STATE OF NEW YORK

7316

2021-2022 Regular Sessions

IN SENATE

August 6, 2021

Introduced by Sen. SKOUFIS -- 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

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

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

(b) **(i)** Notwithstanding subdivision (a) of this section, the public pension of a public officer, as defined in paragraph [~~(c) of this section~~] **(ii) of this subdivision**, who stands convicted of a felony for which such felony has a direct and actual relationship to the performance of the public officer's existing duties, may be reduced or revoked, following notice and a hearing by an appropriate court, as provided by law. The court determination whether to reduce or revoke such pension shall be based on the consideration of factors including the severity of the crime and the proportionality of a reduction or revocation of such pension to such crime. When a court issues an order to reduce or revoke such pension, the court shall consider and determine specific findings as to the amount of such forfeiture, if any, and whether forfeiture, in whole or in part, 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 taking into account interests of justice.

[~~(c)~~] **(ii)** For the purposes of [~~paragraph (b) of this section~~] **this subdivision**, the term "public officer" shall mean: [~~(i)~~] **(A)** an official filling an elected office within the state; [~~(ii)~~] **(B)** a holder of office filled by direct appointment by the governor of this state, either upon or without senate confirmation; [~~(iii)~~] **(C)** a county, city,

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

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town or village administrator, manager or equivalent position; [~~(iv)~~] **(D)** the head or heads of any state or local government department, division, board, commission, bureau, public benefit corporation, or public authority of this state who are vested with authority, direction and control over such department, division, board, commission, bureau, public benefit corporation or public authority; [~~(v)~~] **(E)** the chief fiscal officer or treasurer of any municipal corporation or political subdivision of the state; [~~(vi)~~] **(F)** a judge or justice of the unified court system; and [~~(vii)~~] **(G)** a legislative, executive, or judicial employee of this state who directly assists in the formulation of legislation, rules, regulations, policy, or judicial decision-making and who is designated as a policymaker as set forth in statute.

[~~(d) Paragraph (b) of this section~~] **(iii) This subdivision** shall only apply to crimes committed 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 paragraph.

(c) (i) Notwithstanding subdivision (a) of this section, the membership in any public pension of a public officer who stands convicted on an impeachment shall be revoked.

(ii) This subdivision shall apply to any public officer who stands convicted on an impeachment including any public officer convicted on an impeachment before the effective date of this subdivision.

§ 2. Resolved (if the Assembly concur), That section 24 of article 6 of the constitution be amended to read as follows:

§ 24. The assembly shall have the power of impeachment by a vote of a majority of all the members elected thereto. The court for the trial of impeachments shall be composed of the president of the senate, the senators, or the major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the governor or lieutenant-governor, neither the lieutenant-governor nor the temporary president of the senate shall act as a member of the court. No judicial officer shall exercise his or her office after articles of impeachment against him or her shall have been preferred to the senate, until he or she shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation truly and impartially to try the impeachment according to the evidence, and no person shall be convicted without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend further than to removal from office, or removal from office and disqualification to hold and enjoy any public office of honor, trust, or profit under this state**, and revocation of any membership in a public pension**; but the party impeached shall be liable to indictment and punishment according to law.

§ 3. Resolved (if the Assembly 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 three months previous to the time of such election.