

HOUSE SAFETY AND CIVIL AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 278

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

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

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. "public trust position" means:

15 (1) an elected position within state  
16 government or within a political subdivision of the state; or

17 (2) an appointed position for which the  
18 consent of the senate is required;

19 D. "retirement act" means the following acts:

20 (1) the Public Employees Retirement Act;

21 (2) the Judicial Retirement Act;

22 (3) the Magistrate Retirement Act; or

23 (4) the Educational Retirement Act; and

24 E. "service credit" means all years of actual  
25 service credit earned pursuant to a retirement act.

1           SECTION 3.   ~~[NEW MATERIAL]~~ FORFEITURE OF SERVICE CREDIT  
2 UPON CONVICTION.--

3           A.   If a person who has earned service credit  
4 pursuant to a retirement act is convicted of a campaign offense  
5 or a public corruption offense that was committed while the  
6 person served in a public trust position, all service credit  
7 earned by the person in connection with the person's service in  
8 that public trust position shall be forfeited.

9           B.   Upon a person's conviction for a campaign  
10 offense or a public corruption offense that was committed while  
11 the person served in a public trust position, the court shall  
12 enter an order of forfeiture that directs the public employees  
13 retirement association or the educational retirement board to  
14 terminate the person's retirement act pension payments that  
15 relate to forfeited service credit as provided in Subsection A  
16 of this section and, subject to relevant court orders, to  
17 refund any remaining accumulated member contributions in  
18 accordance with the applicable retirement act, to the person.

19           C.   The court shall stay the order of forfeiture  
20 provided for in Subsection B of this section, pending  
21 disposition of:

22                   (1) a direct appeal of the conviction; or  
23                   (2) a dissolution of marriage or a child  
24 support matter that was filed prior to the person's conviction.

25           D.   The court shall not stay the order of forfeiture

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1 provided for in Subsection B of this section pending  
2 disposition of a petition for writ of habeas corpus or for  
3 other post-conviction relief.

4 E. If the convicted person whose service credit was  
5 forfeited pursuant to this section is subsequently pardoned,  
6 the forfeiture and the refund of the person's accumulated  
7 member contributions shall be regarded as a voluntary  
8 withdrawal by the person of that person's accumulated member  
9 contributions.

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

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

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