

SENATE AMENDMENTS

2nd Printing

By: Turner of Tarrant, Keffer, Flynn,
Martinez Fischer, et al.

H.B. No. 408

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the retirement benefits for certain elected state
3 officials.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 813.503, Government Code, is amended by
6 amending Subsection (a) and adding Subsection (a-1) to read as
7 follows:

8 (a) Subject to Subsection (a-1), a [A] member may establish
9 in, or have transferred to, the employee class all service credited
10 in the elected class, if the contributions made to establish the
11 service in the elected class equal or exceed contributions required
12 of a member of the employee class for the same amount of service
13 during the same time and at the same rate of compensation. Subject
14 to Subsection (a-1), a [A] member or retiree who has, or had at the
15 time of retirement, at least eight years of service credit in the
16 elected class of membership, exclusive of military service, may
17 transfer service credit between classes before or after retirement.

18 (a-1) A member or retiree who takes the oath of office for a
19 position included in the elected class of membership, other than a
20 district attorney or criminal district attorney, may not transfer
21 service to the employee class under Subsection (a) until the person
22 no longer holds that position.

23 SECTION 2. Section 814.104, Government Code, is amended by
24 amending Subsections (a) and (d) and adding Subsection (e) to read

1 as follows:

2 (a) Except as provided by Subsections [~~Subsection~~] (d) and
3 (e) of this section, Section 814.102, or by rule adopted under
4 Section 813.304(d) or 803.202(a)(2), a member who has service
5 credit in the retirement system is eligible to retire and receive a
6 service retirement annuity if the member:

7 (1) is at least 60 years old and has at least 5 years of
8 service credit in the employee class; or

9 (2) has at least 5 years of service credit in the
10 employee class and the sum of the member's age and amount of service
11 credit in the employee class, including months of age and credit,
12 equals or exceeds the number 80.

13 (d) Except as provided by Subsection (e) of this section,
14 Section 814.102, or by rule adopted under Section 813.304(d) or
15 803.202(a)(2), a member who was not a member on the date hired, was
16 hired on or after September 1, 2009, and has service credit in the
17 retirement system is eligible to retire and receive a service
18 retirement annuity if the member:

19 (1) is at least 65 years old and has at least 10 years
20 of service credit in the employee class; or

21 (2) has at least 10 years of service credit in the
22 employee class and the sum of the member's age and amount of service
23 credit in the employee class, including months of age and credit,
24 equals or exceeds the number 80.

25 (e) A member who takes the oath of office for a position
26 included in the elected class of membership, other than a district
27 attorney or criminal district attorney, is not eligible to retire

1 and receive a service retirement annuity under this section that is
2 based on service credit transferred to the employee class from the
3 elected class under Section 813.503 until the member no longer
4 holds that position. This provision does not prohibit a member from
5 retiring and receiving a service retirement annuity under this
6 section that is based on service credit earned in a position
7 included in the employee class of membership under Section 812.003.

8 SECTION 3. The change in law made by this Act applies only
9 to a person included in the elected class of membership on or after
10 the effective date of this Act, other than a person who, on the
11 effective date of this Act, is receiving a service retirement
12 annuity based on service transferred to the employee class.

13 SECTION 4. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2015.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 26 2015

BY:

Haley Sewell
Secretary of the Senate

Van Taylor

1 Amend H.B. 408 (senate committee report) by adding the
2 following appropriately numbered SECTIONS to read as follows and
3 renumbering the subsequent SECTIONS accordingly:

4 SECTION ____ . Article 42.01, Code of Criminal Procedure, is
5 amended by adding Section 12 to read as follows:

6 Sec. 12. In addition to the information described by
7 Section 1, the judgment should reflect affirmative findings
8 entered pursuant to Article 42.0199.

9 SECTION ____ . Chapter 42, Code of Criminal Procedure, is
10 amended by adding Article 42.0199 to read as follows:

11 Art. 42.0199. FINDING REGARDING OFFENSE RELATED TO
12 PERFORMANCE OF PUBLIC SERVICE. (a) In the trial of an offense
13 described by Section 802.004, Government Code, the judge shall
14 make an affirmative finding of fact and enter the affirmative
15 finding in the judgment in the case if the judge determines that
16 the offense committed was related to the defendant's performance
17 of public service as a member of a public retirement system.

18 (b) A judge that makes the affirmative finding described
19 by this article shall make the determination and enter the order
20 required by Section 802.004(k), Government Code.

