

SENATE CONCURRENT RESOLUTION No. 125

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1997

By Senators McGREEVEY, LYNCH, Adler, Sacco, Lesniak and
Baer

1 A CONCURRENT RESOLUTION proposing to amend Article VII, Section I of
2 the Constitution of the State of New Jersey.

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4 BE IT RESOLVED by the Senate of the State of New Jersey (the General
5 Assembly concurring):

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7 1. The following proposed amendment to the Constitution of the State of
8 New Jersey is agreed to:

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10 PROPOSED AMENDMENT

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12 Amend Article VII, Section I of the Constitution by the addition of the
13 following paragraph:

14 7. (a) Membership in any public pension fund or retirement system
15 established under the laws of this State shall be a contractual relationship, the
16 benefits of which shall not be diminished or impaired.

17 (b) The retirement board of a public pension fund or retirement system
18 shall have plenary authority and fiduciary responsibility for the investment of
19 moneys and administration of the fund or system, subject to all of the following:

20 (1) The retirement board of a public pension fund or retirement system
21 shall have the sole and exclusive fiduciary responsibility over the assets of the
22 public pension fund or retirement system. The retirement board shall also have
23 sole and exclusive responsibility to administer the fund or system in a manner
24 that will assure prompt delivery of benefits and related services to the
25 participants and their beneficiaries. The assets of a public pension fund or
26 retirement system are trust funds and shall be held for the exclusive purposes
27 of providing benefits to participants in the pension fund or retirement system
28 and their beneficiaries and defraying reasonable expenses of administering the
29 fund or system.

30 (2) The members of the retirement board of a public pension fund or
31 retirement system shall discharge their duties with respect to the fund or system
32 solely in the interest of, and for the exclusive purposes of providing benefits to,
33 participants and their beneficiaries, minimizing employer contributions thereto,
34 and defraying reasonable expenses of administering the fund or system. A

1 retirement board's duty to its participants and their beneficiaries shall take
2 precedence over any other duty.

3 (3) The members of the retirement board of a public pension fund or
4 retirement system shall discharge their duties with respect to the fund or system
5 with the care, skill, prudence, and diligence under the circumstances then
6 prevailing that a prudent person acting in a like capacity and familiar with these
7 matters would use in the conduct of an enterprise of a like character and with
8 like aims.

9 (4) The members of the retirement board of a public pension fund or
10 retirement system shall diversify the investments of the fund or system so as to
11 minimize the risk of loss and to maximize the rate of return, unless under the
12 circumstances it is clearly not prudent to do so.

13 (5) The retirement board of a public pension fund or retirement system,
14 consistent with the exclusive fiduciary responsibilities vested in it, shall have the
15 sole and exclusive power to provide for actuarial services in order to assure
16 the competency of the assets of the public pension fund or retirement system.

17 (6) With regard to the retirement board of a public pension fund or
18 retirement system which includes in its composition elected employee
19 members, the number, terms, and method of selection or removal of members
20 of the retirement board which were required by law or otherwise in effect on
21 the date this paragraph becomes a part of the Constitution, shall not be
22 changed, amended, or modified by the Legislature unless the change,
23 amendment, or modification enacted by the Legislature is ratified by a majority
24 vote of the electors in the jurisdiction in which the participants of the fund or
25 system are or were, prior to retirement, employed.

26 (7) The Legislature by law may prohibit certain investments by a retirement
27 board where it is in the public interest to do so, and provided that the
28 prohibition satisfies the standards of fiduciary care and loyalty required of a
29 retirement board pursuant to this paragraph.

30 (c) As used in this paragraph, "retirement board" means the board of
31 trustees or other governing body of a public employees' pension fund or
32 retirement system.

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34 2. When this proposed amendment to the Constitution is finally agreed to
35 pursuant to Article IX, paragraph 1 of the Constitution, it shall be submitted
36 to the people at the next general election occurring more than three months
37 after the final agreement and shall be published at least once in at least one
38 newspaper of each county designated by the President of the Senate, the
39 Speaker of the General Assembly and the Secretary of State, not less than
40 three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be submitted to the
2 people at that election in the following manner and form:

3 There shall be printed on each official ballot to be used at the general
4 election, the following:

5 a. In every municipality in which voting machines are not used, a legend
6 which shall immediately precede the question, as follows:

7 If you favor the proposition printed below make a cross (X), plus (+), or
8 check (T) in the square opposite the word "Yes." If you are opposed thereto
9 make a cross (X), plus (+) or check (T) in the square opposite the word
10 "No."

