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Senate Bill 1131 (Substitute S-6 as reported)  
Sponsor: Senator Glenn D. Steil Committee:  
Appropriations

### **CONTENT**

The bill would amend Public Act 350 of 1994, the "Public Employee Retirement Benefits Forfeiture Act", to provide that a member of or retirant from a public employee retirement system of the State, or political subdivision of the State, could have a portion of his or her retirement benefits forfeited, and accumulated contributions refunded if he or she were convicted of, or pleaded nolo contendere to, a felony resulting from misusing public funds or receiving a bribe or other financial benefit as a public employee. The court could order that the member's or retirant's beneficiary receive an actuarially equivalent monthly benefit.

### **Current Law**

Under current law, a judge may order that a member or retirant forfeit his or her pension benefits, including health benefits, at the time the person is convicted of or pleads nolo contendere to a felony arising out of his or her service as a public employee. The retirement system must make a lump sum payment to the court within 60 days of receipt of the court order, equal to the actuarial present value of the person's retirement benefits, including personal contributions standing to the person's credit, payable to the member or retirant at normal retirement age under that retirement system. The clerk of the court then must establish an interest-bearing account and deposit all of the payments made to the court by the retirement system. The clerk of the court then pays out of the account all amounts ordered by the court. After the person completes his or her sentence, any amounts remaining in the account (including interest earned) are to be paid to the member or retirant when he or she reaches age 60.

### **Proposed Law**

Under the bill, the court could issue an order that would contain all of the following, if applicable:

- A portion of a member's or retirant's retirement benefits established by that person's employer at the time the felonies were committed be forfeited. The amount forfeited would be only that amount that accrued to that member or retirant on or after the date the first act that resulted in the felony was committed.
- The member's or retirant's personal contributions made to the retirement system be refunded.
- The retirement system pay to an individual who would otherwise be a beneficiary of the member or retirant an actuarially equivalent monthly retirement allowance. The retirement allowance would be paid at the age that member or retirant would have become eligible for an unreduced retirement benefit.

- The retirement system provide hospitalization and medical coverage to the member or retirant and his or her beneficiaries in the same manner as is provided to other retirees and their beneficiaries.

In addition, the bill would amend the Act to exclude health benefits from the definition of retirement benefits. All references to the interest-bearing account and payments made by the court from that account would be deleted.

If a court entered an order described above, the court clerk would have to deliver the order to the retirement system and the retirement system would have to comply with the order.

The retirement system could not pay to a member or retirant whose retirement benefit was forfeited any retirement benefits on or after the day the governing body of the retirement system received the order. The retirement system would have to comply with any subsequent orders of a court based upon an appeal of an order previously submitted. A retirement system that complied with a court order under the bill would be released and discharged from any and all liability pertaining to retirement benefits arising from the former member's or retirant's service to the employer, upon receipt of the order of the court.

MCL 38.2702 et al.

### **FISCAL IMPACT**

This bill would have no fiscal impact on State government. A judge could order that the member's or retirant's beneficiary receive an actuarially equivalent monthly retirement allowance. Because this allowance would not be received until the member's earliest allowable retirement age with an unreduced benefit (as specified by the particular retirement system), there would be no State cost because those benefits would have been actuarially accounted for. The actual amount of the benefit to the member's or retirant's beneficiary would be determined by the board of the retirement system to which the member or retirant had been ordered to forfeit his or her retirement benefits; therefore, it is impossible to determine what the amount of the beneficiary's allowance would be. In the event that there was no beneficiary, the State could realize a minimal saving due to a decrease in the unfunded accrued liabilities of the affected retirement system. The forfeited pension would remain in the retirement system's assets, thus lowering the unfunded accrued liabilities within that retirement system. The result could be a lower contribution rate for retirement benefits, which could translate to a lower State payment to the retirement system. The actual amount of this saving is indeterminable.

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