



General Assembly

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Amendment

LCO No. 8464

SB0118308464SD0

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 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 the pension of any
34 kind to which such person is otherwise entitled under the general
35 statutes for service as a public official or state or municipal employee.

36 (2) Notwithstanding the provisions of subdivision (1) of this
37 subsection, if any state or municipal employee covered by a collective
38 bargaining agreement is convicted or pleads guilty or nolo contendere
39 to any crime related to state or municipal office, in either federal or
40 state court, and the court determines that such employee's pension
41 shall be revoked or reduced, the value of such reduction or revocation
42 shall not exceed the amount necessary to satisfy any fine, restitution or

43 other monetary order made by the court in addition to the amount
44 necessary to pay the cost of such employee's incarceration, as
45 determined pursuant to section 18-85a of the general statutes.

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

54 (b) In determining whether the pension shall be revoked or reduced,
55 the Superior Court shall consider and make findings on the following
56 factors:

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

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

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

65 (4) If the crime related to state or municipal office was part of a
66 fraudulent scheme against the state or a municipality, the role of the
67 person in the fraudulent scheme against the state or a municipality;
68 and

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

71 (c) If the court determines, or the Attorney General certifies, that a
72 public official or state or municipal employee who was convicted or

73 pled guilty or nolo contendere to a crime related to state or municipal
74 office, voluntarily provided information to the Attorney General, the
75 Auditors of Public Accounts or any state, federal or local law
76 enforcement official concerning the commission of such crime related
77 to state or municipal office by another public official or state or
78 municipal employee who had a greater degree of culpability for such
79 crime than the public official or state or municipal employee providing
80 such information, the court shall not reduce or revoke the pension of
81 such public official or state or municipal employee, provided such
82 public official or state or municipal employee voluntarily provided
83 such information prior to learning of a criminal investigation into such
84 crime related to state or municipal office.

85 (d) If the Superior Court determines that the pension of a person
86 should be reduced, it may, after taking into consideration the financial
87 needs and resources of any innocent spouse, dependents and
88 designated beneficiaries of the person, order that some or all of the
89 reduced pension be paid to any such innocent spouse, dependent or
90 beneficiary as justice may require.

91 (e) If the Superior Court determines that the pension of such person
92 should not be revoked or reduced, it shall order that the retirement or
93 other benefit or payment be made to such person.

94 Sec. 3. (NEW) (*Effective from passage*) (a) Any person whose pension
95 is revoked pursuant to section 2 of this act shall be entitled to a return
96 of his or her contribution paid into the relevant pension fund, without
97 interest.

98 (b) Notwithstanding the provisions of subsection (a) of this section,
99 no payments in return of contributions shall be made or ordered
100 unless and until the Superior Court determines that the person whose
101 pension has been revoked pursuant to section 2 of this act has satisfied
102 in full any judgments or orders rendered by any court of competent
103 jurisdiction for the payment of restitution to the state or a municipality
104 for losses incurred as a result of the crime related to state or municipal

105 office. If the Superior Court determines that the person whose pension
106 has been revoked under section 2 of this act has failed to satisfy any
107 outstanding judgment or order of restitution rendered by any court of
108 competent jurisdiction, it may order that any funds otherwise due to
109 such person as a return of contribution, or any portion thereof, be paid
110 in satisfaction of the judgment or order.

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

119 (d) Notwithstanding the provisions of section 2 of this act, no
120 pension shall be reduced or revoked if the Internal Revenue Service
121 determines that such reduction or revocation will negatively affect or
122 invalidate the status of the state's government retirement plans or a
123 municipality's government retirement plans under Section 401(a) of
124 the Internal Revenue Code of 1986, or any subsequent corresponding
125 internal revenue code of the United States, as from time to time
126 amended.

127 Sec. 4. (NEW) (*Effective July 1, 2007*) (a) Any municipality may, by
128 ordinance adopted by its legislative body or in any town in which the
129 legislative body is a town meeting, by the board of selectmen, provide
130 for the recall of any elected official of a municipality who is elected to a
131 term of four years, provided such ordinance complies with the
132 provisions of this section.

