

By: Meyer

H.B. No. 1746

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the eligibility for service retirement annuities from a  
3 public retirement system of public officers or employees convicted  
4 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 42.0195.

11 SECTION 2. Chapter 42, Code of Criminal Procedure, is  
12 amended by adding Article 42.0195 to read as follows:

13 Art. 42.0195. FINDING REGARDING OFFENSE RELATED TO  
14 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense  
15 described by Section 802.004, Government Code, the judge shall make  
16 an affirmative finding of fact and enter the affirmative finding in  
17 the judgment in the case if the judge determines that the offense  
18 committed was related to the defendant's performance of public  
19 service as a member of a public retirement system.

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

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

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

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

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

13               (1) a felony; or

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

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

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

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

26               (2) meets the requirements for innocence under Section  
27 103.001(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 Article 42A.701, 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 42.0195, 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, 2017.