

## **BILL ANALYSIS**

Senate Research Center  
86R20983 KFF-F

H.B. 3247  
By: Martinez et al. (Alvarado)  
State Affairs  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

H.B. 3247 proposes to reduce the administrative burden placed on volunteer fire departments and their local boards by the current pension system's governing statutes. Interested parties note that routine business transactions within the department such as enrolling and reviewing retirement applications does not occur in a timely manner. This is because it is often difficult to plan a local board meeting around board members' schedules and comply with quorum and posting requirement of the Open Meetings Act. Thus, changes to laws governing the Texas Emergency Services Retirement System (TESRS) are needed to address administrative issues, provide for greater participation, and eliminate gaps in coverage.

H.B. 3247 seeks to address this issue by updating statutory language and providing clarification in those laws in order to protect the actuarial soundness of TESRS and provide members with a better, more flexible TESRS.

H.B. 3247 amends current law relating to the Texas Emergency Services Retirement System.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the state board of the Texas Emergency Retirement System in SECTION 3 (Section 862.001, Government Code), SECTION 10 (Section 863.005, Government Code), SECTION 13 (Section 864.004, Government Code), SECTION 15 (Section 864.0051, Government Code), SECTION 16 (Section 864.006, Government Code), SECTION 17 (Section 864.007, Government Code), SECTION 18 (Section 864.010, Government Code), SECTION 21 (Section 804.0135, Government Code), SECTION 33 (Section 865.0201, Government Code), and SECTION 344 (Section 865.014, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 861.001, Government Code, by amending Subdivisions (4), (5), (8), (10), and (11-a) and adding Subdivisions (6-a), (6-b), (8-a), (8-b), and (10-a), as follows:

(4) Redefines "dependent" to mean an unmarried child, natural or adopted, who:

(A)-(B) makes no changes to these paragraphs; or

(C) became permanently disabled before the child's 22nd birthday, as determined by the executive director of the Texas Emergency Services Retirement System (executive director; TESRS), rather than became disabled before the child's 22nd birthday, and remains disabled.

(5) Redefines "emergency services" to mean only those services relating to fire, rescue, emergency medical services, and emergency response services, rather than only those services relating to fire, rescue, and emergency medical services, including support services for those duties, performed by a volunteer or auxiliary employee of a participating department.

(6-a) Defines "governing body of a department" and "governing body of a participating department."

(6-b) Defines "governing body of a political subdivision."

(8) Redefines "member" to mean a person having membership in TESRS under Section 862.002 (Membership By Individual), rather than a volunteer or auxiliary employee who participates in TESRS.

(8-a) Defines "participating department."

(8-b) Defines "participating department head."

(10) Redefines "qualified service" to mean service performed, rather than service:

(A) for a participating department that conducts at least 48 hours of training in a calendar year, rather than for a participating department that is recognized as an emergency services department by its governing body and that conducts at least 48 hours of training in a calendar year; and

(B) by a member in good standing in the department who, rather than that is performed by a member in good standing in the department who, attends certain training.

(10-a) Defines "retiree."

(11-a) Redefines "support services" and provides that the term includes:

(A)-(E) creates these paragraphs from existing text and makes nonsubstantive changes; and

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

SECTION 2. Amends Section 861.008, Government Code, as follows:

Sec. 861.008. IMMUNITY FROM LIABILITY. Provides that the state board of trustees of TESRS (state board), the executive director, a local board of trustees (local board), each participating department head, and employees of TESRS, rather than the state board, the executive director, and employees of TESRS, are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty or prerogative in connection with the administration of TESRS.

SECTION 3. Amends Section 862.001, Government Code, as follows:

Sec. 862.001. PARTICIPATION BY DEPARTMENT. (a) Defines "department" for purposes of this section.

(a-1) Creates this subsection from existing text and makes conforming and nonsubstantive changes.

(b) Authorizes the state board to adopt rules that allow the governing body of a participating department to revoke its election to participate in TESRS under Subsection (a-1) in a manner that maintains an actuarially sound pension system, rather than prohibiting the governing body of a department that makes an election under Subsection (a) (relating to authorizing the governing body of a department that performs emergency services to, in the manner provided for taking official action by the body, elect to participate in TESRS) to terminate participation in TESRS not later than the fifth anniversary of the date of the election to participate, except that a department that begins participation after September 1, 2005, is prohibited from terminating that participation.

