



**House
Legislative
Analysis
Section**

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**FORFEITURE OF RETIREMENT
BENEFITS**

**House Bill 4803 as introduced
Sponsor: Rep. Eric Bush**

**House Bill 4804 as introduced
Sponsor: Rep. Michelle McManus**

**House Bill 4805 as introduced
Sponsor: Rep. Greg Kaza**

**House Bill 4806 as introduced
Sponsor: Rep. Beverly Hammerstrom**

**House Bills 4807, 4808 and 4810 as
introduced
Sponsor: Rep. Sandra Hill**

**House Bill 4809 as introduced
Sponsor: Rep. James Ryan**

Committee: Appropriations

First Analysis (10-12-95)

House Bills 4803-4810 (10-12-95)

THE APPARENT PROBLEM:

Public Act 350 of 1994 created a new act, the Public Employee Retirement Benefits Forfeiture Act, that makes a public employee's rights to vested retirement benefits subject to forfeiture if he or she is convicted of, or enters a "no contest" plea for, a felony arising out of public employment in which he or she has breached the public trust. In order for the act to have any practical effect, however, amendments to the statutes governing the various public employee retirement systems are necessary.

THE CONTENT OF THE BILLS:

House Bills 4803-4809 would amend the various public employee retirement acts to provide that the right of a member, deferred member, or retirant to a pension, annuity, retirement allowance, accumulated contributions, or other benefit under any of the respective acts would be subject to forfeiture under the provisions of the Public Employee Retirement Benefits Forfeiture Act (Public Act 350 of 1994).

House Bill 4810 would amend the Code of Criminal Procedure (MCL 769.29) to require a judge of a court with jurisdiction, when pronouncing judgment against and passing sentence on a person who was convicted of, or who had pled no contest to, a felony arising out of his or her service as public employee, to order the person's public employee retirement benefits forfeited under the Public Employee Retirement Benefits Forfeiture Act (Public Act 350 of 1994). Also, the court would have to prepare an order that complied with the 1994 act.

House Bill 4803 would amend the State Employees' Retirement Act (MCL 38.40a); House Bill 4804 would amend the Public School Employees Retirement Act (MCL 38.46a); House Bill 4805 would amend the Judges Retirement Act (MCL 38.2308a); House Bill 4806 would amend the Municipal Employees Retirement Act (MCL 38.1553a); House Bill 4807 would amend the

Michigan Legislative Retirement System Act (MCL 38.1057a); House Bill 4808 would amend Public Act 156 of 1851, which governs the county employees retirement system (MCL 46.12a); and House Bill 4809 would amend the Fire Fighters and Police Officers Retirement Act (MCL 38.559a).

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bills would result in an indeterminate decrease in state costs. (9-27-95)

ARGUMENTS:

For:

The bills would make necessary complementary amendments to the public retirement system acts so that the intent of Public Act 350 of 1994 can be implemented. A public employee who breaches the public trust and is convicted of a felony should have to forfeit his or her retirement benefits, both as a means of promoting justice, and to help the state defray the costs of the crime.

Against:

As noted during the debate on the 1994 legislation, the legislation could be challenged on constitutional grounds, as accrued retirement benefits of public employees are a contractual obligation of the state which cannot be "diminished or impaired." An amendment to the state constitution may be necessary.

POSITIONS:

The Department of Management and Budget supports the concept of the bills. (10-11-95)