

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 13, 2011

SENATE BILL

No. 115

Introduced by Senator Strickland
(Coauthor: Assembly Member Nestande)

January 19, 2011

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~~ 2013. 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 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~~ 2013, to forfeit all rights and benefits under any public retirement system in which he or she is a member, effective on the date of 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~~ 2013. 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.

The bill would additionally specify that the pension forfeiture provisions for elected public officers, other public officers, and public employees shall not be construed to abrogate the rights of an innocent spouse who was not involved in the commission of the felony and would require the public retirement system to establish a separate account to maintain the innocent spouse's community property interests in any benefits accrued.

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, or
11 conspiracy to commit any of those crimes arising directly out of
12 his or her official duties as an elected public officer, he or she shall
13 forfeit all rights and benefits under any public retirement system
14 in which he or she is a member, effective on the date of conviction.
15 (c) The elected public officer described in subdivision (b) shall
16 forfeit only that portion of his or her rights and benefits that accrued
17 on or after January 1, 2006, on account of his or her service in the
18 elected public office held when the felony occurred.

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

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

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

14 (g) *This section shall not be construed to abrogate the rights*
15 *of an innocent spouse who was not involved in the commission of*
16 *the felony. If an elected public officer is convicted of a felony*
17 *pursuant to subdivision (a), the public retirement system of which*
18 *the officer is a member shall establish a separate account to*
19 *maintain the innocent spouse's community property interest in any*
20 *benefits accrued by the elected public officer. The spouse's*
21 *community property interest shall consist of one-half of those*
22 *benefits, except as otherwise ordered by a court.*

23 ~~(g)~~

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

28 ~~(h)~~

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

31 ~~(i)~~

32 (j) The amendments made by the act adding this subdivision
33 shall only apply to an elected public officer who takes public office,
34 or is reelected to public office, on or after January 1, ~~2012~~ 2013,
35 with respect to the rights and benefits accrued on or after January
36 1, ~~2012~~ 2013, on account of his or her service in the elected public
37 office held when the felony occurred.

38 SEC. 2. Section 1244 is added to the Government Code, to
39 read:

1 1244. (a) If a public officer or public employee is convicted
2 of any felony involving accepting or giving, or offering to give,
3 any bribe, the embezzlement of public money, extortion or theft
4 of public money, perjury, tampering with a witness, money
5 laundering, the preparation of false documents, or conspiracy to
6 commit any of those crimes arising directly out of his or her official
7 duties, he or she shall forfeit all rights and benefits under any public
8 retirement system in which he or she is a member, effective on the
9 date of conviction.

10 (b) The public officer or public employee described in
11 subdivision (a) shall forfeit only that portion of his or her rights
12 and benefits that accrued on or after January 1, ~~2012~~ 2013.

13 (c) Any contributions made by the public officer or public
14 employee described in subdivision (a) to the public retirement
15 system that arose directly from or accrued solely as a result of his
16 or her forfeited service as a public officer or public employee shall
17 be returned, without interest, to the public officer or public
18 employee.

19 (d) The public agency that employs a public officer or public
20 employee described in subdivision (b) shall notify the public
21 retirement system in which the person is a member of the person's
22 conviction.

23 (e) *This section shall not be construed to abrogate the rights of*
24 *an innocent spouse who was not involved in the commission of the*
25 *felony. If a public officer or public employee is convicted of a*
26 *felony pursuant to subdivision (a), the public retirement system of*
27 *which the public officer or public employee is a member shall*
28 *establish a separate account to maintain the innocent spouse's*
29 *community property interest in any benefits accrued by the public*
30 *officer or public employee. The spouse's community property*
31 *interest shall consist of one-half of those benefits, except as*
32 *otherwise ordered by a court.*

33 (e)

34 (f) For purposes of this section, the following definitions shall
35 apply:

36 (1) "Public officer" means an officer of the state, or an officer
37 of a county, city, city and county, district, or authority, or any
38 department, division, bureau, board, commission, agency, or
39 instrumentality of any of these entities. "Public officer" does not
40 include any elected public officer.

1 (2) “Public employee” means any person employed by any
2 public agency.

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