

AMENDED IN ASSEMBLY JUNE 11, 2007

SENATE BILL

No. 581

**Introduced by Senator Wiggins
(Coauthor: Senator Ducheny)**

*(Coauthors: Assembly Members Berg, Berryhill, Davis, Dymally, Evans,
Jeffries, and Keene)*

February 22, 2007

An act to amend Section 20230 of, *to add Section 16641.5 to, to add Article 7 (commencing with Section 50980) to Chapter 4.5 of Part 1 of Division 1 of Title 5 of,* and to repeal and add Chapter 4.5 (commencing with Section 50950) of Part 1 of Division 1 of Title 5 of, the Government Code, relating to firefighters.

LEGISLATIVE COUNSEL'S DIGEST

SB 581, as amended, Wiggins. Firefighters: volunteer firefighters length of service awards.

(1) The Public Employees' Retirement Law provides retirement benefits for state employees and public employees of local agencies that contract for retirement benefits with the Board of Administration of the Public Employees' Retirement System. Under that law, data filed by a member or beneficiary with the board of administration is confidential and shall not be divulged unless a specified exception applies.

This bill would require the Board of Administration of the Public Employees' Retirement System to *divulge and transfer, upon request* ~~of~~ to the board of the California State Fire Employees Welfare Benefit Corporation; data and files of the members ~~subject to that act that is in the possession of the board of administration of the Volunteer Firefighter Length of Service Award Act, and to divulge and transfer data and files~~

that are necessary to effect the transfer of the administration of the Volunteer Firefighters Length of Service Award System from the Board of Administration of the Public Employees' Retirement System to the board of the California State Fire Employees Welfare Benefit Corporation.

(2) Existing law establishes the Volunteer Firefighters Length of Service Award Act and authorizes local agencies with regularly organized fire departments to contract with the Board of Administration of the Public Employees' Retirement System to make the volunteer firefighters of those local agencies members of the service award system. Under existing law, a volunteer firefighter subject to the service award system is entitled to an award upon attaining 60 years of age and accruing a minimum of 10 years of length of service award credit, and not to exceed 20 years of length of service award credit. Under existing law, all moneys received pursuant to these provisions are deposited in the Volunteer Firefighters Length of Service Award Fund, a continuously appropriated fund in the State Treasury.

This bill would repeal these provisions, *effective March 1, 2008*, and instead authorize those local agencies with regularly organized fire departments to contract with the board of the California State Fire Employees Welfare Benefit Corporation to make the volunteer firefighters of those local agencies members of the service award system. The bill would require that board to maintain a plan pursuant to specified provisions of the Internal Revenue Code and to select a financial institution or other qualified entity to act as trustee and establish a trust for the award system, as specified. The bill would provide that the representatives on the board administer the award system subject to specified fiduciary duties and for the exclusive purpose of providing benefits to members of the award system. The bill would also require the board to adopt rules and regulations to administer the award system, including, but not limited to, eligibility requirements for membership in the award system, requirements for a member to receive an award, and the amount of an award payable under the act.

This bill would further require a volunteer firefighter who is a member of the award system and the members of the qualifications review commission, as specified, to certify, under penalty of perjury, that the volunteer firefighter has actively participated in specified fire department activities. By creating a new crime, the bill would create a state-mandated local program.

(3) Existing law requires the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members, officers, and employees of, and investment managers under contract with, the Board of Administration of the Public Employees' Retirement System by reason of any decision to restrict, reduce, or eliminate specified investments.

This bill would require the state to indemnify, from the General Fund, and hold harmless the present, former, and future board members, officers, and employees of the Board of Administration of the Public Employees' Retirement System as a result of the transfer of the award system to the board of the California State Fire Employees Welfare Benefit Corporation.

~~(3)~~

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16641.5 is added to the Government Code,
2 to read:

3 16641.5. Present, future, and former board members of the
4 Public Employees' Retirement System, jointly and individually,
5 and state officers and employees, shall be indemnified from the
6 General Fund and held harmless by the State of California from
7 all claims, demands, suits, actions, damages, judgments, costs,
8 charges, and expenses, including, but not limited to, court costs
9 and attorney's fees, and against all liability, losses, and damages
10 of any nature whatsoever that these present, future, or former
11 board members, officers, and employees shall or may at any time
12 sustain as a result of the transfer of the Volunteer Firefighters
13 Length of Service Award System as described in Chapter 4.5
14 (commencing with Section 50950).

