STATE OF NEW YORK

2334

2021-2022 Regular Sessions

IN ASSEMBLY

January 14, 2021

Introduced by M. of A. FERNANDEZ -- read once and referred to the Committee on Governmental Employees

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 5 of the constitution, in relation to reducing a police officer's pension to satisfy judgments in a wrongful death action

Section 1. Resolved (if the Senate concur), That section 7 of article 5 of the constitution be amended by adding a new subdivision (e) to read as follows:

(e) (i) Notwithstanding subdivision (a) of this section, the public pension of a police officer, as defined in paragraph (ii) of this subdivision, who is found liable in a wrongful death action arising out of the performance of his or her duties, may be reduced to no less than twenty thousand dollars to satisfy the judgment against such police officer in such wrongful death action prior to the payment of any public funds, following notice and a hearing by an appropriate court, as provided by law. The court determination whether to reduce such pension shall be based on the consideration of factors including the severity of such police officer's actions and the proportionality of a reduction of such pension to such actions. When a court issues an order to reduce such pension, the court shall consider and determine specific findings as to the amount of such reduction, if any, and whether the reduction would result in undue hardship or other inequity upon any dependent children, spouse or other dependents; and other factors as provided by law. The legislature shall enact legislation to implement this amendment.

(ii) For the purposes of paragraph (i) of this subdivision, the term "police officer" shall mean any member of a duly organized police force or department of any county, city, town, village, municipality, authority, police district, regional state park commission when employed full time in the enforcement of the general criminal laws of the state, or

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

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any member of the state police or a sheriff, undersheriff or deputy sheriff.

(iii) Paragraph (i) of this subdivision shall only apply to actions filed on or after the first of January next succeeding the date upon which the people shall approve and ratify the amendment to the constitution that added this subdivision.

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