

BILL ANALYSIS

S.B. 653
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General Investigating & Ethics
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties contend that certain employees of the Texas Juvenile Justice Department and the public school system who, while employed by such entities, commit certain felonies the victim of which is a student should not receive payments from the public retirement systems. S.B. 653 seeks to make such employees ineligible for service retirement annuities under the applicable public retirement system.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 3 of this bill and to the board of trustees of the Teacher Retirement System of Texas in SECTION 4 of this bill.

ANALYSIS

S.B. 653 amends the Government Code to establish that a person who is a member or an annuitant of the Employees Retirement System of Texas (ERS) and is or was an employee of the Texas Juvenile Justice Department (TJJD) in one of its institutional schools and a person who is a member or an annuitant of the Teacher Retirement System of Texas (TRS) and is or was an employee of the public school system is not eligible to receive a service retirement annuity from ERS or TRS, as applicable, if the person is convicted of a qualifying felony the victim of which is a student and that such an ineligible person is entitled to a refund of the person's retirement annuity contributions, including interest earned on those contributions. The bill defines "qualifying felony" as an offense that is punishable as a felony under specified Penal Code provisions or a federal offense that contains elements that are substantially similar to the elements of such specified felonies. The bill requires the applicable retirement system to suspend payments of an annuity to a person who the applicable retirement system determines is so ineligible on receipt by the applicable retirement system of certain notices of a conviction for a qualifying felony or any other information the applicable retirement system determines by rule is sufficient to establish a conviction for a qualifying felony.

S.B. 653 establishes that a person whose conviction is overturned on appeal or who meets the requirements for innocence under certain specified Civil Practice and Remedies Code provisions is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period and may resume receipt of annuity payments on payment to the applicable retirement system of an amount equal to the contributions refunded to the person. The bill requires the school at which a person was employed, not later than the 30th day after the date of the person's conviction for a qualifying felony, to provide written notice of

the conviction to the applicable retirement system and requires the notice to comply with rules adopted by the applicable board of trustees under the bill's provisions. The bill requires a court to notify the applicable retirement system of the terms of a person's conviction for a qualifying felony.

S.B. 653 establishes that benefits payable to an alternate payee under statutory provisions relating to domestic relations orders and spousal consent who is recognized by a domestic relations order established before September 1, 2017, are not affected by a person's ineligibility to receive a retirement annuity due to the person's conviction of a qualifying felony the victim of which is a student. The bill authorizes a court, on conviction of a person for a qualifying felony and in the same manner as in a divorce proceeding, to award half of the service retirement annuity forfeited by the person as the separate property of an innocent spouse if the annuity is partitioned or exchanged by written agreement of the spouses as provided by statutory provisions regarding marital property agreements. The bill prohibits the amount awarded to the innocent spouse from being converted to community property. The bill establishes that ineligibility for a retirement annuity under the bill's provisions does not impair a person's right to any other retirement benefit for which the person is eligible. The bill requires the board of trustees of ERS and TRS, not later than December 31, 2017, to adopt rules and procedures to implement the applicable bill provisions and provides that the applicable bill provisions apply only to an offense committed on or after the effective date of such rules so adopted.

S.B. 653 amends the Code of Criminal Procedure to require the judge in the trial of such a qualifying felony offense to 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 employment at an institutional school of TJJJ or in the public school system while a member of the applicable retirement system. The bill requires a judge who makes such an affirmative finding to make the determination and provide the required notice to the applicable retirement system.

EFFECTIVE DATE

September 1, 2017.