
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 17 Session of
2015

INTRODUCED BY PETRI, BARRAR, BLOOM, CUTLER, DIAMOND, EVERETT,
LAWRENCE, MACKENZIE, MALONEY, MARSHALL, MICCARELLI, MURT,
SACCONE, SIMMONS, STEPHENS AND WATSON, FEBRUARY 23, 2015

REFERRED TO COMMITTEE ON JUDICIARY, FEBRUARY 23, 2015

AN ACT

1 Amending the act of July 8, 1978 (P.L.752, No.140), entitled "An
2 act providing for the forfeiture of the pensions of certain
3 public employees and authorizing the State or political
4 subdivision to garnish the pension benefits of certain public
5 officers and employees upon conviction of certain criminal
6 activity related to their office or position of employment,"
7 further providing for definitions, for disqualification and
8 forfeiture of benefits and for restitution for monetary loss.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The definitions of "crimes related to public
12 office or public employment" and "public official" or "public
13 employee" in section 2 of the act of July 8, 1978 (P.L.752,
14 No.140), known as the Public Employee Pension Forfeiture Act,
15 amended July 15, 2004 (P.L.733, No.86), are amended and the
16 section is amended by adding a definition to read:

17 Section 2. Definitions.

18 The following words and phrases when used in this act shall
19 have, unless the context clearly indicates otherwise, the
20 meanings given to them in this section:

1 "Benefits administrator." A retirement board, pension fund
2 administrator or employer that manages, controls or maintains a
3 pension system for public officials or public employees.

4 "Crimes related to public office or public employment." Any
5 of the criminal offenses as set forth in the following
6 provisions of Title 18 (Crimes and Offenses) of the Pennsylvania
7 Consolidated Statutes or other enumerated statute when committed
8 by a public official or public employee through his public
9 office or position or when his public employment places him in a
10 position to commit the crime:

11 Any of the criminal offenses set forth in Subchapter B of
12 Chapter 31 (relating to definition of offenses) when the
13 criminal offense is committed by a school employee as defined in
14 24 Pa.C.S. § 8102 (relating to definitions) against a student.

15 Section 3922 (relating to theft by deception) when the
16 criminal culpability reaches the level of a misdemeanor of the
17 first degree or higher.

18 Section 3923 (relating to theft by extortion) when the
19 criminal culpability reaches the level of a misdemeanor of the
20 first degree or higher.

21 Section 3926 (relating to theft of services) when the
22 criminal culpability reaches the level of a misdemeanor of the
23 first degree or higher.

24 Section 3927 (relating to theft by failure to make required
25 disposition of funds received) when the criminal culpability
26 reaches the level of a misdemeanor of the first degree or
27 higher.

28 Section 4101 (relating to forgery).

29 Section 4104 (relating to tampering with records or
30 identification).

1 Section 4113 (relating to misapplication of entrusted
2 property and property of government or financial institutions)
3 when the criminal culpability reaches the level of misdemeanor
4 of the second degree.

5 Section 4701 (relating to bribery in official and political
6 matters).

7 Section 4702 (relating to threats and other improper
8 influence in official and political matters).

9 Section 4902 (relating to perjury).

10 Section 4903(a) (relating to false swearing).

11 Section 4904 (relating to unsworn falsification to
12 authorities).

13 Section 4906 (relating to false reports to law enforcement
14 authorities).

15 Section 4909 (relating to witness or informant taking bribe).

16 Section 4910 (relating to tampering with or fabricating
17 physical evidence).

18 Section 4911 (relating to tampering with public records or
19 information).

20 Section 4952 (relating to intimidation of witnesses or
21 victims).

22 Section 4953 (relating to retaliation against witness, victim
23 or party).

24 Section 5101 (relating to obstructing administration of law
25 or other governmental function).

26 Section 5301 (relating to official oppression).

27 Section 5302 (relating to speculating or wagering on official
28 action or information).

29 Article III of the act of March 4, 1971 (P.L.6, No.2), known
30 as the "Tax Reform Code of 1971."

1 Any criminal offense classified as a felony or punishable by
2 a term of imprisonment exceeding five years.

3 In addition to the foregoing specific crimes, the term also
4 includes all criminal offenses as set forth in Federal law that
5 are:

6 (1) substantially the same as the crimes enumerated
7 herein[.];

8 (2) classified as a felony; or

9 (3) punishable by a term of imprisonment exceeding five
10 years.

