

3143

2015-2016 Regular Sessions

I N   S E N A T E

February 2, 2015

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Introduced by Sen. FUNKE -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to forfeiture of pension rights or retirement benefits upon conviction of certain crimes related to public employment; and to repeal article 3-B of such law relating to pension forfeiture for public officials

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Article 3-B of the retirement and social security law is  
2     REPEALED and a new article 3-B is added to read as follows:

3                             ARTICLE 3-B

4                             PENSION FORFEITURE FOR PUBLIC MISCONDUCT ACT

5     SECTION 156. SHORT TITLE.

6                     157. DEFINITIONS.

7                     158. PENSION FORFEITURE.

8                     159. MISCELLANEOUS.

9     S 156. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS  
10    THE "PENSION FORFEITURE FOR PUBLIC MISCONDUCT ACT".

11    S 157. DEFINITIONS. THE FOLLOWING WORDS AND PHRASES, AS USED IN THIS  
12    ARTICLE, SHALL HAVE THE FOLLOWING MEANINGS, UNLESS A DIFFERENT MEANING  
13    IS PLAINLY REQUIRED BY THE CONTEXT:

14    1. "DEFENDANT" SHALL MEAN A PERSON AGAINST WHOM A FORFEITURE ACTION IS  
15    COMMENCED.

16    2. "COVERED CRIME" SHALL MEAN ANY OF THE FOLLOWING:

17    (A) ANY CLASS A OR CLASS B FELONY OFFENSE;

18    (B) ANY OTHER FELONY OFFENSE, OR ANY ATTEMPT, CONSPIRACY OR SOLICITA-  
19    TION TO COMMIT ANY OTHER SUCH OFFENSE WHERE SUCH ACT HAS A DIRECT AND  
20    ACTUAL RELATIONSHIP BETWEEN THE CRIMINAL CONDUCT AND THE PERFORMANCE OF  
21    ONE'S STATUTORY OR REGULATORY PUBLIC DUTIES;

22    (C) ANY OTHER FELONY OR MISDEMEANOR COMMITTED BY LARCENY, PERJURY,  
23    FALSE OR FRAUDULENT STATEMENT OR OMISSION, EXTORTION, BRIBERY, THEFT OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 FAILURE TO ACT WHEN A DUTY TO ACT EXISTS, OR INTENTIONAL CONCEALMENT OF  
2 SUCH ACTS BY THE PERSON OR ANY OTHER PERSON OR ENTITY WHEN SUCH IS KNOWN  
3 TO THE PUBLIC OFFICIAL, BY WHICH A PUBLIC OFFICER OBTAIN MONEY, GOODS OR  
4 SERVICES UNDER FALSE PRETENSES AS A RESULT OF FILINGS BY SAID PUBLIC  
5 OFFICER;

6 (D) ANY CONVICTION OF A CRIME INVOLVING FALSE, FRAUDULENT OR FORGED  
7 DOCUMENTS INTENDED TO BE MADE PART OF A PUBLIC PROCEEDING OR RECORD IN  
8 ORDER TO WILLFULLY ALTER OR MISREPRESENT THE PUBLIC RECORD;

9 (E) ANY CRIMINAL OFFENSE COMMITTED IN WHOLE IN PART UPON USE OF A  
10 PUBLIC OFFICE, OR A REPRESENTATION IN WORD OR DEED THAT THE ACTOR WAS A  
11 PUBLIC OFFICER, ACTING UNDER LEGAL AUTHORITY OR COLOR OF LAW, WHETHER  
12 WITHIN OR WITHOUT THE SCOPE OF THE ACTOR'S PUBLIC EMPLOYMENT;

13 (F) ANY OFFENSE RELATIVE TO THE CONCEALMENT, OR OBSTRUCTING INVESTI-  
14 GATION OF SUCH ACTS LISTED HEREIN; OR

15 (G) ANY SUBSTANTIALLY SIMILAR FELONY OFFENSE UNDER THE LAWS OF ANOTHER  
16 STATE OR FEDERAL JURISDICTION AS LISTED IN PARAGRAPHS (A) THROUGH (F) OF  
17 THIS SUBDIVISION.

