

1 State of Arkansas
2 92nd General Assembly
3 Regular Session, 2019
4

A Bill

SENATE BILL 238

5 By: Senators M. Johnson, G. Stubblefield, Caldwell, B. Ballinger, Bledsoe, E. Cheatham, B. Davis, L.
6 Eads, J. English, Flippo, T. Garner, K. Hammer, Hester, G. Leding, D. Wallace
7 By: Representatives G. Hodges, Sullivan, Lowery, Beck, Bentley, Boyd, A. Davis, L. Fite, Lundstrum,
8 McCollum, Richmond, Womack
9

For An Act To Be Entitled

11 AN ACT TO PROVIDE FOR INELIGIBILITY FOR RETIREMENT
12 BENEFITS UPON CONVICTION OF A FELONY ARISING OUT OF
13 AN ELECTED PUBLIC OFFICIAL'S OFFICIAL ACTIONS; TO
14 DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.
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Subtitle

17 TO PROVIDE FOR INELIGIBILITY FOR
18 RETIREMENT BENEFITS UPON CONVICTION OF A
19 FELONY ARISING OUT OF AN ELECTED PUBLIC
20 OFFICIAL'S OFFICIAL ACTIONS; AND TO
21 DECLARE AN EMERGENCY.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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27 SECTION 1. Arkansas Code § 24-1-301 is amended to read as follows:
28 24-1-301. Definitions.

29 As used in this subchapter except as otherwise provided:

30 (1) "Beneficiary" means an individual who receives or is
31 designated by a member or retirant to receive a plan benefit under a
32 retirement system; ~~and~~

33 (2) "Elected public official" means a person elected to one (1)
34 or more of the following offices:

35 (A) Governor;

36 (B) Lieutenant Governor;



- 1 (C) Attorney General;
- 2 (D) Secretary of State;
- 3 (E) Treasurer of State;
- 4 (F) Auditor of State;
- 5 (G) Commissioner of State Lands;
- 6 (H) A member of the Senate;
- 7 (I) A member of the House of Representatives;
- 8 (J) Justice of the Supreme Court;
- 9 (K) Judge of the Court of Appeals;
- 10 (L) Circuit judge; or
- 11 (M) District judge; and

12 ~~(2)~~(3) “Retirement system” means:

- 13 (A) The Arkansas Teacher Retirement System, established by
- 14 the Arkansas Teacher Retirement System Act, § 24-7-201 et seq.;
- 15 (B) The Arkansas State Highway Employees’ Retirement
- 16 System, established by § 24-5-103;
- 17 (C) The Arkansas Public Employees’ Retirement System,
- 18 established by § 24-4-103;
- 19 (D) The State Police Retirement System, established by §
- 20 24-6-203;
- 21 (E) The Arkansas Judicial Retirement System, established
- 22 by § 24-8-201 et seq.;
- 23 (F) An alternate retirement plan for:
- 24 (i) A college, university, or the Department of
- 25 Higher Education provided for under § 24-7-801 et seq.; and
- 26 (ii) A vocational-technical school or the Department
- 27 of Career Education provided for under § 24-7-901 et seq.;
- 28 (G) The Arkansas Local Police and Fire Retirement System
- 29 provided for under § 24-10-101 et seq.; and
- 30 (H) A firemen’s relief and pension fund or a policemen’s
- 31 pension and relief fund provided for under § 24-11-101 et seq.

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33 SECTION 2. Arkansas Code Title 24, Chapter 1, Subchapter 3, is amended

34 to add an additional section to read as follows:

35 24-1-306. Elected public officials – Ineligibility for retirement

36 benefits upon conviction of felony arising out of official actions.

1 (a) As used in this section, "retirement system" means:

2 (1) The Arkansas Teacher Retirement System, established by the
 3 Arkansas Teacher Retirement System Act, § 24-7-201 et seq.;

4 (2) The Arkansas State Highway Employees' Retirement System,
 5 established by § 24-5-103;

6 (3) The Arkansas Public Employees' Retirement System,
 7 established by § 24-4-103;

8 (4) The State Police Retirement System, established by § 24-6-
 9 203; and

10 (5) The Arkansas Judicial Retirement System, established by §
 11 24-8-201 et seq.

