

STATE OF NEW YORK

3564

2023-2024 Regular Sessions

IN ASSEMBLY

February 3, 2023

Introduced by M. of A. FITZPATRICK, TAGUE -- Multi-Sponsored by -- M. of A. MANKTELOW, MORINELLO -- read once and referred to the Committee on Governmental Operations

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to section 7 of article 5 of the constitution, in relation to the calculation of pension benefits for public employees

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 accrued benefits of which, as
6 defined by law, shall not be 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-

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

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1 tion; (iii) a county, city, town or village administrator, manager or
2 equivalent position; (iv) the head or heads of any state or local
3 government department, division, board, commission, bureau, public bene-
4 fit corporation, or public authority of this state who are vested with
5 authority, direction and control over such department, division, board,
6 commission, bureau, public benefit corporation or public authority; (v)
7 the chief fiscal officer or treasurer of any municipal corporation or
8 political subdivision of the state; (vi) a judge or justice of the
9 unified court system; and (vii) a legislative, executive, or judicial
10 employee of this state who directly assists in the formulation of legis-
11 lation, rules, regulations, policy, or judicial decision-making and who
12 is designated as a policymaker as set forth in statute.

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

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