

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SENATE BILL 659
RATIFIED BILL**

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 federal or State offense is committed while serving as a member of the General Assembly.
- (2) The conduct on which the federal or State 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. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

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

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

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

(2) Perjury or false information as follows:

- a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.
- b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.
- c. Perjury under Article 22A of Chapter 163 of the General Statutes.

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

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

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

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

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

(a) Except as provided in G.S. 128-26(w), 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 federal or State offense is committed while serving as an elected government official.
- (2) The conduct on which the federal or State offense is based is directly related to the member's service as an elected government official.

(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. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

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

- (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).
- (2) Perjury or false information as follows:
 - a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.
 - b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.
 - c. Perjury under Article 22A of Chapter 163 of the General Statutes.

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

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

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

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

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

(a) Except as provided in G.S. 135-4(gg), 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 federal or State offense is committed while serving as an elected government official.
 - (2) The conduct on which the federal or State offense is based is directly related to the member's service as an elected government official.
- (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. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by

wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

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

- (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).
- (2) Perjury or false information as follows:
 - a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.
 - b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.
 - c. Perjury under Article 22A of Chapter 163 of the General Statutes.

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

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

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

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

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

"(a) Except as provided in G.S. 135-56(g), 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 federal or State offense is committed while serving as a justice, judge, district attorney, or clerk of superior court.
- (2) The conduct on which the federal or State offense is based is directly related to the member's service as a justice, judge, district attorney, or clerk of superior court.

(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. § 606 (Intimidation to secure political contributions), 18 U.S.C. § 641 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring officer or juror generally), 18 U.S.C. § 1951 (Interference with commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and foreign travel or transportation in aid of racketeering enterprises), 18 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. § 1962 (Prohibited activities), or section 7201 of the Internal Revenue Code (Attempt to evade or defeat tax).

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

- (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the General Statutes (Relating to bribery, obstructing justice, and secret listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of Article 14 of Chapter 120 of the General Statutes (Code of Legislative Ethics), Article 20 or 22 of Chapter 163 of the General Statutes (Relating to absentee ballots, corrupt practices and other offenses against the elective franchise, and regulating of contributions and expenditures in political campaigns).
- (2) Perjury or false information as follows:
 - a. Perjury committed under G.S. 14-209 in falsely denying the commission of an act that constitutes an offense within the purview of an offense listed in subdivision (1) of subsection (c) of this section.
 - b. Subornation of perjury committed under G.S. 14-210 in connection with the false denial of another as specified by subdivision (2) of this subsection.
 - c. Perjury under Article 22A of Chapter 163 of the General Statutes.

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

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

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

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

In the General Assembly read three times and ratified this the 27th day of June, 2007.

Beverly E. Perdue
President of the Senate

Joe Hackney
Speaker of the House of Representatives

Michael F. Easley
Governor

Approved _____m. this _____ day of _____, 2007