

## **BILL ANALYSIS**

Senate Research Center  
82R2054 SGA-D

S.B. 371  
By: Seliger et al.  
State Affairs  
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As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

S.B. 371 removes from the Government Code the entitlement to annuity payments made to members of the legislature and statewide elected officials, as members of the elected class of the Employees Retirement System of Texas, who are convicted of felonies involving bribery, embezzlement, extortion, or other theft of public money, perjury, or conspiracy, or the attempt to commit any of the aforementioned crimes arising directly from the official duties of such elected office. The bill entitles a member who is ineligible to receive an annuity under its provisions to receive a refund of the member's annuity contributions not including interest earned on those contributions. The bill applies only to members who commit qualifying felonies on or after its effective date.

The bill also repeals an outdated provision of Article 6220, Vernon's Texas Civil Statutes, that suspended pension payments to Confederate soldiers who were confined in an asylum of the state or in the state penitentiary.

As proposed, S.B. 371 amends current law relating to the eligibility for service retirement annuities of certain elected officials convicted of certain crimes.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 1 (Section 814.1021, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 814, Government Code, by adding Section 814.1021, as follows:

Sec. 814.1021. CERTAIN ELECTED MEMBERS INELIGIBLE FOR RETIREMENT ANNUITY. (a) Defines "qualifying felony" in this section.

(b) Provides that this section applies only to a member of the elected class of the Employee Retirement System of Texas (retirement system) as described by Section 812.002(a)(1) (relating to persons who hold state offices that are normally filled by statewide election and that are not included in the coverage of the Judicial Retirement System of Texas Plan One or Two) or (2) (relating to members of the legislature).

(c) Provides that, except as provided by Subsection (d), a member is not eligible to receive a service retirement annuity for service credit in the elected class under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) Requires the retirement system to suspend payments of an annuity to a person ineligible to receive the annuity under Subsection (c). Entitles a person whose conviction is overturned on appeal or who meets either of the requirements for innocence under Section 103.001(a)(2) (relating to a person receiving a full pardon on the basis of innocence or being granted relief on the basis of actual innocence), Civil Practice and Remedies Code, to receive an amount equal to the

accrued total of payments and interest earned on the payments withheld during the suspension period.

(e) Entitles a member who is not eligible to receive a service retirement annuity under Subsection (c) to a refund of the member's retirement annuity contributions not including interest earned on those contributions.

(f) Provides that benefits payable to an alternate payee under Chapter 804 (Domestic Relations Orders and Spousal Consent) are not affected by a member's ineligibility to receive a retirement annuity under Subsection (c).

(g) Provides that ineligibility for a retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(h) Requires the board of trustees of the retirement system to adopt rules and procedures to implement this section.

SECTION 2. Repealer: Article 6220 (Persons Not Entitled To), V.T.C.S.

SECTION 3. (a) Provides that Section 814.1021, Government Code, as added by this Act, applies only to a member of the retirement system who is or was a member of the state legislature or holds or has held a statewide elected office and, on or after the effective date of this Act, commits an offense that is a qualifying felony as defined by that section. Provides that a person who commits a qualifying felony before the effective date of this Act is subject to the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

(b) Provides that, for purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 4. Effective date: September 1, 2011.