

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
83rd General Assembly
Regular Session, 2001

As Engrossed: S3/16/01

A Bill

SENATE BILL 235

By: Senator Webb

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS CODE TITLE 24, CHAPTER 2
TO ADD A SUBCHAPTER 6 TO REQUIRE THE FORFEITURE
OF RETIREMENT BENEFITS FOR PERSONS CONVICTED OF
VARIOUS CRIMES RELATED TO PUBLIC OFFICE OR PUBLIC
EMPLOYMENT; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE THE FORFEITURE OF RETIREMENT
BENEFITS FOR PERSONS CONVICTED OF
VARIOUS CRIMES RELATED TO PUBLIC OFFICE
OR PUBLIC EMPLOYMENT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 24, Chapter 2, is amended to add an
additional subchapter to read as follows:

SUBCHAPTER 6 - RETIREMENT BENEFIT FORFEITURE

24-2-601. Title.

This subchapter shall be known and may be cited as the "Public Employee
Retirement Benefit Forfeiture Act."

24-2-602. Definitions.

As used in this subchapter, unless the context otherwise requires:

(1) "Crimes related to public office or public employment" means any of
the following criminal offenses if committed by a public official or public
employee through the public office or position of public employment when the
office or employment places the person in a position to commit the crime:

- 1 (A) § 5-36-103, theft of property;
 2 (B) § 5-36-104, theft of services;
 3 (C) § 5-36-105, theft of property lost, mislaid, or delivered by
 4 mistake;
 5 (D) § 5-36-106, theft by receiving;
 6 (E) § 5-36-107, theft of a trade secret;
 7 (F) § 5-36-202, theft of public benefits;
 8 (G) § 5-37-201, forgery;
 9 (H) § 5-37-202, falsifying business records;
 10 (I) § 5-41-103, computer fraud;
 11 (J) § 5-52-101, trading in public office;
 12 (K) § 5-52-102, unlawful compensation for past official action;
 13 (L) § 5-52-103, public servant bribery;
 14 (M) § 5-52-104, soliciting unlawful compensation;
 15 (N) § 5-52-105, attempt to influence a public servant;
 16 (O) § 5-52-106 trading in public office;
 17 (P) § 5-53-102, perjury;
 18 (Q) § 5-53-103, false swearing;
 19 (R) § 5-53-108, witness bribery;
 20 (S) § 5-53-109, intimidating a witness;
 21 (T) § 5-53-113, juror bribery;
 22 (U) § 5-53-114, intimidating a juror;
 23 (V) § 5-53-115, jury tampering;
 24 (W) § 5-54-102, obstructing governmental operations;
 25 (X) § 5-54-121, tampering with a public record; and
 26 (Y) any felony or misdemeanor which constitutes misfeasance or

27 malfeasance;

28 (2) "Political subdivision" means any county, city of the first or
 29 second class; incorporated town, school district, and any agencies, boards,
 30 commissions, committees, departments, or entities thereof;

31 (3) "Public official" means any person who is elected or appointed to
 32 any public office, including members of the General Assembly, or who is acting
 33 or who has acted on behalf of the State of Arkansas or a political subdivision
 34 or any agency thereof, including but not limited to any person who has so
 35 acted and is otherwise entitled to or is receiving retirement benefits whether
 36 that person is acting on a permanent or temporary basis, and whether or not

1 compensated on a full or part-time basis, and who is a member of the Public
2 Employees' Retirement System;

3 (4) "Public employee" means any person who is appointed to any public
4 employment with the State of Arkansas or a political subdivision or any agency
5 thereof, including but not limited to any person employed on a permanent or
6 temporary basis, whether or not on a full or part-time basis, and who is a
7 member of the Public Employees' Retirement System;

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9 24-2-603. Forfeiture of retirement benefits.

10 (a) No public official or public employee nor any beneficiary
11 designated by a public official or public employee shall be entitled to
12 receive any retirement or other benefit or payment of any kind except a return
13 of the member's contributions without interest, if the public official or
14 public employee pleads guilty or nolo contendere or is found guilty of any
15 crime related to public office or public employment.

16 (b)(1) Upon receipt of a certified judgment of conviction from the
17 court that a public official or public employee has pled guilty or nolo
18 contendere or was found guilty of any crime related to public office or public
19 employment, the board of trustees of the retirement system shall order the
20 retirement benefits of the public official or public employee to be forfeited,
21 and no payment or partial payment shall be made during the pendency of an
22 appeal. If upon appeal, a verdict of guilty or nolo contendere is overturned
23 or the indictment or criminal information is dismissed on appeal, then the
24 public official or public employee shall be reinstated as a member of the
25 retirement system and shall be entitled to all benefits as may be determined
26 by the board, including any benefits accruing during the period of forfeiture,
27 if contributions were made.

28 (2) However, the right of a divorced former spouse to an
29 official's or employee's retirement benefits, or to a portion thereof, under a
30 Qualified Domestic Relations Order shall not be forfeited if the order is
31 issued prior to the conviction.

32 (c) In addition to the setoff remedies for embezzlement or fraud for an
33 employer under § 24-4-1002, as amended by Act 151 of 2001, the board of
34 trustees of the retirement system may retain a member's contributions and
35 interest thereon for the purpose of paying any fine imposed upon the member of
36 the retirement system, or for the repayment of any funds misappropriated by

1 the member from the state or any political subdivision.

2 (d) The board of trustees shall promulgate rules and regulations to
3 implement this section and shall make reasonable efforts to investigate
4 reports of and discover incidents concerning public officials and employees
5 under this section.

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7 24-2-604. Not retroactive.

8 Nothing in this subchapter shall be construed to apply any of the
9 forfeiture provisions retroactively or to apply the forfeiture provisions of
10 this subchapter to any person who has vested retirement benefits in a
11 retirement system on the effective date of this subchapter.

12 /s/ Webb
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