11 * * *

12 "Public official" or "public employee." Any person who is
13 elected or appointed to any public office or employment
14 including justices, judges and [justices of the peace]
15 magisterial district judges and members of the General Assembly
16 or who is acting or who has acted in behalf of the Commonwealth
17 or a political subdivision or any agency thereof including but
18 not limited to any person who has so acted and is otherwise
19 entitled to or is receiving retirement benefits whether that
20 person is acting on a permanent or temporary basis and whether
21 or not compensated on a full or part-time basis. This term shall
22 not include independent contractors nor their employees or
23 agents under contract to the Commonwealth or political
24 subdivision nor shall it apply to any person performing tasks
25 over which the Commonwealth or political subdivision has no
26 legal right of control. However, this term shall include all
27 persons who are members of any retirement system funded in whole
28 or in part by the Commonwealth or any political subdivision. For
29 the purposes of this act such persons are deemed to be engaged
30 in public employment.

1 Section 2. Sections 3(a), (b) and (d) and 4(a) and (d) of
2 the act are amended to read:

3 Section 3. Disqualification and forfeiture of benefits.

4 (a) Notwithstanding any other provision of law, no public
5 official or public employee nor any beneficiary designated by
6 such public official or public employee shall be entitled to
7 receive any retirement or other benefit or payment of any kind
8 except a return of the contribution paid into any pension fund
9 without interest, if such public official or public employee is
10 [convicted] found guilty of a crime related to public office or
11 public employment or pleads guilty or no [defense] contest to
12 any crime related to public office or public employment.

13 (b) [The benefits shall be forfeited upon entry of a plea of
14 guilty or no defense or upon initial conviction and no payment
15 or partial payment shall be made during the pendency of an
16 appeal. If] The benefits shall be immediately forfeited upon the
17 public official's or public employee's entry of a plea of guilty
18 or no contest or upon initial entry of a jury verdict or
19 judicial order of guilty, with respect to any crimes related to
20 public office or public employment. If the public official or
21 public employee subsequently withdraws a plea of guilty or no
22 contest prior to being sentenced, or the court refuses to accept
23 the public official's or public employee's plea of guilty or no
24 contest, the forfeiture shall be rescinded and benefits shall be
25 paid to the public official or public employee until such time
26 as a subsequent plea of guilty or no contest is entered or a
27 jury verdict or judicial order of guilty with respect to any
28 crimes related to public office or public employment is
29 rendered. If a plea, verdict or order is vacated and a verdict
30 of not guilty is rendered or the indictment or criminal

1 information finally dismissed, then the public official or
2 public employee shall be reinstated as a member of the pension
3 fund or system and shall be entitled to all benefits including
4 those accruing during the period of forfeiture if any. Such
5 [conviction or] plea, verdict or order shall be deemed to be a
6 breach of a public officer's or public employee's contract with
7 his employer.

8 * * *

9 (d) The appropriate [retirement board may] benefits
10 administrator shall retain a member's contributions and interest
11 thereon for the purpose of paying any fine imposed upon the
12 member of the fund by a court of competent jurisdiction, or for
13 the repayment of any funds misappropriated by such member from
14 the Commonwealth or any political subdivision and any
15 restitution ordered to be paid to any person or entity by any
16 court of competent jurisdiction.

17 * * *

18 Section 4. Restitution for monetary loss.

19 (a) Whenever any public official or public employee who is a
20 member of any pension system funded by public moneys [is
21 convicted or pleads guilty or pleads no defense] enters a plea
22 of guilty or no contest in any court of record to any crime
23 related to a public office or public employment or whenever
24 there is initial entry of a jury verdict or judicial order of
25 guilty against the public official or public employee in any
26 court of record to any crime related to a public office or
27 public employment, the court shall order the defendant to make
28 complete and full restitution of any monetary loss incurred as a
29 result of the criminal offense to any victim, including, but not
30 limited to, the Commonwealth or a political subdivision of [any

1 monetary loss incurred as a result of the criminal offense] the
2 Commonwealth.

3 * * *

4 (d) [The retirement board, administrator of the pension fund
5 or employer of the defendant, upon being served with a copy of
6 the court's order, shall pay over all such pension benefits,
7 contributions or other benefits to the extent necessary to
8 satisfy the order of restitution.] Upon the finding of guilt of
9 a public official or public employee, or upon the entry of a
10 plea of guilty or no contest in any court of record by a public
11 official or public employee, the court shall notify the
12 appropriate benefits administrator of such finding or entrance
13 of a plea. Upon being served with a copy of the court's notice,
14 the appropriate benefits administrator shall retain all
15 contributions and interest standing to the credit of the public
16 official or public employee until such time as the appropriate
17 benefits administrator receives a copy of a court order which
18 orders the defendant to pay any fines or restitution, or both.
19 If the defendant is ordered to pay any fines or restitution, or
20 both, the appropriate benefits administrator shall pay over to
21 the appropriate court all contributions and interest standing to
22 the credit of the public official or public employee to the
23 extent necessary to satisfy any fines or restitution, or both,
24 ordered to be paid by the public official or public employee.

25 Section 3. This act shall take effect immediately.