15 SECTION 1.

16 SEC. 2. Section 20230 of the Government Code is amended
17 to read:

1 20230. (a) Data filed by a member or beneficiary with the
2 board is confidential, and an individual record shall not be divulged
3 by an official or employee having access to it to a person other
4 than the member to whom the information relates or his or her
5 authorized representative, the contracting agency or school district
6 by which he or she is employed, any state department or agency,
7 or the university. The information shall be used by the board for
8 the sole purpose of carrying into effect the provisions of this part.
9 Information that is requested for retirement purposes by a public
10 agency shall be treated as confidential by the agency.

11 (b) The gross amount of a benefit or refund of a retirement
12 system contribution due to a member or beneficiary is not
13 confidential and may be released upon request to the board.

14 (c) The board may seek reimbursement for reasonable
15 administrative expenses incurred when providing that information.
16 Except as provided by this section, no member's, beneficiary's,
17 or annuitant's address, home telephone number, or other personal
18 information shall be released.

19 (d) For purposes of this section, "authorized representative"
20 includes the spouse or beneficiary of a member when no contrary
21 appointment has been made and when, in the opinion of the board,
22 the member is prevented from appointing an authorized
23 representative because of mental or physical incapacity or death.

24 ~~(e) Notwithstanding subdivision (a), the board shall transfer,~~
25 ~~upon request of a board described in subdivision (f) of Section~~
26 ~~50952, data and files in the possession of the board relating to~~
27 ~~members of the Volunteer Firefighters Length of Service Award~~
28 ~~Act previously administered by the board.~~

29 *(e) Notwithstanding subdivision (a), the Board of Administration*
30 *of the Public Employees' Retirement System shall, on or before*
31 *January 31, 2008, do both of the following:*

32 *(1) Divulge and transfer to the board of the California State*
33 *Fire Employees Welfare Benefit Corporation data and files that*
34 *relate to members or beneficiaries who participate in the Volunteer*
35 *Firefighters Length of Service Award System.*

36 *(2) Divulge and transfer data and files that are necessary to*
37 *effect the transfer of the administration of the Volunteer*
38 *Firefighters Length of Service Award System from the Board of*
39 *Administration of the Public Employees' Retirement System to the*

1 *board of the California State Fire Employees Welfare Benefit*
2 *Corporation.*

3 ~~SEC. 2. Chapter 4.5 (commencing with Section 50950) of Part~~
4 ~~1 of Division 1 of Title 5 of the Government Code is repealed.~~

5 SEC. 3. Chapter 4.5 (commencing with Section 50950) is added
6 to Part 1 of Division 1 of Title 5 of the Government Code, to read:

7

8 CHAPTER 4.5. VOLUNTEER FIREFIGHTERS LENGTH OF SERVICE
9 AWARD ACT

10

11 Article 1. General Provisions

12

13 50950. ~~It is the purpose of this chapter~~ *The Legislature finds*
14 *and declares all of the following:*

15 (a) *The Volunteer Firefighters Length of Service Award System*
16 *is not a retirement system but an incentive program for volunteer*
17 *firefighters.*

18 (b) *The purpose of the award system can be achieved more*
19 *efficiently and at a lower cost than the current program by*
20 *transferring the award system and responsibility for administering*
21 *that system from the Board of Administration of the Public*
22 *Employees' Retirement System to the board of the California State*
23 *Fire Employees Welfare Benefit Corporation.*

24 (c) *On and after March 1, 2008, the Board of Administration*
25 *of the Public Employees' Retirement System shall have no*
26 *responsibility to administer the award system and shall take no*
27 *action related to past, present, or future obligations of*
28 *administering the system. On and after that date, the Board of*
29 *Administration of the Public Employees' Retirement System shall*
30 *have no liability related to the administration of the award system.*

31 (d) *Because trust fund moneys in the award system are to be*
32 *used for the exclusive benefit of the participants in the award*
33 *system, the Board of Administration of the Public Employees'*
34 *Retirement System shall not pay or transfer any trust fund moneys*
35 *related to any claims, demands, actions, damages, judgments,*
36 *costs, charges, and expenses, including, but not limited to, court*
37 *costs and attorney's fees, regarding claims arising out of or*
38 *incurred as a result of the transfer of the award system. However,*
39 *nothing in this chapter shall prevent the Board of Administration*
40 *of the Public Employees' Retirement System from charging and*

1 *receiving administrative fees in connection with transferring the*
2 *administration of the award system from the Board of*
3 *Administration of the Public Employees' Retirement System to the*
4 *board of the California State Fire Employees Welfare Benefit*
5 *Corporation.*