133 (b) Any such ordinance shall provide for the recall of any elected
134 official of the municipality for any of the following reasons, provided
135 such conduct occurred during the official's term of office: (1)
136 Misappropriation of public property or funds, (2) violation of the oath

137 of office, (3) any felony conviction, (4) any act of malfeasance that
138 adversely affects the rights and interests of the public, and (5) failure to
139 perform any duty prescribed by law.

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

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

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

167 (f) Such ordinance shall provide that each circulator of a recall
168 petition page shall be a resident of such municipality and an elector.

169 Each separate page of such petition shall contain a statement as to the
170 authenticity of the signatures on the petition and the number of such
171 signatures, and shall be signed under the penalties of false statement
172 by the circulator of the petition page, setting forth such circulator's
173 address and attesting that each person whose name appears on such
174 sheet signed the same in person in the presence of such circulator, that
175 the circulator either knows each such signer or that the signer
176 satisfactorily identified the signer to the circulator. Each separate sheet
177 of such petition shall also be acknowledged before an appropriate
178 person as provided in section 1-29 of the general statutes.

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

183 (h) Such ordinance shall provide that no petition for the recall of an
184 official shall be effective unless filed with the town clerk not later than
185 four o'clock p.m. on the sixtieth calendar day after the town clerk
186 issues petition forms for such recall under subsection (d) of this
187 section. Upon the filing of a recall petition, the town clerk shall sign
188 and give to the person so submitting a page or pages of such petition a
189 receipt indicating the number of such pages filed and the date and
190 time when such pages were filed. The town clerk shall forthwith
191 transmit the petition to the registrars of voters of the municipality who
192 shall forthwith certify on each such petition page the number of
193 signers on the page who are electors in the municipality. In the
194 checking of signatures on recall petition pages, the registrars shall
195 reject any name if such name does not appear on the last-completed
196 active registry list in the municipality. The registrars shall not reject
197 any name for which the street address on the petition is different from
198 the street address on the registry list, if the person's date of birth, as
199 shown on the petition page, is the same as the date of birth on the
200 person's registration record. Each petition page shall contain a
201 statement signed by a registrar of voters of said municipality attesting
202 that the circulator is a resident of said municipality and an elector.

203 Unless such a statement by a registrar appears on each page so
204 submitted, the registrars shall reject such page. Any page of a petition
205 that does not contain a statement by the circulator as to the
206 authenticity of the signatures on the page, or upon which the
207 statement of the circulator is incomplete in any respect shall be rejected
208 by the registrars. The registrars shall also reject any page of a petition
209 they determine to have been circulated in violation of any other
210 provision of this section. The registrars shall complete their verification
211 of petition signatures and return the petition with their certifications to
212 the town clerk not later than seven calendar days after the petition is
213 filed with the town clerk.

214 (i) If, upon receiving a recall petition from the registrars of voters
215 under subsection (h) of this section, the town clerk determines that the
216 number of valid signatures on the petition is at least: (1) Thirty per cent
217 of the total number of electors whose names appear on the active
218 registry list of said municipality for a municipality with a population
219 of less than one thousand persons, (2) twenty-five per cent of the total
220 number of electors whose names appear on the active registry list of
221 said municipality for a municipality with a population of not less than
222 one thousand persons but not more than nine thousand nine hundred
223 ninety-nine persons, (3) twenty per cent of the total number of electors
224 whose names appear on the active registry list of said municipality for
225 a municipality with a population of not less than ten thousand persons
226 but not more than forty-nine thousand nine hundred ninety-nine
227 persons, (4) fifteen per cent of the total number of electors whose
228 names appear on the active registry list of said municipality for a
229 municipality with a population of not less than fifty thousand persons
230 but not more than ninety-nine thousand nine hundred ninety-nine
231 persons, or (5) ten per cent of the total number of electors whose names
232 appear on the active registry list of said municipality for a municipality
233 with a population of not less than one hundred thousand persons, as
234 applicable, (A) the town clerk shall forthwith certify the petition and
235 submit said certification to the legislative body of the municipality,
236 and (B) said legislative body shall, not later than seven days after

237 receipt of said certification, order a referendum to be held on the recall
 238 of such elected official of the municipality not later than thirty days
 239 after receipt of said certification.

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

253 (k) The provisions of this section shall not apply to any municipality
 254 for which state or municipal authority exists on the effective date of
 255 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