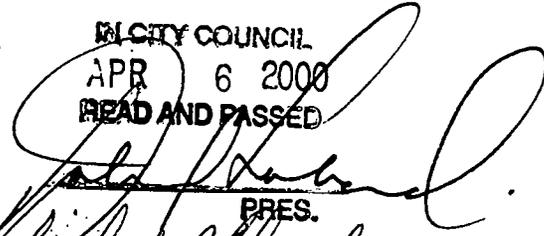
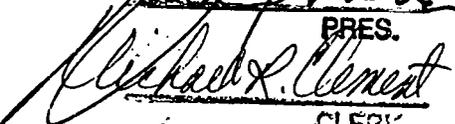


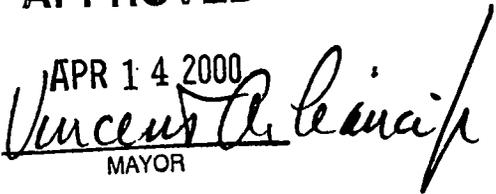
RESOLUTION OF THE CITY COUNCIL

No. 209

Approved April 14, 2000

RESOLVED, That the Members of the Providence City Council hereby Endorses and Urges Passage of Senate Bill 2000-S 2685 Relating to Public Officers and Employees-Employee Pension and Revocation Reduction Act, in substantially the form attached.

CITY COUNCIL
APR 6 2000
READ AND PASSED

PRES.

CLERK

APPROVED
APR 14 2000

MAYOR

2000 -- S 2685

LC01888

S T A T E O F R H O D E I S L A N D
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2000

A N A C T

**RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- EMPLOYEE PENSION REVOCATION AND
REDUCTION ACT**

Introduced By: Senators Goodwin, Graziano, Kells, Igliazzi and Ruggerio

Date Introduced: February 10, 2000

Referred To: Committee on Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Sections 36-10.1-2 and 36-10.1-3 of the General Laws in Chapter 36-10.1 entitled "Rhode Island Public Employee Pension Revocation and Reduction Act" are hereby amended to read as follows:

36-10.1-2. Definitions -- (a) "Crime related to public office or public employment" shall mean any of the following criminal offenses:

- (1) The committing, aiding, or abetting of an embezzlement of public funds;
- (2) The committing, aiding, or abetting of any felonious theft by a public officer or employee from his or her employer;
- (3) Bribery in connection with employment of a public officer or employee; and
- (4) The committing of any felony by a public officer or employee who, wilfully and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position.

(b) "Public official" or "public employee" shall mean any current or former state or municipal elected official as defined in section ~~36-14-2(1)~~ 36-14-4(1), state or municipal appointed official as defined in section ~~36-14-2(2)~~ 36-14-4(2), and any employee of state or local government, of boards, commissions or agencies as defined in section ~~36-14-2(3)~~ 36-14-4(3), who is otherwise entitled to receive or who is receiving retirement benefits under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42, or under any retirement ordinance of any city or town, whether that person is acting on a permanent or temporary basis and whether or not compensated on a full-time or part-time basis. For the purposes of this chapter, all these persons are deemed to be engaged in public employment.

(c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not include any plea of nolo contendere which does not constitute a conviction by virtue of section 12-10-12 or 12-18-3.

36-10.1-3. Revocation and reduction of benefits -- (a) Notwithstanding any other provision of law, any retirement or other benefit or payment of any kind to which a public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, ~~or~~ under chapter 28 of title 42 or under any retirement ordinance of any city or town shall be revoked or reduced, in accordance with the provisions of this chapter, or section 11-41-31 if, after January 1, 1993, the public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment. Any such conviction or plea shall be deemed to be a breach of the public officer's or public employee's contract with his or her employer.

(b) Whenever any public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment, the retirement board, if no finding is made by the judge in the criminal action pursuant to section 11-41-31, shall:

(1) Initiate a civil action in the superior court for the revocation or reduction of any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 or under any retirement ordinance of any city or town.

(2) The superior court shall order the public official or employee to appear and show cause as to why any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 or under any retirement ordinance of any city or town should not be withheld pending adjudication of the civil action in the superior court.

(3) Legal standing is hereby conferred upon the retirement board or the retirement board of any city or town to initiate and maintain a civil action, and jurisdiction over that civil action is hereby conferred upon the superior court.

(c) (1) In any civil action under this chapter for the revocation or reduction of retirement or other benefits or payments, the superior court shall determine:

(i) Whether the public employee has been convicted of or pled guilty or nolo contendere to any crime related to his or her public office or public employment and, if so;

(ii) Whether the retirement or other benefits or payments to which the public official or public employee is otherwise entitled should be revoked or diminished and, if so;

(iii) In what amount or by what proportion such revocation or reduction should be ordered.