SECTION 4. Amends Section 862.002, Government Code, as follows:

Sec. 862.002. MEMBERSHIP BY INDIVIDUAL. (a) Provides that, except as otherwise provided by this section and Section 862.0021 (Probationary Period Before Membership), each person who performs emergency services or, subject to Section 862.0025 (Membership By Support Staff), support services as a volunteer or employee of a participating department, regardless of whether the person receives compensation from the participating department for the services, is a member of TESRS, rather than providing that, except as otherwise provided by this section and Section 862.0021, each person who performs service as a volunteer or auxiliary employee of a participating department, is a member of the pension system.

(b) Provides that a person is not a member of TESRS if the person:

(1) makes no changes to this subdivision;

(2) is subject to a waiting period under Section 862.0021 for which the governing body of the political subdivision is not making contributions during the waiting period, rather than is in a probationary period of service before becoming a regular member of a participating department for which the department is not making contributions for the service;

(3) makes no changes to this subdivision; or

(4) is a retiree, regardless of whether the person continues to perform emergency or support services for a department, rather than is retired under this subtitle (Texas Emergency Services Retirement System), regardless of whether the person continues to participate in emergency service-related functions for a department from which the person retired.

SECTION 5. Amends Section 862.0021, Government Code, as follows:

Sec. 862.0021. New heading: WAITING PERIOD BEFORE MEMBERSHIP. (a) Authorizes a participating department to impose a waiting period for a person who is eligible to perform or who is training to perform emergency services or, subject to Section 862.0025, support services as a volunteer or employee of the department during which time the department is not required to enroll the person as a member of TESRS, rather than authorizing a participating department to impose a probationary period for a volunteer or auxiliary employee.

(b) Requires a waiting period imposed under this section to end not later than six months after the date the person begins service or training with the participating department, rather than requiring a probationary period imposed under this section to end not later than six months after the date the person begins service with the participating department.

(c) Authorizes, but does not require, the governing body of a political subdivision to pay contributions for the person during the waiting period, rather than providing that participating department is not required to pay contributions for the person during the probationary period.

(d) Creates Subdivisions (1)–(2) from existing text and makes nonsubstantive changes. Provides that a person's membership in TESRS begins on the date that the governing body of a political subdivision begins payment of contributions for that person, rather than providing that a person's membership in TESRS begins on the date that the department begins payment of contributions for that person, without regard to whether the:

(1) person's membership in TESRS is subject to a waiting period under this section, rather than person's service is subject to a probationary period for other purposes; or

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

SECTION 6. Amends Sections 862.0025(a) and (c), Government Code, as follows:

(a) Authorizes the governing body of a participating department, except as provided by Subsection (b) (relating to providing that, if participating department has, before September 1, 2009, enrolled persons who perform support services for the department as members of TESRS, all persons who perform those services for the department are members of the system), to, at any time, make an election to include all persons who provide support services for the department as members of TESRS, rather than authorizing the governing body of a participating department, except as provided by Subsection (b), to make an election to include all persons who provide support services for the department as members of TESRS on the same terms as all other volunteers of the department.

(c) Authorizes a participating department that previously did not enroll its support staff as members of TESRS, after the election under this section, to purchase service credit for service performed before the date of the election under the terms required for prior service credit for service before departmental participation under Section 863.004 (Prior Service of Member Before Departmental Participation), rather than to purchase service credit performed before the date of the election under the terms required for prior service credit for service before departmental participation.

SECTION 7. Amends Section 862.003, Government Code, as follows:

Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. Requires a person who performs emergency services for a participating department to present to the participating department head a certification of physical fitness by a qualified physician, rather than requiring a prospective member to present to the local head of the department, for delivery to the local board, a certification of physical fitness by a qualified physician. Deletes existing text providing that the person becomes a member of TESRS if the local board accepts the certification or if the local board assigns the person to perform support services and enrolls its support staff as members of the system.

(b) Creates Subdivisions (1)–(2) from existing text and makes nonsubstantive changes. Requires the participating department head, if a participating department provides membership to a person who performs support services under Section 862.0025, to assign a person to perform support services if the person, rather than requiring a local board to assign a person to perform support services if the person:

(1) does not present an acceptable certification under Subsection (a), rather than does not present an acceptable certification; or

(2) will only perform support services for the department, rather than will only perform support services for the department and the person is at least 18 years of age, is not retired from TESRS and is not serving a probationary period before becoming a regular member of a participating department.

