

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 659
Select Committee on Government and Election Reform Committee Substitute
Adopted 4/23/07

Short Title: Officials Forfeit Pensions for Felonies. (Public)

Sponsors:

Referred to:

March 12, 2007

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT ELECTED OFFICIALS WHO ARE MEMBERS OF THE LEGISLATIVE RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, OR THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM SHALL FORFEIT THEIR PENSIONS UPON CONVICTION OF A STATE OR FEDERAL OFFENSE INVOLVING PUBLIC CORRUPTION OR A FELONY VIOLATION OF ELECTION LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

"§ 120-4.33. Forfeiture of retirement benefits for certain felonies.

(a) Except as provided in G.S. 120-4.12(f), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions plus interest, to any member who is convicted of any felony under the federal laws listed in subsection (b) of this section or the laws of this State listed in subsection (c) of this section if all of the following apply:

(1) The offense is committed while serving as a member of the General Assembly.

(2) The conduct on which the offense is based is directly related to the member's service as a member of the General Assembly.

(b) The federal offenses covered by this section are as follows:

(1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 602

1 (Solicitation of political contributions), 18 U.S.C. § 606 (Intimidation
2 to secure political contributions), 18 U.S.C. § 607 (Place of
3 solicitation), 18 U.S.C. § 641 (Public money, property, or records), 18
4 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341
5 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or
6 television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror
7 generally), 18 U.S.C. § 1951 (Interference with commerce by threats
8 or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or
9 transportation in aid of racketeering enterprises), 18 U.S.C. § 1962
10 (Prohibited activities), or section 7201 of the Internal Revenue Code
11 (Attempt to evade or defeat tax).

12 (c) The offenses under the laws of this State covered by this section are as
13 follows:

14 (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the
15 General Statutes (Relating to bribery, obstructing justice, and secret
16 listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of
17 Article 14 of Chapter 120 of the General Statutes (Code of Legislative
18 Ethics), Article 20, 22, or 22A of Chapter 163 of the General Statutes
19 (Relating to absentee ballots, corrupt practices and other offenses
20 against the elective franchise, and regulating of contributions and
21 expenditures in political campaigns).

22 (2) Perjury committed under G.S. 14-209 in falsely denying the
23 commission of an act that constitutes an offense within the purview of
24 an offense listed in subdivision (1) of this subsection.

25 (3) Subornation of perjury committed under G.S. 14-210 in connection
26 with the false denial of another as specified by subdivision (2) of this
27 subsection.

28 (d) All monies forfeited under this section shall be remitted to the Civil Penalty
29 and Forfeiture Fund."

30 **SECTION 1.(b)** G.S. 120-4.12 is amended by adding a new subsection to
31 read:

32 "(f) If a member who has not vested in this System on July 1, 2007, is convicted
33 of an offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that
34 member shall forfeit all benefits under this System. If a member who has vested in this
35 System on July 1, 2007, is convicted of an offense listed in G.S. 120-4.33 for acts
36 committed after July 1, 2007, then that member is not entitled to any creditable service
37 that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service
38 earned from a position not as a member of the General Assembly."

39 **SECTION 2.(a)** Article 3 of Chapter 128 of the General Statutes is amended
40 by adding a new section to read:

41 "**§ 128-38.4. Forfeiture of retirement benefits for certain felonies.**

42 (a) Except as provided in G.S. 128-26(w), the Board of Trustees shall not pay
43 any retirement benefits or allowances, except for a return of member contributions plus
44 interest, to any member who is convicted of any felony under the federal laws listed in

1 subsection (b) of this section or the laws of this State listed in subsection (c) of this
2 section if all of the following apply:

3 (1) The offense is committed while serving as an elected government
4 official.

5 (2) The conduct on which the offense is based is directly related to the
6 member's service as an elected government official.