18 3. "CHIEF ADMINISTRATOR OF THE RETIREMENT SYSTEM" SHALL MEAN THE COMP-  
19 TROLLER OF THE STATE OF NEW YORK WITH RESPECT TO THE NEW YORK STATE AND  
20 LOCAL EMPLOYEES' RETIREMENT SYSTEM AND THE NEW YORK STATE AND LOCAL  
21 POLICE AND FIRE RETIREMENT SYSTEM AND THE BOARDS OF TRUSTEES WITH  
22 RESPECT TO THE OTHER PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS OF THE  
23 STATE AND THE CITY OF NEW YORK.

24 4. "MEMBER" SHALL MEAN A MEMBER OF THE NEW YORK STATE AND LOCAL  
25 EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND  
26 FIRE RETIREMENT SYSTEM, THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM,  
27 THE NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACH-  
28 ERS' RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND, THE NEW  
29 YORK CITY FIRE DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF  
30 EDUCATION RETIREMENT SYSTEM WHO JOINED SUCH SYSTEM ON OR AFTER THE  
31 EFFECTIVE DATE OF THIS ARTICLE.

32 5. "RETIRED MEMBER" SHALL MEAN A PERSON WHO IS RETIRED FROM AND WHO IS  
33 RECEIVING A RETIREMENT ALLOWANCE FROM A RETIREMENT SYSTEM AND WHO HAD  
34 JOINED SUCH SYSTEM ON OR AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

35 6. "RETIREMENT SYSTEM" SHALL MEAN THE NEW YORK STATE AND LOCAL EMPLOY-  
36 EES' RETIREMENT SYSTEM, THE NEW YORK STATE AND LOCAL POLICE AND FIRE  
37 RETIREMENT SYSTEM, THE NEW YORK STATE TEACHERS' RETIREMENT SYSTEM, THE  
38 NEW YORK CITY EMPLOYEES' RETIREMENT SYSTEM, THE NEW YORK CITY TEACHERS'  
39 RETIREMENT SYSTEM, THE NEW YORK CITY POLICE PENSION FUND, THE NEW YORK  
40 CITY FIRE DEPARTMENT PENSION FUND AND THE NEW YORK CITY BOARD OF EDUCA-  
41 TION RETIREMENT SYSTEM.

42 7. "DEPENDENT CHILDREN" SHALL INCLUDE:

43 (A) ANY CHILD OF AN OFFICER OR EMPLOYEE, WHERE SUCH CHILD IS UNDER AGE  
44 NINETEEN;

45 (B) ANY UNMARRIED DEPENDENT CHILD OF AN OFFICER OR EMPLOYEE, REGARD-  
46 LESS OF SUCH CHILD'S AGE, WHERE SUCH CHILD IS INCAPABLE OF SELF-SUSTAIN-  
47 ING EMPLOYMENT BY REASON OF MENTAL OR PHYSICAL DISABILITY AND BECAME SO  
48 INCAPABLE PRIOR TO ATTAINING THE AGE OF NINETEEN; AND

49 (C) ANY UNMARRIED CHILD OF AN OFFICER OR EMPLOYEE, WHERE SUCH CHILD IS  
50 AT AN ACCREDITED INSTITUTION OF HIGHER LEARNING AND IS UNDER AGE TWEN-  
51 TY-THREE.

52 8. (A) "NEXUS" SHALL MEAN THAT THE ACT OR OMISSION IS A CRIME WHERE  
53 PUBLIC MONIES WERE IMPROPERLY USED, EXPENDED, OR LOST AND:

54 (I) IS RELATED DIRECTLY TO THE PERFORMANCE OF OR THE FAILURE TO  
55 PERFORM DUTIES AS A PUBLIC OFFICER REQUIRED BY LAW; OR

1 (II) HAS AN ACTUAL AND DIRECT RELATIONSHIP BETWEEN THE CRIMINAL ACT  
2 AND PERFORMANCE OF PUBLIC DUTIES OR ACTUALLY AND DIRECTLY ARISES OUT OF  
3 OR IN CONNECTION WITH PUBLIC SERVICE.

