

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 1858

Introduced by Assembly Member Jeffries
(Coauthors: Assembly Members DeVore, Horton, and Maze)

January 30, 2008

An act to amend Sections 1243, 20343, 31563, and 45310.3 of the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1858, as amended, Jeffries. Public employees: retirement benefits forfeiture.

Existing law requires an elected public officer, as defined, who takes office or is reelected to office on or after January 1, 2006, to forfeit specified retirement benefits that accrue during his or her term of office if he or she is convicted of any of certain felonies arising out of his or her official duties, unless the governing body authorizes the public officer to receive those benefits. Existing law provides 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.

This bill would provide that these provisions shall apply to ~~a~~ any public employee, as defined, who is first hired on or after January 1, 2009, who is convicted of those specified felonies arising directly out of his or her official duties as a public employee.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1243 of the Government Code is amended
2 to read:

3 1243. (a) (1) This section shall apply to any elected public
4 officer who takes public office, or is reelected to public office, on
5 or after January 1, 2006.

6 (2) This section shall also apply to a *any* public employee who
7 is first hired on or after January 1, 2009.

8 (b) (1) If an elected public officer is convicted during or after
9 holding office of any felony involving accepting or giving, or
10 offering to give, any bribe, the embezzlement of public money,
11 extortion or theft of public money, perjury, or conspiracy to commit
12 any of those crimes arising directly out of his or her official duties
13 as an elected public officer, he or she shall forfeit all rights and
14 benefits under, and membership in, any public retirement system
15 in which he or she is a member, effective on the date of final
16 conviction.

17 (2) If a public employee is convicted of any felony involving
18 accepting or giving, or offering to give, any bribe, the
19 embezzlement of public money, extortion or theft of public money,
20 perjury, or conspiracy to commit any of those crimes arising
21 directly out of his or her official duties as a public employee, he
22 or she shall forfeit all rights and benefits under, and membership
23 in, any public retirement system in which he or she is a member,
24 effective on the date of final conviction.

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

30 (2) A public employee described in paragraph (2) of subdivision
31 (b) shall forfeit only that portion of his or her rights and benefits
32 that accrued on or after January 1, 2009, on account of his or her
33 service as a public employee when the felony occurred.

34 (d) (1) Any contributions made by the elected public officer
35 described in paragraph (1) of subdivision (b) to the public
36 retirement system that arose directly from or accrued solely as a
37 result of his or her forfeited service as an elected public officer
38 shall be returned, without interest, to the public officer.

1 (2) Any contributions made by the public employee described
2 in paragraph (2) of subdivision (b) to the public retirement system
3 that arose directly from or accrued solely as a result of his or her
4 forfeited service as a public employee shall be returned, without
5 interest, to the public employee.

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

10 (f) (1) An elected public officer shall not forfeit his or her rights
11 and benefits pursuant to subdivision (b) if the governing body of
12 the elected public officer's employer, including, but not limited
13 to, the governing body of a city, county, or city and county,
14 authorizes the public officer to receive those rights and benefits.

15 (2) A public employee shall not forfeit his or her rights and
16 benefits pursuant to subdivision (b) if the governing body of the
17 public employee's employer, including, but not limited to, the
18 governing body of a city, county, or city and county, authorizes
19 the public employee to receive those rights and benefits.

20 (g) For purposes of this section, the following definitions shall
21 apply:

22 (1) "Public officer" means an officer of the state, or an officer
23 of a county, city, city and county, district, or authority, or any
24 department, division, bureau, board, commission, agency, or
25 instrumentality of any of these entities.

26 (2) "Public employee" means an employee of the state, or an
27 employee of a county, city, city and county, district, or authority,
28 or any department, division, bureau, board, commission, agency,
29 or instrumentality of any of these entities.

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

32 SEC. 2. Section 20343 of the Government Code is amended
33 to read:

34 20343. Notwithstanding Section 21259, a person ceases to be
35 a member for any portion of his or her service as an elected public
36 officer or public employee that is forfeited pursuant to Section
37 1243.

38 SEC. 3. Section 31563 of the Government Code is amended
39 to read:

1 31563. Notwithstanding any other provision of law, a person
2 ceases to be a member for any portion of his or her service as an
3 elected public officer or public employee that is forfeited pursuant
4 to Section 1243.

5 SEC. 4. Section 45310.3 of the Government Code is amended
6 to read:

7 45310.3. Notwithstanding any other provision of law, a person
8 ceases to be a member for any portion of his or her service as an
9 elected public officer or public employee that is forfeited pursuant
10 to Section 1243.