

AMENDED IN ASSEMBLY AUGUST 30, 2007

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 to the board of the California State Fire Employees Welfare Benefit Corporation data and files of the members 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)~~

(1) 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. *The bill would also require the Board of Administration of the Public Employees' Retirement System, on or*

before January 31, 2008, to divulge and transfer specified data and files regarding the award system to the board of the California State Fire Employees Welfare Benefit Corporation. The bill would require the Board of Administration of the Public Employees' Retirement System to terminate the award system, as specified, if the transfer of the award system is not completed on or before March 1, 2008.

~~(3)~~

(2) 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.

~~(4)~~

(3) 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
2 Code, to read:
3 16641.5. ~~Present~~*The Public Employees' Retirement System,*
4 *as a public entity, and the present, future, and former board*
5 *members of the Public Employees' Retirement System, jointly*
6 *and individually, and state officers and employees, shall be*
7 *indemnified from the General Fund and held harmless by the State*
8 *of California from all claims, demands, suits, actions, damages,*
9 *judgments, costs, charges, and expenses, including, but not limited*
10 *to, court costs and attorney's fees, and against all liability, losses,*

1 and damages of any nature whatsoever that these present, future,
2 or former board members, officers, and employees shall or may
3 at any time sustain as a result of the transfer of the Volunteer
4 Firefighters Length of Service Award System as described in
5 Chapter 4.5 (commencing with Section 50950).

6 ~~SEC. 2. Section 20230 of the Government Code is amended~~
7 ~~to read:~~

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

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

21 ~~(c) The board may seek reimbursement for reasonable~~
22 ~~administrative expenses incurred when providing that information.~~
23 ~~Except as provided by this section, no member's, beneficiary's,~~
24 ~~or annuitant's address, home telephone number, or other personal~~
25 ~~information shall be released.~~

26 ~~(d) For purposes of this section, "authorized representative"~~
27 ~~includes the spouse or beneficiary of a member when no contrary~~
28 ~~appointment has been made and when, in the opinion of the board,~~
29 ~~the member is prevented from appointing an authorized~~
30 ~~representative because of mental or physical incapacity or death.~~

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

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

38 ~~(2) Divulge and transfer data and files that are necessary to~~
39 ~~effect the transfer of the administration of the Volunteer~~
40 ~~Firefighters Length of Service Award System from the Board of~~

1 Administration of the Public Employees' Retirement System to
2 the board of the California State Fire Employees Welfare Benefit
3 Corporation.

4 ~~SEC. 3.~~

5 SEC. 2. 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. The Legislature finds and declares all of the following:

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

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

23 (c) On and after ~~March 1, 2008~~ *the date of the transfer or*
24 *termination of the award system*, the Board of Administration of
25 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 administering
28 the system. On and after ~~that date~~ *the date of the transfer or*
29 *termination of the award system*, the Board of Administration of
30 the Public Employees' Retirement System shall have no liability
31 related to the administration of the award system.

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

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

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

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

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

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

38 50952. For the purposes of this chapter, unless the context
39 otherwise requires, the definitions set forth below shall mean the
40 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 other
26 entity that qualifies under the laws of this state to act as a trustee
27 of and establish a trust described in Internal Revenue Service
28 Revenue Procedure 92-64.
- 29 (k) “Department” means any of the following:
- 30 (1) A regularly organized fire department of a city, county, city
31 and county, or district having official recognition of the government
32 of the city, county, city and county, or district in which the
33 department is located.
- 34 (2) A regularly organized fire department of an unincorporated
35 town.
- 36 (l) “Fund” means an account or trust described in Internal
37 Revenue Service Revenue Procedure 92-64, which is maintained
38 by the custodian of the fund.
- 39 (m) “Member” means a volunteer of a department, the governing
40 body of which has contracted with the board under this chapter,

1 and who has been certified by a qualifications review commission
2 as having satisfied all the requirements for membership as set
3 established by the board. Membership, once established, continues
4 indefinitely until the award system is terminated and the funds
5 disbursed pursuant to 50974.

