

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

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

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

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

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

SENATE VERSION (IE)

SECTION 1. Same as House version.

SECTION 2. Same as House version.

CONFERENCE

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

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

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

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

(e) A member who takes the oath of office for a position included in the elected class of membership, other than a district attorney or criminal district attorney, is not eligible to retire and receive a service retirement annuity under this section that is based on service credit transferred to the employee class from the elected class under Section 813.503 until the member no longer holds that position. This provision does not prohibit a member from retiring and receiving a service retirement annuity under this section that is based on service credit earned in a position included in the employee class of membership under Section 812.003.

SECTION 3. The change in law made by this Act applies only to a person included in the elected class of membership on or after the effective date of this Act, other than a person who, on the effective date of this Act, is receiving a service

SENATE VERSION (IE)

SECTION 3. Same as House version.

CONFERENCE

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

retirement annuity based on service transferred to the employee class.

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

No equivalent provision.

No equivalent provision.

SECTION 4. Same as House version.

SECTION \_\_. Article 42.01, Code of Criminal Procedure, is amended by adding Section 12 to read as follows:  
Sec. 12. In addition to the information described by Section 1, the judgment should reflect affirmative findings entered pursuant to Article 42.0199. [FA1]

SECTION \_\_. Chapter 42, Code of Criminal Procedure, is amended by adding Article 42.0199 to read as follows:  
Art. 42.0199. FINDING REGARDING OFFENSE RELATED TO PERFORMANCE OF PUBLIC SERVICE.  
(a) In the trial of an offense described by Section 802.004, Government Code, the judge shall make an affirmative finding of fact and enter the affirmative finding in the judgment in the case if the judge determines that the offense committed was related to the defendant's performance of public service as a member of a public retirement system.  
(b) A judge that makes the affirmative finding described by this article shall make the determination and enter the order required by Section 802.004(k), Government Code. [FA1]

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

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

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

(b) To the extent ordered by a court under Subsection (k), a person is not eligible to receive a full service retirement annuity from a public retirement system if the person is finally convicted of an offense that is related to the person's performance of public service arising from the person's official duties as an elected officer while a member of the retirement system and is:

- (1) a felony; or
- (2) punishable under Title 8, Penal Code, as a Class A or Class B misdemeanor.

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

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

- (1) is subsequently found to be not guilty of the offense; or
- (2) meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code.

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(e) The public retirement system as applicable shall:  
(1) for a person whose full annuity payments are resumed under Subsection (d), reimburse the person for any portion of the annuity payments withheld during a period of suspension;  
or  
(2) restore the full eligibility of a person convicted of an offense described by Subsection (b) to receive a service retirement annuity, including the restoration of all service credits accrued by the person before the conviction, if the person satisfies the condition under Subsection (d)(1) or (2).  
(f) Except as provided by Subsection (g), a person convicted of an offense described by Subsection (b) whose eligibility for a service retirement annuity is not fully restored under Subsection (e)(2) is eligible to accrue service credit toward a service retirement annuity from a public retirement system if the person:  
(1) was placed on community supervision for the offense for which the person was convicted and:  
(A) successfully completed the period of community supervision; and  
(B) received a discharge and dismissal under Section 20, Article 42.12, Code of Criminal Procedure; or  
(2) was sentenced to serve a term of confinement in a penal institution for the offense for which the person was convicted and completely discharged the person's sentence, including any term of confinement and any period of parole or other form of conditional release.  
(g) In determining a person's eligibility for retirement benefits under Subsection (f), a public retirement system may include only those service credits that were:  
(1) accrued by the person before the person's conviction for an offense described by Subsection (b) and remaining after

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

conviction of the offense; or  
(2) earned after fulfilling the requirements under Subsection (f).  
(h) Except as provided by Subsection (i), a person who is not eligible to receive a full service retirement annuity under Subsection (b) is entitled to request and receive a refund of the person's retirement annuity contributions, not including any interest earned on those contributions. A person who accepts a refund under this subsection terminates the person's membership in the public retirement system.  
(i) Benefits payable to an alternate payee under Chapter 804, including a spouse or dependent child, are not affected by a person's ineligibility to receive a full service retirement annuity under Subsection (b).  
(j) The governing body of a public retirement system shall adopt rules and procedures to implement this section.  
(k) A court shall:  
(1) determine and order as applicable for a person convicted of an offense described by Subsection (b) the amount by which the person's:  
(A) service retirement annuity payments are to be reduced; or  
(B) accrued service credits are to be reduced; and  
(2) notify the affected public retirement system of the terms of a conviction ordered under Subdivision (1). [FA1]

No equivalent provision.

SECTION \_\_. Section 802.004, Government Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this

**House Bill 408**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date. [FA1]

No equivalent provision.

SECTION \_\_. Section 12, Article 42.01, Code of Criminal Procedure, and Article 42.0199, Code of Criminal Procedure, as added by this Act, apply only to a judgment of conviction entered on or after the effective date of this Act. [FA1]