

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

A Bill

SENATE BILL 53

5 By: Senator G. Stubblefield
6 By: Representative Sullivan
7

For An Act To Be Entitled

9 AN ACT CONCERNING INELIGIBILITY FOR RETIREMENT
10 BENEFITS UPON CONVICTION OF A FELONY ARISING OUT OF A
11 PUBLIC EMPLOYEE OR ELECTED PUBLIC OFFICIAL'S OFFICIAL
12 ACTIONS; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 CONCERNING INELIGIBILITY FOR RETIREMENT
16 BENEFITS UPON CONVICTION OF A FELONY
17 ARISING OUT OF A PUBLIC EMPLOYEE OR
18 ELECTED PUBLIC OFFICIAL'S OFFICIAL
19 ACTIONS.
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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25 SECTION 1. Arkansas Code § 24-1-301 is amended to read as follows:
26 24-1-301. Definitions.

27 As used in this subchapter:

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

31 (2) "Elected public official" means a person elected to the
32 following offices:

- 33 (A) Governor;
- 34 (B) Lieutenant Governor;
- 35 (C) Attorney General;
- 36 (D) Secretary of State;

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

10 (3) "Public employee" means an individual who is:

- 11 (A) Employed by an office, department, commission,
- 12 council, board, committee, legislative body, agency, or other establishment
- 13 of the executive, judicial, or legislative branch of this state; and
- 14 (B) A member of a retirement system; and

15 ~~(2)~~(4) "Retirement system" means:

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

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

1 to add additional sections to read as follows:

2 24-1-306. Public employees – Ineligibility for retirement benefits
3 upon conviction of felony arising out of official actions.

4 (a) A current or former public employee shall forfeit his or her
5 credited service in a retirement system and shall not receive retirement
6 benefits from a retirement system if he or she:

7 (1) Is convicted in a state or federal court of a felony arising
8 out of that person's official actions while serving as a public employee; or

9 (2) Pleads guilty or nolo contendere in a state or federal court
10 to a felony arising out of that person's official actions while serving as a
11 public employee.

12 (b)(1) Each time a person enters into employment as a public employee
13 or consents to a promotion or change in classification during his or her
14 employment, he or she shall be deemed to consent and agree to the forfeiture
15 of his or her credited service in a retirement system if the person:

16 (A) Is convicted in a state or federal court of a felony
17 arising out of that person's official actions while serving as a public
18 employee; or

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

22 (2) Subdivision (b)(1) of this section applies to a public
23 employee regardless of the date the person originally became a member of a
24 retirement system.

25 (c) Upon the initial conviction or plea under subsection (a) of this
26 section, the court of record shall notify the executive director of the
27 applicable retirement system of the conviction or plea.

28 (d) Upon the initial conviction or plea under subsection (a) of this
29 section, the retirement system shall:

30 (1) Have the current or former public employee's annuity stopped
31 immediately, if the current or former public employee is receiving an
32 annuity; and

33 (2) Refund to the current or former public employee the
34 accumulated contributions credited to the current or former public employee
35 less any annuity received.

36 (e) A current or former public employee who is convicted or pleads

1 guilty or nolo contendere under subsection (a) of this section shall be
 2 restored to all rights, privileges, and benefits as a member of a retirement
 3 system as if the conviction or plea had never occurred if:

4 (1) The current or former public employee:

5 (A) Has his or her conviction or plea overturned and is
 6 acquitted; or

7 (B) Receives a pardon; and

8 (2) The current or former public employee repays any accumulated
 9 contributions refunded to the member under subdivision (d)(2) of this
 10 section.

11 (f) This section applies to:

12 (1) A person entering into employment as a public employee on
 13 and after the effective date of this section; and

14 (2) A public employee who consents to a promotion or other
 15 change in classification on and after the effective date of this section.

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 17 24-1-307. Elected public officials – Ineligibility for retirement
 18 benefits upon conviction of felony arising out of official actions.

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

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

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

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

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

35 (B) Pleads guilty or nolo contendere in a state or federal
 36 court to a felony arising out of that person's official actions while serving

1 as an elected public official.

2 (2) Subdivision (b)(1) of this section applies to an elected
3 public official regardless of the date the person originally became a member
4 of a retirement system.

5 (c) Upon the initial conviction or plea under subsection (a) of this
6 section, the court of record shall notify the executive director of the
7 applicable retirement system of the conviction or plea.

8 (d) Upon the initial conviction or plea under subsection (a) of this
9 section, the applicable retirement system shall:

10 (1) Have the current or former elected public official's annuity
11 stopped immediately, if the current or former elected public official is
12 receiving an annuity; and

13 (2) Refund to the current or former elected public official the
14 accumulated contributions credited to the elected public official less any
15 annuity received.

16 (e) A current or former elected public official who is convicted or
17 pleads guilty or nolo contendere under subsection (a) of this section shall
18 be restored to all rights, privileges, and benefits as a member of the
19 applicable retirement system as if the conviction or plea had never occurred
20 if:

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

22 (A) Has his or her conviction or plea overturned and is
23 acquitted; or

24 (B) Receives a pardon; and

25 (2) The current or former elected public official repays any
26 accumulated contributions refunded to the member under subdivision (d)(2) of
27 this section.

28 (f) This section applies to a person elected or re-elected as an
29 elected public official on and after January 1, 2020.

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