

By: Taylor of Collin

H.B. No. 2653

A BILL TO BE ENTITLED

AN ACT

relating to the contractual revocation of pension benefits of certain public employees convicted of an offense.

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

SECTION 1. Subtitle A, Title 8, Government Code, is amended by adding Chapter 807 to read as follows:

CHAPTER 807. CONTRACTUAL REVOCATION OF PENSION BENEFITS

Sec. 807.001. DEFINITIONS. In this chapter:

(1) "Employer" means a school district, municipality, or county participating in a public retirement system.

(2) "Public retirement system" has the meaning assigned by Section 804.001, except that the term does not include the Employees Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two.

Sec. 807.002. EMPLOYMENT CONTRACT PENSION REVOCATION POLICY AND PROVISION. (a) An employer, by rule, resolution, or ordinance, may adopt a policy that provides for the inclusion of a standard pension revocation provision in all employment contracts of the employer that are signed on or after September 1, 2011.

(b) An employer that adopts a pension revocation policy under Subsection (a) may include a standard provision in the employer's employment contract that revokes a person's eligibility to receive pension benefits provided by the retirement system in

which the employer participates if:

(1) the person, during the term of the contract, is charged with an offense that is a first degree felony or another offense specified in the contract; and

(2) the person is finally convicted of the offense.

(c) Except as provided by Section 807.005, a person who signs an employment contract described by Subsection (b) and becomes an employee of the employer forfeits the person's eligibility to receive pension benefits under the retirement system if:

(1) during the term of the contract, the person is charged with an offense specified in the contract; and

(2) the person is finally convicted of the offense.

Sec. 807.003. INCLUDABLE OFFENSES. An employer's employment contract may exclude first degree felonies or substitute or add other offenses that, on conviction of the employee, may result in the revocation of pension benefits. The other includable offenses are:

(1) second degree, third degree, or state jail felonies; or

(2) a misdemeanor involving moral turpitude.

Sec. 807.004. DETERMINATION OF REVOCATION PROVISION APPLICABILITY. (a) An employer who includes a pension revocation provision described by Section 807.002 in the employer's employment contract shall designate in the contract the person responsible for determining if:

(1) the revocation clause applies to a particular

1 employee convicted of an offense; and

2 (2) the employee forfeits the employee's eligibility
3 for pension benefits.

4 (b) The person designated under Subsection (a) may be:

5 (1) the public retirement system's board of trustees;

6 (2) the employer;

7 (3) a court;

8 (4) a neutral third party; or

9 (5) another person trusted by the employer and
10 employee to make a fair decision.

11 Sec. 807.005. REINSTATEMENT OF PERSON AS ELIGIBLE FOR
12 BENEFITS. A person who forfeits eligibility to receive pension
13 benefits under Section 807.002 may be reinstated as eligible for
14 those benefits if the person would otherwise be eligible under the
15 rules of the public retirement system and the person:

16 (1) is found to be not guilty of the offense;

17 (2) would be entitled to have records and files
18 related to the person's arrest or indictment expunged under Article
19 55.01, Code of Criminal Procedure; or

20 (3) meets either of the requirements for innocence
21 under Section 103.001(a)(2), Civil Practice and Remedies Code.

22 SECTION 2. This Act takes effect September 1, 2011.