21 SECTION ____ . Subchapter A, Chapter 802, Government Code,
22 is amended by adding Section 802.004 to read as follows:

23 Sec. 802.004. CERTAIN EMPLOYEES AND ANNUITANTS INELIGIBLE
24 FOR RETIREMENT ANNUITY; RESUMPTION OR RESTORATION OF
25 ELIGIBILITY. (a) This section applies only to a person who is
26 a member or an annuitant of a public retirement system and holds
27 or has held an elective office included in the coverage of that
28 public retirement system.

29 (b) To the extent ordered by a court under Subsection (k),

1 a person is not eligible to receive a full service retirement
2 annuity from a public retirement system if the person is finally
3 convicted of an offense that is related to the person's
4 performance of public service arising from the person's official
5 duties as an elected officer while a member of the retirement
6 system and is:

7 (1) a felony; or

8 (2) punishable under Title 8, Penal Code, as a Class
9 A or Class B misdemeanor.

10 (c) To the extent ordered by a court under Subsection (k),
11 the public retirement system shall suspend making full annuity
12 payments to a person who is not eligible to receive a full
13 service retirement annuity under Subsection (b) on receipt by
14 the retirement system of notice and terms of the person's
15 conviction.

16 (d) The public retirement system shall resume making full
17 annuity payments if the person made ineligible for a full
18 annuity under Subsection (b):

19 (1) is subsequently found to be not guilty of the
20 offense; or

21 (2) meets the requirements for innocence under
22 Section 103.001(a)(2), Civil Practice and Remedies Code.

23 (e) The public retirement system as applicable shall:

24 (1) for a person whose full annuity payments are
25 resumed under Subsection (d), reimburse the person for any
26 portion of the annuity payments withheld during a period of
27 suspension; or

28 (2) restore the full eligibility of a person
29 convicted of an offense described by Subsection (b) to receive a
30 service retirement annuity, including the restoration of all
31 service credits accrued by the person before the conviction, if

1 the person satisfies the condition under Subsection (d)(1) or
2 (2).

3 (f) Except as provided by Subsection (g), a person
4 convicted of an offense described by Subsection (b) whose
5 eligibility for a service retirement annuity is not fully
6 restored under Subsection (e)(2) is eligible to accrue service
7 credit toward a service retirement annuity from a public
8 retirement system if the person:

9 (1) was placed on community supervision for the
10 offense for which the person was convicted and:

11 (A) successfully completed the period of
12 community supervision; and

13 (B) received a discharge and dismissal under
14 Section 20, Article 42.12, Code of Criminal Procedure; or

15 (2) was sentenced to serve a term of confinement in a
16 penal institution for the offense for which the person was
17 convicted and completely discharged the person's sentence,
18 including any term of confinement and any period of parole or
19 other form of conditional release.

20 (g) In determining a person's eligibility for retirement
21 benefits under Subsection (f), a public retirement system may
22 include only those service credits that were:

23 (1) accrued by the person before the person's
24 conviction for an offense described by Subsection (b) and
25 remaining after conviction of the offense; or

26 (2) earned after fulfilling the requirements under
27 Subsection (f).

28 (h) Except as provided by Subsection (i), a person who is
29 not eligible to receive a full service retirement annuity under
30 Subsection (b) is entitled to request and receive a refund of
31 the person's retirement annuity contributions, not including any

1 interest earned on those contributions. A person who accepts a
2 refund under this subsection terminates the person's membership
3 in the public retirement system.

4 (i) Benefits payable to an alternate payee under Chapter
5 804, including a spouse or dependent child, are not affected by
6 a person's ineligibility to receive a full service retirement
7 annuity under Subsection (b).

8 (j) The governing body of a public retirement system shall
9 adopt rules and procedures to implement this section.

10 (k) A court shall:

11 (1) determine and order as applicable for a person
12 convicted of an offense described by Subsection (b) the amount
13 by which the person's:

14 (A) service retirement annuity payments are to
15 be reduced; or

16 (B) accrued service credits are to be reduced;
17 and

18 (2) notify the affected public retirement system of
19 the terms of a conviction ordered under Subdivision (1).