6 *(e) It is the intent of the Legislature that the Board of*
7 *Administration of the Public Employees' Retirement System and*
8 *the board of the California State Fire Employees Welfare Benefit*
9 *Corporation work cooperatively with each other to transfer the*
10 *administration of the award system and establish systems and*
11 *accounts necessary to transfer participant information, assets,*
12 *and liabilities regarding the award system.*

13 *(f) The purpose of this chapter is to provide cities, counties,*
14 *cities and counties, or districts, that have fire departments with*
15 *volunteer firefighting members, the opportunity to offer these*
16 *members an award for life as an incentive. Nothing contained in*
17 *this chapter shall be deemed to supersede the provisions of existing*
18 *state law and the charters, ordinances, and rules of local public*
19 *agencies that establish and regulate the activities of these fire*
20 *departments. This chapter is intended, instead, to strengthen these*
21 *departments through the creation of an incentive for the volunteer*
22 *to respond to emergency calls and attend official department*
23 *training drills and meetings. It is the further intention of this chapter*
24 *to provide a means for local communities to bestow fitting reward*
25 *and recognition for long and faithful volunteer service.*

26 50951. (a) This chapter establishes the Volunteer Firefighters
27 Length of Service Award System and may be cited as the Volunteer
28 Firefighters Length of Service Award Act.

29 (b) ~~Enrollment~~—*Notwithstanding any other contrary law,*
30 *enrollment* for an award shall not be construed as a retirement, the
31 receipt of an award shall not be construed as the receipt of a
32 retirement allowance or benefit, and service credited under the
33 Volunteer Firefighters Length of Service Award System shall not
34 be construed as service credited to a retirement system for purposes
35 of duplicating service credit or benefits in other public retirement
36 systems.

37 50952. For the purposes of this chapter, unless the context
38 otherwise requires, the definitions set forth below shall mean the
39 following:

1 (a) “Actuarial interest rate” means the interest rate fixed by the
2 board for purposes of actuarial valuation of the assets and liabilities
3 of the award system.

4 (b) “Annual interest rate” means the interest rate fixed by the
5 board for purposes of crediting interest.

6 (c) “Award” means monthly payments for life derived from
7 contributions by a department.

8 (d) “Award recipient” means a former member who satisfied
9 all the requirements as determined by the board to be eligible to
10 receive an award, and is receiving an award.

11 (e) “Award system” means the Volunteer Firefighters Length
12 of Service Award System established by this chapter.

13 (f) “Board” means the board of the California State Fire
14 Employees Welfare Benefit Corporation.

15 (g) “Certified prior service credit” means credit for service
16 performed prior to the contract operative date as certified by a
17 qualifications review commission. That prior service shall be
18 credited in the award system to the extent that prior service
19 qualifies as certified service credit pursuant to the rules and
20 regulations established by the board.

21 (h) “Certified service credit” means credit certified pursuant to
22 Section 50960 for services rendered by a member.

23 (i) “Contract operative date” means the first day of the month
24 next following the date on which the contract becomes effective.

25 (j) “*Custodian of the fund*” means a financial institution or
26 other entity that qualifies under the laws of this state to act as a
27 trustee of and establish a trust described in Internal Revenue
28 Service Revenue Procedure 92-64.

29 (j)

30 (k) “Department” means any of the following:

31 (1) A regularly organized fire department of a city, county, city
32 and county, or district; having official recognition of the
33 government of the city, county, city and county, or district in which
34 the department is located.

35 (2) A regularly organized fire department of an unincorporated
36 town.

37 (k) “Fund” means the Volunteer Firefighters Length of Service
38 Award System Fund described in Section 50956.

1 (l) “Fund” means an account or trust described in Internal
2 Revenue Service Revenue Procedure 92-64, which is maintained
3 by the custodian of the fund.

4 ~~(t)~~

5 (m) “Member” means a volunteer of a department, the governing
6 body of which has contracted with the board under this chapter,
7 and who has been certified by a qualifications review commission
8 as having satisfied all the requirements for membership as set
9 established by the board. Membership, once established, continues
10 indefinitely until the award system is terminated and the funds
11 disbursed pursuant to 50974.

12 ~~(m)~~

13 (n) “Service credit” means the aggregate of certified service
14 credit.

15 ~~(n)~~

16 (o) “Service year” means the period beginning July 1 and ending
17 June 30 of the following year.

18 ~~(o)~~

19 (p) “Volunteer” means a person registered as a volunteer
20 member of a regularly organized fire department as defined in
21 subdivision-~~(j)~~ (k).

22

23 Article 2. Administration, Award System, and Membership

24

25 50953. (a) The award system shall be administered by the
26 board and the board shall comply with the following requirements:

27 (1) The board shall maintain a plan as described in Section
28 457(e)(11) of Title 26 of the United States Code.