6 (n) “Service credit” means the aggregate of certified service
7 credit.

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

10 (p) “Volunteer” means a person registered as a volunteer
11 member of a regularly organized fire department as defined in
12 subdivision (k).

13

14 Article 2. Administration, Award System, and Membership

15

16 50953. (a) The award system shall be administered by the
17 board and the board shall comply with the following requirements:

18 (1) The board shall maintain a plan as described in Section
19 457(e)(11) of Title 26 of the United States Code.

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

21 (3) The representatives on the board shall administer the award
22 system with the reasonable care, skill, prudence, and diligence
23 under the circumstances then prevailing that a prudent person
24 acting in a like capacity and familiar with the award system would
25 use in the conduct of an enterprise of a like character and with like
26 aims.

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

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

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

33 (b) Notwithstanding subdivision (a), the assets of the fund
34 attributable to the benefit of registered volunteers of a department
35 are subject to the claims of creditors of the department in the case
36 of the insolvency of the department. The assets of the fund that
37 are not attributable to the benefits of registered volunteers of an
38 insolvent department are not subject to the claims of the creditors
39 of the insolvent department.

1 50954. (a) The board shall adopt rules and regulations to
2 administer the award system, including, but not limited to, all of
3 the following:

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

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

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

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

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

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

18 (b) In addition to those powers and duties, the board shall
19 determine if participation in the award system is adequate to ensure
20 that sufficient funds will be available for the payment of awards
21 on an actuarial reserve basis before any awards are paid. If the
22 board determines that participation in the award system is
23 inadequate to assure the financial success of the system, the board
24 may terminate the award system pursuant to Section 50974 or may
25 amend the award system pursuant to the rules and regulations of
26 the board.

27 50955. (a) The board shall, from time to time, determine and
28 fix the annual interest rate and actuarial interest rate.

29 (b) The board shall keep in convenient form the data necessary
30 for the actuarial valuation of the award system. The board shall,
31 at least quadrennially, cause to be made an actuarial investigation
32 into the mortality and service experience of members and persons
33 receiving awards and an actuarial valuation of the assets and
34 liabilities of the award system.

35 (c) When there is insufficient data upon which to establish
36 mortality rates or other actuarial assumptions required to evaluate
37 the obligations of the award system, the board may adopt
38 appropriate assumptions that, upon the advice and recommendation
39 of the actuary, are necessary.

1 50956. (a) On the basis of investigation and valuation, the
2 board shall adopt the mortality, service, and other tables as it deems
3 necessary, and shall make changes in the contributions required
4 from contracting departments as the board considers appropriate
5 in order to assure the actuarial soundness of this award system.

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

9 (c) Data filed by a member or department with the board is
10 confidential, and no individual record shall be divulged by an
11 official or employee having access to that data to a person other
12 than the member to whom the information relates or his or her
13 authorized representative, or the department that employs the
14 member. That information shall be used by the board for the sole
15 purpose of carrying into effect the provisions of this chapter.

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

19 50957. The custodian of the fund shall be subject to the
20 exclusive control of the board to administer and invest the assets
21 of the fund. The assets in the fund shall be used to pay the costs
22 of administration and for the payment of awards under this chapter.

23

24

Article 3. Service Credit and Contributions

25

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

33 50959. (a) The award system shall be funded by contributions
34 paid by contracting departments and income from the fund. The
35 award system is a noncontributory system, and no contributions
36 shall be required from members of the award system.

37 (b) As determined by actuarial valuation reported to the
38 contracting department by the award system, each contracting
39 department shall make contributions annually, not later than
40 October 1 of each year, sufficient to meet the prescribed amount

1 with respect to volunteers of the contracting department, in
2 accordance with the conditions provided in its contract under the
3 award system.

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

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

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

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

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

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

24 (1) Training drills.

25 (2) Responses to emergency calls.

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

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

31 (1) Department run logs.