SECTION 8. Amends Section 863.003, Government Code, as follows:

Sec. 863.003. New heading: RECOGNITION OF PRIOR SERVICE CREDIT. Authorizes a member who terminates service, except by service retirement under Chapter 864 (Benefits), and later resumes service with the same participating department or begins service with another participating department to receive service credit for all previously accrued service credit in TESRS earned for service with any participating department, rather than authorizing a member who terminates service, except by

retirement, and later resumes service with the same participating department or begins service with another participating department to transfer all previously accrued service credit to the new department.

SECTION 9. Amends Chapter 863, Government Code, by adding Section 863.0045, as follows:

Sec. 863.0045. **SERVICE CREDIT AND MEMBERSHIP IN MULTIPLE PUBLIC RETIREMENT SYSTEMS.** Prohibits a person, in accordance with Section 67(a)(2), Article XVI, Texas Constitution, from earning service credit for the same service with TESRS and another public retirement system.

SECTION 10. Amends Section 863.005, Government Code, as follows:

Sec. 863.005. **CHARGE FOR CERTAIN PAST DUE CONTRIBUTIONS.** Authorizes the state board by rule to impose an interest charge on contributions due because of a correction of an error related to enrollment or qualified service, rather than authorizing the state board by rule to impose an interest charge on contributions due because of a correction of an error by a local board related to enrollment or qualified service.

SECTION 11. Amends Section 864.001(b), Government Code, to authorize the state board to change the benefit formula for any person who is not a retiree of the pension system, rather than authorizing the state board to change the benefit formula for any person who is not an annuitant of TESRS.

SECTION 12. Amends Section 864.002(a), Government Code, as follows:

(a) Provides that a service retirement annuity is payable in monthly installments based on:

(1) the average monthly contribution during the member's term of qualified service with all participating departments under this subtitle, not including a contribution to reduce the unfunded accrued actuarial liability of TESRS, rather than the governing body's average monthly contribution during the member's term of qualified service under this subtitle, not including a contribution to reduce the unfunded accrued actuarial liability of TESRS; and

(2) makes no changes to this subdivision.

SECTION 13. Amends Section 864.004, Government Code, as follows:

Sec. 864.004. **New heading: TEMPORARY DISABILITY RETIREMENT BENEFITS.**

(a) Provides that a member is entitled to disability retirement benefits from TESRS only if a local board determines that the member became disabled during the performance of emergency services or support services, rather than emergency service duties, and is unable to return to work at the member's regular occupation or, if the member is a student, is unable to return to the member's scholastic studies.

(b) Creates Subdivisions (1)–(2) from existing text and makes nonsubstantive changes. Provides that, subject to Subsection (c), a member described by Subsection (a) who does not elect to receive a service retirement annuity is entitled to a temporary disability retirement benefit, rather than providing that a disabled member described by Subsection (a) who does not elect to receive a service retirement annuity is entitled to disability retirement benefits, of:

(1) \$300 per month; or

(2) a greater amount that the state board by rule adopts based on the monthly contributions made for the members by the governing body of the political subdivision, rather than a greater amount that the state board by

rule adopts based on monthly contributions of a participating department for its members.

(c) Requires a temporary disability retirement benefit under Subsection (b), except as provided by Section 864.005, to cease on the expiration of a period, not to exceed one year, determined to be the likely duration of the disability by a physician in a written statement to the local board, rather than requiring a person who is determined by a local board to be temporarily disabled, to continue to receive disability retirement benefits in the form of a continuing annuity, computed in the manner described by Subsection (b), to apply to the medical board appointed by the state board and, not later than the first anniversary of the date the person was determined to be temporarily disabled, be certified by the medical board as permanently disabled for the performance of the duties of the person's regular occupation. Requires a local board to select the physician making a determination under this subsection.

SECTION 14. Amends Sections 864.005(a), (b), (d), and (h), Government Code, as follows:

(a) Authorizes a local board to require a member who is receiving a temporary disability retirement benefit to file a disability rating report every three months from a physician chosen by the local board, rather than requiring a local board to require a member who is receiving a temporary disability benefits to file a disability rating report every three months from a physician chosen by the local board. Makes a conforming change.

