

underscored material = new
[bracketed material] = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 278

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

Zachary J. Cook

AN ACT

RELATING TO PUBLIC PENSIONS; CREATING THE PUBLIC PENSION
FORFEITURE ACT; PROVIDING FOR FORFEITURE OF A PUBLIC PENSION
FOLLOWING CONVICTION FOR CERTAIN FELONIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Public Pension Forfeiture Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Public Pension Forfeiture Act:

A. "campaign offense" means a felony offense that
relates to campaign practices and that is provided for in
Chapter 1, Article 19 NMSA 1978;

B. "public corruption offense" means a felony
offense:

(1) that is provided for in the Governmental

underscored material = new
[bracketed material] = delete

1 Conduct Act;

2 (2) that relates to kickbacks, bribes or
3 rebates, and that is provided for in Chapter 30, Article 41
4 NMSA 1978;

5 (3) that requires a finding that a defendant
6 was a "public employee" or "public officer", as those terms are
7 defined in the Criminal Code;

8 (4) for which the state or a political
9 subdivision of the state is the victim of the offense; or

10 (5) for which the finder of fact makes a
11 separate finding of fact, beyond a reasonable doubt, that but
12 for a defendant's public employment, the defendant could not
13 have committed the offense;

14 C. "retirement act" means the following acts,
15 pursuant to which a person earned service credit:

16 (1) the Public Employees Retirement Act;

17 (2) the Judicial Retirement Act;

18 (3) the Magistrate Retirement Act; or

19 (4) the Educational Retirement Act; and

20 D. "service credit" means all years of actual
21 service credit earned pursuant to a retirement act.

22 SECTION 3. [NEW MATERIAL] FORFEITURE OF SERVICE CREDIT
23 UPON CONVICTION.--

24 A. If a member or a retired member of a retirement
25 act pension plan is convicted of a campaign offense or a public

.202989.2

underscoring material = new
~~[bracketed material] = delete~~

1 corruption offense, all service credit earned by the member or
2 retired member shall be forfeited.

3 B. Upon a member's or retired member's conviction
4 for a campaign offense or a public corruption offense, the
5 court shall enter an order of forfeiture that directs the
6 public employees retirement association or the educational
7 retirement board to terminate all benefit payments to the
8 member or retired member and, subject to relevant court orders,
9 to refund any remaining accumulated member contributions, with
10 interest, to the member or retired member.

11 C. The court shall stay the order of forfeiture
12 provided for in Subsection B of this section, pending
13 disposition of:

14 (1) a direct appeal of the conviction; or
15 (2) a dissolution of marriage or a child
16 support matter that was filed prior to the member's or retired
17 member's conviction.

18 D. The court shall not stay the order of forfeiture
19 provided for in Subsection B of this section pending
20 disposition of a petition for writ of habeas corpus or for
21 other post-conviction relief.

22 E. If the convicted member or retired member is
23 subsequently pardoned, the forfeiture provided for in this
24 section and the refund of the member's or retired member's
25 accumulated member contributions shall be regarded as a

.202989.2

underscoring material = new
~~[bracketed material] = delete~~

1 voluntary withdrawal by the member or retired member of that
2 person's accumulated member contributions.

3 SECTION 4. APPLICABILITY.--The provisions of this act
4 apply to a campaign offense or a public corruption offense that
5 is committed on or after July 1, 2016.

6 SECTION 5. EFFECTIVE DATE.--The effective date of the
7 provisions of this act is July 1, 2016.