32 (2) Department training records.

33 (3) Certificates of training.

34 (4) Records of exposures to hazardous products.

35 (5) Minutes of departmental or association meetings.

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

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

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

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

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

22 50963. The board shall determine the terms, conditions, and
23 eligibility requirements for all of the following:

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

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

27 (c) If a member is entitled to receive an award and the amounts
28 of supplemental payments based upon that award.

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

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

32

33 Article 4. Contract Provisions

34

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

39 (b) The board may prohibit a new contract with or may establish
40 terms and conditions regarding a new contract for a department

1 that has previously terminated a contract for participation under
2 this chapter.

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

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

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

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

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

34 (a) Time elapsed between the quotation and operative date of
35 the contract.

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

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

1 (b) The board shall inform the governing body of the projected
 2 costs of the program.

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

8

9

Article 5. Termination and Limitations

10

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

17

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

22

23 50974. Upon termination of the award system, assets in the
 24 fund shall be disbursed in the following order:

24

25 (a) An amount sufficient to pay awards previously granted shall
 26 be retained by the board.

26

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

28

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

34

35

Article 6. Indemnity

36

37 50975. ~~Present~~ *The Public Employees' Retirement System, as*
 38 *a public entity, and the present, future, and former board members*
 39 *of the Public Employees' Retirement System, jointly and*
 40 *individually, and state officers and employees, shall be indemnified*

1 from the General Fund as described in Section 16641.5 *for all*
2 *claims, demands, suits, actions, damages, judgments, costs,*
3 *charges, and expenses* as a result of the transfer of the award
4 system from the Board of Administration of the Public Employees'
5 Retirement System to the board of the California State Fire
6 Employees Welfare Benefit Corporation.

7 50976. (a) The Board of Administration of the Public
8 Employees' Retirement System shall not be liable for any action
9 or failure to act by the board of the California State Fire Employees
10 Welfare Benefit Corporation. Upon transfer of the award system,
11 the board of the California State Fire Employees Welfare Benefit
12 Corporation shall assume all responsibilities and liabilities related
13 to the award system.

14 (b) *As of the date of the transfer or termination of the award*
15 *system, the Board of Administration of the Public Employees'*
16 *Retirement System shall have no liability or responsibility for the*
17 *administration of the award system.*

18

19 *Article 7. Termination of the Award System by the Public*
20 *Employees' Retirement System*

21

22 50977. *If the transfer of the Volunteer Firefighters Length of*
23 *Service Award System from the Board of Administration of the*
24 *Public Employees' Retirement System to the board of the California*
25 *State Fire Employees Welfare Benefit Corporation is not completed*
26 *on or before March 1, 2008, the Board of Administration of the*
27 *Public Employees' Retirement System shall terminate the award*
28 *system and disburse the assets in the award system in the following*
29 *order of priority:*

30 (a) *An amount sufficient to pay reasonable administrative*
31 *expenses shall be retained by the Board of Administration of the*
32 *Public Employees' Retirement System.*

33 (b) (1) *Except as described in paragraph (2), an amount*
34 *sufficient to pay current award recipients or members and former*
35 *members who have satisfied, on or before March 1, 2008, all the*
36 *requirements to be eligible to receive an award, a one-time*
37 *lump-sum payment in an amount equal to the actuarial present*
38 *value of the monthly benefit paid to an award recipient. This*
39 *amount to be paid shall be in lieu of an ongoing monthly benefit*
40 *previously provided by the Board of Administration of the Public*

1 *Employees' Retirement System pursuant to Chapter 4.5*
2 *(commencing with Section 50950) of Part 1 of Division 1 of Title*
3 *5, as added by Chapter 1145 of the Statutes of 1979, and as that*
4 *chapter read on December 31, 2007.*

