

- SUBJECT:** Withholding pensions from elected officials convicted of certain crimes
- COMMITTEE:** Pensions — favorable, without amendment
- VOTE:** 6 ayes — Flynn, Hernandez, Klick, Paul, J. Rodriguez, Stephenson
1 nay — Alonzo
- WITNESSES:** For — (*Registered, but did not testify:* Michael Quinn Sullivan, Empower Texans; Barbara Harless, North Texas Citizens Lobby; Ronald Boyd; Paul Frueh; Dustin Matocha)
Against — None
On — Rene Lara, Texas AFL-CIO
- BACKGROUND:** Government Code, sec. 812.001 establishes two classes of membership for the Employees Retirement System of Texas (ERS), the elected class and the employee class.
- DIGEST:** HB 681 would make members of the Legislature or statewide elected officials convicted of certain crimes ineligible for their retirement annuity.
- A “qualifying felony” would include:
- bribery;
 - embezzlement, extortion, or other theft of public money;
 - perjury; or
 - conspiracy or the attempt to commit any of the above crimes.
- A member of the elected class for ERS would not be eligible to receive a retirement annuity if the member was convicted of a qualifying felony committed while in office and arising directly from the official’s duties.
- A person whose conviction was overturned on appeal or who met

requirements for innocence would be entitled to receive back retirement pay plus interest and could resume receiving pension payments. A member whose conviction was overturned and who would not be eligible for retirement pay would be entitled to a refund of contributions, plus interest.

The bill would not affect benefits payment to an alternate payee, such as a spouse, former spouse, or child recognized by a domestic relations order established before September 1, 2015. A court would be able to award half of the forfeited retirement annuity as the separate property of an innocent spouse.

Ineligibility for a retirement annuity would not impair a person's right to any other retirement benefit for which the person was eligible.

This bill would take effect September 1, 2015, and would apply only to qualifying felonies committed after that date.

**SUPPORTERS
SAY:**

HB 681 would ensure that elected state officials who were convicted of certain felony offenses did not receive a state-funded pension. Retirement benefits are meant to reward honorable service by public officials, and the vast majority rightfully earn their pensions. Those who violate the public trust by illegally using their office for personal gain should forfeit their pension benefits.

The bill would protect innocent spouses by allowing courts to award half of a forfeited retirement annuity to a spouse. Former spouses with existing alimony or child support orders would not lose benefits.

A number of states, including California, Missouri, and North Carolina, have laws terminating or garnishing public pensions for elected officials convicted of crimes. Texas should join these states by using the threat of lost pensions to deter criminal activity by elected officials.

**OPPONENTS
SAY:**

HB 681 would add a "financial death penalty" on top of other punishment given to legislators or statewide elected officials convicted of certain

felonies. Elected officials who engage in serious crimes should be punished to the full extent of the criminal law and not face additional punishment because the crime was committed while they were holding elective office. The possible deterrent effect of the law would be unequally distributed among those who are elected and those who are not.

Some other states also withhold pension benefits from state employees convicted of criminal offenses. Once Texas starts down the road of withholding pensions for elected officials, it could easily broaden the law to apply to state employees, who could be even more dependent on retirement benefits than some elected officials.