(2) In rendering its decision hereunder, the superior court shall consider and address each of the following factors:

(i) The fact that the allowance of retirement or other benefits or payments for service under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, and under chapter 28 of title 42 or under any retirement ordinance of any city or town presumes and requires that the service shall have been honorably rendered;

(ii) The severity of the crime related to public office or public employment of which the public official or public employee has been convicted or to which the public official or public employee has pled guilty or nolo contendere;

(iii) The amount of monetary loss suffered by the public official's or public employee's employer or by any other person as a result of the subject crime related to public office or public employment;

(iv) The degree of public trust reposed in the subject public official or public employee by virtue of his or her public office or public employment; and

(v) Any such other factors as, in the judgment of the superior court, justice may require.

(d) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should be revoked or reduced under this chapter, it may, in its discretion and after taking into consideration the financial needs and resources of any innocent spouse, dependents and/or designated beneficiaries of the public official or public employee, order that some or all of the revoked or reduced benefits or payments be paid to any innocent spouse, dependent or beneficiary as justice may require.

(e) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should not be revoked or reduced under this chapter, it shall order that the retirement or other benefits or payments be made to the public official or public employee as if the initiation of the civil action had not occurred.

SECTION 2. This act shall take effect upon passage.

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LC01888
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES – EMPLOYEE PENSION REVOCATION AND
REDUCTION ACT

This act would correct various citation errors throughout this section and would add city or town retirements to the sections application.

This act would take effect upon passage.

As always, your comments concerning this page are welcomed and appreciated.

Thank you for stopping by!

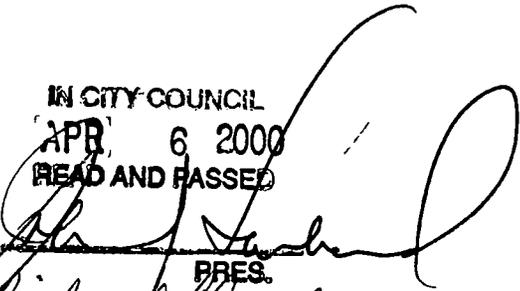
RESOLUTION OF THE CITY COUNCIL

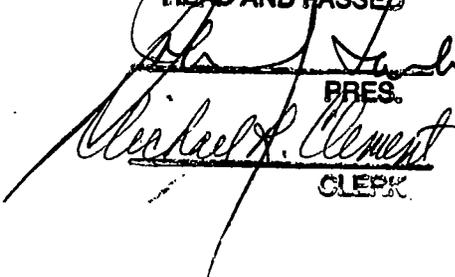
No. 210

Approved April 14, 2000

RESOLVED, That the Members of the Providence City Council hereby Endorses and Urges Passage of House Bill 2000-H 7667 Relating to Public Officers and Employees-Employee Pension Revocation and Reduction Act, in substantially the form attached.

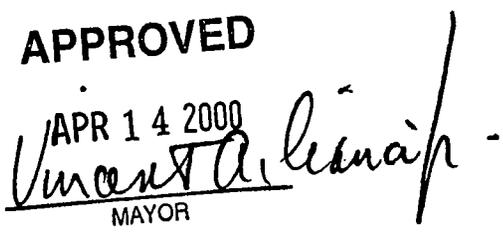
IN CITY COUNCIL
APR 6 2000
READ AND PASSED


PRES.


CLERK

APPROVED

APR 14 2000


MAYOR

Councilman H. S. S. S.

2000 -- H 7667

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LC01876
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S T A T E O F R H O D E I S L A N D
IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2000

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES -- EMPLOYEE PENSION REVOCATION AND
REDUCTION ACT

Introduced By: Representatives Cicilline, Almeida, Slater, Palangio and Williams

Date Introduced: February 3, 2000

Referred To: Committee on Finance

It is enacted by the General Assembly as follows:

SECTION 1. Sections 36-10.1-2 and 36-10.1-3 of the General Laws in Chapter 36-10.1 entitled "Rhode Island Public Employee Pension Revocation and Reduction Act" are hereby amended to read as follows:

36-10.1-2. Definitions -- (a) "Crime related to public office or public employment" shall mean any of the following criminal offenses:

- (1) The committing, aiding, or abetting of an embezzlement of public funds;
- (2) The committing, aiding, or abetting of any felonious theft by a public officer or employee from his or her employer;
- (3) Bribery in connection with employment of a public officer or employee; and
- (4) The committing of any felony by a public officer or employee who, wilfully and with the intent to defraud, realizes or obtains, or attempts to realize or obtain, a profit, gain, or advantage for himself or herself or for some other person through the use or attempted use of the power, rights, privileges, duties, or position of his or her public office or employment position.

