



General Assembly

Amendment

January Session, 2007

LCO No. 9253

SB0118309253SD0

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 on or after July 1, 2002, the Attorney
33 General shall apply to the Superior Court for an order to revoke or
34 reduce the pension of any kind to which such person is otherwise
35 entitled under the general statutes for service as a public official or
36 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 pension
42 shall be revoked or reduced, the value of such reduction or revocation

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

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

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

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

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

58 (4) If the crime related to state or municipal office was part of a
59 fraudulent scheme against the state or a municipality, the role of the
60 person in the fraudulent scheme against the state or a municipality;
61 and

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

64 (c) If the court determines, or the Attorney General certifies, that a
65 public official or state or municipal employee who was convicted or
66 pled guilty or nolo contendere to a crime related to state or municipal
67 office, voluntarily provided information to the Attorney General, the
68 Auditors of Public Accounts or any state, federal or local law
69 enforcement official concerning the commission of such crime related
70 to state or municipal office by another public official or state or
71 municipal employee who had a greater degree of culpability for such
72 crime than the public official or state or municipal employee providing

73 such information, the court shall not reduce or revoke the pension of
74 such public official or state or municipal employee, provided such
75 public official or state or municipal employee voluntarily provided
76 such information prior to learning of a criminal investigation into such
77 crime related to state or municipal office.

78 (d) If the Superior Court determines that the pension of a person
79 should be reduced, it may, after taking into consideration the financial
80 needs and resources of any innocent spouse, dependents and
81 designated beneficiaries of the person, order that some or all of the
82 reduced pension be paid to any such innocent spouse, dependent or
83 beneficiary as justice may require.

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

87 (f) If the court determines that the pension of a public official or
88 state or municipal employee should be reduced or revoked, the court
89 may order that such reduction or revocation be effective as of the date
90 of the first act undertaken by such official or employee that constituted
91 a crime related to state or municipal office.

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

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

105 outstanding judgment or order of restitution rendered by any court of
106 competent jurisdiction, it may order that any funds otherwise due to
107 such person as a return of contribution, or any portion thereof, be paid
108 in satisfaction of the judgment or order.

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

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

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

131 (b) Any such ordinance shall provide for the recall of any elected
132 official of the municipality for any of the following reasons, provided
133 such conduct occurred during the official's term of office: (1)
134 Misappropriation of public property or funds, (2) violation of the oath
135 of office, (3) any felony conviction, (4) any act of malfeasance that
136 adversely affects the rights and interests of the public, and (5) failure to

137 perform any duty prescribed by law.

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

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

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

165 (f) Such ordinance shall provide that each circulator of a recall
166 petition page shall be a resident of such municipality and an elector.
167 Each separate page of such petition shall contain a statement as to the
168 authenticity of the signatures on the petition and the number of such

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

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

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

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

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

237 after receipt of said certification.

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

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