29 (2) The representatives on the board shall be elected.

30 (3) The representatives on the board shall administer the award
31 system with the reasonable care, skill, prudence, and diligence
32 under the circumstances then prevailing that a prudent person
33 acting in a like capacity and familiar with the award system would
34 use in the conduct of an enterprise of a like character and with like
35 aims.

36 (4) The representatives on the board shall be subject to the
37 prudent investor standard with regard to the fund.

38 (5) The award system shall be administered for the exclusive
39 purpose of providing benefits to members of the award system.

1 ~~(6) The board shall select a financial institution or other entity~~
2 ~~that qualifies under the laws of this state to act as a trustee of and~~
3 ~~establish a trust described in Internal Revenue Service Revenue~~
4 ~~Procedure 92-64.~~

5 *(6) The board shall select a custodian of the fund, as described*
6 *in subdivision (j) of Section 50952.*

7 *(b) Notwithstanding subdivision (a), the assets of the fund*
8 *attributable to the benefit of registered volunteers of a department*
9 *are subject to the claims of creditors of the department in the case*
10 *of the insolvency of the department. The assets of the fund that are*
11 *not attributable to the benefits of registered volunteers of an*
12 *insolvent department are not subject to the claims of the creditors*
13 *of the insolvent department.*

14 ~~(b)~~

15 50954. (a) The board shall adopt rules and regulations to
16 administer the award system, including, but not limited to, all of
17 the following:

18 (1) Eligibility requirements for a member to receive an award,
19 including, but not limited to, minimum age and minimum years
20 of certified service credit.

21 (2) Eligibility requirements for a member to include certified
22 prior service credit as certified service credit in calculating the
23 amount of his or her award or to qualify for an award.

24 (3) The amount of an award payable under this chapter and any
25 cost-of-living adjustments or supplemental payments based upon
26 that award.

27 (4) Eligibility requirements for membership in the award system.

28 (5) The maximum years of certified service credit a member
29 may accrue under the award system.

30 (6) Other rules and regulations that the board determines are
31 appropriate to administer this chapter.

32 ~~(e)~~

33 (b) In addition to those powers and duties, the board shall
34 determine if participation in the award system is adequate to ~~insure~~
35 *ensure* that sufficient funds will be available for the payment of
36 awards on an actuarial reserve basis before any awards are paid.
37 If the board determines that participation in the award system is
38 inadequate to assure the financial success of the system, the board
39 may terminate the award system pursuant to Section 50974 or *may*

1 amend the award system pursuant to the rules and regulations of
2 the board.

3 ~~(d) Notwithstanding subdivision (a), the assets of the fund~~
4 ~~attributable to the benefit of registered volunteers of a department~~
5 ~~are subject to the claims of creditors of the department in the case~~
6 ~~of the insolvency of the department. The assets of the fund that~~
7 ~~are not attributable to the benefits of registered volunteers of an~~
8 ~~insolvent department are not subject to the claims of the creditors~~
9 ~~of the insolvent department.~~

10 ~~50954.~~

11 50955. (a) The board shall, from time to time, determine and
12 fix the annual interest rate and actuarial interest rate.

13 (b) The board shall keep in convenient form the data necessary
14 for the actuarial valuation of the award system. The board shall,
15 at least quadrennially, cause to be made an actuarial investigation
16 into the mortality and service experience of members and persons
17 receiving awards and an actuarial valuation of the assets and
18 liabilities of the award system.

19 (c) When there is insufficient data upon which to establish
20 mortality rates or other actuarial assumptions required to evaluate
21 the obligations of the award system, the board may adopt
22 appropriate assumptions that, upon the advice and recommendation
23 of the actuary, are necessary.

24 ~~50955.~~

25 50956. (a) On the basis of investigation and valuation, the
26 board shall adopt the mortality, service, and other tables as it deems
27 necessary, and shall make changes in the contributions required
28 from contracting departments as the board considers appropriate
29 in order to assure the actuarial soundness of this award system.

30 (b) The board shall credit all contributions of departments in
31 the fund with interest at the annual interest rate compounded at
32 each June 30.

33 (c) Data filed by a member or department with the board is
34 confidential, and no individual record shall be divulged by an
35 official or employee having access to that data to a person other
36 than the member to whom the information relates or his or her
37 authorized representative, or the department that employs the
38 member. That information shall be used by the board for the sole
39 purpose of carrying into effect the provisions of this chapter.

1 (d) Each volunteer member and department shall file with the
2 board the information and evidence as may be required by the
3 board in administration of this award system.