20 SECTION ____ . Section 802.004, Government Code, as added by
21 this Act, applies only to an offense committed on or after the
22 effective date of this Act. An offense committed before the
23 effective date of this Act is governed by the law in effect on
24 the date the offense was committed, and the former law is
25 continued in effect for that purpose. For purposes of this
26 section, an offense was committed before the effective date of
27 this Act if any element of the offense occurred before that
28 date.

29 SECTION ____ . Section 12, Article 42.01, Code of Criminal
30 Procedure, and Article 42.0199, Code of Criminal Procedure, as
31 added by this Act, apply only to a judgment of conviction

1 entered on or after the effective date of this Act.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Passed 2nd House**

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend Government Code to suspend or reduce benefits of elected public officials who commit an offense related to their public service. The bill would require the annuity payment to be resumed if the conviction is overturned.

The bill would also prevent members of the elected class, other than district attorneys and criminal district attorneys, from transferring elected class service to the employee class to receive employee class retirement benefits until the member is no longer in office. The bill would not restrict the ability of elected class members to retire and receive benefits as an employee-class member while in office, if they are eligible to retire with their employee class service.

The Employees Retirement System (ERS) indicates that the provisions of the bill could lead to a decrease in liabilities, resulting in some savings to the fund, the bill is not anticipated to have a significant impact on the fund due to the relatively small number of individuals assumed to be affected. ERS anticipates that any additional administrative costs associated with implementing the legislation could be absorbed within existing resources.

The bill would take effect immediately if it receives the required votes; otherwise, it would take effect on September 1, 2015. For the provisions of the bill relating to elected members convicted of an offense related to their public service, the bill would take effect September 1, 2015.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: UP, AG, EP, EMO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

May 11, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to prevent members of the elected class, other than district attorneys and criminal district attorneys, from transferring elected class service to the employee class to receive employee class retirement benefits until the member is no longer in office. The bill would not restrict the ability of elected class members to retire and receive benefits as an employee-class member while in office, if they are eligible to retire with their employee class service. The Employees Retirement System indicates that the bill would lead to a decrease in costs to the system; however, this amount is not anticipated to be significant.

The bill would affect certain current and future elected-class members, other than a current elected-class member who is receiving a service retirement annuity based on service transferred to the employee class on the effective date of the bill. The bill would take effect immediately if it receives the required votes; otherwise, it would take effect on September 1, 2015.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: UP, AG, EP, EMO

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 84TH LEGISLATIVE REGULAR SESSION

March 7, 2015

TO: Honorable Dan Flynn, Chair, House Committee on Pensions

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code to prevent members of the elected class, other than district attorneys and criminal district attorneys, from transferring elected class service to the employee class to receive employee class retirement benefits until the member is no longer in office. The bill would not restrict the ability of elected class members to retire and receive benefits as an employee-class member while in office, if they are eligible to retire with their employee class service. The Employees Retirement System indicates that the bill would lead to a decrease in costs to the system; however, this amount is not anticipated to be significant.

The bill would apply to elected class members that take office on or after the effective date and the bill would take effect immediately upon receiving a two-thirds vote; otherwise, it would take effect on September 1, 2015.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System

LBB Staff: UP, AG, EP, EMO

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 27, 2015

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Passed 2nd House**

ACTUARIAL EFFECTS

The bill would amend Government Code sections 813.503 and 814.104 to prohibit a member of Employee Retirement System (ERS) serving in the elected class, excluding district attorneys and criminal district attorneys, from being able to retire and receive an annuity based on service credit transferred to the employee class from the elected class until the member no longer holds an elected-class position.

According to the actuarial analysis prepared by ERS for this provision of the bill, the bill affecting Government Code sections 813.503 and 814.104 would impact a very small group. The actuarial analysis notes that the bill would be expected to lower the overall liability of ERS in the future as fewer members would be eligible to utilize this provision. The actuarial review states that because the bill restricts benefits, it could eventually result in a small cost savings but would not have a material actuarial impact on ERS.

Additionally, the bill would amend Chapter 42 of the Criminal Code and add Section 802.004 to the Government Code to suspend (or reduce, as decided by a court) annuity payments to members of Texas public retirement systems who hold or have held an elective office who are convicted of a felony or a class A or class B misdemeanor related to the members' performance of public service.

This provision of the bill (applicable to all public retirement systems in Texas) could only decrease benefits and the changes in the bill would slightly decrease the cost of the affected retirement system. The Pension Review Board (PRB) actuary notes that the bill, if enacted, would not change the situation of the affected public retirement systems being actuarially sound or unsound.

