



**Legislative Recap**  
**SB 418**  
 02-08-2017 - 18:00:09

**- Bill Summary -**

(FIL) S418 CROCI No Same as CROCI, HANNON, SERINO Amd Art 5  $\diamond$ 7, Constn Relates to providing for the reduction or revocation of the public pension of a public officer; authorizes the court to determine whether to reduce or revoke such pension based on the defined terms, and to 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; makes related provisions.

**- Bill History -**

House	Description of Action	Date	Stat
S	Pre-Filed	1- 3-17	
S	Post Pre-File Referral <a href="#">Senate Judiciary</a>	1- 4-17	
S	Sent to the Attorney - General for opinion	1-13-17	
S	Committee discharged and committed to <a href="#">Senate Rules</a>	1-23-17	
S	Meeting set for Off the Floor, 332 CAP <b>STORY</b> -- Senate Rules	1-23-17	
S	Ordered Direct to Third Reading	1-23-17	
S	Placed on the Senate Floor Calendar	1-24-17	
S	Set on the Senate Active List for	1-30-17	
S	Substituted by ... <a href="#">AB 1749</a>	1-30-17	
<b>----- Sequence to History on AB 1749 -----</b>			
A	Introduced and referred to committee on <a href="#">Assembly Judiciary</a>	1-13-17	
A	Sent to the Attorney - General for opinion	1-17-17	
A	Meeting set for Off the Floor <b>STORY</b> -- Assembly Judiciary	1-23-17	
A	Reported and referred to <a href="#">Assembly Rules</a>	1-23-17	
A	Meeting set for Off the Floor, 342 CAP <b>STORY</b> -- Assembly Rules	1-23-17	
A	Ordered Direct to Third Reading	1-23-17	
A	Set on the Assembly Floor Calendar	1-24-17	
A	Laid out for consideration in the Assembly 1:03pm	1-24-17	
A	Laid aside	1-24-17	
A	Laid out for consideration in the Assembly 3:06pm	1-30-17	
A	Passed Assembly ( <a href="#">Vote Y: 122/N: 1</a> )	1-30-17	
S	Delivered to the Senate	1-30-17	
S	Substituted for ... <a href="#">SB 418</a>	1-30-17	
S	Laid out for consideration in the Senate 4:28pm	1-30-17	
S	Passed Senate ( <a href="#">Vote Y: 57/N: 4</a> )	1-30-17	
A	Returned to the Assembly	1-30-17	
G	Delivered to Secretary of State	2- 3-17	
<b>- Companion Legislation -</b>			
<a href="#">SB 8163</a>	Refiled from 15R Session		
<a href="#">AB 1749</a>	Buchwald, David		
G	Delivered to Secretary of State	2- 3-17	
<b>- End of History -</b>			

**- Bill Memo -**

BILL NUMBER: S418

SPONSOR: CROCI

TITLE OF BILL:

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

SUMMARY OF PROVISIONS:

Section 1 amends Article 5, Section 7 of the state constitution providing that the public pension of a public officer who stands convicted of a felony, which has a direct and actual relationship to 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 definition of a "public officer" for purposes of this amendment shall include elected officials, direct gubernatorial appointees, municipal managers, department heads, chief fiscal officers, judges and policy-makers.

The court's determination whether to reduce or revoke a public officer's pension shall be based on consideration of factors such as severity of the crime and the proportionality of such crime to the reduction or revocation of such pension.

A court issuing an order to reduce or revoke such pension 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.

These provisions will only apply to crimes committed on or after the first of January next succeeding the date upon which the voters of New York State approve a constitutional amendment proposed by this resolution.

REASONS FOR SUPPORT:

A public officer in the State of New York can currently accept bribes, steal public funds or engage in numerous other forms of public corruption and yet still feel secure in the knowledge that even if convicted of these serious crimes and thrown in jail, there will still be a state pension check sent their way every month for the rest of their lives. No matter how serious the offense or how grossly a state officer or local officer has abused his or her public position, current law still assures most public officers that their state pensions cannot be challenged. As part of the Public Integrity Reform Act (Ch. 399 of the Laws of 2011), public officials who joined the state retirement system on or after November 13, 2011 are subject to forfeiture of their pension benefits if they commit certain felonies related to their public office.