(b) Creates Subdivisions (1)–(2) from existing text and makes a nonsubstantive change. Provides that temporary disability benefits cease if:

(1) the recipient returns to work at the person's regular occupation, resumes scholastic studies, or performs emergency services or support services for any participating department or other entity, rather than the recipient returns to work at the person's regular occupation, resumes scholastic studies, or performs emergency service duties for any agency; or

(2) the local board adopts an order under Subsection.

(d) Authorizes the local board, if the local board has reason to believe that a ground for termination of temporary disability retirement benefits, rather than temporary benefits, exists, to set a date for a hearing on the matter. Authorizes the local board, after notice and a hearing, to adopt an order terminating temporary disability retirement benefits.

(h) Authorizes a local board, rather than the state board or a local board, to require financial information from a person as a condition to the continued receipt of temporary disability retirement benefits, rather than disability retirement benefits, including federal income tax returns and wage earning forms.

SECTION 15. Amends Chapter 864, Government Code, by adding Section 864.0051, as follows:

Sec. 864.0051. CONTINUING DISABILITY RETIREMENT BENEFITS. (a) Requires a person who has been determined by a local board to be temporarily disabled to receive disability retirement benefits in the form of a continuing annuity provided beyond the time prescribed under Section 864.005, to:

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

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

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

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

(b) Provides that the amount of a continuing disability retirement annuity under this section is determined in the same manner as for a temporary disability retirement benefit under Section 864.004(b) (relating to providing that a disabled member who does not elect to receive a service retirement annuity is entitled to disability retirement benefits of \$300 a month or a greater amount that the state board by rule adopts based on monthly contributions of a participating department for its members).

(c) Provides that, except as otherwise provided by this section, a continuing disability retirement annuity terminates on the fifth anniversary of the date that payment of the continuing disability retirement annuity begins following the certification of the continuation of the disability under Subsection (a).

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

(e) Requires payments of a continuing disability retirement annuity to a retiree certified by the medical board as permanently disabled under Subsection (a) or (d) to cease if the retiree:

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

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

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

(f) Requires the state board, if the state board has reason to believe that a ground for termination of a continuing disability retirement annuity exists, to set a date for a hearing on the continuation or termination of the annuity. Requires the state board, if the state board determines that a ground for termination exists, after notice and a hearing, to adopt an order terminating the continuing disability retirement annuity.

(g) Authorizes the state board to require financial information, including federal income tax returns and wage earning forms, from a retiree as a condition of the continued receipt of continuing disability retirement benefits. Provides that failure to timely provide requested information is a ground for terminating benefits.

SECTION 16. Amends Section 864.006, Government Code, as follows:

Sec. 864.006. MEMBER SERVICE DEATH BENEFITS. (a) Provides that the surviving spouse and dependents of a member who dies as a result of performing emergency services or support services, rather than as a result of performing emergency service duties, are entitled to certain death benefits.

(b) Provides that the beneficiary of a member who dies as a result of performing emergency services or support services, rather than emergency service duties, is

entitled to a lump-sum benefit of \$5,000 or a greater amount that the state board provides by rule.

SECTION 17. Amends Sections 864.007(a) and (b), Government Code, as follows:

(a) Authorizes the state board by rule to provide one or more beneficiaries of a deceased member whose death did not result from the performance of emergency services or support services, rather than emergency service duties, a benefit, which is authorized to be a lump-sum amount or an annuity.

(b) Makes a nonsubstantive change to this subsection.

SECTION 18. Amends Section 864.010, Government Code, as follows:

Sec. 864.010. **BENEFITS FOR MEMBERS AND RETIREES OF DEPARTMENT THAT WITHDRAWS FROM PARTICIPATION OR CEASES TO EXIST.** (a) Requires the executive director to continue to administer benefits of TESRS for members and retirees who performed emergency services or support services, rather than who perform services, for a formerly participating department that has withdrawn from participation in TESRS or has ceased to exist.