(b) "Public official" or "public employee" shall mean any current or former state or municipal elected official as defined in section ~~36-14-2(1)~~ 36-14-4(1), state or municipal appointed official as defined in section ~~36-14-2(2)~~ 36-14-4(2), and any employee of state or local government, of boards, commissions or agencies as defined in section ~~36-14-2(3)~~ 36-14-4(3), who is otherwise entitled to receive or who is receiving retirement benefits under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42, or under any retirement ordinance of any city or town, whether that person is acting on a permanent or temporary basis and whether or not compensated on a full-time or part-time basis. For the purposes of this chapter, all these persons are deemed to be engaged in public employment.

(c) As used in this chapter, the phrase "pleads guilty or nolo contendere" shall not include any plea of nolo contendere which does not constitute a conviction by virtue of section 12-10-12 or 12-18-3.

36-10.1-3. Revocation and reduction of benefits -- (a) Notwithstanding any other provision of law, any retirement or other benefit or payment of any kind to which a public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, ~~or~~ under chapter 28 of title 42 or under any retirement ordinance of any city or town shall be revoked or reduced, in accordance with the provisions of this chapter, or section 11-41-31 if, after January 1, 1993, the public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment. Any such conviction or plea shall be deemed to be a breach of the public officer's or public employee's contract with his or her employer.

(b) Whenever any public official or public employee is convicted of or pleads guilty or nolo contendere to any crime related to his or her public office or public employment, the retirement board, if no finding is made by the judge in the criminal action pursuant to section 11-41-31, shall:

(1) Initiate a civil action in the superior court for the revocation or reduction of any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 or under any retirement ordinance of any city or town.

(2) The superior court shall order the public official or employee to appear and show cause as to why any retirement or other benefit or payment to which the public official or public employee is otherwise entitled under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, or under chapter 28 of title 42 or under any retirement ordinance of any city or town should not be withheld pending adjudication of the civil action in the superior court.

(3) Legal standing is hereby conferred upon the retirement board or the retirement board of any city or town to initiate and maintain a civil action, and jurisdiction over that civil action is hereby conferred upon the superior court.

(c) (1) In any civil action under this chapter for the revocation or reduction of retirement or other benefits or payments, the superior court shall determine:

(i) Whether the public employee has been convicted of or pled guilty or nolo contendere to any crime related to his or her public office or public employment and, if so;

(ii) Whether the retirement or other benefits or payments to which the public official or public employee is otherwise entitled should be revoked or diminished and, if so;

(iii) In what amount or by what proportion such revocation or reduction should be ordered.

(2) In rendering its decision hereunder, the superior court shall consider and address each of the following factors:

(i) The fact that the allowance of retirement or other benefits or payments for service under this title, under title 16, under title 45, under title 8, under chapter 30 of title 28, under chapter 43 of title 31, and under chapter 28 of title 42 or under any retirement ordinance of any city or town presumes and requires that the service shall have been honorably rendered;

(ii) The severity of the crime related to public office or public employment of which the public official or public employee has been convicted or to which the public official or public employee has pled guilty or nolo contendere;

(iii) The amount of monetary loss suffered by the public official's or public employee's employer or by any other person as a result of the subject crime related to public office or public employment;

(iv) The degree of public trust reposed in the subject public official or public employee by virtue of his or her public office or public employment; and

(v) Any such other factors as, in the judgment of the superior court, justice may require.

(d) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should be revoked or reduced under this chapter, it may, in its discretion and after taking into consideration the financial needs and resources of any innocent spouse, dependents and/or designated beneficiaries of the public official or public employee, order that some or all of the revoked or reduced benefits or payments be paid to any innocent spouse, dependent or beneficiary as justice may require.

(e) If the superior court determines that the retirement or other benefits or payments of a public official or public employee should not be revoked or reduced under this chapter, it shall order that the retirement or other benefits or payments be made to the public official or public employee as if the initiation of the civil action had not occurred.

SECTION 2. This act shall take effect upon passage.

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LC01876
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**EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF**

A N A C T

**RELATING TO PUBLIC OFFICERS AND EMPLOYEES – EMPLOYEE PENSION REVOCATION AND
REDUCTION ACT**

This act would correct various citation errors throughout this section and would add city or town retirements to the sections application.

This act would take effect upon passage.

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