



San Bernardino County Employees'
Retirement Association

Forfeiture of Retirement Benefits Fact Sheet

Forfeiture of Benefits

Under certain circumstances, state law requires the forfeiture of retirement benefits in connection with a felony criminal conviction—typically when the crime was committed in connection with public employment.

This law was instituted under PEPRA (the California Public Employees' Pension Reform Act of 2013), and is sometimes referred to as "Felony Forfeiture." The law requires the forfeiture, as of the earliest date of the crime, of "all accrued rights and benefits in any public retirement system" for any public employee convicted of a felony for conduct:

- Arising out of or in the performance of his or her official duties;
- In pursuit of the office or appointment; or
- In connection with obtaining salary, disability retirement, service retirement, or other benefits.

Background on the Law

The felony forfeiture law took effect on January 1, 2013. More detail about the law is provided in the SBCERA Board Benefits Policy 033: Felony Forfeiture of Benefits, which describes the criteria for the forfeiture and the legal obligations for the employer and the retirement system. The Government Codes related to forfeiture of benefits are 7522.72 and 7522.74.

Roles & Responsibilities

The Employee: In the event of a felony conviction, the employee (and the prosecuting agency) must notify his/her employer within 60 days.

The Employer: In the event of a felony conviction, the member's employer must contact the retirement system within 90 days of the conviction and provide the following information:

- a) Member's name.
- b) Termination date of employment.
- c) Date of the earliest commission of the felony, as reflected in the court proceedings.
- d) Statement of whether the felony offense was committed during the performance of the member's job duties.
- e) Name of the court(s) in which the case was heard.
- f) Name and contact information for the prosecuting agency (state and/or federal).
- g) Copy of communications received from the prosecuting agency.
- h) Description of the felony charges for which the member was convicted.
- i) Date of conviction.
- j) Copy of court documents related to the member's conviction/guilty plea.

How to Report a Felony Conviction

To report a possible forfeiture of benefits, contact SBCERA. Although it is the employer's responsibility to notify SBCERA of an employee's felony conviction, SBCERA can be notified by the media, third parties, and members themselves. When this occurs, SBCERA will reach out to the employer and ask for felony conviction information.

What Happens Once the Felony is Reported to SBCERA

Once the felony is reported to SBCERA, staff will analyze information related to the conviction, and make a determination on whether the case requires forfeiture of benefits. SBCERA will send a letter to the member informing them of our determination, which would include the amount of forfeited service, if applicable. The member has a right to appeal the determination. The appeals process is described in the Board policy on felony forfeiture referenced above.

Other Things to Consider

Retirement with SBCERA: If a member has enough service credit remaining to qualify for retirement after the forfeited service is removed, he/she may still retire provided the minimum age requirement is met.

Return of Member-Paid Contributions: A member is entitled to a return of their member-paid contributions, without interest, made during the forfeited period. SBCERA will reverse the member-paid contributions and service for the forfeited period. The employer's share stays in the employer's pool and will be taken into consideration when the employer rates are recalculated in the annual valuation. SBCERA is required to notify the court and district attorney at least three business days prior to the release of money to the member.

Returning to SBCERA-Covered Employment: After a conviction and subsequent forfeiture of retirement benefits, a member cannot return to SBCERA-covered employment and accrue further benefits with SBCERA.

Reversal of Conviction: In cases where the conviction is reversed, the member has the option to redeposit the contributions from the forfeited period, and/or to recover his/her previously forfeited rights and benefits.

Contact Us

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References: SBCERA Board Benefits Policy 033: Felony Forfeiture of Benefits; California Government Code Sections 7522.72 and 7522.74.