(b) Requires the governing body of a political subdivision, rather than the governing body of a political subdivision in which a department described by Subsection (a) is or was located, to perform the duties required of a local board for the members and retirees who served for the formerly participating department. Authorizes the state board to by rule:

(1) provide a procedure under which the governing body of a department is authorized to delegate its duties under this subsection to the executive director; or

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

SECTION 19. Amends Section 864.011, Government Code, as follows:

Sec. 864.011. **FIRST PAYMENT OF RETIREMENT OR DEATH BENEFIT ANNUITY.** Provides that the cashing or depositing of the first payment of a service retirement annuity, disability retirement annuity, or death benefit annuity by a person entitled to it, or the receipt by a financial institution for credit to that person's account of a transfer of funds by TESRS through electronic means, is considered acceptance of the amount of the annuity and of the amount of qualified service of the person on whose service the annuity is based.

SECTION 20. Amends Section 864.013, Government Code, as follows:

Sec. 864.013. **COST-OF-LIVING INCREASE.** Requires the state board, if benefits are increased, to require an increase in monthly contributions, rather than in governing body contributions, if necessary to maintain an actuarially sound pension system.

SECTION 21. Amends Section 864.0135, Government Code, as follows:

Sec. 864.0135. **OPTIONAL ANNUITY INCREASE OR SUPPLEMENTAL PAYMENTS.** (a) Authorizes the state board by rule to authorize the governing body of a participating department to, rather than authorizing the state board by rule to authorize a participating department to:

(1) make one or more supplemental payments to its retirees and beneficiaries of TESRS, rather than make one or more supplemental payments to retirees and other beneficiaries of TESRS;

(2) provide an increase in the amount of annuities paid to retirees and beneficiaries of TESRS, rather than to retirees and other beneficiaries of TESRS.

(b) Makes a nonsubstantive change. Requires the governing body of a participating department that elects an option under a rule adopted under this section to fund all increased benefits that are provided to its retirees and beneficiaries of TESRS under the option, rather than requiring a participating department that elects an option under a rule adopted under this section to fund all increased benefits that are provided to retirees and other beneficiaries of the department under the option.

SECTION 22. Amends the heading to Section 864.015, Government Code, to read as follows:

Sec. 864.015. BENEFICIARY CAUSING DEATH OF MEMBER OR RETIREE.

SECTION 23. Amends Sections 864.015(a), (b), and (d), Government Code, as follows:

(a) Provides that a benefit payable on the death of a member or retiree, rather than a member or annuitant, is prohibited from being paid to a person convicted of causing that death but instead is payable as if the convicted person had predeceased the decedent.

(b) Authorizes TESRS to delay payment of a benefit payable on the death of a member or retiree, rather than a member or annuitant, pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(d) Makes conforming changes to this subsection.

SECTION 24. Amends Section 864.016, Government Code, by amending Subsections (a), (b), (c), (d), and (e) and adding Subsection (a-1), as follows:

(a) Requires an application for disability retirement benefits or a death benefit to be filed with the local board, rather than requiring a claim for disability retirement benefits or a lump-sum death benefit to be filed with the local board. Deletes existing text requiring a claim for service retirement benefits to be filed with the executive director, who is required to forward the claim to the appropriate local board for a hearing. Deletes existing text requiring a claim for a death benefit annuity to be filed with the executive director. Deletes existing text requiring the executive director to make a determination of the merits of the claim for a death benefit annuity and issue a decision to the claimant. Requires the local board, on receiving an application under this subsection, to hold a hearing to decide the merits of the application and whether to approve or deny the application, rather than requiring the local board, on receiving a claim under this section, to hold a hearing to decide the claim. Requires the local board to send a written copy of its decision to the claimant, the applicant, and the executive director, rather than requiring the local board to send a written copy of its decision to the claimant and the executive director. Deletes existing text authorizing the executive director, if a local board does not determine a claim for service retirement benefits and file its determination with the executive director before the 16th day after the date the local board receives the claim, to determine the merits of the claim.

(a-1) Requires a claim for a service retirement annuity to be filed with the executive director.

(b) Authorizes a person aggrieved by a decision of a local board or of the executive director, rather than of a local board, relating to eligibility for or the amount of benefits under this subtitle to appeal the decision to the state board.

(c) Provides that an appeal of a local board or executive director decision, rather than a local board decision, under this section is begun by delivering a notice of appeal to the presiding officer or secretary of the local board that made the decision or to the executive director, as applicable, rather than to the presiding officer or secretary of the local board that made the decision.

(d) Makes a conforming change to this subsection.

