

By: Bettencourt

S.B. No. 1621

A BILL TO BE ENTITLED

AN ACT

relating to the eligibility for a service retirement annuity of certain members and annuitants of a public retirement system convicted of certain felony offenses.

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

SECTION 1. The heading to Section 810.003, Government Code, is amended to read as follows:

Sec. 810.003. CERTAIN ELECTED OFFICIALS AND PUBLIC EMPLOYEES INELIGIBLE FOR RETIREMENT ANNUITY.

SECTION 2. Sections 810.003(b), (c), (e), (f), (g), (h), and (k), Government Code, are amended to read as follows:

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

(1) a member of the elected class of the Employees Retirement System of Texas as described by Section 812.002(a)(1) or (2); ~~or~~

(2) ~~otherwise~~ eligible for membership in a public retirement system wholly or partly because the person was elected or appointed to an elected office, other than a member described by Subdivision (1); or

(3) a member or annuitant of a public retirement system employed by the associated governmental entity of the public retirement system, other than a person described by Subdivision (1) or (2).

(c) To the extent permitted under Section 66, Article XVI,

1 Texas Constitution, and consistent with a requirement that the
2 retirement system maintain the qualified status of the system's
3 benefit plan under Section 401(a), Internal Revenue Code of 1986,
4 and notwithstanding any other law and except ~~[Except]~~ as provided
5 by Subsection (d), a person ~~[member of a public retirement system]~~
6 is not eligible to receive a service retirement annuity under the
7 retirement system if the person ~~[member]~~ is:

8 (1) described by Subsection (b)(1) or (2) and is
9 convicted of a qualifying felony committed while in office and
10 arising directly from the official duties of that elected office;
11 or

12 (2) described by Subsection (b)(3) and is convicted of
13 a qualifying felony described by Subsection (a)(2)(B) or conspiracy
14 or the attempt to commit a qualifying felony described by
15 Subsection (a)(2)(B) while employed by the associated governmental
16 entity and arising directly from the official duties related to
17 that employment.

18 (e) Not later than the 30th day after the conviction of a
19 person of a qualifying felony, the governmental entity ~~[to]~~ which
20 the person was elected or appointed to or is employed by must
21 provide written notice of the conviction to the public retirement
22 system in which the person participates ~~[is enrolled]~~. The notice
23 must comply with the administrative rules adopted by the public
24 retirement system under Subsection (j).

25 (f) A person ~~[member]~~ who is ineligible to receive a service
26 retirement annuity under Subsection (c) is entitled to a refund of
27 the person's ~~[member's]~~ service retirement annuity contributions,

1 including interest earned on those contributions. A refund under
2 this subsection is subject to an award of all or part of the
3 person's [~~member's~~] service retirement annuity contributions to a
4 former spouse, including as a just and right division of the
5 contributions on divorce, payment of child support, or payment of
6 spousal maintenance or contractual alimony or other order of a
7 court.

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

13 (h) On conviction of a person [~~member~~] for an applicable [~~a~~]
14 qualifying felony:

15 (1) a court may, in the same manner as in a divorce or
16 annulment proceeding, make a just and right division of the
17 person's [~~member's~~] service retirement annuity by awarding to the
18 person's [~~member's~~] spouse all or part of the community property
19 interest in the annuity forfeited by the person [~~member~~]; and

20 (2) a court shall, if the person's [~~member's~~] service
21 retirement annuity was partitioned or exchanged by written
22 agreement of the spouses as provided by Subchapter B, Chapter 4,
23 Family Code, before the person's [~~member's~~] commission of the
24 offense, award the annuity forfeited by the person [~~member~~] to the
25 person's [~~member's~~] spouse as provided in the agreement.

26 (k) A court of this state shall notify the retirement system
27 of [~~the terms of~~] a conviction for an applicable qualifying felony

1 of a person [~~convicted of an offense~~] described by Subsection (c).

2 SECTION 3. Section [810.003](#), Government Code, as amended by
3 this Act, applies only to a member or annuitant of a public
4 retirement system who commits an offense on or after the effective
5 date of this Act. A member or annuitant of a public retirement
6 system who commits an offense before the effective date of this Act
7 is governed by the law in effect on the date the offense was
8 committed, and the former law is continued in effect for that
9 purpose. For purposes of this section, an offense was committed
10 before the effective date of this Act if any element of the offense
11 occurred before that date.

12 SECTION 4. This Act takes effect September 1, 2021.