4 (B) NOTWITHSTANDING PARAGRAPH (A) OF THIS SUBDIVISION, PERSONAL,  
5 PRIVATE OFFENSES THAT ARE CRIMINAL IN NATURE WHICH ARE NOT IN CONNECTION  
6 WITH THE ADMINISTRATION OF THE PUBLIC EMPLOYEE'S OFFICE OR POSITION  
7 SHALL NOT BE CAUSE FOR USE OF THIS ARTICLE.

8 S 158. PENSION FORFEITURE. NOTWITHSTANDING ANY OTHER PROVISION OF  
9 GENERAL, SPECIAL OR LOCAL LAW, RULE OR REGULATION TO THE CONTRARY:

10 1. IN THE CASE OF A MEMBER OR RETIRED MEMBER WHO IS CONVICTED OF,  
11 PLEADS GUILTY TO, PLEADS NOLO CONTENDERE TO, OR PLEADS GUILTY TO PURSU-  
12 ANT TO SUBDIVISION TWO OF SECTION 220.10 OF THE CRIMINAL PROCEDURE LAW  
13 ANY COVERED CRIME SET FORTH IN PARAGRAPH (A), (B), (C), (D), (E), OR (F)  
14 OF SUBDIVISION TWO OF SECTION ONE HUNDRED FIFTY-SEVEN OF THIS ARTICLE,  
15 AND SUCH CRIME HAS A NEXUS, AS DEFINED IN SUBDIVISION EIGHT OF SECTION  
16 ONE HUNDRED FIFTY-SEVEN OF THIS ARTICLE, TO THE PUBLIC OFFICER, AN  
17 ACTION TO FORFEIT THE PENSION OF THE PUBLIC OFFICER MAY BE COMMENCED IN  
18 SUPREME COURT.

19 2. WITHIN SIX MONTHS OF A CONVICTION FOR ANY COVERED CRIME, THE PROSE-  
20 CUTING AUTHORITY, WHICH PROSECUTED THE UNDERLYING CRIMINAL CHARGES, OR  
21 THE ATTORNEY GENERAL OF THE STATE MAY INITIATE A SPECIAL PROCEEDING IN  
22 THE SUPREME COURT OF THE COUNTY IN WHICH THE OFFENSE WAS PROSECUTED  
23 PURSUANT TO THIS SECTION TO SEEK AN ORDER OF THE SUPREME COURT OF CIVIL  
24 FORFEITURE OF ALL OR A PORTION OF THE RIGHTS AND BENEFITS TO WHICH SUCH  
25 PERSON IS ENTITLED OR WILL BE ENTITLED TO AS A MEMBER OR RETIRED MEMBER.

26 3. NO PROCEEDING SHALL BE BEGUN WITHOUT NOTICE BEING PROVIDED TO THE  
27 MEMBER OF THE RETIREMENT SYSTEM AT ARRAIGNMENT FOR THE CRIMINAL ACTION  
28 IF PROSECUTED IN THIS STATE OR BY NOTICE WITHIN SEVEN DAYS PRIOR TO  
29 DISPOSITION BY PLEA OR SENTENCE, IF THE COVERED CRIME IS PROSECUTED IN  
30 ANOTHER JURISDICTION.

31 4. NO PROCEEDING SHALL BE BEGUN BY ANY PROSECUTING AUTHORITY WITHOUT  
32 NOTICE BEING PROVIDED TO THE RETIREMENT SYSTEM THAT THE PERSON HAS BEEN  
33 CONVICTED OF A COVERED CRIME.

34 5. NO PROCEEDING SHALL BE BEGUN BY ANY PROSECUTING AUTHORITY UNTIL THE  
35 PROSECUTING AUTHORITY HAS SERVED UPON HIM AND WITHIN TWENTY-FOUR HOURS  
36 SERVED UPON THE PERSON CONVICTED OF A COVERED CRIME A FULL STATEMENT OF  
37 THE PENSION RIGHTS AND MONIES TO WHICH THE PERSON MAY BE ENTITLED FROM  
38 THEIR SERVICE AS A PUBLIC OFFICER AND SAID SERVICE INFORMATION BE BROKEN  
39 INTO CATEGORIES OF PENSION RIGHTS BASED UPON EACH PUBLIC OFFICE HELD.

