

BILL ANALYSIS

Senate Research Center

S.B. 500
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State Affairs
7/14/2017
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Interested parties observe that elected officials who violate the public's trust, and who are convicted and sentenced for felonies involving abuse of office (e.g., bribery, theft, or extortion), should not receive pension payments while in prison or on probation. Allowing corrupt officials to receive taxpayer-supported pensions while undergoing punishment erodes public confidence in our justice system. Moreover, this practice enables convicted criminals to receive payments for work performed while violating state anti-corruption laws.

Interested parties further observe that legislators and state officers convicted of a felony should be immediately removed from office upon final conviction. Even though convicted felons are ineligible to run for further office, interested parties observe that a felon's continued presence in elected office distracts from their governance obligations while eroding the public's trust and confidence in public office. Given these problems, interested parties observe that state legislators should be immediately ejected from the legislature upon final conviction for a felony.

S.B. 500 prohibits an elected official convicted of abuse of office (e.g., bribery, extortion, or conspiracy) from receiving a publicly funded pension check while serving their sentence for that crime. Interested parties observe that just as corrupt elected officials should forfeit their pension while in prison, they should also be removed from office. Towards that end, S.B. 500 requires that members of the legislature, the governor, and statewide elected officials be ejected from office once they are finally convicted of a felony. (Original Author's / Sponsor's Statement of Intent)

S.B. 500 amends current law relating to the effect of certain felony convictions of public elected officers.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the governing body of a public retirement system in SECTION 1 (Section 810.002, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1 Amends Chapter 810, Government Code, by adding Section 810.002, as follows:

Sec. 810.002. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR RETIREMENT ANNUITY. (a) Defines "governing body of a public retirement system," "public retirement system," and "qualifying felony."

(b) Provides that this section applies only to a person who is a member of the elected class of the Employees Retirement System of Texas (ERS) as described by Section 812.002(a)(1) or (2) (relating to who is eligible for membership in the elected class of ERS) or otherwise eligible for membership in a public retirement system wholly or partly because the person was elected or appointed to an elected office.

(c) Provides that a member of a public retirement system, except as provided by Subsection (d), is not eligible to receive a service retirement annuity under the

retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) Requires the retirement system, on receipt of notice of a conviction under Subsection (e) or (k), any similar notice of a conviction of a qualifying felony from a United States district court or United States attorney, or any other information that the retirement system determines by rule is sufficient to establish a conviction of a qualifying felony, to suspend payments of a service retirement annuity to a person the system determines is ineligible to receive the annuity. Provides that a person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2) (relating to entitlement to compensation for a person receiving certain types of relief), Civil Practice and Remedies Code, is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period and may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (f).

(e) Requires the governmental entity to which the person was elected or appointed, not later than the 30th day after the conviction of a person of a qualifying felony, to provide written notice of the conviction to the public retirement system in which the person is enrolled. Requires that the notice comply with the administrative rules adopted by the public retirement system under Subsection (j)

(f) Provides that a member who is ineligible to receive a service retirement annuity is entitled to a refund of the member's service retirement annuity contributions, including interest earned. Provides that a refund under this subsection is subject to an award of all or part of the member's service retirement annuity contributions to a former spouse, including as a just and right division of the contributions on divorce, payment of child support, or payment of spousal maintenance or contractual alimony or other order of a court.

(g) Provides that benefits payable to an alternative payee under Chapter 804 (Domestic Relations Orders and Spousal Consent) who is recognized by a qualified domestic relations order established before the effective date of this subsection are not affected by a member's ineligibility to receive a service retirement annuity.

(h) Provides that on conviction of a member for a qualifying felony:

(1) a court is authorized, in the same manner as in a divorce or annulment proceeding, to make a just and right division of the member's service retirement annuity by awarding to the member's spouse all or part of the community property interest in the annuity forfeited by the member; and

(2) a court is required, if the member's service retirement annuity was partitioned or exchanged by written agreement of the spouses as provided by Subchapter B (Marital Property Agreement), Chapter 4 (Premarital and Marital Property Agreements), Family Code, before the member's commission of the offense, award the annuity forfeited by the member to the member's spouse as provided in the agreement.

(i) Provides that ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(j) Requires the governing body of a public retirement system to adopt rules and procedures to implement this section.

(k) Requires a court to notify the retirement system of the terms of a conviction of a person convicted of an offense described by Subsection (c).

(l) Provides that, notwithstanding any other provision of this section, if the spouse of a member convicted of a qualifying felony is convicted of the felony as a party to the offense as defined by Section 7.01 (Parties to Offenses), Penal Code, or of another qualifying offense arising out of the same criminal episode as defined by Section 3.01 (Definition), Penal Code, the spouse forfeits the member's service retirement annuity and service retirement contributions to the same extent as the member.

SECTION 2. Amends Chapter 601, Government Code, by adding Section 601.011, as follows:

Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. Provides that a member of the legislature, the governor, or a state elected official convicted of a felony vacates the member's, governor's, or official's office on the date the conviction becomes final.

SECTION 3. Amends Article 42.01, Code of Criminal Procedure, by adding Section 12, as follows:

Sec. 12. Provides that in addition to the information described by Section 1 (relating to defining "judgment"), the judgment should reflect affirmative findings entered pursuant to Article 42.0196.

SECTION 4. Amends Chapter 42, Code of Criminal Procedure, by adding Article 42.0196, as follows:

Art. 42.0196. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) Requires that the judge, in the trial of an offense described by Section 810.002, Government Code, make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the defendant meets certain criteria.

(b) Requires a judge who makes the described affirmative finding to make the determination and provide the notice required by Section 810.002(k), Government Code.

SECTION 5. Makes application of Section 810.002, Government Code, as added by this Act, prospective.

SECTION 6. Effective date: upon passage or September 1, 2017.