7 (b) The federal offenses covered by this section are as follows:

8 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
9 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
10 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
11 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
12 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
13 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 602
14 (Solicitation of political contributions), 18 U.S.C. § 606 (Intimidation
15 to secure political contributions), 18 U.S.C. § 607 (Place of
16 solicitation), 18 U.S.C. § 641 (Public money, property, or records), 18
17 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341
18 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or
19 television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror
20 generally), 18 U.S.C. § 1951 (Interference with commerce by threats
21 or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or
22 transportation in aid of racketeering enterprises), 18 U.S.C. § 1962
23 (Prohibited activities), or section 7201 of the Internal Revenue Code
24 (Attempt to evade or defeat tax).

25 (c) The offenses under the laws of this State covered by this section are as
26 follows:

27 (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the
28 General Statutes (Relating to bribery, obstructing justice, and secret
29 listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of
30 Article 14 of Chapter 120 of the General Statutes (Code of Legislative
31 Ethics), Article 20, 22, or 22A of Chapter 163 of the General Statutes
32 (Relating to absentee ballots, corrupt practices and other offenses
33 against the elective franchise, and regulating of contributions and
34 expenditures in political campaigns).

35 (2) Perjury committed under G.S. 14-209 in falsely denying the
36 commission of an act that constitutes an offense within the purview of
37 an offense listed in subdivision (1) of this subsection.

38 (3) Subornation of perjury committed under G.S. 14-210 in connection
39 with the false denial of another as specified by subdivision (2) of this
40 subsection.

41 (d) All monies forfeited under this section shall be remitted to the Civil Penalty
42 and Forfeiture Fund."

43 **SECTION 2.(b)** G.S. 128-26 is amended by adding a new subsection to
44 read:

1 "(w) If a member who is an elected government official and has not vested in this
2 System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts
3 committed after July 1, 2007, then that member shall forfeit all benefits under this
4 System. If a member who is an elected government official and has vested in this
5 System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts
6 committed after July 1, 2007, then that member is not entitled to any creditable service
7 that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service
8 earned from a position not as an elected government official."

9 **SECTION 3.(a)** Article 1 of Chapter 135 of the General Statutes is amended
10 by adding a new section to read:

11 **"§ 135-18.10. Forfeiture of retirement benefits for certain felonies.**

12 (a) Except as provided in G.S. 135-4(gg), the Board of Trustees shall not pay any
13 retirement benefits or allowances, except for a return of member contributions plus
14 interest, to any member who is convicted of any felony under the federal laws listed in
15 subsection (b) of this section or the laws of this State listed in subsection (c) of this
16 section if all of the following apply:

17 (1) The offense is committed while serving as an elected government
18 official.

19 (2) The conduct on which the offense is based is directly related to the
20 member's service as an elected government official.

21 (b) The federal offenses covered by this section are as follows:

22 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
23 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
24 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
25 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
26 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
27 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 602
28 (Solicitation of political contributions), 18 U.S.C. § 606 (Intimidation
29 to secure political contributions), 18 U.S.C. § 607 (Place of
30 solicitation), 18 U.S.C. § 641 (Public money, property, or records), 18
31 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341
32 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or
33 television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror
34 generally), 18 U.S.C. § 1951 (Interference with commerce by threats
35 or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or
36 transportation in aid of racketeering enterprises), 18 U.S.C. § 1962
37 (Prohibited activities), or section 7201 of the Internal Revenue Code
38 (Attempt to evade or defeat tax).

39 (c) The offenses under the laws of this State covered by this section are as
40 follows:

41 (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the
42 General Statutes (Relating to bribery, obstructing justice, and secret
43 listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of
44 Article 14 of Chapter 120 of the General Statutes (Code of Legislative

1 Ethics), Article 20, 22, or 22A of Chapter 163 of the General Statutes
2 (Relating to absentee ballots, corrupt practices and other offenses
3 against the elective franchise, and regulating of contributions and
4 expenditures in political campaigns).

