

By: Meyer

H.B. No. 1538

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for service retirement annuities from a public retirement system of public officers or employees convicted of certain offenses.

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

SECTION 1. Article 42.01, Code of Criminal Procedure, is amended by adding Section 12 to read as follows:

Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0199.

SECTION 2. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0199 to read as follows:

Art. 42.0199. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense described by Section 802.004, Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's performance of public service as a member of a public retirement system.

(b) A judge that makes the affirmative finding described by this article shall make the determination and enter the order required by Section 802.004(k), Government Code.

SECTION 3. Subchapter A, Chapter 802, Government Code, is amended by adding Section 802.004 to read as follows:

Sec. 802.004. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF ELIGIBILITY.

(a) This section applies only to a person who is a member or an
annuitant of a public retirement system and holds or has held an
elective office included in the coverage of that public retirement
system.

(b) To the extent ordered by a court under Subsection (k), a
person is not eligible to receive a full service retirement annuity
from a public retirement system if the person is finally convicted
of an offense that is related to the person's performance of public
service arising from the person's official duties as an elected
officer while a member of the retirement system and is:

(1) a felony; or

(2) punishable under Title 8, Penal Code, as a Class A
or Class B misdemeanor.

(c) To the extent ordered by a court under Subsection (k),
the public retirement system shall suspend making full annuity
payments to a person who is not eligible to receive a full service
retirement annuity under Subsection (b) on receipt by the
retirement system of notice and terms of the person's conviction.

(d) The public retirement system shall resume making full
annuity payments if the person made ineligible for a full annuity
under Subsection (b):

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

(2) meets the requirements for innocence under Section
[103.001\(a\)\(2\)](#), Civil Practice and Remedies Code.

1 (e) The public retirement system as applicable shall:

2 (1) for a person whose full annuity payments are
3 resumed under Subsection (d), reimburse the person for any portion
4 of the annuity payments withheld during a period of suspension; or

5 (2) restore the full eligibility of a person convicted
6 of an offense described by Subsection (b) to receive a service
7 retirement annuity, including the restoration of all service
8 credits accrued by the person before the conviction, if the person
9 satisfies the condition under Subsection (d)(1) or (2).

10 (f) Except as provided by Subsection (g), a person convicted
11 of an offense described by Subsection (b) whose eligibility for a
12 service retirement annuity is not fully restored under Subsection
13 (e)(2) is eligible to accrue service credit toward a service
14 retirement annuity from a public retirement system if the person:

15 (1) was placed on community supervision for the
16 offense for which the person was convicted and:

17 (A) successfully completed the period of
18 community supervision; and

19 (B) received a discharge and dismissal under
20 Section 20, Article 42.12, Code of Criminal Procedure; or

21 (2) was sentenced to serve a term of confinement in a
22 penal institution for the offense for which the person was
23 convicted and completely discharged the person's sentence,
24 including any term of confinement and any period of parole or other
25 form of conditional release.

26 (g) In determining a person's eligibility for retirement
27 benefits under Subsection (f), a public retirement system may

1 include only those service credits that were:

2 (1) accrued by the person before the person's
3 conviction for an offense described by Subsection (b) and remaining
4 after conviction of the offense; or

5 (2) earned after fulfilling the requirements under
6 Subsection (f).

7 (h) Except as provided by Subsection (i), a person who is
8 not eligible to receive a full service retirement annuity under
9 Subsection (b) is entitled to request and receive a refund of the
10 person's retirement annuity contributions, not including any
11 interest earned on those contributions. A person who accepts a
12 refund under this subsection terminates the person's membership in
13 the public retirement system.

14 (i) Benefits payable to an alternate payee under Chapter
15 804, including a spouse or dependent child, are not affected by a
16 person's ineligibility to receive a full service retirement annuity
17 under Subsection (b).

18 (j) The governing body of a public retirement system shall
19 adopt rules and procedures to implement this section.

20 (k) A court shall:

21 (1) determine and order as applicable for a person
22 convicted of an offense described by Subsection (b) the amount by
23 which the person's:

24 (A) service retirement annuity payments are to be
25 reduced; or

26 (B) accrued service credits are to be reduced;
27 and

1 (2) notify the affected public retirement system of
2 the terms of a conviction ordered under Subdivision (1).

3 SECTION 4. Section 802.004, Government Code, as added by
4 this Act, applies only to an offense committed on or after the
5 effective date of this Act. An offense committed before the
6 effective date of this Act is governed by the law in effect on the
7 date the offense was committed, and the former law is continued in
8 effect for that purpose. For purposes of this section, an offense
9 was committed before the effective date of this Act if any element
10 of the offense occurred before that date.

11 SECTION 5. Section 12, Article [42.01](#), Code of Criminal
12 Procedure, and Article 42.0199, Code of Criminal Procedure, as
13 added by this Act, apply only to a judgment of conviction entered on
14 or after the effective date of this Act.

15 SECTION 6. This Act takes effect September 1, 2015.