4 ~~50956. The custodian of the fund, subject to the exclusive
5 control of the board to administer and invest the assets of the fund,
6 shall be a financial institution eligible to establish and administer
7 a trust described in Internal Revenue Service Revenue Procedure
8 92-64. The assets in the fund shall be used to pay the costs of
9 administration and for the payment of awards under this chapter.~~

10 ~~50957. The Board of Administration of the Public Employees'
11 Retirement System shall transfer, upon request of the board, data
12 and files in the possession of the board of administration relating
13 to members of the Volunteer Firefighters Length of Service Award
14 Act previously administered by the board of administration.~~

15 *50957. The custodian of the fund shall be subject to the
16 exclusive control of the board to administer and invest the assets
17 of the fund. The assets in the fund shall be used to pay the costs
18 of administration and for the payment of awards under this chapter.*

19
20 Article 3. Service Credit and Contributions

21
22 50958. Only members may accumulate service credit in the
23 award system. A volunteer becomes a member when he or she
24 satisfies the minimum requirements for membership, as established
25 by the board, and the minimum service requirements as certified
26 by a qualifications review commission. Membership shall terminate
27 on the day prior to the effective date of an award pursuant to
28 Section 50962.

29 50959. (a) The award system shall be funded by contributions
30 paid by contracting departments and income from the fund. The
31 award system is a noncontributory system, and no contributions
32 shall be required from members of the award system.

33 (b) As determined by actuarial valuation reported to the
34 contracting department by the award system, each contracting
35 department shall make contributions annually, not later than
36 October 1 of each year, sufficient to meet the prescribed amount
37 with respect to volunteers of the contracting department, in
38 accordance with the conditions provided in its contract under the
39 award system.

1 (c) Contributions of all contracting departments shall be applied
2 by the board during each fiscal year to meet the obligations of all
3 departments collectively, pursuant to the following order:

4 (1) In an amount equal to the liabilities accruing on account of
5 awards payable on account of current service.

6 (2) The balance of contributions on any other liability incurred
7 under this chapter.

8 50960. (a) Only those volunteers who have been certified by
9 their contracting department as having satisfactorily completed a
10 service year shall be credited with current service for that year. A
11 member is not required to qualify in consecutive years.

12 (b) Members of departments contracting on or after the effective
13 date of this chapter may initially be credited with a full service
14 year if the board authorizes credit for that service and the member
15 and his or her department satisfy the other requirements established
16 by the board, including, but not limited to, certification by the
17 department's qualifications review commission.

18 (c) A satisfactory service year credit shall be determined by a
19 member's active participation in all of the following fire
20 department activities.

21 (1) Training drills.

22 (2) Responses to emergency calls.

23 (3) Attendance at official department and association meetings.

24 (d) Contracting departments shall maintain adequate records to
25 show that a credited member was a participating member of the
26 department during the year of certification. The records may
27 include, but are not limited to, the following:

28 (1) Department run logs.

29 (2) Department training records.

30 (3) Certificates of training.

31 (4) Records of exposures to hazardous products.

32 (5) Minutes of departmental or association meetings.

33 50961. (a) The governing body of each contracting department
34 shall establish a qualifications review commission that shall include
35 the fire chief, one member of the governing body appointed by the
36 governing body, and one volunteer elected by the volunteers
37 employed by the contracting department.

38 (b) The qualifications review commission shall review the list
39 of department members each year, and prior to October 1 of each
40 year shall certify to the board those volunteers who have qualified.

1 (c) In no event shall a member be credited with more than the
2 maximum number of years of service allowed in the award system,
3 as established by the rules and regulations of the board.

4 (d) With respect to each contracting department that provides
5 benefits for prior service credit, the qualifications review
6 commission shall promulgate and publish guidelines for computing
7 prior service credit. The guidelines shall require the prior service
8 credit to be verified and certified and, in the event that there are
9 no records in existence, the members of the commission and the
10 volunteer shall sign an affidavit certifying that the prior service
11 met the criteria prescribed in Section 50960. The affidavit shall
12 be signed under penalty of perjury. Thereafter, the qualifications
13 review commission shall certify to the board certified prior service
14 credit that has been earned by each member.

15 50962. When the member's application for an award is received
16 by the board, an award shall be granted to accrue and become
17 effective pursuant to the terms, conditions, and eligibility
18 requirements established by the board.

19 50963. The board shall determine the terms, conditions, and
20 eligibility requirements for all of the following:

21 (a) The amount of an award payable under the award system.