The bill recognizes that the rights of the public and taxpayers (and indeed law-abiding public servant beneficiaries of the state pension system) can outweigh the expectations a corrupt public official has in his or her state pension. Without this sort of change, New Yorkers are left with a situation under state law in which pensions are paid no matter how corruptly a public officer has undermined the public trust. In addition, this legislation if enacted would give many public officers prone to putting their personal interests above the needs of the public a significant reason to refrain from doing so. This constitutional amendment would, in effect, remind public officers that when they are sworn into office, they must sign a solemn oath stating that they will uphold the laws and the Constitution that govern New York State. This oath sets the highest standard for integrity of the public's trust. A violation of that trust, while in office, demands pecuniary as well as criminal penalty.

PRIOR LEGISLATIVE HISTORY:

S.8163 of 2015/16: First Passage

FISCAL IMPACT:

None, other than possible savings to the state pension fund.

EFFECTIVE DATE: If the Assembly concurs, the foregoing amendment will 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 3 months previous to the time of such election.

- Bill Text -

STATE OF NEW YORK

418

2017-2018 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2017

Introduced by Sens. CROCI, HANNON, SERINO -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

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

1- 1 Section 1. Resolved (if the Assembly concur), That section 7 of arti-  
1- 2 cle 5 of the constitution be amended to read as follows:

1- 3 § 7. (a) After July first, nineteen hundred forty, membership in any  
1- 4 pension or retirement system of the state or of a civil division thereof  
1- 5 shall be a contractual relationship, the benefits of which shall not be  
1- 6 diminished or impaired.

1- 7 (b) Notwithstanding subdivision (a) of this section, the public  
1- 8 pension of a public officer, as defined in paragraph (c) of this  
1- 9 section, who stands convicted of a felony for which such felony has a  
1-10 direct and actual relationship to the performance of the public offi-  
1-11 cer's existing duties, may be reduced or revoked, following notice and a  
1-12 hearing by an appropriate court, as provided by law. The court determi-  
1-13 nation whether to reduce or revoke such pension shall be based on the  
1-14 consideration of factors including the severity of the crime and the  
1-15 proportionality of a reduction or revocation of such pension to such  
1-16 crime. When a court issues an order to reduce or revoke such pension,  
1-17 the court shall consider and determine specific findings as to the  
1-18 amount of such forfeiture, if any, and whether forfeiture, in whole or  
1-19 in part, would result in undue hardship or other inequity upon any  
1-20 dependent children, spouse or other dependents; and other factors as  
1-21 provided by law. The legislature shall enact legislation to implement  
1-22 this amendment taking into account interests of justice.

1-23 (c) For the purposes of paragraph (b) of this section, the term  
1-24 "public officer" shall mean: (i) an official filling an elected office  
1-25 within the state; (ii) a holder of office filled by direct appointment

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

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2- 1 by the governor of this state, either upon or without senate confirma-  
2- 2 tion; (iii) a county, city, town or village administrator, manager or  
2- 3 equivalent position; (iv) the head or heads of any state or local  
2- 4 government department, division, board, commission, bureau, public bene-  
2- 5 fit corporation, or public authority of this state who are vested with  
2- 6 authority, direction and control over such department, division, board,  
2- 7 commission, bureau, public benefit corporation or public authority; (v)  
2- 8 the chief fiscal officer or treasurer of any municipal corporation or  
2- 9 political subdivision of the state; (vi) a judge or justice of the  
2-10 unified court system; and (vii) a legislative, executive, or judicial  
2-11 employee of this state who directly assists in the formulation of legis-  
2-12 lation, rules, regulations, policy, or judicial decision-making and who  
2-13 is designated as a policymaker as set forth in statute.

2-14 (d) Paragraph (b) of this section shall only apply to crimes committed  
2-15 on or after the first of January next succeeding the date upon which the  
2-16 people shall approve and ratify the amendment to the constitution that  
2-17 added this paragraph.

2-18 § 2. Resolved (if the Assembly concur), That the foregoing amendment  
2-19 be submitted to the people for approval at the general election to be  
2-20 held in the year 2017 in accordance with the provisions of the election  
2-21 law.

- End of Report -