

Assembly Bill No. 1044

CHAPTER 322

An act to add Sections 1243, 20343, 31563, and 45310.3 to the Government Code, relating to elected public officers.

[Approved by Governor September 22, 2005. Filed with
Secretary of State September 22, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1044, Aghazarian. Public officers: retirement benefits forfeiture.

Existing law provides that any person receiving an allowance from a public retirement system who is charged with any of certain felonies arising out of his or her former official duties shall have that allowance suspended if he or she leaves the jurisdiction of the court, as specified.

This bill would provide that any elected public officer, who takes office, or is reelected to office, on or after January 1, 2006, shall forfeit specified retirement benefits that accrue during his or her term of office if he or she is convicted of any of those felonies arising out of his or her official duties, unless the governing body authorizes the public officer to receive benefits. The bill would provide that any contributions made by the elected public officer that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, as specified.

The bill would require the officer's employer to notify the retirement system of the officer's conviction, as specified. The bill would also provide that a person ceases to be a member of the Public Employees' Retirement System, a county retirement system, or a city retirement system for the portion of his or her service as an elected public officer that is forfeited.

The people of the State of California do enact as follows:

SECTION 1. Section 1243 is added to the Government Code, to read:

1243. (a) This section shall apply to any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006.

(b) If an elected public officer is convicted during or after holding office of any felony involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, or conspiracy to commit any of those crimes arising directly out of his or her official duties as an elected public officer, he or she shall forfeit all rights and benefits under, and membership in, any public retirement system in which he or she is a member, effective on the date of final conviction.

(c) The elected public officer described in subdivision (b) shall forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2006, on account of his or her service in the elected public office held when the felony occurred.

(d) Any contributions made by the elected public officer described in subdivision (b) to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service as an elected public officer shall be returned, without interest, to the public officer.

(e) The public agency that employs an elected public officer described in subdivision (b) shall notify the public retirement system in which the officer is a member of the officer's conviction.

(f) An elected public officer shall not forfeit his or her rights and benefits pursuant to subdivision (b) if the governing body of the elected public officer's employer, including, but not limited to, the governing body of a city, county, or city and county, authorizes the public officer to receive those rights and benefits.

(g) For purposes of this section, "public officer" means an officer of the state, or an officer of a county, city, city and county, district, or authority, or any department, division, bureau, board, commission, agency, or instrumentality of any of these entities.

(h) This section applies to any person appointed to service for the period of an elected public officer's unexpired term of office.

SEC. 2. Section 20343 is added to the Government Code, to read:

20343. Notwithstanding Section 21259, a person ceases to be a member for any portion of his or her service as an elected public officer that is forfeited pursuant to Section 1243.

SEC. 3. Section 31563 is added to the Government Code, to read:

31563. Notwithstanding any other provision of law, a person ceases to be a member for any portion of his or her service as an elected public officer that is forfeited pursuant to Section 1243.

SEC. 4. Section 45310.3 is added to the Government Code, to read:

45310.3. Notwithstanding any other provision of law, a person ceases to be a member for any portion of his or her service as an elected public officer that is forfeited pursuant to Section 1243.