22 (b) If a member is entitled to a cost-of-living adjustment and
23 the amount of that cost-of-living adjustment.

24 (c) If a member is entitled to receive *an award* and the amounts
25 of supplemental payments based upon ~~an~~ *that* award.

26 (d) Any death benefits payable to a member's designated
27 beneficiary or the estate of the member.

28 (e) All other benefits authorized by the board under this chapter.

29
30 Article 4. Contract Provisions

31
32 50964. (a) Except as described in subdivision (b), a department
33 may participate in and make all of its volunteers members of the
34 award system by a contract entered into between the governing
35 body of the department and the board pursuant to this chapter.

36 (b) The board may prohibit a new contract with or may establish
37 terms and conditions regarding a new contract for a department
38 that has previously terminated a contract for participation under
39 this chapter.

1 50965. When the governing body of a department desires to
2 consider participation in the award system, the governing body
3 shall ask the board for a quotation of the approximate contribution
4 to the award system that would be required by the department for
5 participation in the award system.

6 50966. An employee organization, recognized under the
7 provisions of appropriate authority, may request the governing
8 body of the department to ask the board for a quotation of the
9 approximate contribution to the award system that would be
10 required of the department for participation in the award system,
11 and if the employee organization is willing to pay for the cost of
12 that quotation, the department shall make the request. The board
13 shall furnish copies of the quotation to both the department and
14 the employee organization.

15 50967. On request of the board, the department shall furnish
16 the data concerning its volunteers as the board requires to make
17 the necessary valuations and investigations into the experience
18 among the volunteers.

19 50968. The approximate contribution quoted by the board and
20 the actual contribution to be made if a contract results shall be
21 determined by actuarial valuations of the future service liability
22 under the award system, on account of the volunteers involved in
23 the computation, and in consideration of other circumstances that
24 may be adopted by the board, upon recommendation of the actuary.

25 50969. The approximate and actual contributions payable by
26 a contracting department shall be similar to premiums under
27 insurance policies. The approximate contribution quoted by the
28 board to the department is subject to the contingency that the actual
29 contribution certified by the board after the approval of a contract
30 may differ from the approximate contribution because of any of
31 the following:

32 (a) Time elapsed between the quotation and operative date of
33 the contract.

34 (b) Any changes in the facts or assumptions upon which the
35 quotation was based.

36 50970. (a) Approval of the contract by the governing body of
37 the department shall be by resolution or by any other means
38 permitted by law.

39 (b) The board shall inform the governing body of the projected
40 costs of the program.

1 50971. Errors in a contract may be corrected through
2 amendments approved by the adoption of suitable resolutions by
3 the contracting parties. All contract amendments shall be made in
4 the same manner as prescribed for the approval of the initial
5 contract.

6
7 Article 5. Termination and Limitations
8

9 50972. The contract may be terminated by the governing body
10 of a contracting department by resolution or by any other means
11 permitted by law. All liability of the department with respect to
12 its volunteer members of the award system shall cease. All moneys
13 deposited in the fund shall be held for the continued payment of
14 previously granted awards and the costs of administration.

15 50973. The board may provide that an award under this chapter
16 shall not be payable, or begin to accrue, until the board establishes,
17 by appropriate resolution, that the fund contains sufficient net
18 assets to make the payments provided by this chapter based upon
19 an actuarial reserve basis.

20 50974. Upon termination of the award system, assets in the
21 fund shall be disbursed in the following order:

22 (a) An amount sufficient to pay awards *previously granted* shall
23 be retained by the board.

24 (b) An amount sufficient to pay reasonable administrative
25 expenses shall be retained by the board.

26 (c) From any balance in the fund after the above amounts have
27 been retained or disbursed, each department's accumulated
28 contributions, less a proportionate share of the amount retained
29 for reasonable administrative expenses, less the amount retained
30 to pay awards of that department's volunteers, shall be refunded
31 to the department.

32
33 Article 6. Indemnity
34

35 50975. *Present, future, and former board members of the Public*
36 *Employees' Retirement System, jointly and individually, and state*
37 *officers and employees, shall be indemnified from the General*
38 *Fund as described in Section 16641.5 as a result of the transfer*
39 *of the award system from the Board of Administration of the Public*

1 *Employees' Retirement System to the board of the California State*
2 *Fire Employees Welfare Benefit Corporation.*
3 *50976. The Board of Administration of the Public Employees'*
4 *Retirement System shall not be liable for any action or failure to*
5 *act by the board of the California State Fire Employees Welfare*
6 *Benefit Corporation. Upon transfer of the award system, the board*
7 *of the California State Fire Employees Welfare Benefit Corporation*
8 *shall assume all responsibilities and liabilities related to the award*
9 *system.*

