

AMENDED IN SENATE APRIL 13, 2011

**SENATE BILL**

**No. 115**

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**Introduced by Senator Strickland**  
(Coauthor: Assembly Member Nestande)

January 19, 2011

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An act to amend Section 1243 of, and to add Section 1244 to, the Government Code, relating to public employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 115, as amended, Strickland. Public employees: pensions: forfeiture.

Existing law provides that any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2006, who is convicted of any specified felony arising directly out of his or her official duties, forfeits 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, as specified.

*This bill would additionally include tampering with a witness, money laundering, and the preparation of false documents among the specified felonies that would result in that forfeiture for any elected public officer who takes public office, or is reelected to public office, on or after January 1, 2012. This bill would also make clarifying changes to that provision.*

This bill would additionally require a public officer, as defined, or public employee who is convicted of any felony ~~for conduct~~ involving accepting or giving, or offering to give, any bribe, the embezzlement of public money, extortion or theft of public money, perjury, tampering with a witness, money laundering, the preparation of false documents, or conspiracy to commit any of those crimes arising directly out of his

or her official duties on or after January 1, 2012, to 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. That public officer or employee would forfeit only that portion of his or her rights and benefits that accrued on or after January 1, 2012. The bill would require any contributions made by that public officer or public employee to the public retirement system that arose directly from or accrued solely as a result of his or her forfeited service would be returned to the public officer or public employee without interest.

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

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

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

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

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

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

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

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

15 (i) *The amendments made by the act adding this subdivision*  
16 *shall only apply to an elected public officer who takes public office,*  
17 *or is reelected to public office, on or after January 1, 2012, with*  
18 *respect to the rights and benefits accrued on or after January 1,*  
19 *2012, on account of his or her service in the elected public office*  
20 *held when the felony occurred.*

21 **SECTION 1.**

22 *SEC. 2.* Section 1244 is added to the Government Code, to  
23 read:

24 1244. (a) If a public officer or public employee is convicted  
25 ~~of any felony for conduct arising directly out of his or her official~~  
26 ~~duties on or after January 1, 2012, he or she shall forfeit all rights~~  
27 ~~and benefits under, and membership in, any public retirement~~  
28 ~~system in which he or she is a member, effective on the date of~~  
29 ~~final conviction.~~ *of any felony involving accepting or giving, or*  
30 *offering to give, any bribe, the embezzlement of public money,*  
31 *extortion or theft of public money, perjury, tampering with a*  
32 *witness, money laundering, the preparation of false documents,*  
33 *or conspiracy to commit any of those crimes arising directly out*  
34 *of his or her official duties, he or she shall forfeit all rights and*  
35 *benefits under any public retirement system in which he or she is*  
36 *a member, effective on the date of conviction.*

37 (b) The public officer or public employee described in  
38 subdivision (a) shall forfeit only that portion of his or her rights  
39 and benefits that accrued on or after January 1, 2012.

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

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

11 (e) For purposes of this section, the following definitions shall  
12 apply:

13 (1) "Public officer" means an officer of the state, or an officer  
14 of a county, city, city and county, district, or authority, or any  
15 department, division, bureau, board, commission, agency, or  
16 instrumentality of any of these entities. *"Public officer" does not*  
17 *include any elected public officer.*

18 (2) "Public employee" means any person employed by any  
19 public agency.