SYNOPSIS OF PROVISIONS

The bill would amend Government Code sections 813.503 and 814.104 to prohibit a member of Employee Retirement System (ERS) serving in the elected class, excluding district attorneys and criminal district attorneys, from being able to retire and receive an annuity based on service credit transferred to the employee class from the elected class until the member no longer holds an elected-class position. The bill would still allow a contributing elected-class member to receive an annuity based solely on service credit earned in the employee class. The bill would affect certain

current and future elected-class members, other than a current elected-class member who is receiving a service retirement annuity based on service transferred to the employee class on the effective date of the bill.

The bill would also suspend (or reduce, as decided by a court) annuity payments to members of Texas public retirement systems who hold or have held an elective office who are convicted of a felony or a class A or class B misdemeanor related to the members' performance of public service. The court convicting the public official must make affirmative findings determining that the offence committed was related to their public service. Payments would be restored if the conviction is overturned on appeal or the member meets the requirements for innocence under Section 103.001(a)(2) of the Civil Practice Remedies Code.

A retiree whose full annuity payments are resumed would be entitled for reimbursement of the annuity payment withheld during the period of suspension or an active member would be entitled to the restoration of all service credits accrued before the conviction. A member, who is deemed ineligible to receive a service retirement annuity, is entitled to a refund of the member's retirement contributions, not including interest on those contributions. Benefits payable to an alternate payee under Chapter 804 (QDROs) are not affected by the member's ineligibility to receive a service retirement annuity. These provisions apply only to an offense committed on or after the effective date of the bill.

The bill would take effect immediately if it receives the two-thirds votes; otherwise, it would take effect on September 1, 2015.

Source Agencies: 338 Pension Review Board

LBB Staff: UP, EP, EMO, KFa

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

May 11, 2015

TO: Honorable Joan Huffman, Chair, Senate Committee on State Affairs

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Engrossed**

The bill would amend Government Code to prohibit a member serving in the elected class, excluding district attorneys and criminal district attorneys, from being able to retire and receive an annuity based on service credit transferred to the employee class from the elected class until the member no longer holds an elected-class position. The bill would still allow a contributing elected-class member to receive an annuity based solely on service credit earned in the employee class.

The bill would affect certain current and future elected-class members, other than a current elected-class member who is receiving a service retirement annuity based on service transferred to the employee class on the effective date of the bill. The bill would take effect immediately if it receives the required votes; otherwise, it would take effect on September 1, 2015.

According to the actuarial analysis prepared by the Employees Retirement System of Texas (ERS), the bill would impact a very small group. The actuarial analysis notes that the bill would be expected to lower the overall liability of ERS in the future as fewer members would be eligible to utilize this provision. The actuarial review states that because the bill restricts benefits, it could eventually result in a small cost savings but would not have a material actuarial impact on ERS.

Source Agencies: 338 Pension Review Board

LBB Staff: UP, EP, EMo, KFa

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

84TH LEGISLATIVE REGULAR SESSION

March 9, 2015

TO: Honorable Dan Flynn, Chair, House Committee on Pensions

FROM: Ursula Parks, Director, Legislative Budget Board

IN RE: HB408 by Turner, Chris (Relating to the retirement benefits for certain elected state officials.), **As Introduced**

The bill would amend Government Code to prohibit a member serving in the elected class, excluding district attorneys and criminal district attorneys, from being able to retire and receive an annuity based on service credit transferred to the employee class from the elected class until the member no longer holds an elected-class position. The bill would still allow a contributing elected-class member to receive an annuity based solely on service credit earned in the employee class.

The bill would only affect future elected-class members who take the oath of office on or after the effective date of the bill. HB 408 would take effect immediately if it receives the required votes; otherwise, it would take effect on September 1, 2015.

According to the actuarial analysis prepared by the Employees Retirement System of Texas (ERS), the bill would impact a very small group. The bill would have no effect on the ERS actuarial accrued liability (AAL), unfunded actuarial accrued liability (UAAL), normal cost rate, or any other actuarial valuation result as of August 31, 2014. However, the actuarial analysis notes that the bill would be expected to lower the overall liability of ERS in the future. The actuarial review states that because the bill restricts benefits, it may eventually result in a small cost savings but would not have a material actuarial impact on ERS.

Source Agencies: 338 Pension Review Board

LBB Staff: UP, EP, EMO, KFa