5 (2) *If the award system does not contain assets sufficient to pay*
6 *the amounts described in paragraph (1), the current award*
7 *recipients or members and former members shall be paid a pro*
8 *rata share of the remaining award system assets. The pro rata*
9 *share for a current award recipient, member, or former member*
10 *described in paragraph (1) shall be calculated as a ratio of the*
11 *amount calculated for an individual payment under paragraph (1)*
12 *as that amount bears to the total of all payments under paragraph*
13 *(1).*

14 (c) (1) *Except as described in paragraph (2), if a member has*
15 *earned service credit necessary to receive a service award but the*
16 *member has not attained 60 years of age on or before March 1,*
17 *2008, he or she shall be paid a one-time lump-sum payment in an*
18 *amount equal to the actuarial present value of the monthly benefit*
19 *that would have been paid to an award recipient at 60 years of*
20 *age. This amount to be paid shall be in lieu of an ongoing monthly*
21 *benefit previously provided by the Board of Administration of the*
22 *Public Employees' Retirement System pursuant to Chapter 4.5*
23 *(commencing with Section 50950) of Part 1 of Division 1 of Title*
24 *5, as added by Chapter 1145 of the Statutes of 1979, and as that*
25 *chapter read on December 31, 2007.*

26 (2) *If the award system does not contain assets sufficient to pay*
27 *the amounts described in paragraph (1), a member described in*
28 *paragraph (1) shall be paid a pro rata share of the remaining*
29 *award system assets. The pro rata share for that member shall be*
30 *calculated as a ratio of the amount calculated for an individual*
31 *payment under paragraph (1) as that amount bears to the total of*
32 *all payments under paragraph (1).*

33 (d) *From any balance of the assets after the amounts described*
34 *in subdivisions (a) to (c), inclusive, each department shall receive*
35 *a pro rata share of the remaining award system assets. The pro*
36 *rata share for each department shall be calculated as a ratio of*
37 *the accumulated contributions of that department, less the*
38 *distributions made to pay the awards of that department's*
39 *volunteers as described in this section, as that amount bears to*
40 *the total of all payments under this subdivision.*

1 50978. *For purposes of this chapter, if the Board of*
2 *Administration of the Public Employees' Retirement System*
3 *transfers the data and files that are necessary to effect the transfer*
4 *of and relate to members and beneficiaries who participate in the*
5 *award system to the board of the California State Fire Employees*
6 *Welfare Benefit Corporation, the transfer of the award system*
7 *shall be deemed complete on the date that the Board of*
8 *Administration of the Public Employees' Retirement System*
9 *transfers the assets of the award system to the board of the*
10 *California State Fire Employees Welfare Benefit Corporation.*

11 ~~50977.~~

12 50979. This chapter shall become operative on March 1, 2008.

13 ~~SEC. 4.~~

14 SEC. 3. Article 7 (commencing with Section 50980) is added
15 to Chapter 4.5 of Part 1 of Division 1 of Title 5 of the Government
16 Code, as added by Chapter 1145 of the Statutes of 1979, to read:

17
18 Article 7. Transfer of the Award System

19
20 50980. (a) *On or before January 31, 2008, the Board of*
21 *Administration of the Public Employees' Retirement System shall*
22 *do both of the following:*

23 (1) *Notwithstanding Section 20230, divulge and transfer to the*
24 *board of the California State Fire Employees Welfare Benefit*
25 *Corporation the data and files of the Volunteer Firefighters Length*
26 *of Service Award System that relate to members or beneficiaries*
27 *who participate in the award system.*

28 (2) *Divulge and transfer data and files that are necessary to*
29 *effect the transfer of the administration of the Volunteer*
30 *Firefighters Length of Service Award System from the Board of*
31 *Administration of the Public Employees' Retirement System to the*
32 *board of the California State Fire Employees Welfare Benefit*
33 *Corporation.*

34 (b) On or before March 1, 2008, the Board of Administration
35 of the Public Employees' Retirement System and the board of the
36 California State Fire Employees Welfare Benefit Corporation shall
37 take all steps necessary to transfer the award system including, but
38 not limited to, all of the following:

39 (1) The board of the California State Fire Employees Welfare
40 Benefit Corporation shall select a custodian of a fund for the

1 transfer of funds pursuant to Section 50981 from the Board of
2 Administration of the Public Employees' Retirement System and
3 ensure that this custodian is available to establish an account or
4 trust described in Internal Revenue Service Revenue Procedure
5 92-64 to receive those funds.

