

Senate Bill No. 581

Passed the Senate September 5, 2007

Secretary of the Senate

Passed the Assembly September 4, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act 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, Wiggins. Firefighters: volunteer firefighters length of service awards.

(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.

(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.

(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.

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

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

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

SEC. 2. Chapter 4.5 (commencing with Section 50950) is added to Part 1 of Division 1 of Title 5 of the Government Code, to read:

CHAPTER 4.5. VOLUNTEER FIREFIGHTERS LENGTH OF SERVICE
AWARD ACT

Article 1. General Provisions

50950. The Legislature finds and declares all of the following:

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

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

(c) On and after the date of the transfer or termination of the award system, the Board of Administration of the Public Employees' Retirement System shall have no responsibility to administer the award system and shall take no action related to past, present, or future obligations of administering the system. On and after the date of the transfer or termination of the award system, the Board of Administration of the Public Employees' Retirement System shall have no liability related to the administration of the award system.

(d) Because trust fund moneys in the award system are to be used for the exclusive benefit of the participants in the award system, the Board of Administration of the Public Employees' Retirement System shall not pay or transfer any trust fund moneys related to any claims, demands, actions, damages, judgments, costs, charges, and expenses, including, but not limited to, court costs and attorney's fees, regarding claims arising out of or incurred as a result of the transfer of the award system. However, nothing in this chapter shall prevent the Board of Administration of the Public Employees' Retirement System from charging and receiving administrative fees in connection with transferring the administration of the 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.

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

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

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

(b) Notwithstanding any other contrary law, enrollment for an award shall not be construed as a retirement, the receipt of an

award shall not be construed as the receipt of a retirement allowance or benefit, and service credited under the Volunteer Firefighters Length of Service Award System shall not be construed as service credited to a retirement system for purposes of duplicating service credit or benefits in other public retirement systems.

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

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

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

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

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

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

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

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

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

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

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

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

(1) A regularly organized fire department of a city, county, city and county, or district having official recognition of the government

of the city, county, city and county, or district in which the department is located.

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

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

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

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

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

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

Article 2. Administration, Award System, and Membership

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The board shall keep in convenient form the data necessary for the actuarial valuation of the award system. The board shall, at least quadrennially, cause to be made an actuarial investigation

into the mortality and service experience of members and persons receiving awards and an actuarial valuation of the assets and liabilities of the award system.

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

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

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

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

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

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

Article 3. Service Credit and Contributions

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

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

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

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

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

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

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

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

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

(1) Training drills.

(2) Responses to emergency calls.

(3) Attendance at official department and association meetings.

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

(1) Department run logs.

(2) Department training records.

- (3) Certificates of training.
- (4) Records of exposures to hazardous products.
- (5) Minutes of departmental or association meetings.

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

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

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

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

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

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

- (a) The amount of an award payable under the award system.
- (b) If a member is entitled to a cost-of-living adjustment and the amount of that cost-of-living adjustment.
- (c) If a member is entitled to receive an award and the amounts of supplemental payments based upon that award.
- (d) Any death benefits payable to a member's designated beneficiary or the estate of the member.
- (e) All other benefits authorized by the board under this chapter.

Article 4. Contract Provisions

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

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

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

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

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

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

50969. The approximate and actual contributions payable by a contracting department shall be similar to premiums under insurance policies. The approximate contribution quoted by the board to the department is subject to the contingency that the actual contribution certified by the board after the approval of a contract

may differ from the approximate contribution because of any of the following:

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

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

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

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

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

Article 5. Termination and Limitations

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

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

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

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

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

(c) From any balance in the fund after the above amounts have been retained or disbursed, each department's accumulated contributions, less a proportionate share of the amount retained for reasonable administrative expenses, less the amount retained

to pay awards of that department's volunteers, shall be refunded to the department.

Article 6. Indemnity

50975. The Public Employees' Retirement System, as a public entity, and the present, future, and former board members of the Public Employees' Retirement System, jointly and individually, and state officers and employees, shall be indemnified from the General Fund as described in Section 16641.5 for all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses as a result of the transfer of the 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.

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

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

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

50977. If the transfer 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 is not completed on or before March 1, 2008, the Board of Administration of the Public Employees' Retirement System shall terminate the award system and disburse the assets in the award system in the following order of priority:

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

(b) (1) Except as described in paragraph (2), an amount sufficient to pay current award recipients or members and former members who have satisfied, on or before March 1, 2008, all the requirements to be eligible to receive an award, a one-time lump-sum payment in an amount equal to the actuarial present value of the monthly benefit paid to an award recipient. This amount to be paid shall be in lieu of an ongoing monthly benefit previously provided by the Board of Administration of the Public Employees' Retirement System pursuant to Chapter 4.5 (commencing with Section 50950) of Part 1 of Division 1 of Title 5, as added by Chapter 1145 of the Statutes of 1979, and as that chapter read on December 31, 2007.

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

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

(2) If the award system does not contain assets sufficient to pay the amounts described in paragraph (1), a member described in paragraph (1) shall be paid a pro rata share of the remaining award system assets. The pro rata share for that member shall be calculated as a ratio of the amount calculated for an individual

payment under paragraph (1) as that amount bears to the total of all payments under paragraph (1).

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

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

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

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

Article 7. Transfer of the Award System

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

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

(2) 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.

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

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

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

(3) The Board of Administration of the Public Employees' Retirement System or the board of the California State Fire Employees Welfare Benefit Corporation shall provide written notice of the transfer of the award system and when the transfer will occur to award recipients and departments that participate in the award system. The notice described in this paragraph shall include, but is not limited to, the contact information for the board of the California State Fire Employees Welfare Benefit Corporation, and information that the Board of Administration of the Public Employees' Retirement System will no longer have the responsibility to administer the award system.

(4) In addition to the notice described in paragraph (3), the board of the California State Fire Employees Welfare Benefit Corporation shall send written notice to award recipients and departments that participate in the award system regarding the revised rules, regulations, and procedures for the administration of the award system.

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

(6) The board of the California State Fire Employees Welfare Benefit Corporation shall establish administrative systems and accounts necessary to receive participant information, assets, and

liabilities that will be transferred by the Board of Administration of the Public Employees' Retirement System.

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

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

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

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

50982. (a) In order to expedite the transfer of the 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, the board of the California State Fire Employees Welfare Benefit Corporation shall, to the extent necessary to transfer the award system, and prior to March 1, 2008, comply with the following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50983. Present, future, and former board members of the Public Employees' Retirement System, jointly and individually, and state officers and employees, shall be indemnified from the General Fund as described in Section 16641.5 as a result of the transfer of the 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.

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

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

50986. This chapter shall become inoperative on March 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009,

deletes or extends the dates on which it becomes inoperative and is repealed.

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

Approved _____, 2007

Governor