

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE H. TEXAS EMERGENCY SERVICES RETIREMENT SYSTEM

CHAPTER 862. MEMBERSHIP

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

(1) performs emergency services, including a volunteer fire department, as defined by Section [614.101](#); and

(2) is not a for-profit entity.

(a-1) The governing body of a department may, in the manner provided for taking official action by the body, elect to participate in the pension system. The governing body of a department shall notify the executive director as soon as practicable of an election made under this subsection. Except as provided by Subsection (b), an election to participate under this subsection is irrevocable.

(b) The state board may adopt rules that allow the governing body of a participating department to revoke its election to participate in the pension system under Subsection (a-1) in a manner that maintains an actuarially sound pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. [522](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. [220](#)), Sec. 1.03, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. [3247](#)), Sec. 3, eff. September 1, 2019.

Sec. 862.002. MEMBERSHIP BY INDIVIDUAL. (a) Except as otherwise provided by this section and Section [862.0021](#), each person who performs emergency services or, subject to Section [862.0025](#), support services as a volunteer or employee of a participating department, regardless of whether the person receives compensation from the participating department for the services, is a member of the pension system.

(b) A person is not a member of the pension system if the person:

(1) is less than 18 years of age;

(2) is subject to a waiting period under Section [862.0021](#) for which the governing body of the political subdivision is not making contributions during the waiting period;

(3) does not receive a certification of physical fitness or assignment to perform support services under Section [862.003](#); or

(4) is a retiree, regardless of whether the person continues to perform emergency or support services for a department.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. [522](#)), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. [2400](#)), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. [2751](#)), Sec. 2, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. [3247](#)), Sec. 4, eff. September 1, 2019.

Sec. 862.0021. WAITING PERIOD BEFORE MEMBERSHIP. (a) A participating department may impose a waiting period for a person who is eligible to perform or who is training to perform emergency services or, subject to Section [862.0025](#), support services as a volunteer or employee of the department during which time the department is not required to enroll the person as a member of the pension system.

(b) A waiting period imposed under this section must end not later than six months after the date the person begins service or training with the participating department.

(c) The governing body of a political subdivision may, but is not required to, pay contributions for the person during the waiting period.

(d) A person's membership in the pension system begins on the date that the governing body of a political subdivision begins

payment of contributions for that person, without regard to whether the:

(1) person's membership in the pension system is subject to a waiting period under this section; or

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

Added by Acts 2007, 80th Leg., R.S., Ch. 321 (H.B. 2400), Sec. 3, eff. September 1, 2007.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 5, eff. September 1, 2019.

Sec. 862.0025. MEMBERSHIP BY SUPPORT STAFF. (a) Except as provided by Subsection (b), the governing body of a participating department may, at any time, make an election to include all persons who provide support services for the department as members of the pension system. An election under this section takes effect on the first day of the calendar month that begins after the month in which the election is made and communicated to the executive director. Once made, an election under this section is irrevocable.

(b) If a participating department has, before September 1, 2009, enrolled persons who perform support services for the department as members of the pension system, all persons who perform those services for the department are members of the system.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 3, eff. September 1, 2009.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1316 (S.B. 220), Sec. 1.04, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 6, eff. September 1, 2019.

Sec. 862.003. CERTIFICATION OF PHYSICAL FITNESS. (a) A person who performs emergency services for a participating department shall present to the participating department head a certification of physical fitness by a qualified physician.

(b) If a participating department provides membership to a person who performs support services under Section 862.0025, the participating department head shall assign a person to perform support services if the person:

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

(2) will only perform support services for the department.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 697 (H.B. 2751), Sec. 4, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 1165 (H.B. 3247), Sec. 7, eff. September 1, 2019.

Sec. 862.004. DEPARTMENTAL ELECTIONS AND MERGERS. The state board may adopt rules for governing body elections under Section 862.001 or for the merger of existing pension plans into the pension system.

Added by Acts 2005, 79th Leg., Ch. 803 (S.B. 522), Sec. 1, eff. September 1, 2005.