

# STATE OF NEW YORK

1749

2017-2018 Regular Sessions

## IN ASSEMBLY

January 13, 2017

Introduced by M. of A. BUCHWALD, MORELLE, CASTORINA, GALEF, LAVINE, MAYER, BARRETT, CUSICK, GJONAJ, LUPARDO, McDONALD, PAULIN, ROZIC, BRINDISI, DenDEKKER, JAFFEE, LUPINACCI, MONTESANO, PEOPLES-STOKES, BRONSON, DINOWITZ, JOHNS, MAGEE, ORTIZ, PICHARDO, SANTABARBARA, FAHY, KEARNS, MALLIOTAKIS, OTIS, QUART, SCHIMMINGER, SEAWRIGHT, SEPULVEDA, SKOUFIS, STEC, STECK, WOERNER, STIRPE, ZEBROWSKI, THIELE -- read once and referred to the Committee on Judiciary

### 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 Senate concur), That section 7 of article  
2 5 of the constitution be amended to read as follows:

3 § 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.

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

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1 (c) For the purposes of paragraph (b) of this section, the term  
2 "public officer" shall mean: (i) an official filling an elected office  
3 within the state; (ii) a holder of office filled by direct appointment  
4 by the governor of this state, either upon or without senate confirma-  
5 tion; (iii) a county, city, town or village administrator, manager or  
6 equivalent position; (iv) the head or heads of any state or local  
7 government department, division, board, commission, bureau, public bene-  
8 fit corporation, or public authority of this state who are vested with  
9 authority, direction and control over such department, division, board,  
10 commission, bureau, public benefit corporation or public authority; (v)  
11 the chief fiscal officer or treasurer of any municipal corporation or  
12 political subdivision of the state; (vi) a judge or justice of the  
13 unified court system; and (vii) a legislative, executive, or judicial  
14 employee of this state who directly assists in the formulation of legis-  
15 lation, rules, regulations, policy, or judicial decision-making and who  
16 is designated as a policymaker as set forth in statute.

17 (d) Paragraph (b) of this section shall only apply to crimes committed  
18 on or after the first of January next succeeding the date upon which the  
19 people shall approve and ratify the amendment to the constitution that  
20 added this paragraph.

21 § 2. Resolved (if the Senate concur), That the foregoing amendment be  
22 submitted to the people for approval at the general election to be held  
23 in the year 2017 in accordance with the provisions of the election law.