40 6. SUBJECT TO AN ORDER OF THE COURT FOR PURPOSES OF RESTITUTION,  
41 ORDERED AS PART OF THE UNDERLYING CRIMINAL CASE AND ONLY FOR THE COVERED  
42 CRIME, THE PERSON SHALL BE DELIVERED AT THE TIME OF THE NOTICE FROM THE  
43 RETIREMENT SYSTEM, AN AMOUNT OF PRO RATA OF CONTRIBUTIONS PAID INTO THE  
44 RETIREMENT SYSTEMS, UNLESS A COURT SHALL ORDER OTHERWISE.

45 7. THE PERSON SUBJECT TO FORFEITURE OF THE RIGHTS AND MONIES OF A  
46 PUBLIC PENSION SHALL BE SERVED WITH A SUMMONS AND COMPLAINT SPECIFYING  
47 THE COVERED CRIME, THE JURISDICTION, THE AMOUNT OF PENSION IN ISSUE, THE  
48 BASIS FOR SUCH A CLAIM AS TO THAT PORTION OR ENTITY OF THE PENSION. THE  
49 PERSON RECEIVING SUCH COMPLAINT MAY FILE AN ANSWER OR MOVE TO DISMISS  
50 WITHIN THE TIME PERIOD FOR SUCH ANSWERS IN A SPECIAL PROCEEDING. THE  
51 COURT UPON RECEIPT OF THE MOTION SHALL PROMPTLY HOLD A HEARING. THE  
52 COURT SHALL APPOINT A GUARDIAN AD LITEM FOR ANY DEPENDENT CHILDREN.

53 8. THE COURT SHALL PERMIT ANY DEPENDENT CHILD, SPOUSE, DIVORCED  
54 SPOUSE, OR PERSON IN SUCH RELATIONSHIP OR CONSANGUINITY OR DOMICILE WHO  
55 SEEKS TO MAKE A CLAIM ON SUCH PENSION AS A RESULT OF ENTITLEMENT TO SUCH  
56 FUNDS HAD THE COVERED CRIME NOT BEEN COMMITTED. IF SUCH CLAIMANT PROF-

1 ITED OR BENEFITED KNOWINGLY FROM SUCH COVERED CRIME AND THE COURT SO  
2 FINDS THEN THE COURT MAY EXTINGUISH ANY CLAIM UPON MOTION OF ANY PARTY.

3 9. THE BURDEN OF PROOF IN ALL MATTERS SHALL BE UPON THE PROSECUTING  
4 AUTHORITY WHO INITIATES THE ACTION.

5 10. THE PERSON SUBJECT TO THE FORFEITURE PROCEEDING RETAINS THE SAME  
6 RIGHTS AS IN A CRIMINAL TRIAL. SHOULD THE PERSON ELECTED TO TESTIFY IN  
7 HIS OWN BEHALF, NOTHING SAID IN THE PROCEEDING MAY BE USED AGAINST HIM  
8 UPON APPEAL OR RETRIAL OF SUCH A COVERED CRIME, IF A COURT OF COMPETENT  
9 JURISDICTION VACATED OR REVERSES THE CONVICTION FOR A COVERED CRIME.

10 11. FORFEITURE OF THE WHOLE OR ANY PART MAY BE ORDERED SOLELY UPON  
11 CLEAR AND CONVINCING EVIDENCE.

12 12. THE COURT SHALL MAKE FINDINGS OF FACT AND CONCLUSIONS OF LAW.

13 13. (A) THE COURT SHALL CONSIDER THE FOLLOWING FACTORS IN REACHING A  
14 DETERMINATION:

15 (I) THE NATURE OF THE OFFENSE IN TERMS OF DURATION AND ACTS.

16 (II) THE SERIOUSNESS OF THE OFFENSE, MEASURED BY THE AMOUNT OF PUBLIC  
17 MONIES ACTUALLY MISAPPROPRIATED OR DIRECTLY LOST AS A RESULT OF THE  
18 COVERED CRIME.

