



General Assembly

Amendment

January Session, 2007

LCO No. 8333

SB0118308333SD0

Offered by:

SEN. SLOSSBERG, 14th Dist.

To: Subst. Senate Bill No. 1183

File No. 809

Cal. No. 357

"AN ACT CONCERNING THE PENSIONS OF STATE AND MUNICIPAL EMPLOYEES OR PUBLIC OFFICIALS CONVICTED OF FRAUD OR CORRUPTION AND THE PROTECTION OF WHISTLEBLOWERS."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 3,
4 inclusive, of this act:

5 (1) "Public official" means public official, as defined in section 1-79
6 of the general statutes, a judge of any court either elected or appointed,
7 and any elected or appointed municipal official;

8 (2) "State or municipal employee" means state employee, as defined
9 in section 5-154 of the general statutes, and includes an employee of
10 any quasi-public agency, as defined in section 1-120 of the general
11 statutes, or any person, whether appointed, or under contract, who
12 provides services for a city, town or other political subdivision of the

13 state for which a pension or other retirement benefit is provided; and

14 (3) "Crime related to state or municipal office" means any of the
15 following criminal offenses committed by a person while serving as a
16 public official or state or municipal employee:

17 (A) The committing, aiding or abetting of an embezzlement of
18 public funds from the state, a municipality or a quasi-public agency;

19 (B) The committing, aiding or abetting of any felonious theft from
20 the state, a municipality or a quasi-public agency;

21 (C) Bribery in connection with service as a public official or state or
22 municipal employee; or

23 (D) The committing of any felony by such person who, wilfully and
24 with the intent to defraud, realizes or obtains, or attempts to realize or
25 obtain, a profit, gain or advantage for himself or herself or for some
26 other person, through the use or attempted use of the power, rights,
27 privileges or duties of his or her position as a public official or state or
28 municipal employee.

29 Sec. 2. (NEW) (*Effective from passage*) (a) (1) Notwithstanding any
30 provision of the general statutes, if any person is convicted or pleads
31 guilty or nolo contendere to any crime related to state or municipal
32 office in state or federal court, the Attorney General shall apply to the
33 Superior Court for an order to revoke or reduce any retirement or
34 other benefit or payment of any kind to which such person is
35 otherwise entitled under the general statutes for service as a public
36 official or state or municipal employee.

37 (2) Notwithstanding the provisions of subdivision (1) of this
38 subsection, if any state or municipal employee covered by a collective
39 bargaining agreement is convicted or pleads guilty or nolo contendere
40 to any crime related to state or municipal office, in either federal or
41 state court, and the court determines that such employee's retirement
42 or other benefit or payment shall be revoked or reduced, the value of

43 such reduction or revocation shall not exceed the amount necessary to
44 satisfy any fine, restitution or other monetary order made by the court
45 in addition to the amount necessary to pay the cost of such employee's
46 incarceration, as determined pursuant to section 18-85a of the general
47 statutes.

48 (3) Notwithstanding the provisions of subdivision (1) of this
49 subsection, the court shall revoke the retirement or other benefit or
50 payment of any constitutional officer, member of the General
51 Assembly, judge, state agency commissioner, chief elected official of a
52 municipality or chief of staff for any constitutional officer or legislative
53 caucus who is convicted or pleads guilty or nolo contendere to a crime
54 related to state or municipal office, on or after July 1, 1997. Nothing in
55 this subsection shall be construed to require payment to the state of
56 any retirement or other benefit or payment received prior to the
57 effective date of this section.

58 (b) In determining whether the retirement or other benefit or
59 payment shall be revoked or reduced, the Superior Court shall
60 consider and make findings on the following factors:

61 (1) The severity of the crime related to state or municipal office for
62 which the person has been convicted or to which the person has pled
63 guilty or nolo contendere;

64 (2) The amount of monetary loss suffered by the state, a
65 municipality or a quasi-public agency or by any other person as a
66 result of the crime related to state or municipal office;

67 (3) The degree of public trust reposed in the person by virtue of the
68 person's position as a public official or state or municipal employee;

69 (4) If the crime related to state or municipal office was part of a
70 fraudulent scheme against the state or a municipality, the role of the
71 person in the fraudulent scheme against the state or a municipality;
72 and

73 (5) Any such other factors as, in the judgment of the Superior Court,
74 justice may require.

75 (c) If the court determines, or the Attorney General certifies, that a
76 public official or state or municipal employee who was convicted or
77 pled guilty or nolo contendere to a crime related to state or municipal
78 office, voluntarily provided information to the Attorney General, the
79 Auditors of Public Accounts or any state, federal or local law
80 enforcement official concerning the commission of such crime related
81 to state or municipal office by another public official or state or
82 municipal employee who had a greater degree of culpability for such
83 crime than the public official or state or municipal employee providing
84 such information, the court shall not reduce or revoke the retirement
85 or other benefit or payment of such public official or state or municipal
86 employee, provided such public official or state or municipal
87 employee voluntarily provided such information prior to learning of a
88 criminal investigation into such crime related to state or municipal
89 office.