11 b. In every municipality the following question:
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14 15 16 17 18 19 20 21 22 23 24 25 26 27	YES	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT CONCERNING PUBLIC EMPLOYEE PENSION BENEFITS</p> <p>Shall the amendment of Article VII, Section I of the State Constitution, agreed to by the Legislature, to define membership in a public pension fund or retirement system as a contractual relationship and to provide the governing board of a pension fund or retirement system with full authority and fiduciary responsibility for the investment of moneys and administration of the system, be approved?</p>
28 29 30 31 32 33 34 35 36	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This constitutional amendment provides that public employee rights to pension benefits are contractual. This means that pension benefits may not be diminished or impaired. The amendment also provides that the governing board of a public retirement system shall have exclusive control over the investment of pension funds.</p>

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STATEMENT

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41 This proposed constitutional amendment provides that membership in any
42 public pension fund or retirement system established under the laws of this

1 State shall be a contractual relationship, the benefits of which shall not be
2 diminished or impaired.

3 The proposed amendment provides that the board of trustees or other
4 governing body of a public pension fund or retirement system shall have full
5 authority and fiduciary responsibility for the investment of moneys and
6 administration of the fund or system, subject to all of the following:

7 (1) The retirement board of a public pension fund or retirement system
8 shall have the sole and exclusive fiduciary responsibility over the assets of the
9 public pension fund or retirement system. The retirement board shall also have
10 sole and exclusive responsibility to administer the fund or system in a manner
11 that will assure prompt delivery of benefits and related services to the
12 participants and their beneficiaries. The assets of a public pension fund or
13 retirement system are trust funds and shall be held for the exclusive purposes
14 of providing benefits to participants in the pension fund or retirement system
15 and their beneficiaries and defraying reasonable expenses of administering the
16 fund or system.

17 (2) The members of the retirement board of a public pension fund or
18 retirement system shall discharge their duties with respect to the fund or system
19 solely in the interest of, and for the exclusive purposes of providing benefits to,
20 participants and their beneficiaries, minimizing employer contributions thereto,
21 and defraying reasonable expenses of administering the fund or system. A
22 retirement board's duty to its participants and their beneficiaries shall take
23 precedence over any other duty.

24 (3) The members of the retirement board of a public pension fund or
25 retirement system shall discharge their duties with respect to the fund or system
26 with the care, skill, prudence, and diligence under the circumstances then
27 prevailing that a prudent person acting in a like capacity and familiar with these
28 matters would use in the conduct of an enterprise of a like character and with
29 like aims.

30 (4) The members of the retirement board of a public pension fund or
31 retirement system shall diversify the investments of the fund or system so as to
32 minimize the risk of loss and to maximize the rate of return, unless under the
33 circumstances it is clearly not prudent to do so.

34 (5) The retirement board of a public pension fund or retirement system,
35 consistent with the exclusive fiduciary responsibilities vested in it, shall have the
36 sole and exclusive power to provide for actuarial services in order to assure
37 the competency of the assets of the public pension fund or retirement system.

38 (6) With regard to the retirement board of a public pension fund or
39 retirement system which includes in its composition elected employee
40 members, the number, terms, and method of selection or removal of members
41 of the retirement board which were required by law or otherwise in effect on
42 the date that the amendment becomes part of the Constitution, shall not be
43 changed, amended, or modified by the Legislature unless the change,

1 amendment, or modification enacted by the Legislature is ratified by a majority
2 vote of the electors of the jurisdiction in which the participants of the fund or
3 system are or were, prior to retirement, employed.

4 (7) The Legislature may by statute prohibit certain investments by a
5 retirement board where it is in the public interest to do so, and provided that
6 the prohibition satisfies the standards of fiduciary care and loyalty required of
7 a retirement board pursuant to the proposed amendment.

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12 Proposes constitutional amendment to establish public employee pension rights
13 as contractual and give retirement system boards exclusive control of system
14 assets.