

By: Fallon

H.B. No. 422

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 elected  
4 officials convicted of certain offenses.

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

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

8 Sec. 12. In addition to the information described by  
9 Section 1, the judgment should reflect affirmative findings entered  
10 pursuant to Article 42.0196.

11 SECTION 2. Chapter 42, Code of Criminal Procedure, is  
12 amended by adding Article 42.0196 to read as follows:

13 Art. 42.0196. FINDING REGARDING OFFENSE RELATED TO  
14 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense  
15 described by Section 814.1021, Government Code, the judge shall  
16 make an affirmative finding of fact and enter the affirmative  
17 finding in the judgment in the case if the judge determines that the  
18 offense committed was related to the defendant's service as a  
19 member of the elected class described by Section 814.1021(b),  
20 Government Code, while a member of the Employees Retirement System  
21 of Texas.

22 (b) A judge that makes the affirmative finding described by  
23 this article shall make the determination and enter the order  
24 required by Section 814.1021(j), Government Code.

1 SECTION 3. Subchapter B, Chapter 814, Government Code, is  
2 amended by adding Section 814.1021 to read as follows:

3 Sec. 814.1021. CERTAIN ELECTED MEMBERS INELIGIBLE FOR  
4 RETIREMENT ANNUITY. (a) In this section, "qualifying felony"  
5 means any felony involving:

6 (1) bribery;

7 (2) embezzlement, extortion, or other theft of public  
8 money;

9 (3) perjury;

10 (4) coercion of public servant or voter;

11 (5) tampering with governmental record;

12 (6) misuse of official information;

13 (7) conspiracy or the attempt to commit any of the  
14 above crimes; or

15 (8) abuse of official capacity.

16 (b) This section applies only to a member of the elected  
17 class of the retirement system as described by Section  
18 812.002(a)(1) or (2).

19 (c) Except as provided by Subsection (d), a member is not  
20 eligible to receive a service retirement annuity for service credit  
21 in the elected class under the retirement system if the member is  
22 convicted of a qualifying felony committed while in office and  
23 arising directly from the official duties of that elected office.

24 (d) The retirement system shall suspend payments of an  
25 annuity to a person ineligible to receive the annuity under  
26 Subsection (c) on receipt by the retirement system of notice and the  
27 terms of the person's conviction. A person whose conviction is

1 overturned on appeal or who meets the requirements for innocence  
2 under Section 103.001(a)(2), Civil Practice and Remedies Code:

3 (1) is entitled to receive an amount equal to the  
4 accrued total of payments and interest earned on the payments  
5 withheld during the suspension period; and

6 (2) may resume receipt of annuity payments on payment  
7 to the retirement system of an amount equal to the contributions  
8 refunded to the person under Subsection (e).

9 (e) A member who is not eligible to receive a service  
10 retirement annuity under Subsection (c) is entitled to a refund of  
11 the member's retirement annuity contributions, including interest  
12 earned on those contributions.

13 (f) Benefits payable to an alternate payee under Chapter 804  
14 who is recognized by a domestic relations order established before  
15 September 1, 2017, are not affected by a member's ineligibility to  
16 receive a retirement annuity under Subsection (c).

17 (g) On conviction of a member for a qualifying felony, a  
18 court may, in the interest of justice and in the same manner as in a  
19 divorce proceeding, award half of the service retirement annuity  
20 forfeited by the member as the separate property of an innocent  
21 spouse if the annuity is partitioned or exchanged by written  
22 agreement of the spouses as provided by Subchapter B, Chapter 4,  
23 Family Code. The amount awarded to the innocent spouse may not be  
24 converted to community property.

25 (h) Ineligibility for a retirement annuity under this  
26 section does not impair a person's right to any other retirement  
27 benefit for which the person is eligible.

1        (i) The board of trustees of the retirement system shall  
2 adopt rules and procedures to implement this section.

3        (j) A court shall:

4            (1) order the suspension of service retirement annuity  
5 payments for a person convicted of an offense described by  
6 Subsection (c); and

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

9        SECTION 4. Section 12, Article 42.01, Code of Criminal  
10 Procedure, and Article 42.0196, Code of Criminal Procedure, as  
11 added by this Act, apply only to a judgment of conviction entered on  
12 or after the effective date of this Act.

13        SECTION 5. (a) Section 814.1021, Government Code, as added  
14 by this Act, applies only to a member of the Employees Retirement  
15 System of Texas who is or was a member of the state legislature or  
16 holds or has held a statewide elected office and, on or after the  
17 effective date of this Act, commits an offense that is a qualifying  
18 felony as defined by that section. A person who commits a  
19 qualifying felony before the effective date of this Act is subject  
20 to the law in effect on the date the offense was committed, and the  
21 former law is continued in effect for that purpose.

22        (b) For purposes of this section, an offense was committed  
23 before the effective date of this Act if any element of the offense  
24 occurred before that date.

25        SECTION 6. This Act takes effect September 1, 2017.