90 (d) If the Superior Court determines that a retirement or other
91 benefit or payment of a person should be reduced, it may, after taking
92 into consideration the financial needs and resources of any innocent
93 spouse, dependents and designated beneficiaries of the person, order
94 that some or all of the reduced benefit or payment be paid to any such
95 innocent spouse, dependent or beneficiary as justice may require.

96 (e) If the Superior Court determines that the retirement or other
97 benefit or payment of such person should not be revoked or reduced, it
98 shall order that the retirement or other benefit or payment be made to
99 such person.

100 Sec. 3. (NEW) (*Effective from passage*) (a) Any person whose
101 retirement or other benefits or payments are revoked pursuant to
102 section 2 of this act shall be entitled to a return of his or her
103 contribution paid into the relevant pension fund, without interest.

104 (b) Notwithstanding the provisions of subsection (a) of this section,

105 no payments in return of contributions shall be made or ordered
106 unless and until the Superior Court determines that the person whose
107 retirement or other benefits or payments have been revoked pursuant
108 to section 2 of this act has satisfied in full any judgments or orders
109 rendered by any court of competent jurisdiction for the payment of
110 restitution to the state or a municipality for losses incurred as a result
111 of the crime related to state or municipal office. If the Superior Court
112 determines that the person whose retirement or other benefits or
113 payments have been revoked under section 2 of this act has failed to
114 satisfy any outstanding judgment or order of restitution rendered by
115 any court of competent jurisdiction, it may order that any funds
116 otherwise due to such person as a return of contribution, or any
117 portion thereof, be paid in satisfaction of the judgment or order.

118 (c) No provision of section 2 of this act or this section shall be
119 construed to prohibit or limit any payment made pursuant to a
120 qualified domestic relations order issued prior to any such conviction
121 or plea by: (1) Any public official or state or municipal employee who
122 is convicted or pleads guilty or nolo contendere to any crime related to
123 state or municipal office; or (2) any state or municipal agency
124 responsible for the administration of such payment on behalf of such
125 public official or state or municipal employee.

126 (d) Notwithstanding the provisions of section 2 of this act, no
127 retirement or other benefit or payment shall be reduced or revoked if
128 the Internal Revenue Service determines that such reduction or
129 revocation will negatively affect or invalidate the status of the state's
130 government retirement plans under Section 401(a) of the Internal
131 Revenue Code of 1986, or any subsequent corresponding internal
132 revenue code of the United States, as from time to time amended.

133 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) Any municipality may, by
134 ordinance adopted by its legislative body or in any town in which the
135 legislative body is a town meeting, by the board of selectmen, provide
136 for the recall of any elected official of a municipality who is elected to a
137 term of four years, provided such ordinance complies with the

138 provisions of this section.

139 (b) Any such ordinance shall provide for the recall of any elected
140 official of the municipality for any of the following reasons, provided
141 such conduct occurred during the official's term of office: (1)
142 Misappropriation of public property or funds, (2) violation of the oath
143 of office, (3) any felony conviction, (4) any act of malfeasance that
144 adversely affects the rights and interests of the public, and (5) failure to
145 perform any duty prescribed by law.

146 (c) No such ordinance shall authorize the recall of such an elected
147 official during the first one hundred twenty days of such official's term
148 or during the final one hundred twenty days of such official's term.

149 (d) Such ordinance shall authorize any three residents of such
150 municipality who are electors to initiate the recall of such elected
151 official by filing a joint affidavit with the town clerk of the
152 municipality which: (1) States the name of such elected official, (2)
153 requests recall petition forms, (3) attests that such electors, in good
154 faith, desire and propose to file a petition for the recall of such elected
155 official, and (4) contains a detailed statement of the grounds alleged for
156 such recall. Upon the filing of such affidavit, the town clerk shall issue
157 recall petition forms to such residents. Any resident of the
158 municipality who is an elector may sign said petition.

159 (e) The Secretary of the State shall prescribe the form of the recall
160 petition described in subsection (d) of this section and such petition
161 shall be available from the town clerk of any municipality that
162 authorizes the recall of such elected officials. The recall petition form
163 shall include a space for the name and office of the official whose recall
164 is sought, a space for the electors who are initiating such recall to
165 indicate the grounds for such recall, a statement that the purpose of the
166 petition is to seek a referendum on the recall of such official, a
167 statement of instructions to persons circulating the petition, lines for
168 the signatures, street addresses and dates of births of persons signing
169 the petition, spaces for the time and date on which the completed

170 petition is filed with the town clerk and spaces for the information
171 required under subsection (f) of this section concerning the circulation
172 of the petition.