5 (2) Perjury committed under G.S. 14-209 in falsely denying the
6 commission of an act that constitutes an offense within the purview of
7 an offense listed in subdivision (1) of this subsection.

8 (3) Subornation of perjury committed under G.S. 14-210 in connection
9 with the false denial of another as specified by subdivision (2) of this
10 subsection.

11 (d) All monies forfeited under this section shall be remitted to the Civil Penalty
12 and Forfeiture Fund."

13 **SECTION 3.(b)** G.S. 135-4 is amended by adding a new subsection to read:

14 "(gg) If a member who is an elected government official and has not vested in this
15 System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts
16 committed after July 1, 2007, then that member shall forfeit all benefits under this
17 System. If a member who is an elected government official and has vested in this
18 System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts
19 committed after July 1, 2007, then that member is not entitled to any creditable service
20 that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service
21 earned from a position not as an elected government official."

22 **SECTION 4.(a)** Article 4 of Chapter 135 of the General Statutes is amended
23 by adding a new section to read:

24 "**§ 135-75.1. Forfeiture of retirement benefits for certain felonies.**

25 "(a) Except as provided in G.S. 135-56(g), the Board of Trustees shall not pay any
26 retirement benefits or allowances, except for a return of member contributions plus
27 interest, to any member who is convicted of any felony under the federal laws listed in
28 subsection (b) of this section or the laws of this State listed in subsection (c) of this
29 section if all of the following apply:

30 (1) The offense is committed while serving as a justice, judge, district
31 attorney, or clerk of superior court.

32 (2) The conduct on which the offense is based is directly related to the
33 member's service as a justice, judge, district attorney, or clerk of
34 superior court.

35 (b) The federal offenses covered by this section are as follows:

36 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
37 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
38 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
39 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
40 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
41 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 602
42 (Solicitation of political contributions), 18 U.S.C. § 606 (Intimidation
43 to secure political contributions), 18 U.S.C. § 607 (Place of
44 solicitation), 18 U.S.C. § 641 (Public money, property, or records), 18

1 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341
2 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or
3 television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror
4 generally), 18 U.S.C. § 1951 (Interference with commerce by threats
5 or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or
6 transportation in aid of racketeering enterprises), 18 U.S.C. § 1962
7 (Prohibited activities), or section 7201 of the Internal Revenue Code
8 (Attempt to evade or defeat tax).

9 (c) The offenses under the laws of this State covered by this section are as
10 follows:

11 (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the
12 General Statutes (Relating to bribery, obstructing justice, and secret
13 listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of
14 Article 14 of Chapter 120 of the General Statutes (Code of Legislative
15 Ethics), Article 20, 22, or 22A of Chapter 163 of the General Statutes
16 (Relating to absentee ballots, corrupt practices and other offenses
17 against the elective franchise, and regulating of contributions and
18 expenditures in political campaigns).

19 (2) Perjury committed under G.S. 14-209 in falsely denying the
20 commission of an act that constitutes an offense within the purview of
21 an offense listed in subdivision (1) of this subsection.

22 (3) Subornation of perjury committed under G.S. 14-210 in connection
23 with the false denial of another as specified by subdivision (2) of this
24 subsection.

25 (d) All monies forfeited under this section shall be remitted to the Civil Penalty
26 and Forfeiture Fund."

27 **SECTION 4.(b)** G.S. 135-56 is amended by adding a new subsection to
28 read:

29 "(g) If a member who has not vested in this System on July 1, 2007, is convicted
30 of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that
31 member shall forfeit all benefits under this System. If a member who has vested in this
32 System on July 1, 2007, is convicted of an offense listed in G.S. 135-75.1 for acts
33 committed after July 1, 2007, then that member is not entitled to any creditable service
34 that accrued after July 1, 2007. No member shall forfeit any benefit or creditable service
35 earned from a position not as a justice, judge, district attorney, or clerk of superior
36 court."

37 **SECTION 5.** This act becomes effective July 1, 2007, and applies to
38 offenses committed on or after that date.