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S.B. No. 500

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

(C) perjury;
(D) coercion of public servant or voter;
(E) tampering with governmental record;
(F) misuse of official information;
(G) conspiracy or the attempt to commit any of
the offenses described by Paragraphs (A)-(F); or

(H) abuse of official capacity.

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

(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 was elected
5 or appointed to an 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, on receipt of notice of a
12 conviction under Subsection (e) or (k), any similar notice of a
13 conviction of a qualifying felony from a United States district
14 court or United States attorney, or any other information that the
15 retirement system determines by rule is sufficient to establish a
16 conviction of a qualifying felony, shall suspend payments of an
17 annuity to a person the system determines is ineligible to receive
18 the annuity under Subsection (c). A person whose conviction is
19 overturned on appeal or who meets the requirements for innocence
20 under Section 103.001(a)(2), Civil Practice and Remedies Code:

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

24 (2) may resume receipt of annuity payments on payment
25 to the retirement system of an amount equal to the contributions
26 refunded to the person under Subsection (f).

27 (e) Not later than the 30th day after the conviction of a

1 person of a qualifying felony, the governmental entity to which the
2 person was elected or appointed must provide written notice of the
3 conviction to the public retirement system in which the person is
4 enrolled. The notice must comply with the administrative rules
5 adopted by the public retirement system under Subsection (j).

6 (f) A member who is ineligible to receive a service
7 retirement annuity under Subsection (c) is entitled to a refund of
8 the member's service retirement annuity contributions, including
9 interest earned on those contributions.

10 (g) Benefits payable to an alternate payee under Chapter 804
11 who is recognized by a domestic relations order established before
12 the effective date of this subsection are not affected by a member's
13 ineligibility to receive a service retirement annuity under
14 Subsection (c).

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

23 (i) Ineligibility for a service retirement annuity under
24 this section does not impair a person's right to any other
25 retirement benefit for which the person is eligible.

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

1 (k) A court shall notify the retirement system of the terms
2 of a conviction of a person convicted of an offense described by
3 Subsection (c).

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

6 Sec. 601.011. VACANCY ON FINAL FELONY CONVICTION OF MEMBER
7 OF LEGISLATURE, GOVERNOR, OR STATE ELECTED OFFICIAL. A member of
8 the legislature, the governor, or a state elected official
9 convicted of a felony vacates the member's, governor's, or
10 official's office on the date the conviction becomes final.

11 SECTION 3. Article 42.01, Code of Criminal Procedure, is
12 amended by adding Section 12 to read as follows:

13 Sec. 12. In addition to the information described by
14 Section 1, the judgment should reflect affirmative findings entered
15 pursuant to Article 42.0196.

16 SECTION 4. Chapter 42, Code of Criminal Procedure, is
17 amended by adding Article 42.0196 to read as follows:

18 Art. 42.0196. FINDING REGARDING OFFENSE RELATED TO
19 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
20 described by Section 810.002, Government Code, the judge shall make
21 an affirmative finding of fact and enter the affirmative finding in
22 the judgment in the case if the judge determines that the defendant
23 is:

24 (1) a member of the elected class described by Section
25 810.002(b)(1), Government Code, while a member of the Employees
26 Retirement System of Texas; or

27 (2) a holder of an elected office for which the

1 defendant wholly or partly became eligible for membership in a
2 public retirement system.

3 (b) A judge who makes the affirmative finding described by
4 this article shall make the determination and provide the notice
5 required by Section 810.002(k), Government Code.

6 SECTION 5. Section 810.002, Government Code, as added by
7 this Act, applies only to a member of a public retirement system who
8 holds or has held elected office and, on or after the effective date
9 of this Act, commits an offense that is a qualifying felony as
10 defined by that section. A person who commits a qualifying felony
11 before the effective date of this Act is subject to the law in
12 effect on the date the offense was committed, and the former law is
13 continued in effect for that purpose. For purposes of this section,
14 an offense was committed before the effective date of this Act if
15 any element of the offense occurred before that date.

16 SECTION 6. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2017.