19 (III) THE RELATIONSHIP OF THE OFFENSE TO THE PUBLIC OFFICE.

20 (IV) THE PUBLIC OFFICE WHICH THE PERSON HELD AT THE TIME OF THE  
21 OFFENSE.

22 (V) MEMBERS OF THE PUBLIC DIRECTLY AFFECTED BY THE COVERED CRIME.

23 (VI) THE LEVEL OF WILLFULNESS OR MALICE OR OTHER CULPABILITY IN THE  
24 COMMISSION OF THE COVERED CRIME.

25 (VII) ANY GOOD FAITH EFFORT TO MITIGATE OR PREVENT THE HARM CAUSED BY  
26 THE OFFENSE.

27 (VIII) WHETHER THE PERSON PLEADED GUILTY OR NOT.

28 (IX) WHETHER THE PERSON OBSTRUCTED, IMPEDED OR CONCEALED MATTERS  
29 DURING OR IN THE COURSE OF INVESTIGATION, TRIAL OR INSTANT PROCEEDING.

30 (X) WHETHER THE PERSON ACTED OUT OF DURESS, COERCION OR INDUCEMENT,  
31 NOT SUFFICIENT TO BE A DEFENSE UNDER THE PENAL LAW.

32 (XI) THE LENGTH OF PUBLIC SERVICE AND THE OFFICES HELD.

33 (XII) THE NUMBER OF YEARS OF PUBLIC SERVICE BY THE PERSON WITHOUT ANY  
34 CRIMINAL CONDUCT.

35 (XIII) THE DIRECT PECUNIARY BENEFIT TO THE PERSON, IF ANY.

36 (XIV) THE EXTENT TO WHICH THE PENSION OF THE PERSON HAS VESTED.

37 (XV) ANY AMOUNTS PREVIOUSLY PAID OUT OF THE PENSION.

38 (XVI) ANY OTHER PUBLIC SERVICE, IN ANY OTHER FORM NOT COVERED BY A  
39 PENSION SYSTEM.

40 (XVII) THE AVAILABILITY AND ADEQUACY OF OTHER PENAL SANCTIONS.

41 (XVIII) ANY AND ALL PERSONAL CIRCUMSTANCES OF THE PERSON WHICH BEAR ON  
42 THE JUSTNESS OR NEED FOR FORFEITURE.

43 (XIX) ANY AND ALL OTHER MATTERS THAT JUSTICE REQUIRES.

44 (B) NO ONE OF THESE FACTORS SHALL BE CONCLUSIVE AND NONE SHALL BE  
45 OMITTED.

46 (C) THE COURT SHALL ALSO CONSIDER ANY MITIGATING FACTOR SET FORTH BY  
47 ANY PARTY OPPOSING FORFEITURE, WITHOUT LIMITATION.

48 (D) THE COURT SHALL CONSIDER AND MAKE A SPECIFIC FACTUAL FINDING AS TO  
49 THE EXTENT TO WHICH THE PERSON'S FAMILY INCLUDING EACH CHILD OR CHILDREN  
50 IS DEPENDENT UPON SAID PERSON AND THE EXTENT TO WHICH THE FAMILY IS  
51 DEPENDENT UPON OR EXPECTED TO BE DEPENDENT UPON SUCH PENSION, INCLUDING  
52 ANY EVIDENCE OF PLANNING BY SUCH FAMILY.

53 14. AT ANY TIME DURING THE PENDENCY OF A FORFEITURE ACTION, THE COURT  
54 MAY DISMISS THE ACTION IF IT FINDS THAT SUCH RELIEF IS WARRANTED BY THE  
55 EXISTENCE OF SOME COMPELLING FACTOR, CONSIDERATION OR CIRCUMSTANCE  
56 INCLUDING, BUT NOT LIMITED TO, ONE OR MORE OF THE MITIGATING FACTORS SET

1 FORTH IN THIS SECTION, OR OTHER INFORMATION OR EVIDENCE WHICH DEMON-  
2 STRATES THAT SUCH FORFEITURE WOULD NOT SERVE THE ENDS OF JUSTICE. THE  
3 COURT MAY ORDER THAT SOME OR ALL OF THE FORFEITED PENSION BE PAID FOR  
4 THE BENEFIT OF ANY DEPENDENT CHILDREN AS JUSTICE MAY REQUIRE, AFTER  
5 TAKING INTO CONSIDERATION THE FINANCIAL NEEDS AND RESOURCES AVAILABLE  
6 FOR SUPPORT OF SUCH CHILDREN. THE COURT SHALL ISSUE A WRITTEN DECISION  
7 STATING THE BASIS FOR AN ORDER ISSUED PURSUANT TO THIS SUBDIVISION.