10 *50977. This chapter shall become operative on March 1, 2008.*

11 *SEC. 4. Article 7 (commencing with Section 50980) is added*
12 *to Chapter 4.5 of Part 1 of Division 1 of Title 5 of the Government*
13 *Code, as added by Chapter 1145 of the Statutes of 1979, to read:*

14

15 *Article 7. Transfer of the Award System*

16

17 *50980. (a) On or before March 1, 2008, the Board of*
18 *Administration of the Public Employees' Retirement System and*
19 *the board of the California State Fire Employees Welfare Benefit*
20 *Corporation shall take all steps necessary to transfer the award*
21 *system including, but not limited to, all of the following:*

22 *(1) The board of the California State Fire Employees Welfare*
23 *Benefit Corporation shall select a custodian of a fund for the*
24 *transfer of funds pursuant to Section 50981 from the Board of*
25 *Administration of the Public Employees' Retirement System and*
26 *ensure that this custodian is available to establish an account or*
27 *trust described in Internal Revenue Service Revenue Procedure*
28 *92-64 to receive those funds.*

29 *(2) Complete the transfer of the assets and liabilities of the*
30 *award system as described in Section 50981.*

31 *(3) The Board of Administration of the Public Employees'*
32 *Retirement System and the board of the California State Fire*
33 *Employees Welfare Benefit Corporation shall each provide written*
34 *notice of the transfer of the award system and when the transfer*
35 *will occur to the members of the award system, including, but not*
36 *limited to, award recipients, and departments that participate in*
37 *the award system. The notice described in this paragraph shall*
38 *include, but is not limited to, the contact information for the board*
39 *of the California State Fire Employees Welfare Benefit*
40 *Corporation, and information that the Board of Administration of*

1 *the Public Employees' Retirement System will no longer have the*
2 *responsibility to administer the award system.*

3 *(4) In addition to the notice described in paragraph (3), the*
4 *board of the California State Fire Employees Welfare Benefit*
5 *Corporation shall send written notice to members of the award*
6 *system, including, but not limited to, award recipients, and*
7 *departments that participate in the award system regarding the*
8 *revised rules, regulations, and procedures for the administration*
9 *of the award system.*

10 *(5) The board of the California State Fire Employees Welfare*
11 *Benefit Corporation shall establish administrative systems and*
12 *accounts necessary to receive participant information, assets, and*
13 *liabilities that will be transferred by the Board of Administration*
14 *of the Public Employees' Retirement System.*

15 *(b) If the transfer of the award system has not been or will not*
16 *be completed on or before March 1, 2008, the Board of*
17 *Administration of the Public Employees' Retirement System shall*
18 *terminate the award system and distribute the assets of the award*
19 *system as described in Section 50979.*

20 *50981. (a) On or before March 1, 2008, and except as*
21 *described in subdivision (b) of Section 50980, the Board of*
22 *Administration of the Public Employees' Retirement System shall*
23 *transfer any assets held for the benefit of the award system,*
24 *including, but not limited to, cash and securities, to the custodian*
25 *of a fund described in Section 50980.*

26 *(b) The Board of Administration of the Public Employees'*
27 *Retirement System may only deduct from the assets described in*
28 *subdivision (a) award benefit payments and reasonable*
29 *administrative expenses to cover the period up through the date*
30 *of the transfer.*

31 *(c) On or before March 1, 2008, the Board of Administration*
32 *of the Public Employees' Retirement System shall notify and send*
33 *any documents related to any liabilities of the award system,*
34 *including, but not limited to, claims, demands, actions, damages,*
35 *judgments, costs, charges, expenses, or obligations, to the board*
36 *of the California State Fire Employees Welfare Benefit*
37 *Corporation.*

38 *50982. (a) In order to expedite the transfer of the award system*
39 *from the Board of Administration of the Public Employees'*
40 *Retirement System to the board of the California State Fire*

1 *Employees Welfare Benefit Corporation, the board of the*
2 *California State Fire Employees Welfare Benefit Corporation*
3 *shall, to the extent necessary to transfer the award system, and*
4 *prior to March 1, 2008, comply with the following requirements:*

5 (1) *The board of the California State Fire Employees Welfare*
6 *Benefit Corporation shall maintain a plan as described in Section*
7 *457(e)(11) of Title 26 of the United States Code.*

8 (2) *The representatives on the board of the California State Fire*
9 *Employees Welfare Benefit Corporation shall be elected.*