12 (b) A current or former elected public official shall forfeit his or
 13 her credited service in a retirement system and shall not receive retirement
 14 benefits from a retirement system if he or she:

15 (1) Is convicted in a state or federal court of a felony arising
 16 out of that person's official actions while serving as an elected public
 17 official; or

18 (2) Pleads guilty or nolo contendere in a state or federal court
 19 to a felony arising out of that person's official actions while serving as an
 20 elected public official.

21 (c)(1) Each time a person is elected or re-elected as an elected
 22 public official, as a condition of his or her election, he or she shall be
 23 deemed to consent and agree to the forfeiture of his or her credited service
 24 in a retirement system if the person:

25 (A) Is convicted in a state or federal court of a felony
 26 arising out of that person's official actions while serving as an elected
 27 public official; or

28 (B) Pleads guilty or nolo contendere in a state or federal
 29 court to a felony arising out of that person's official actions while serving
 30 as an elected public official.

31 (2) Subdivision (c)(1) of this section applies to an elected
 32 public official regardless of the date the person originally became a member
 33 of a retirement system.

34 (d) The clerk of the court in which the proceeding against the current
 35 or former elected public official is being conducted shall send written
 36 notice by certified mail, return receipt requested, to the executive director

1 or executive secretary of the applicable retirement system when:

2 (1) A current or former elected public official is convicted of
3 or pleads guilty or nolo contendere to a felony arising out of that person's
4 official actions while serving as an elected public official;

5 (2) A current or former elected public official appeals his or
6 her conviction of or plea of guilty or nolo contendere to a felony arising
7 out of that person's official actions while serving as an elected public
8 official; and

9 (3) The appellate court issues a final ruling upholding or
10 reversing the conviction or plea of guilty or nolo contendere of the current
11 or former elected public official for a felony arising out of that person's
12 official actions while serving as an elected public official.

13 (e) Upon the initial conviction or plea under subsection (b) of this
14 section, the applicable retirement system shall:

15 (1) Have the current or former elected public official's annuity
16 stopped immediately, if the current or former elected public official is
17 receiving an annuity; and

18 (2)(A) Refund to the current or former elected public official
19 the accumulated contributions credited to the elected public official less
20 any annuity received.

21 (B) If a court orders that some or all of a refund of
22 accumulated contributions under subdivision (e)(2)(A) of this section be paid
23 as restitution in connection with the felony arising out of the official
24 actions of the current or former elected public official, the retirement
25 system shall:

26 (i) Reduce the refund of accumulated contributions
27 by that sum; and

28 (ii) Direct the sum ordered by the court as
29 restitution to the court issuing the order.

30 (f) A current or former elected public official who is convicted or
31 pleads guilty or nolo contendere under subsection (b) of this section shall
32 be restored to all rights, privileges, and benefits as a member of the
33 applicable retirement system as if the conviction or plea had never occurred
34 if:

35 (1) The current or former elected public official:

36 (A) Has his or her conviction or plea overturned and is

1 acquitted; or

2 (B) Receives a pardon; and

3 (2) The current or former elected public official repays any
4 accumulated contributions refunded to the member under subdivision (e)(2) of
5 this section.

6 (g) This section applies to:

7 (1) A person elected or re-elected as an elected public official
8 on and after January 1, 2020; and

9 (2) An elected public official elected or re-elected prior to
10 January 1, 2020 if the actions constituting the felony arising out of the
11 person's official actions while serving as an elected public official
12 occurred after the effective date of this section.

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14 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
15 General Assembly of the State of Arkansas that ensuring the lawful and
16 ethical behavior of elected public officials is of utmost importance to the
17 state; that the provisions of this act provide a powerful disincentive for
18 unlawful conduct and relieve the state from paying retirement benefits to
19 persons who abuse their office for personal gain; and this act should become
20 effective as soon as possible to discourage and punish illegal conduct.
21 Therefore, an emergency is declared to exist, and this act being immediately
22 necessary for the preservation of the public peace, health, and safety shall
23 become effective on:

24 (1) The date of its approval by the Governor;

25 (2) If the bill is neither approved nor vetoed by the Governor,
26 the expiration of the period of time during which the Governor may veto the
27 bill; or

28 (3) If the bill is vetoed by the Governor and the veto is
29 overridden, the date the last house overrides the veto.

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