

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
House Committee Substitute Favorable 5/30/07

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 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

1 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606
2 (Intimidation to secure political contributions), 18 U.S.C. § 641
3 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement
4 and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18
5 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by
6 wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring
7 officer or juror generally), 18 U.S.C. § 1951 (Interference with
8 commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and
9 foreign travel or transportation in aid of racketeering enterprises), 18
10 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. §
11 1962 (Prohibited activities), or section 7201 of the Internal Revenue
12 Code (Attempt to evade or defeat tax).

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

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

23 (2) Perjury or false information as follows:

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

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

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

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

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

3 **"§ 128-38.4. Forfeiture of retirement benefits for certain felonies.**

4 (a) Except as provided in G.S. 128-26(w), the Board of Trustees shall not pay
5 any retirement benefits or allowances, except for a return of member contributions plus
6 interest, to any member who is convicted of any felony under the federal laws listed in
7 subsection (b) of this section or the laws of this State listed in subsection (c) of this
8 section if all of the following apply:

9 (1) The federal or State offense is committed while serving as an elected
10 government official.

11 (2) The conduct on which the federal or State offense is based is directly
12 related to the member's service as an elected government official.

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

14 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
15 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
16 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
17 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
18 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
19 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606
20 (Intimidation to secure political contributions), 18 U.S.C. § 641
21 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement
22 and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18
23 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by
24 wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring
25 officer or juror generally), 18 U.S.C. § 1951 (Interference with
26 commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and
27 foreign travel or transportation in aid of racketeering enterprises), 18
28 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. §
29 1962 (Prohibited activities), or section 7201 of the Internal Revenue
30 Code (Attempt to evade or defeat tax).

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

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

41 (2) Perjury or false information as follows:

42 a. Perjury committed under G.S. 14-209 in falsely denying the
43 commission of an act that constitutes an offense within the

1 purview of an offense listed in subdivision (1) of subsection (c)
2 of this section.

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

6 c. Perjury under Article 22A of Chapter 163 of the General
7 Statutes.

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

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

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

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

22 **"§ 135-18.10. Forfeiture of retirement benefits for certain felonies.**

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

28 (1) The federal or State offense is committed while serving as an elected
29 government official.

30 (2) The conduct on which the federal or State offense is based is directly
31 related to the member's service as an elected government official.

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

33 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
34 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
35 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
36 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
37 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
38 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606
39 (Intimidation to secure political contributions), 18 U.S.C. § 641
40 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement
41 and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18
42 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by
43 wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring
44 officer or juror generally), 18 U.S.C. § 1951 (Interference with

1 commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and
2 foreign travel or transportation in aid of racketeering enterprises), 18
3 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. §
4 1962 (Prohibited activities), or section 7201 of the Internal Revenue
5 Code (Attempt to evade or defeat tax).

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

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

16 (2) Perjury or false information as follows:

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

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

24 c. Perjury under Article 22A of Chapter 163 of the General
25 Statutes.

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

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

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

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

39 **§ 135-75.1. Forfeiture of retirement benefits for certain felonies.**

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

- 1 (1) The federal or State offense is committed while serving as a justice,
2 judge, district attorney, or clerk of superior court.
- 3 (2) The conduct on which the federal or State offense is based is directly
4 related to the member's service as a justice, judge, district attorney, or
5 clerk of superior court.
- 6 (b) The federal offenses covered by this section are as follows:
- 7 (1) A felony violation of 18 U.S.C. § 201 (Bribery of public officials and
8 witnesses), 18 U.S.C. § 286 (Conspiracy to defraud the Government
9 with respect to claims), 18 U.S.C. § 287 (False, fictitious or fraudulent
10 claims), 18 U.S.C. § 371 (Conspiracy to commit offense or to defraud
11 United States), 18 U.S.C. § 597 (Expenditures to influence voting), 18
12 U.S.C. § 599 (Promise of appointment by candidate), 18 U.S.C. § 606
13 (Intimidation to secure political contributions), 18 U.S.C. § 641
14 (Public money, property, or records), 18 U.S.C. § 666 (Embezzlement
15 and theft), 18 U.S.C. § 1001 (Statements or entries generally), 18
16 U.S.C. § 1341 (Frauds and swindles), 18 U.S.C. § 1343 (Fraud by
17 wire, radio, or television), 18 U.S.C. § 1503 (Influencing or injuring
18 officer or juror generally), 18 U.S.C. § 1951 (Interference with
19 commerce by threats or violence), 18 U.S.C. § 1952 (Interstate and
20 foreign travel or transportation in aid of racketeering enterprises), 18
21 U.S.C. § 1956 (Laundering of monetary instruments), 18 U.S.C. §
22 1962 (Prohibited activities), or section 7201 of the Internal Revenue
23 Code (Attempt to evade or defeat tax).
- 24 (c) The offenses under the laws of this State covered by this section are as
25 follows:
- 26 (1) A felony violation of Article 29, 30, or 30A of Chapter 14 of the
27 General Statutes (Relating to bribery, obstructing justice, and secret
28 listening) or G.S. 14-228 (Buying and selling offices), or Part 1 of
29 Article 14 of Chapter 120 of the General Statutes (Code of Legislative
30 Ethics), Article 20 or 22 of Chapter 163 of the General Statutes
31 (Relating to absentee ballots, corrupt practices and other offenses
32 against the elective franchise, and regulating of contributions and
33 expenditures in political campaigns).
- 34 (2) Perjury or false information as follows:
- 35 a. Perjury committed under G.S. 14-209 in falsely denying the
36 commission of an act that constitutes an offense within the
37 purview of an offense listed in subdivision (1) of subsection (c)
38 of this section.
- 39 b. Subornation of perjury committed under G.S. 14-210 in
40 connection with the false denial of another as specified by
41 subdivision (2) of this subsection.
- 42 c. Perjury under Article 22A of Chapter 163 of the General
43 Statutes.

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

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

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

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