8 15. UPON A FINDING BY THE SUPREME COURT AFTER A FULL HEARING THAT A  
9 PORTION, A PRO RATA OR AN ENTIRE PENSION SHALL BE FORFEITED TO THE  
10 STATE, THE COURT SHALL ISSUE AN ORDER TO THE APPROPRIATE RETIREMENT  
11 SYSTEM FOR FORFEITURE OF SUCH PORTION OR ENTIRETY OF THE PENSION, LESS  
12 ANY ADJUSTMENTS OR MODIFICATIONS IN THE TERMS THEREOF TO PROTECT THIRD  
13 PARTY INTERESTS FOUND BY THE COURT AND SHALL CAUSE SUCH ORDER TO BE  
14 SERVED UPON THE PERSON SUBJECT TO THE ORDER, THIRD PARTIES ADVERSELY OR  
15 OTHERWISE EFFECTED BY THE ORDER, THE PROSECUTION AND THE CHIEF ADMINIS-  
16 TRATOR OF THE APPROPRIATE RETIREMENT SYSTEM.

17 16. ALL PARTIES SHALL HAVE THE SAME APPELLATE RIGHTS AS IN ANY CIVIL  
18 ACTION. IN THE EVENT OF AN APPEAL, ANY PARTY WHO SHALL SEEK A STAY PEND-  
19 ING APPEAL SHALL HAVE IT GRANTED FOR GOOD CAUSE SHOWN.

20 17. UPON A FINAL DETERMINATION THAT REVERSES OR VACATES A CONVICTION  
21 OF A COVERED OFFENSE AND WHERE THERE HAS BEEN A DECISION FORFEITING ALL  
22 OR A PORTION OF THE PENSION BASED UPON SUCH CONVICTION, THE PROSECUTION  
23 SHALL NOTIFY THE APPROPRIATE RETIREMENT SYSTEM OF THE REVERSAL OR VACA-  
24 TUR, NOTIFY THE COURT THAT ISSUED OR IS HEARING AN APPEAL FROM SUCH  
25 ORDER OF FORFEITURE FORTHWITH AND SEEK A VACATUR OF THE ORDER OF FORFEI-  
26 TURE. UPON THE REVERSAL OR VACATUR OF THE CONVICTION OF A COVERED  
27 OFFENSE, THE RIGHTS, PRIVILEGES AND BENEFITS OF THE APPROPRIATE PENSION  
28 SYSTEM SHALL BE IMMEDIATELY RESTORED TO THE PERSON AND ANY AND ALL  
29 ORDERS RESTRICTING OR INTERFERING WITH SUCH PENSION SHALL BE VOIDED.

30 18. EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE, THE CIVIL PRACTICE  
31 LAW AND RULES SHALL GOVERN THE PROCEDURE IN ACTIONS COMMENCED UNDER THIS  
32 ARTICLE, EXCEPT WHERE THE ACTION IS REGULATED BY ANY INCONSISTENT  
33 PROVISIONS HEREIN.

34 S 159. MISCELLANEOUS. THE REMEDIES PROVIDED FOR IN THIS ARTICLE ARE  
35 NOT INTENDED TO SUBSTITUTE FOR, LIMIT OR SUPERSEDE THE LAWFUL AUTHORITY  
36 OF ANY PUBLIC OFFICER, AGENCY OR OTHER PERSON TO ENFORCE ANY OTHER RIGHT  
37 OR REMEDY PROVIDED FOR BY LAW.

38 S 2. This act shall take effect immediately and shall only apply to  
39 those members who initially join the retirement system on or after such  
40 effective date.