(e) Requires the state board, after a hearing under Subsection (d), to decide each appeal from a local board or executive director decision, issue a written opinion, and notify the local board or executive director, as applicable, and the claimant if the state board overrules the decision, rather than requiring the state board, after a hearing under Subsection (d), to decide each appeal from a local board decision, issue a written opinion, and notify the local board and the claimant if the state board overrules the local board's decision.

SECTION 25. Amends Section 865.001, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

(b) Creates an exception under Subsection (b-1) to the requirement of at least three trustees, except as provided by Subsection (b-1), to be active members of TESRS, one of whom must represent emergency medical services personnel.

(b-1) Provides that, if there are no participating departments in TESRS that provide emergency medical services, the governor is not required to appoint a trustee to represent emergency medical services personnel.

SECTION 26. Amends Section 865.006, Government Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Establishes that no portion of the corpus or income of the fund is authorized to be used for purposes other than the benefit of members, retirees, and their beneficiaries, rather than the benefit of members, retired emergency services personnel, and their beneficiaries.

(d) Provides that the state board is responsible for seeking and recovering any benefits fraudulently acquired from TESRS. Requires the state board, if the state board suspects fraud has occurred, to notify the appropriate local board and the benefit recipient and hold a hearing to determine whether fraud has occurred. Requires the state board, if, after the hearing, the state board determines that benefits from TESRS have been or are being fraudulently acquired, to seek appropriate relief.

SECTION 27. Amends Section 865.007(c), Government Code, to require money accepted on behalf of TESRS to be deposited into the Texas emergency services retirement fund.

SECTION 28. Amends Section 865.0095(a), Government Code, to make nonsubstantive changes.

SECTION 29. Amends Section 865.010, Government Code, by adding Subsection (e) to require the executive director, not later than the 30th day after the date the executive director receives from a participating department head notice of a change in the membership records of the participating department, to notify the presiding officer of the local board of the participating department of the change.

SECTION 30. Amends Sections 865.011(a) and (b), Government Code, as follows:

(a) Creates Subdivision (1) from existing text and makes nonsubstantive changes. Authorizes the executive director to at any reasonable time examine the:

- (1) records and accounts of a local board; and
- (2) membership records of a participating department head.

(b) Creates Subdivisions (1) and (2) from existing text. Requires the executive director to:

- (1) require in a timely manner periodic reports from participating department heads and local boards, rather than require in a timely manner periodic reports from the local boards; and
- (2) prepare necessary forms for use by participating departments and local boards, rather than prepare necessary forms for use by local boards.

SECTION 31. Amends Chapter 865, Government Code, by adding Sections 865.0115 and 865.0116, as follows:

Sec. 865.0115. PARTICIPATING DEPARTMENT HEAD. (a) Provides that, except as provided by Subsection (b), the chief, designated leader, or other executive head of a participating department is the participating department head.

(b) Authorizes the governing body of a participating department, subject to the approval of the executive director, to designate a participating department head.

Sec. 865.0116. PARTICIPATING DEPARTMENT HEAD'S DUTIES. Provides that the participating department head:

- (1) is responsible for:
  - (A) enrolling new members in TESRS; or
  - (B) maintaining current and accurate membership records; and
- (2) is required to provide information to TESRS related to changes in the membership records of the participating department in the time and manner prescribed by the pension system.

SECTION 32. Amends Sections 865.012(a), (a-1), and (c), Government Code, as follows:

(a) Provides that a local board is composed of:

- (1) one trustee selected by the governing body of the political subdivision, rather than one trustee selected by the governing body of the political subdivision of which a participating department is a part;
- (2) except as provided by Subsection (a-1), three trustees who are active members representing a participating department chosen by a majority of the members in the department, rather than by a majority of the emergency services personnel in the department who are eligible to participate in TESRS; and
- (3) two trustees who are representatives of the political subdivision or unit of government who are chosen by the other members of the local board, rather than two trustees who are representatives of the political subdivision who are chosen by the other members of the local board.

(a-1) Requires the other members of the local board, or if there are no other members of the local board, the governing body of the political subdivision, if a participating department does not have a sufficient number of active members to serve on a local board under Subsection (a)(2), to select one or more trustees to serve under that subsection, rather than requiring the other members of the local board, or if there are no other members of the local board, the governing body of the political subdivision of which the

department is a part, if a participating department does not have a sufficient number of active members to serve on a local board under Subsection (a)(2), to select one or more trustees to serve under that subdivision.

