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I N   S E N A T E

June 17, 2016

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Introduced by Sen. CROCI -- read twice and ordered printed, and when  
printed to be committed to the Committee on Rules

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 7 of article 5 of the constitution, in  
relation to the public pension of a public officer

1     Section 1. Resolved (if the Assembly concur), That section 7 of arti-  
2     cle 5 of the constitution be amended to read as follows:

3     S 7. (A) After July first, nineteen hundred forty, membership in any  
4     pension or retirement system of the state or of a civil division thereof  
5     shall be a contractual relationship, the benefits of which shall not be  
6     diminished or impaired.

7     (B) NOTWITHSTANDING SUBDIVISION (A) OF THIS SECTION, THE PUBLIC  
8     PENSION OF A PUBLIC OFFICER, AS DEFINED IN PARAGRAPH (C) OF THIS  
9     SECTION, WHO STANDS CONVICTED OF A FELONY FOR WHICH SUCH FELONY HAS A  
10    DIRECT AND ACTUAL RELATIONSHIP TO THE PERFORMANCE OF THE PUBLIC OFFI-  
11    CER'S EXISTING DUTIES, MAY BE REDUCED OR REVOKED, FOLLOWING NOTICE AND A  
12    HEARING BY AN APPROPRIATE COURT, AS PROVIDED BY LAW. THE COURT DETERMI-  
13    NATION WHETHER TO REDUCE OR REVOKE SUCH PENSION SHALL BE BASED ON THE  
14    CONSIDERATION OF FACTORS INCLUDING THE SEVERITY OF THE CRIME AND THE  
15    PROPORTIONALITY OF A REDUCTION OR REVOCATION OF SUCH PENSION TO SUCH  
16    CRIME. WHEN A COURT ISSUES AN ORDER TO REDUCE OR REVOKE SUCH PENSION,  
17    THE COURT SHALL CONSIDER AND DETERMINE SPECIFIC FINDINGS AS TO THE  
18    AMOUNT OF SUCH FORFEITURE, IF ANY, AND WHETHER FORFEITURE, IN WHOLE OR  
19    IN PART, WOULD RESULT IN UNDUE HARDSHIP OR OTHER INEQUITY UPON ANY  
20    DEPENDENT CHILDREN, SPOUSE OR OTHER DEPENDENTS; AND OTHER FACTORS AS  
21    PROVIDED BY LAW. THE LEGISLATURE SHALL ENACT LEGISLATION TO IMPLEMENT  
22    THIS AMENDMENT TAKING INTO ACCOUNT INTERESTS OF JUSTICE.

23    (C) FOR THE PURPOSES OF PARAGRAPH (B) OF THIS SECTION, THE TERM  
24    "PUBLIC OFFICER" SHALL MEAN: (I) AN OFFICIAL FILLING AN ELECTED OFFICE  
25    WITHIN THE STATE; (II) A HOLDER OF OFFICE FILLED BY DIRECT APPOINTMENT  
26    BY THE GOVERNOR OF THIS STATE, EITHER UPON OR WITHOUT SENATE CONFIRMA-  
27    TION; (III) A COUNTY, CITY, TOWN OR VILLAGE ADMINISTRATOR, MANAGER OR  
28    EQUIVALENT POSITION; (IV) THE HEAD OR HEADS OF ANY STATE OR LOCAL  
29    GOVERNMENT DEPARTMENT, DIVISION, BOARD, COMMISSION, BUREAU, PUBLIC BENE-  
30    FIT CORPORATION, OR PUBLIC AUTHORITY OF THIS STATE WHO ARE VESTED WITH

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

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1 AUTHORITY, DIRECTION AND CONTROL OVER SUCH DEPARTMENT, DIVISION, BOARD,  
2 COMMISSION, BUREAU, PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY; (V)  
3 THE CHIEF FISCAL OFFICER OR TREASURER OF ANY MUNICIPAL CORPORATION OR  
4 POLITICAL SUBDIVISION OF THE STATE; (VI) A JUDGE OR JUSTICE OF THE  
5 UNIFIED COURT SYSTEM; AND (VII) A LEGISLATIVE, EXECUTIVE, OR JUDICIAL  
6 EMPLOYEE OF THIS STATE WHO DIRECTLY ASSISTS IN THE FORMULATION OF LEGIS-  
7 LATION, RULES, REGULATIONS, POLICY, OR JUDICIAL DECISION-MAKING AND WHO  
8 IS DESIGNATED AS A POLICYMAKER AS SET FORTH IN STATUTE.

9 (D) PARAGRAPH (B) OF THIS SECTION SHALL ONLY APPLY TO CRIMES COMMITTED  
10 ON OR AFTER THE FIRST OF JANUARY NEXT SUCCEEDING THE DATE UPON WHICH THE  
11 PEOPLE SHALL APPROVE AND RATIFY THE AMENDMENT TO THE CONSTITUTION THAT  
12 ADDED THIS PARAGRAPH.

13 S 2. Resolved (if the Assembly concur), That the foregoing amendment  
14 be referred to the first regular legislative session convening after the  
15 next succeeding general election of members of the assembly, and, in  
16 conformity with section 1 of article 19 of the constitution, be  
17 published for 3 months previous to the time of such election.