6 (2) Complete the transfer of the assets and liabilities of the award
7 system as described in Section 50981.

8 (3) The Board of Administration of the Public Employees'
9 Retirement System ~~and or~~ the board of the California State Fire
10 Employees Welfare Benefit Corporation shall ~~each~~ provide written
11 notice of the transfer of the award system and when the transfer
12 will occur ~~to the members of the award system, including, but not~~
13 ~~limited to, award recipients, award recipients~~ and departments
14 that participate in the award system. The notice described in this
15 paragraph shall include, but is not limited to, the contact
16 information for the board of the California State Fire Employees
17 Welfare Benefit Corporation, and information that the Board of
18 Administration of the Public Employees' Retirement System will
19 no longer have the responsibility to administer the award system.

20 (4) In addition to the notice described in paragraph (3), the board
21 of the California State Fire Employees Welfare Benefit Corporation
22 shall send written notice ~~to members of the award system,~~
23 ~~including, but not limited to, award recipients, award recipients~~
24 and departments that participate in the award system regarding the
25 revised rules, regulations, and procedures for the administration
26 of the award system.

27 (5) *The departments that participate in the award system shall*
28 *send written notice to their volunteers informing them of the*
29 *information described in paragraphs (3) and (4).*

30 ~~(5)~~

31 (6) The board of the California State Fire Employees Welfare
32 Benefit Corporation shall establish administrative systems and
33 accounts necessary to receive participant information, assets, and
34 liabilities that will be transferred by the Board of Administration
35 of the Public Employees' Retirement System.

36 ~~(b) If the transfer of the award system has not been or will not~~
37 ~~be completed on or before March 1, 2008, the Board of~~
38 ~~Administration of the Public Employees' Retirement System shall~~
39 ~~terminate the award system and distribute the assets of the award~~
40 ~~system as described in Section 50979.~~

1 (c) *The transfer of the award system shall be deemed complete*
2 *as of the date described in Section 50985.*

3 50981. (a) On or before March 1, 2008, ~~and except as described~~
4 ~~in subdivision (b) of Section 50980~~, the Board of Administration
5 of the Public Employees' Retirement System shall transfer any
6 assets held for the benefit of the award system, including, but not
7 limited to, cash and securities, to the custodian of a fund described
8 in Section 50980.

9 (b) The Board of Administration of the Public Employees'
10 Retirement System may only deduct from the assets described in
11 subdivision (a) award benefit payments and reasonable
12 administrative expenses to cover the period up through the date
13 of the transfer.

14 (c) On or before March 1, 2008, the Board of Administration
15 of the Public Employees' Retirement System shall notify and send
16 any documents related to any liabilities of the award system,
17 including, but not limited to, claims, demands, actions, damages,
18 judgments, costs, charges, expenses, or obligations, to the board
19 of the California State Fire Employees Welfare Benefit
20 Corporation.

21 50982. (a) In order to expedite the transfer of the award system
22 from the Board of Administration of the Public Employees'
23 Retirement System to the board of the California State Fire
24 Employees Welfare Benefit Corporation, the board of the
25 California State Fire Employees Welfare Benefit Corporation shall,
26 to the extent necessary to transfer the award system, and prior to
27 March 1, 2008, comply with the following requirements:

28 (1) The board of the California State Fire Employees Welfare
29 Benefit Corporation shall maintain a plan as described in Section
30 457(e)(11) of Title 26 of the United States Code.

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

33 (3) The representatives on the board of the California State Fire
34 Employees Welfare Benefit Corporation shall administer any funds
35 with the reasonable care, skill, prudence, and diligence under the
36 circumstances then prevailing that a prudent person acting in a
37 like capacity would use in the conduct of an enterprise of a like
38 character and with like aims.