(c) Requires a local board to hold not fewer than two, rather than four, meetings a year under Chapter 551 (Open Meetings).

SECTION 33. Amends Chapter 865, Government Code, by adding Section 865.0121, as follows:

Sec. 865.0121. DELEGATION OF LOCAL BOARD DUTIES. Authorizes the state board by rule to adopt a procedure by which the duties of a local board are authorized to be delegated to the executive director if:

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

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

SECTION 34. Amends Sections 865.014(a), (c), and (d), Government Code, as follows:

(a) Requires the governing body of a political subdivision to contribute for each member performing emergency services or support services for the participating department for each month of service beginning on the date that the member enters the pension system at a rate determined in accordance with Subsection (b) and authorizes the governing body of a political subdivision to make additional contributions as determined by the governing body of the political subdivision, rather than providing that each governing body of a political subdivision of which a participating department is a part is required to contribute for each member for each month of service beginning on the date that the member enters the pension system at a rate determined in accordance with Subsection (b) and is authorized to make additional contributions as determined by the political subdivision. Authorizes TESRS to collect from the governing body of the political subdivision any contributions the governing body fails to make under this section and associated interest accrued in accordance with Subsection (c), rather than requiring the governing bodies of the political subdivisions, if the participating department is located in more than one political subdivision, to contribute equally for each member for each month of service.

(c) Requires contributions required by this section to be submitted by electronic funds transfer, by wire transfer, or as an automated clearinghouse withdrawal (ACH debit) unless the executive director grants an exception based on the difficulty of the use of those payment methods, rather than requiring contributions required by this section to be submitted by electronic funds transfer, by wire transfer, or as an ACH debit unless the executive director grants an exception based on the difficulty of a participating department's use of those payment methods.

(d) Authorizes the state board to by rule require a monthly contribution be made by the governing bodies of political subdivisions, rather than a monthly contribution from political subdivisions, that do not participate in TESRS but whose employees or former employees are members or retirees of the pension system in an amount necessary to pay the expenses of administering benefits for those persons.

SECTION 35. Amends Section 865.017(b), Government Code, to prohibit TESRS from beginning service or disability retirement annuity or death benefit payments based on the service of a person whose local board or participating department head is not current, rather than whose local board is not current, in its filing of a required periodic report.

SECTION 36. Amends the heading to Section 865.019, Government Code, to read as follows:

Sec. 865.019. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, AND BENEFICIARIES.

SECTION 37. Amends Sections 865.019(a) and (d), Government Code, as follows:

(a) Provides that information contained in records that are in the custody of TESRS concerning an individual member, retiree, rather than annuitant, or beneficiary is confidential under Section 552.101 (Exception: Confidential Information) and is prohibited from being disclosed in a form identifiable with a specific individual with certain exceptions.

(d) Authorizes a determination and disclosure under Subsection (a) to be made without notice to the individual member, retiree, rather than annuitant, or beneficiary.

SECTION 38. Repealer: Section 861.001(2) (defining "auxiliary employee"), Government Code.

Repealer: Section 864.003, (Service Retirement Benefits From More Than One Department), Government Code.

Repealer: Section 864.005(c) (relating to providing that temporary disability benefits cease on a date at the expiration of a period, not to exceed one year, determined to be the likely duration of the disability by a physician in a written statement to TESRS), Government Code.

Repealer: Section 864.005(e) (relating to providing that payments of a continuing disability retirement annuity to a retiree certified by the medical board as permanently disabled cease if the retiree returns to work at the retiree's regular employment or performs emergency service duties), Government Code.

Repealer: Section 864.005(f) (relating to requiring the state board, if the state board has reason to believe that a ground for termination of a continuing disability retirement annuity exists, to set a date for a hearing on continuation or termination of the annuity), Government Code.

Repealer: Section 864.005(g) (relating to providing that a continuing disability retirement annuity terminates on the fifth anniversary of the date payment of the annuity begins), Government Code.

Repealer: Section 865.010(d) (relating to providing that the state board is responsible for recovering any fraudulently acquired benefits), Government Code.

SECTION 39. Makes application of Section 864.005, Government Code, as amended by this Act, and Section 864.0051, Government Code, as added by this Act, prospective.

SECTION 40. Makes application of Section 864.016, Government Code, as amended by this Act, prospective.

SECTION 41. Effective date: September 1, 2019.