

 <div> PA TURNPIKE COMMISSION POLICY <i>This is a statement of official Pennsylvania Turnpike Policy</i> </div>		NUMBER: 2.14 APPROVAL DATE: 09-05-2006
POLICY SUBJECT: Public Employee Pension Forfeiture Act No. 1978-140	RESPONSIBLE DEPARTMENT: Human Resources	EFFECTIVE DATE: 09-05-2006 REVISED DATE: 04-04-2023

A. PURPOSE:

This policy establishes the Pennsylvania Turnpike Commission's (Commission) reporting requirements and eligibility guidelines for continuation of Commission-provided Health Coverage for State Employee's Retirement System (SERS) members who are charged and convicted of, or plead guilty or no defense to, certain crimes related to public office or public employment, and, thus, may potentially be subject to pension forfeiture as set forth in the Public Employee Pension Forfeiture Act 1978-140 (Act 140).

B. SCOPE:

This policy applies to all full-time and part-time employees of the Commission who are eligible to become a SERS member. This policy shall be interpreted in accordance with the Retirement Code.

C. GENERAL POLICY:

As a reasonable condition of employment, all Commission employees shall affirm and reaffirm their commitment to perform their job with honesty and integrity while employed by the Commission as a SERS member, regardless of whether the public employment is on a full-time or part-time basis. Further, an agreement to perform a term of public service without committing a crime set forth in Act 140 is in effect as long as the individual remains a SERS member.

As such, whether or not a public employee's right to receive Retirement Benefits has vested or they are in actual receipt of Retirement Benefits, all previous accumulated rights to receive such Retirement Benefits are subject to forfeiture by and through the "renewed" agreement which is formed each time a person chooses to become a "public employee or public official" as defined in Act 140, or is elected, appointed, promoted, or otherwise changes a job classification as a Public Official or Public Employee.

For a forfeiture to occur, the SERS Member must be charged and convicted of or plead guilty or no defense to a crime listed in Act 140.

The following criminal offenses, as set forth in Title 18 of the Pennsylvania Consolidated Statutes or other enumerated statute, when committed by a Public Official or Public Employee through their

public office or position, or when their public employment places them in a position to commit one of the following crime(s), may trigger the application of Act 140:

- (1) §3922 (relating to theft by deception);
- (2) §3923 (relating to theft by extortion);
- (3) §3926 (relating to theft of services);
- (4) §3927 (relating to theft by failure to make required disposition of funds received), when the criminal culpability (misconduct) reaches the level of a misdemeanor of the first degree or higher.
- (5) §4101 (relating to forgery);
- (6) §4104 (relating to tampering with records or identification);
- (7) §4113 (relating to misapplication of entrusted property and property of government or financial institutions) when the criminal culpability (misconduct) reaches the level of misdemeanor of the second degree;
- (8) §4701 (relating to bribery in official and political matters);
- (9) §4702 (relating to threats and other improper influence in official and political matters);
- (10) §4902 (relating to perjury);
- (11) §4903(a) (relating to false swearing);
- (12) §4904 (relating to unsworn falsification to authorities);
- (13) §4906 (relating to false reports to law enforcement authorities);
- (15) §4909 (relating to witness or informant taking bribes);
- (16) §4910 (relating to tampering with or fabricating physical evidence);
- (17) §4911 (relating to tampering with public records or information);
- (18) §4952 (relating to intimidation of witnesses or victims);
- (19) §4953 (relating to retaliation against witness, victim, or party);
- (20) §5101 (relating to obstructing administration of law or other governmental function);
- (21) §5301 (relating to official oppression);

(22) §5302 (relating to speculating or wagering on official action or information).

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

(24) Any criminal offense as set forth in Federal law that is substantially the same as one of the foregoing crimes.

(25) Any felony offense that is punishable by a prison term exceeding five years.

D. DEFINITIONS:

COBRA – Consolidated Omnibus Budget Reconciliation Act which was passed in 1986. The law amends the Employee Retirement Income Security Act, the Internal Revenue Code, and the Public Health Service Act to provide continuation of group health coverage that otherwise might be terminated.

Criminal Conviction – Conviction, a plea of guilty or a plea of no defense or no contest to a criminal offense.

Health Coverage – Medical, Prescription, Dental and/or Vision insurance.

Public Official or Public Employee – A person who is elected or appointed to any public office or employment, including justices, judges, justices of the peace, and members of the General Assembly, or who is acting or who has acted on behalf of the commonwealth or a political subdivision or any agency thereof including whether that person is acting on a permanent, temporary, full-time, or part-time basis. This definition excludes independent contractors or their employees or agents; or any person performing tasks over which the commonwealth or political subdivision has no legal right of control.

Retirement Benefits – Any benefits received under a pension plan that provides retirement income.

Retirement Code - The Pennsylvania statute that authorizes and controls the administration, policies, and procedures of SERS as well as the rights and benefits of its members. The Retirement Code is set forth at 71 Pa. C.S. §§ 5101-5957.

SERS Member – An active member, inactive member, annuitant, vestee or special vestee who is making, or has at any time, made contributions to the SERS.

E. PROCEDURES:

The Director of Human Resources or designee will notify SERS, Bureau of Benefit Administration and the Commission's Legal Department of any SERS Member who committed possible Act 140 criminal offenses. SERS will determine if the SERS Member is subject to pension forfeiture and follow internal procedures to forfeit the pension in accordance with Act 140.

Notification should be given as soon as the SERS Member is charged with a crime. If available, notification should include:

1. Location of crime and date
2. Court docket numbers
3. Newspaper articles regarding the crime and the member
4. Sentencing orders
5. Name of court in which proceedings occurred or will occur
6. Amount of any monetary loss to the Commission

The employee should be placed on a suspension until a decision can be made regarding ongoing employment. Should the employee's employment be terminated, their Health Coverage will be canceled the first day of the month following termination for employees who do not qualify for retiree health benefits, and the employee will be offered COBRA coverage at self pay. For employees who qualify for retiree health benefits, eligible benefits will begin the first of the month following termination of employment in accordance with Commission procedures and/or the applicable Collective Bargaining Agreement.

If SERS determines that an employee's pension should be forfeited based on the Criminal Conviction, the Commission will promptly terminate Health Coverage effective the date of the Criminal Conviction. Employee/retiree will not be entitled to COBRA as Criminal Conviction is deemed gross misconduct and employee/retiree, spouse and dependents lose all rights under COBRA law.

Termination of Health Coverage will be retroactive to the date of the Criminal Conviction, and any amount paid on behalf of the employee/retiree between the date of conviction and the date of pension forfeiture shall be promptly reimbursed to the Commission by the employee/retiree.

Health Coverage will not continue during any appeal(s) of a conviction or of a pension forfeiture. Any Health Coverage claims incurred after the date of the criminal conviction shall be the responsibility of the employee. However, if the Commission is later notified by SERS of a pension reinstatement, the employee shall be entitled to reinstatement of Commission Health Coverage back to the date of cancellation.

The Commission will use its discretion to determine the method to recoup any monies due related to the crime(s), if not already outlined in the court conviction document(s).

Employees who violate Act 140 are not eligible for re-employment at the Commission.

Any questions concerning the forfeiture of a SERS Member's pension should be directed to SERS, Bureau of Benefit Administration at 717-237-0272.

This Policy Letter supersedes all previous Policy Letters on this subject.