

Senate Bill No. 39

CHAPTER 775

An act to add Section 53244 to the Government Code, relating to local government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor October 12, 2013. Filed with
Secretary of State October 12, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 39, De León. Local agencies: public officers: claims and liability.

(1) Existing law provides for the governance of local agencies and specifically prescribes the rights and duties of their officers and employees. Existing law authorizes local agencies to establish retirement systems for the provision of pension benefits to officers and employees of the agencies and commits the administration of those systems to retirement boards. Existing law establishes a process for making claims on local agencies and excepts from that process applications for money or benefits from a public pension or retirement system. Existing law, the California Public Employees' Pension Reform Act of 2013, requires the forfeiture of specified retirement benefits by an elected public officer or a public employee, as defined, if that officer or employee is convicted of a felony for conduct arising out of, or in the performance of, his or her official duties.

This bill would require the forfeiture of a contractual, common law, constitutional, or statutory claim against a local public agency employer to retirement or pension rights or benefits, as specified, by a local public officer who exercised discretionary authority and who was convicted of a felony for conduct arising out of, or in the performance of, his or her official duties. The bill would also make a statement of findings.

(2) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature finds and declares that local public agencies need protection from disgraced and avaricious public officials who, following conviction for crimes arising out of the performance of their official duties, continue to seek unfair benefits at public expense by asserting a claim that their former employers owe them the value of pension benefits, including benefits that the public retirement systems charged with administration of those benefits have rightfully disallowed.

SEC. 2. Section 53244 is added to the Government Code, to read:

53244. (a) A local public officer, as defined in subdivision (b), who is convicted by a state or federal trial court of any felony under state or federal law for conduct arising out of, or in the performance of, his or her official duties shall forfeit any contract right or other common law, constitutional, or statutory claim against a local public agency employer to retirement or pension rights or benefits, however those benefits may be characterized, including lost compensation, other than the accrued rights and benefits to which he or she may be entitled under any public retirement system in which he or she is a member. The forfeiture provided by this section shall be in addition to, and independent of, any forfeiture of public retirement system rights and benefits pursuant to Section 7522.70, 7522.72, or 7522.74.

(b) For the purposes of this section, “local public officer” means a person, either elected or appointed, who exercised discretionary, executive authority in his or her employment.

(c) This section shall apply to any claim filed prior to the effective date of the act enacting this section, and still pending on that date, and any claim commenced after that date.

(d) Upon conviction, a local public officer as described in subdivision (a), and the prosecuting agency shall each notify the public employer who employed the local public officer at the time of the commission of the felony within 60 days of the felony conviction. The operation of this section is not dependent upon the performance of the notification required by this subdivision.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to protect the public from local public officers who are convicted of felonies due to violations of the public trust and who continue to seek unfair benefits at public expense, it is necessary that this act take effect immediately.