10 (3) *The representatives on the board of the California State Fire*
11 *Employees Welfare Benefit Corporation shall administer any funds*
12 *with the reasonable care, skill, prudence, and diligence under the*
13 *circumstances then prevailing that a prudent person acting in a*
14 *like capacity would use in the conduct of an enterprise of a like*
15 *character and with like aims.*

16 (4) *The representatives on the board of the California State Fire*
17 *Employees Welfare Benefit Corporation shall be subject to the*
18 *prudent investor standard with regard to any funds.*

19 (5) *Any funds shall be administered for the exclusive benefit of*
20 *members of the award system.*

21 (6) *The board of the California State Fire Employees Welfare*
22 *Benefit Corporation shall select a financial institution or other*
23 *entity that qualifies under the laws of this state to act as a trustee*
24 *of and establish a trust described in Internal Revenue Service*
25 *Revenue Procedure 92-64.*

26 (b) *The board of the California State Fire Employees Welfare*
27 *Benefit Corporation shall adopt rules and regulations regarding*
28 *all of the following:*

29 (1) *Eligibility requirements for a member to receive an award*
30 *under the new system, including, but not limited to, minimum age*
31 *and minimum years of certified service credit.*

32 (2) *Eligibility requirements for a member to include certified*
33 *prior service credit as certified service credit in calculating the*
34 *amount of his or her award or to qualify for an award under the*
35 *new system.*

36 (3) *The amount of an award under the new system and any*
37 *cost-of-living adjustments or supplemental payments based upon*
38 *that award.*

39 (4) *Eligibility requirements for membership in the award system.*

1 (5) *The maximum years of certified service credit a member*
2 *may accrue under the award system.*

3 (6) *Other rules and regulations that the board of the California*
4 *State Fire Employees Welfare Benefit Corporation determines are*
5 *appropriate.*

6 (c) *Notwithstanding subdivision (a), the assets received from*
7 *the Board of Administration of the Public Employees' Retirement*
8 *System by the board of the California State Fire Employees Welfare*
9 *Benefit Corporation attributable to the benefit of registered*
10 *volunteers of a department are subject to the claims of creditors*
11 *of the department in the case of the insolvency of the department.*
12 *Any assets that are not attributable to the benefits of registered*
13 *volunteers of an insolvent department are not subject to the claims*
14 *of the creditors of the insolvent department.*

15 (d) *Data filed by a member or department with the board of the*
16 *California State Fire Employees Welfare Benefit Corporation is*
17 *confidential, and no individual record shall be divulged by an*
18 *official or employee having access to that data to a person other*
19 *than the member to whom the information relates or his or her*
20 *authorized representative, or the department that employs the*
21 *member.*

22 (e) *The custodian of a fund described in Section 50980, subject*
23 *to the exclusive control of the board of the California State Fire*
24 *Employees Welfare Benefit Corporation to administer and invest*
25 *the assets of the new system fund, shall be a financial institution*
26 *eligible to establish and administer a trust described in Internal*
27 *Revenue Service Revenue Procedure 92-64. The assets in a fund*
28 *for the new system shall be used to pay the costs of administration*
29 *and for the payment of awards under the new system.*

30 50983. *Present, future, and former board members of the Public*
31 *Employees' Retirement System, jointly and individually, and state*
32 *officers and employees, shall be indemnified from the General*
33 *Fund as described in Section 16641.5 as a result of the transfer*
34 *of the award system from the Board of Administration of the Public*
35 *Employees' Retirement System to the board of the California State*
36 *Fire Employees Welfare Benefit Corporation.*

37 50984. *The Board of Administration of the Public Employees'*
38 *Retirement System shall not be liable for any action or failure to*
39 *act by the board of the California State Fire Employees Welfare*
40 *Benefit Corporation. Upon transfer of the award system, the board*

1 *of the California State Fire Employees Welfare Benefit Corporation*
2 *shall assume all responsibilities and liabilities related to the award*
3 *system.*

4 *50985. This chapter shall become inoperative on March 1,*
5 *2008, and, as of January 1, 2009, is repealed, unless a later*
6 *enacted statute, that becomes operative on or before January 1,*
7 *2009, deletes or extends the dates on which it becomes inoperative*
8 *and is repealed.*

9 ~~SEC. 4.~~

10 SEC. 5. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 the only costs that may be incurred by a local agency or school
13 district will be incurred because this act creates a new crime or
14 infraction, eliminates a crime or infraction, or changes the penalty
15 for a crime or infraction, within the meaning of Section 17556 of
16 the Government Code, or changes the definition of a crime within
17 the meaning of Section 6 of Article XIII B of the California
18 Constitution.