

By: Geren

H.B. No. 1273

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the effect of certain felony convictions of public  
3 elected officers.

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

5 SECTION 1. Chapter 810, Government Code, is amended by  
6 adding Section 810.002 to read as follows:

7 Sec. 810.002. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR  
8 RETIREMENT ANNUITY. (a) In this section:

9 (1) "Governing body of a public retirement system" and  
10 "public retirement system" have the meanings assigned by Section  
11 802.001.

12 (2) "Qualifying felony" means any felony involving:  
13 (A) bribery;  
14 (B) the embezzlement, extortion, or other theft  
15 of public money;

16 (C) perjury;

17 (D) coercion of public servant or voter;

18 (E) tampering with governmental record;

19 (F) misuse of official information;

20 (G) conspiracy or the attempt to commit any of  
21 the offenses described by Paragraphs (A)-(F); or

22 (H) abuse of official capacity.

23 (b) This section applies only to a person who is:

24 (1) a member of the elected class of the Employees

1 Retirement System of Texas as described by Section 812.002(a)(1) or  
2 (2); or

3 (2) otherwise eligible for membership in a public  
4 retirement system wholly or partly because the person held an  
5 elected office.

6 (c) Except as provided by Subsection (d), a member of a  
7 public retirement system is not eligible to receive a service  
8 retirement annuity under the retirement system if the member is  
9 convicted of a qualifying felony committed while in office and  
10 arising directly from the official duties of that elected office.

11 (d) The retirement system shall suspend payments of an  
12 annuity to a person ineligible to receive the annuity under  
13 Subsection (c). A person whose conviction is overturned on appeal  
14 or who meets the requirements for innocence under Section  
15 103.001(a)(2), Civil Practice and Remedies Code:

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

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

22 (e) A member who is ineligible to receive a service  
23 retirement annuity under Subsection (c) is entitled to a refund of  
24 the member's service retirement annuity contributions, including  
25 interest earned on those contributions.

26 (f) Benefits payable to an alternate payee under Chapter 804  
27 who is recognized by a domestic relations order established before

1 January 8, 2019, are not affected by a member's ineligibility to  
2 receive a service retirement annuity under Subsection (c).

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

11 (h) Ineligibility for a service retirement annuity under  
12 this section does not impair a person's right to any other  
13 retirement benefit for which the person is eligible.

14 (i) The governing body of a public retirement system shall  
15 adopt rules and procedures to implement this section.

16 SECTION 2. Chapter 601, Government Code, is amended by  
17 adding Section 601.011 to read as follows:

18 Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER  
19 OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. A member of  
20 the legislature, the governor, or a state elected official  
21 convicted of a felony vacates the member's, governor's, or  
22 official's office on the date the conviction becomes final.

23 SECTION 3. Section 810.002, Government Code, as added by  
24 this Act, applies only to a member of a public retirement system who  
25 holds or has held elected office and, on or after the effective date  
26 of this Act, commits an offense that is a qualifying felony as  
27 defined by that section. A person who commits a qualifying felony

1 before the effective date of this Act is subject to the law in  
2 effect on the date the offense was committed, and the former law is  
3 continued in effect for that purpose. For purposes of this section,  
4 an offense was committed before the effective date of this Act if  
5 any element of the offense occurred before that date.

6 SECTION 4. This Act takes effect January 8, 2019.