

AMENDED IN SENATE MARCH 22, 2012

SENATE BILL

No. 1057

Introduced by Senator Huff

(Coauthors: Senators Anderson, Berryhill, Cannella, Dutton, Emmerson, Fuller, Gaines, Harman, La Malfa, Runner, Strickland, Walters, and Wyland)

February 13, 2012

An act to ~~amend Section 65580~~ of *add Section 1243.5* to the Government Code, relating to ~~housing~~ *public employees' retirement*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1057, as amended, Huff. ~~Housing availability.~~ *Public employees' retirement: felony 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 require that an employee of a school district, county office of education, or charter school, who is convicted of any state or federal felony for conduct arising out of, or in the performance of, his or her official duties in pursuit of the office or appointment, or in connection with obtaining salary, disability retirement, or service retirement, or other benefits, forfeit retirement benefits earned or accrued from the earliest date of the commission of the felony to the forfeiture date, as specified. The bill would also require any contributions to the public retirement system made by the employee on or after the earliest date of commission of the felony to be returned,

without interest, to the employee upon the occurrence of a distribution event, as defined, unless otherwise ordered by a court or determined by the pension administrator.

~~The Planning and Zoning Law requires each city, county, and city and county to prepare and adopt a general plan that contains certain mandatory elements, including a housing element that analyzes existing and projected housing needs. Existing law includes various legislative findings and declarations related to the statewide importance of housing availability and the responsibility of local government to address regional housing needs.~~

~~This bill would make a technical, nonsubstantive change to these legislative findings and declarations.~~

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

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

1 SECTION 1. Section 1243.5 is added to the Government Code,
2 to read:
3 1243.5. (a) If an employee of a school district, county office
4 of education, or charter school is convicted by a state or federal
5 trial court of any felony under state or federal law for conduct
6 arising out of or in the performance of his or her official duties,
7 in pursuit of the office or appointment, or in connection with
8 obtaining salary, disability retirement, service retirement, or other
9 benefits, he or she shall forfeit all accrued rights and benefits in
10 any public retirement system in which he or she is a member to
11 the extent provided in subdivision (b) and shall not accrue further
12 benefits in that public retirement system, effective on the date of
13 the conviction.
14 (b) (1) An employee of a school district, county office of
15 education, or charter school shall forfeit all the retirement benefits
16 earned or accrued from the earliest date of the commission of any
17 felony described in subdivision (a) to the forfeiture date, inclusive.
18 The retirement benefits shall remain forfeited notwithstanding any
19 reduction in sentence or expungement of the conviction following
20 the date of the employee's conviction. Retirement benefits
21 attributable to service performed prior to the date of the first
22 commission of the felony for which the employee was convicted
23 shall not be forfeited as a result of this section.

1 (2) For purposes of this subdivision, “forfeiture date” means
2 the date of the conviction.

3 (c) (1) Any contributions to the public retirement system made
4 by the employee described in subdivision (a) on or after the earliest
5 date of the commission of any felony described in subdivision (a)
6 shall be returned, without interest, to the employee upon the
7 occurrence of a distribution event unless otherwise ordered by a
8 court or determined by the pension administrator.

9 (2) For the purposes of this subdivision, a “distribution event”
10 means any of the following:

11 (A) Separation from employment.

12 (B) Death of the member.

13 (C) Retirement of the member.

14 (d) A school district, county office of education, or charter
15 school that employs an employee described in subdivision (a) and
16 that employee shall each notify the public retirement system in
17 which the employee is a member of that employee’s conviction
18 within 60 days of conviction in the trial court. The school district,
19 county office of education, or charter school’s notification
20 obligations shall not apply if the employee’s conviction occurs
21 after the employee separates from employment or office with that
22 school district, county office of education, or charter school. The
23 operation of this section is not dependent upon the performance
24 of the notification obligations specified in this subdivision.

25 (e) A public retirement system may assess a school district,
26 county office of education, or charter school a reasonable amount
27 to reimburse the cost of audit, adjustment, or correction, if it
28 determines that the school district, county office of education, or
29 charter school failed to comply with this section.

30 (f) If an employee’s conviction is reversed and that decision is
31 final, the employee shall be entitled to recover the forfeited
32 retirement benefits as adjusted for any contributions received
33 pursuant to subdivision (c).

34 ~~SECTION 1. Section 65580 of the Government Code is~~
35 ~~amended to read:~~

36 ~~65580. The Legislature finds and declares all of the following:~~

37 ~~(a) The availability of housing is of vital statewide importance,~~
38 ~~and the early attainment of decent housing and a suitable living~~
39 ~~environment for every Californian, including farmworkers, is a~~
40 ~~priority of the highest order.~~

1 ~~(b) The early attainment of this goal requires the cooperative~~
2 ~~participation of government and the private sector in an effort to~~
3 ~~expand housing opportunities and accommodate the housing needs~~
4 ~~of Californians of all economic levels.~~

5 ~~(e) The provision of housing affordable to low- and~~
6 ~~moderate-income households requires the cooperation of all levels~~
7 ~~of government.~~

8 ~~(d) Local and state governments have a responsibility to use the~~
9 ~~powers vested in them to facilitate the improvement and~~
10 ~~development of housing to make adequate provision for the housing~~
11 ~~needs of all economic segments of the community.~~

12 ~~(e) The Legislature recognizes that in carrying out this~~
13 ~~responsibility, each local government also has the responsibility~~
14 ~~to consider economic, environmental, and fiscal factors and~~
15 ~~community goals set forth in the general plan and to cooperate~~
16 ~~with other local governments and the state in addressing regional~~
17 ~~housing needs.~~