

By: Taylor of Collin

H.B. No. 1085

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the eligibility for service retirement annuities from  
3 the Employees Retirement System of Texas of certain public officers  
4 and employees convicted of serious crimes.

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

6 SECTION 1. Subchapter F, Chapter 411, Government Code, is  
7 amended by adding Section 411.14021 to read as follows:

8 Sec. 411.14021. ACCESS TO MEMBER OR ANNUITANT CRIMINAL  
9 HISTORY RECORD INFORMATION: EMPLOYEES RETIREMENT SYSTEM OF TEXAS.

10 (a) In this section, "retirement system" means the Employees  
11 Retirement System of Texas.

12 (b) The retirement system is entitled to obtain from the  
13 department criminal history record information maintained by the  
14 department that relates to a person who is a member or an annuitant  
15 of the retirement system. The retirement system is not required to  
16 pay a fee under Section 411.088 to obtain the criminal history  
17 record information.

18 (c) Criminal history record information obtained by the  
19 retirement system under Subsection (b) may be used only to evaluate  
20 a person's eligibility to receive a retirement annuity under  
21 Section 814.0045.

22 (d) The retirement system may not release or disclose  
23 information obtained under Subsection (b) except on court order or  
24 with the consent of the person who is the subject of the criminal

1 history record information.

2 (e) Not later than the 180th day after the date of receipt of  
3 criminal history record information obtained under Subsection (b)  
4 about a person, the retirement system shall destroy the  
5 information.

6 SECTION 2. Subchapter A, Chapter 814, Government Code, is  
7 amended by adding Section 814.0045 to read as follows:

8 Sec. 814.0045. CERTAIN STATE EMPLOYEES AND ANNUITANTS  
9 INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section, "serious  
10 crime" means malfeasance or an offense involving moral turpitude.

11 (b) A person who is a member or an annuitant of the  
12 retirement system is not eligible to receive a service retirement  
13 annuity under this chapter if the person is:

14 (1) finally convicted of a felony; or

15 (2) finally convicted of a serious crime related to  
16 the person's performance of membership service.

17 (c) The retirement system shall suspend annuity payments to  
18 a person who is impeached, arrested, or indicted for a reason that  
19 may result in the person's ineligibility for a service retirement  
20 annuity under Subsection (b). The system shall resume making  
21 annuity payments, including all payments suspended under this  
22 subsection, if, as applicable:

23 (1) the person is found to be not guilty of the  
24 offense;

25 (2) the charges against the person are dropped;

26 (3) impeachment proceedings do not result in the  
27 person's removal from office;

1           (4) the person would be entitled to have records and  
2 files related to the person's arrest or indictment expunged under  
3 Article 55.01, Code of Criminal Procedure; or

4           (5) the person meets either of the requirements for  
5 innocence under Section 103.001(a)(2), Civil Practice and Remedies  
6 Code.

7           (d) Except as provided by Subsection (e), a person who is  
8 not eligible to receive a service retirement annuity under  
9 Subsection (b) is entitled to a refund of the person's retirement  
10 annuity contributions, not including any interest earned on those  
11 contributions.

12           (e) Benefits payable to an alternate payee under Chapter 804  
13 are not affected by a person's ineligibility to receive a  
14 retirement annuity under Subsection (b).

15           (f) The board of trustees shall determine if an offense was  
16 committed in the conduct of the member's duties as a member of the:

17                   (1) elected class; or

18                   (2) employee class.

19           (g) The board of trustees shall adopt rules and procedures  
20 to implement this section.

21           (h) The board of trustees may adopt rules providing for  
22 obtaining criminal history record information under Section  
23 411.14021.

24           (i) A court or governmental body shall make a good faith  
25 effort to notify the retirement system of the arrest, indictment,  
26 conviction, or impeachment of a person whose service retirement  
27 annuity payments are required to be suspended under this section or

1 who is ineligible under this section to receive service retirement  
2 annuity payments.

3 SECTION 3. Article 6220, Revised Statutes, is repealed.

4 SECTION 4. Section 814.0045, Government Code, as added by  
5 this Act, applies only to a member or annuitant of the Employees  
6 Retirement System of Texas who, on or after the effective date of  
7 this Act, is removed from office by impeachment or arrested or  
8 indicted for an offense described by that section.

9 SECTION 5. This Act takes effect September 1, 2011.