

BILL ANALYSIS

S.B. 500
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General Investigating & Ethics
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that certain elected officials who commit certain felonies arising from the official duties of office while in office should not receive payments from the public retirement systems and should also vacate such office on final conviction of any felony so as not to erode the public's trust and confidence in public officials. S.B. 500 seeks to make certain public officials ineligible for service retirement annuities under the applicable public retirement system and to provide for such vacation of office.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the governing body of a public retirement system in SECTION 1 of this bill.

ANALYSIS

S.B. 500 amends the Government Code to make a member of the elected class of the Employees Retirement System of Texas (ERS) who is a member of the legislature or who is a person who holds a state office normally filled by statewide election and not included in the coverage of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, or a person otherwise eligible for membership in a public retirement system wholly or partly because the person was elected or appointed to an elected office ineligible to receive a service retirement annuity under the applicable 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, with certain exceptions as provided by the bill. The bill requires a court to notify the applicable retirement system of the terms of a conviction of a person so convicted. The bill requires a governmental entity to which a person was elected or appointed, not later than the 30th day after the conviction of the person of a qualifying felony, to provide written notice of the conviction to the retirement system in which the person is enrolled and requires this written notice to comply with the administrative rules adopted by the retirement system under the bill's provisions. The bill defines, for purposes of these provisions regarding such a conviction, a "qualifying felony" as any felony involving bribery; the embezzlement, extortion, or other theft of public money; perjury; coercion of public servant or voter; tampering with governmental record; misuse of official information; conspiracy or the attempt to commit any of these offenses; or abuse of official capacity.

S.B. 500 requires an applicable retirement system, on receipt of notice of a conviction from the court or from the applicable governmental entity under the bill's provisions, 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 an annuity to a person the system determines is ineligible to receive the annuity under the bill's provisions. The bill entitles a member who is ineligible to receive a service retirement annuity under the bill's provisions to a refund of the member's service retirement annuity contributions, including interest earned on those contributions. The bill entitles a person whose conviction is overturned on appeal or who meets certain requirements for innocence under specified Civil Practice and Remedies Code provisions to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period and authorizes such a person to resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under the bill's provisions.

S.B. 500 establishes that benefits payable to an alternate payee under statutory provisions relating to domestic relations orders and spousal consent who is recognized by a domestic relations order established before the bill's effective date are not affected by a member's ineligibility to receive a service retirement annuity under the bill's provisions. The bill authorizes a court, on the conviction of a member for a qualifying felony and in the interest of justice and in the same manner as in a divorce proceeding, to award half of the service retirement annuity forfeited by the member as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by Family Code provisions relating to marital property agreements. The bill prohibits the amount so awarded from being converted to community property.

S.B. 500 establishes that ineligibility for a service retirement annuity under the bill's provisions does not impair a person's right to any other retirement benefit for which the person is eligible. The bill requires the governing body of a public retirement system to adopt rules and procedures to implement the bill's provisions making certain elected officials ineligible for a service retirement annuity. The bill provides for the definition, by reference, of "governing body of a public retirement system" and "public retirement system" for the purposes of these foregoing bill provisions.

S.B. 500 establishes 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.

S.B. 500 amends the Code of Criminal Procedure to require the judge in the trial of an offense described by the bill provisions making certain elected officials ineligible to receive a retirement annuity to make an affirmative finding of fact and enter that affirmative finding in the judgment in the case if the judge determines: that the defendant is, while a member of ERS, a member of the elected class who is a member of the legislature or who is a person who holds a state office normally filled by statewide election and not included in the coverage of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two; or that the defendant is a holder of an elected office for which the defendant wholly or partly became eligible for membership in a public retirement system. The bill requires a judge who makes such an affirmative finding to make the determination and provide the notice required by the bill's provisions making certain elected officials ineligible for a service retirement annuity.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2017.