

By: Middleton

H.B. No. 4171

A BILL TO BE ENTITLED

1 AN ACT
2 relating to drug testing members of the legislature to establish or
3 maintain eligibility for membership in the elected class of the
4 Employees Retirement System of Texas.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 812.002(a), Government Code, is amended
7 to read as follows:

8 (a) Membership in the elected class of the retirement system
9 is limited to:

10 (1) persons who hold state offices that are normally
11 filled by statewide election and that are not included in the
12 coverage of the Judicial Retirement System of Texas Plan One or the
13 Judicial Retirement System of Texas Plan Two;

14 (2) subject to Section 812.0051(e), members of the
15 legislature; and

16 (3) district and criminal district attorneys, to the
17 extent that they receive salaries from the state general revenue
18 fund.

19 SECTION 2. Section 812.005(a), Government Code, is amended
20 to read as follows:

21 (a) A person's membership in the retirement system is
22 terminated by:

23 (1) death of the person;

24 (2) retirement based on service credited in all

1 classes of membership in which the person has service credit; ~~[or]~~

2 (3) application of Section 812.0051(e); or

3 (4) withdrawal of all of the person's accumulated
4 contributions.

5 SECTION 3. Subchapter A, Chapter 812, Government Code, is
6 amended by adding Sections 812.0051 and 812.0052 to read as
7 follows:

8 Sec. 812.0051. DRUG TESTING OF LEGISLATORS; TERMINATION OF
9 MEMBERSHIP. (a) In this section, "controlled substance" and
10 "marihuana" have the meanings assigned by Chapter 481, Health and
11 Safety Code.

12 (b) This section applies to a member of the legislature who:

13 (1) is first eligible to become a member of the elected
14 class on or after September 1, 2021; or

15 (2) on September 1, 2021, has less than eight years of
16 service credit in the elected class.

17 (c) The board of trustees by rule shall establish a drug
18 screening and testing program designed to screen and test members
19 of the legislature for unlawful marihuana or controlled substance
20 use during a legislative session. The program must:

21 (1) require that, at the beginning of each legislative
22 session or as soon as practicable after a member's term begins
23 during a legislative session, each member submit to a marihuana and
24 controlled substance use screening assessment developed and
25 administered by or on behalf of the system;

26 (2) require that a member submit to a drug test if the
27 screening assessment described by Subdivision (1) indicates good

1 cause to suspect the member of unlawful marihuana or controlled
2 substance use; and

3 (3) prescribe procedures for:

4 (A) providing initial notice to a member who
5 fails a drug test;

6 (B) providing any member who fails a drug test
7 with the immediate opportunity to appeal and retake the drug test;
8 and

9 (C) making a formal, final determination
10 regarding whether a member has failed a drug test.

11 (d) The marihuana and controlled substance use screening
12 assessment described by Subsection (c)(1) must:

13 (1) consist of a written questionnaire to be completed
14 by the member of the legislature; and

15 (2) be designed to accurately determine the reasonable
16 likelihood that a person responding to the questionnaire is
17 unlawfully using marihuana or a controlled substance.

18 (e) A member of the legislature is not eligible to become a
19 member of the elected class or, if the member of the legislature is
20 already a member of the elected class, the member's membership
21 terminates if:

22 (1) the member fails or refuses to comply with the
23 requirements of the drug screening and testing program established
24 under this section; or

25 (2) the system makes a final determination that the
26 member failed a drug test administered under this section.

27 (f) Notwithstanding any other law, a person who is

1 determined not eligible for membership in the elected class or
2 whose membership in the retirement system is terminated under this
3 section may not join or rejoin the retirement system, as
4 applicable, as a member of the elected class.

5 (g) The board of trustees shall adopt rules necessary to
6 implement this section.

7 Sec. 812.0052. DRUG TESTING OF LEGISLATORS; SUSPENSION OF
8 MEMBERSHIP. (a) This section applies to a member of the
9 legislature who on September 1, 2021, has eight or more years of
10 service credit in the elected class.

11 (b) Each member of the legislature subject to this section
12 shall submit to the drug screening and testing program established
13 under Section 812.0051 at the beginning of each legislative
14 session.

15 (c) Notwithstanding any other law, a member of the
16 legislature's membership in the elected class is suspended if:

17 (1) the member fails or refuses to comply with the
18 requirements of the drug screening and testing program established
19 under Section 812.0051; or

20 (2) the system makes a final determination that the
21 member failed a drug test administered under that section.

22 (d) If a member of the legislature's membership in the
23 elected class is suspended under Subsection (c) of this section:

24 (1) the member may not make additional employee
25 contributions to or accrue additional service credit in the
26 retirement system; and

27 (2) the state shall cease contributions attributable

1 to service performed by the member on or after the date of the
2 suspension.

3 (e) This section does not prohibit a member of the elected
4 class from retiring and receiving a service retirement annuity that
5 is based, wholly or partly, on service credit earned in that class
6 before the date of the member's suspension.

7 (f) The board of trustees shall adopt rules necessary to
8 implement this section.

9 SECTION 4. Not later than January 1, 2022, the board of
10 trustees of the Employees Retirement System of Texas shall adopt
11 rules necessary to implement Sections 812.0051 and 812.0052,
12 Government Code, as added by this Act.

13 SECTION 5. This Act takes effect September 1, 2021.