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

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

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

11 (b) The board of the California State Fire Employees Welfare
12 Benefit Corporation shall adopt rules and regulations regarding
13 all of the following:

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

17 (2) Eligibility requirements for a member to include certified
18 prior service credit as certified service credit in calculating the
19 amount of his or her award or to qualify for an award under the
20 new system.

21 (3) The amount of an award under the new system and any
22 cost-of-living adjustments or supplemental payments based upon
23 that award.

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

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

27 (6) Other rules and regulations that the board of the California
28 State Fire Employees Welfare Benefit Corporation determines are
29 appropriate.

30 (c) Notwithstanding subdivision (a), the assets received from
31 the Board of Administration of the Public Employees' Retirement
32 System by the board of the California State Fire Employees
33 Welfare Benefit Corporation attributable to the benefit of registered
34 volunteers of a department are subject to the claims of creditors
35 of the department in the case of the insolvency of the department.
36 Any assets that are not attributable to the benefits of registered
37 volunteers of an insolvent department are not subject to the claims
38 of the creditors of the insolvent department.

39 (d) Data filed by a member or department with the board of the
40 California State Fire Employees Welfare Benefit Corporation is

1 confidential, and no individual record shall be divulged by an
2 official or employee having access to that data to a person other
3 than the member to whom the information relates or his or her
4 authorized representative, or the department that employs the
5 member.

6 (e) The custodian of a fund described in Section 50980, subject
7 to the exclusive control of the board of the California State Fire
8 Employees Welfare Benefit Corporation to administer and invest
9 the assets of the new system fund, shall be a financial institution
10 eligible to establish and administer a trust described in Internal
11 Revenue Service Revenue Procedure 92-64. The assets in a fund
12 for the new system shall be used to pay the costs of administration
13 and for the payment of awards under the new system.

14 50983. Present, future, and former board members of the Public
15 Employees' Retirement System, jointly and individually, and state
16 officers and employees, shall be indemnified from the General
17 Fund as described in Section 16641.5 as a result of the transfer of
18 the award system from the Board of Administration of the Public
19 Employees' Retirement System to the board of the California State
20 Fire Employees Welfare Benefit Corporation.

21 50984. The Board of Administration of the Public Employees'
22 Retirement System shall not be liable for any action or failure to
23 act by the board of the California State Fire Employees Welfare
24 Benefit Corporation. Upon transfer of the award system, the board
25 of the California State Fire Employees Welfare Benefit Corporation
26 shall assume all responsibilities and liabilities related to the award
27 system.

28 50985. *For purposes of this chapter, if the Board of*
29 *Administration of the Public Employees' Retirement System*
30 *transfers the data and files to the board of the California State*
31 *Fire Employees Welfare Benefit Corporation as described in*
32 *Section 50980, the transfer of the award system shall be deemed*
33 *complete on the date that the Board of Administration of the Public*
34 *Employees' Retirement System transfers the assets of the system*
35 *as described in Section 50981, regardless of whether the notices*
36 *described in paragraphs (3) to (5), inclusive, of subdivision (b) of*
37 *Section 50980 are sent.*

38 ~~50985.~~

39 50986. This chapter shall become inoperative on March 1,
40 2008, and, as of January 1, 2009, is repealed, unless a later enacted

1 statute, that becomes operative on or before January 1, 2009,
2 deletes or extends the dates on which it becomes inoperative and
3 is repealed.

4 ~~SEC. 5.~~

5 *SEC. 4.* No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 the only costs that may be incurred by a local agency or school
8 district will be incurred because this act creates a new crime or
9 infraction, eliminates a crime or infraction, or changes the penalty
10 for a crime or infraction, within the meaning of Section 17556 of
11 the Government Code, or changes the definition of a crime within
12 the meaning of Section 6 of Article XIII B of the California
13 Constitution.