173 (f) Such ordinance shall provide that each circulator of a recall
174 petition page shall be a resident of such municipality and an elector.
175 Each separate page of such petition shall contain a statement as to the
176 authenticity of the signatures on the petition and the number of such
177 signatures, and shall be signed under the penalties of false statement
178 by the circulator of the petition page, setting forth such circulator's
179 address and attesting that each person whose name appears on such
180 sheet signed the same in person in the presence of such circulator, that
181 the circulator either knows each such signer or that the signer
182 satisfactorily identified the signer to the circulator. Each separate sheet
183 of such petition shall also be acknowledged before an appropriate
184 person as provided in section 1-29 of the general statutes.

185 (g) Any person who signs a name other than the person's own to a
186 recall petition or who signs a name other than the person's own as
187 circulator of said petition shall be fined not more than one hundred
188 dollars or imprisoned not more than one year, or both.

189 (h) Such ordinance shall provide that no petition for the recall of an
190 official shall be effective unless filed with the town clerk not later than
191 four o'clock p.m. on the sixtieth calendar day after the town clerk
192 issues petition forms for such recall under subsection (d) of this
193 section. Upon the filing of a recall petition, the town clerk shall sign
194 and give to the person so submitting a page or pages of such petition a
195 receipt indicating the number of such pages filed and the date and
196 time when such pages were filed. The town clerk shall forthwith
197 transmit the petition to the registrars of voters of the municipality who
198 shall forthwith certify on each such petition page the number of
199 signers on the page who are electors in the municipality. In the
200 checking of signatures on recall petition pages, the registrars shall
201 reject any name if such name does not appear on the last-completed
202 active registry list in the municipality. The registrars shall not reject

203 any name for which the street address on the petition is different from
204 the street address on the registry list, if the person's date of birth, as
205 shown on the petition page, is the same as the date of birth on the
206 person's registration record. Each petition page shall contain a
207 statement signed by a registrar of voters of said municipality attesting
208 that the circulator is a resident of said municipality and an elector.
209 Unless such a statement by a registrar appears on each page so
210 submitted, the registrars shall reject such page. Any page of a petition
211 that does not contain a statement by the circulator as to the
212 authenticity of the signatures on the page, or upon which the
213 statement of the circulator is incomplete in any respect shall be rejected
214 by the registrars. The registrars shall also reject any page of a petition
215 they determine to have been circulated in violation of any other
216 provision of this section. The registrars shall complete their verification
217 of petition signatures and return the petition with their certifications to
218 the town clerk not later than seven calendar days after the petition is
219 filed with the town clerk.

220 (i) If, upon receiving a recall petition from the registrars of voters
221 under subsection (h) of this section, the town clerk determines that the
222 number of valid signatures on the petition is at least: (1) Thirty per cent
223 of the total number of electors whose names appear on the active
224 registry list of said municipality for a municipality with a population
225 of less than one thousand persons, (2) twenty-five per cent of the total
226 number of electors whose names appear on the active registry list of
227 said municipality for a municipality with a population of not less than
228 one thousand persons but not more than nine thousand nine hundred
229 ninety-nine persons, (3) twenty per cent of the total number of electors
230 whose names appear on the active registry list of said municipality for
231 a municipality with a population of not less than ten thousand persons
232 but not more than forty-nine thousand nine hundred ninety-nine
233 persons, (4) fifteen per cent of the total number of electors whose
234 names appear on the active registry list of said municipality for a
235 municipality with a population of not less than fifty thousand persons
236 but not more than ninety-nine thousand nine hundred ninety-nine

237 persons, or (5) ten per cent of the total number of electors whose names
 238 appear on the active registry list of said municipality for a municipality
 239 with a population of not less than one hundred thousand persons, as
 240 applicable, (A) the town clerk shall forthwith certify the petition and
 241 submit said certification to the legislative body of the municipality,
 242 and (B) said legislative body shall, not later than seven days after
 243 receipt of said certification, order a referendum to be held on the recall
 244 of such elected official of the municipality not later than thirty days
 245 after receipt of said certification.

246 (j) Any recall referendum conducted pursuant to this section shall
 247 also be conducted in accordance with the provisions of chapter 152 of
 248 the general statutes, provided such referendum shall only be valid if
 249 twenty-five per cent or more of the number of electors whose names
 250 appeared on the active registry list of said municipality at the time of
 251 the last municipal election vote in such referendum. The form of the
 252 question to be used on the voting machine ballot labels and absentee
 253 ballots at said referendum shall be "Shall (name of the official and
 254 office) be recalled?" If, upon the official determination of the results of
 255 such vote, a majority of all the votes cast are in approval of the
 256 question, the elected official's office shall be vacant and shall be filled
 257 in accordance with the applicable provision of state or municipal law
 258 concerning the filling of vacancies in said office.

259 (k) The provisions of this section shall not apply to any municipality
 260 for which state or municipal authority exists on the effective date of
 261 this section for the recall of an elected official of the municipality."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2007</i>	New section