated to the executive director if:

10-18 (1) trustees of the local board have not been
 10-19 appointed under Section 865.012(a) or (a-1); or

10-20 (2) the local board fails to perform its duties under
 10-21 this subtitle within a reasonable time, as determined by the board,
 10-22 including failure to hold the minimum number of meetings each year
 10-23 required by Section 865.012(c).

10-24 SECTION 34. Sections 865.014(a), (c), and (d), Government
 10-25 Code, are amended to read as follows:

10-26 (a) The [~~Each~~] governing body of a political subdivision [~~of~~
 10-27 ~~which a participating department is a part~~] shall contribute for
 10-28 each member performing emergency services or support services for
 10-29 the participating department for each month of service beginning on
 10-30 the date that the member enters the pension system at a rate
 10-31 determined in accordance with Subsection (b) and may make
 10-32 additional contributions as determined by the governing body of the
 10-33 political subdivision. The pension system may collect from [~~If the~~
 10-34 ~~participating department is located in more than one political~~
 10-35 ~~subdivision,~~] the governing body [~~bodies~~] of the political
 10-36 subdivision any contributions the governing body fails to make
 10-37 under this section and associated interest accrued in accordance
 10-38 with Subsection (c). The pension system [~~subdivisions~~] shall
 10-39 deposit interest collected under this section into the fund
 10-40 [contribute equally for each member for each month of service].

10-41 (c) Contributions required as provided by this section
 10-42 shall be paid at the times and in the manner that the state board
 10-43 prescribes by rule. Contributions required by this section shall
 10-44 be submitted by electronic funds transfer, by wire transfer, or as
 10-45 an automated clearinghouse withdrawal (ACH debit) unless the
 10-46 executive director grants an exception based on the difficulty of
 10-47 the [~~a participating department's~~] use of those payment methods.
 10-48 Contributions that are not paid within the time required by the
 10-49 state board accrue interest at the most recent assumed actuarial
 10-50 rate of return on investments of the fund.

10-51 (d) The state board may by rule require a monthly
 10-52 contribution be made by the governing bodies of [~~from~~] political
 10-53 subdivisions that do not participate in the pension system but
 10-54 whose employees or former employees are members or retirees of the
 10-55 pension system in an amount necessary to pay the expenses of
 10-56 administering benefits for those persons.

10-57 SECTION 35. Section 865.017(b), Government Code, is amended
 10-58 to read as follows:

10-59 (b) The pension system may not begin service or disability
 10-60 retirement annuity or death benefit payments based on the service
 10-61 of a person whose local board or participating department head is
 10-62 not current in its filing of a required periodic report.

10-63 SECTION 36. The heading to Section 865.019, Government
 10-64 Code, is amended to read as follows:

10-65 Sec. 865.019. CONFIDENTIALITY OF INFORMATION ABOUT
 10-66 MEMBERS, RETIREES [~~ANNUITANTS~~], AND BENEFICIARIES.

10-67 SECTION 37. Sections 865.019(a) and (d), Government Code,
 10-68 are amended to read as follows:

10-69 (a) Information contained in records that are in the custody

11-1 of the pension system concerning an individual member, retiree
11-2 [~~annuitant~~], or beneficiary is confidential under Section 552.101
11-3 and may not be disclosed in a form identifiable with a specific
11-4 individual unless:

11-5 (1) the information is disclosed to:

11-6 (A) the individual or the individual's attorney,
11-7 guardian, executor, administrator, conservator, or other person
11-8 who the executive director determines is acting in the interest of
11-9 the individual or the individual's estate;

11-10 (B) a spouse or former spouse of the individual
11-11 after the executive director determines that the information is
11-12 relevant to the spouse's or former spouse's interest in member
11-13 accounts, benefits, or other amounts payable by the pension system;

11-14 (C) a governmental official or employee after the
11-15 executive director determines that disclosure of the information
11-16 requested is reasonably necessary to the performance of the duties
11-17 of the official or employee; or

11-18 (D) a person authorized by the individual in
11-19 writing to receive the information; or

11-20 (2) the information is disclosed under a subpoena and
11-21 the executive director determines that the individual will have a
11-22 reasonable opportunity to contest the subpoena.

11-23 (d) A determination and disclosure under Subsection (a) may
11-24 be made without notice to the individual member, retiree
11-25 [~~annuitant~~], or beneficiary.

11-26 SECTION 38. The following provisions of the Government Code
11-27 are repealed:

11-28 (1) Section 861.001(2);

11-29 (2) Section 864.003;

11-30 (3) Sections 864.005(c), (e), (f), and (g); and

11-31 (4) Section 865.010(d).

11-32 SECTION 39. Section 864.005, Government Code, as amended by
11-33 this Act, and Section 864.0051, Government Code, as added by this
11-34 Act, apply only to a claim for a disability retirement benefit that
11-35 is filed on or after the effective date of this Act. A claim for a
11-36 disability retirement benefit that is filed before the effective
11-37 date of this Act is governed by the law in effect immediately before
11-38 the effective date of this Act, and the former law is continued in
11-39 effect for that purpose.

11-40 SECTION 40. Section 864.016, Government Code, as amended by
11-41 this Act, applies only to an application for a disability
11-42 retirement or death benefit that is filed on or after the effective
11-43 date of this Act. A claim for a disability retirement or death
11-44 benefit that is filed before the effective date of this Act is
11-45 governed by the law in effect immediately before the effective date
11-46 of this Act, and the former law is continued in effect for that
11-47 purpose.

11-48 SECTION 41. This Act takes effect September 1, 2019.

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