

February 15, 2013

Vermont House of Representatives Advances Pension Forfeiture Bill

The Vermont House on Friday passed H 41, "Civil forfeiture of retirement payments to public officials convicted of certain crimes." This bill would allow a court to consider, as one of the penalty options, forfeiture of state or municipal employee or teacher pensions if a former employee is convicted of the financial crime of fraud or embezzlement. The bill, which also has the support of Governor Shumlin and the state retirement boards, is headed to the Senate for review.

"We do not expect that most hardworking state employees, municipal employees, and teachers will breach the public trust," says Speaker Shap Smith, "however, if there is a need for recourse, we currently do not have it available under our current laws. This bill will ensure that the state will have a system in place to address the issue, if it occurs."

Government Operations Committee Chair Donna Sweaney noted that this bill is prospective from the date of passage and will not reach back into pensions. She echoed the Speaker's sentiments, saying "the committee felt strongly that we value the honorable service of our state and municipal employees and teachers, but if employees betray the public trust, there needs to be a strong consequence."

The bill was also reviewed by the House Judiciary Committee to ensure that the process for possible pension forfeiture maintains Vermont's standards. House Judiciary Chair Bill Lippert said, "in our work on this bill, we believe we've ensured that fairness will be provided to both the State of Vermont and to public employees."

State Treasurer Beth Pearce said Friday that legislation calling for forfeiture of retirement payments to public employees convicted of certain crimes has been endorsed by all three retirement boards. In meetings this week, the boards of trustees for the Vermont State Employees' Retirement System, Vermont State Teachers' Retirement System, and the Vermont Municipal Employees' Retirement System, all expressed support for H. 41. These boards represent approximately 46,000 active and retired public employees.

"As Treasurer and member of all three boards, I am pleased that all the boards are supportive of the bill. As the trustees of the retirement system, they play an important role in developing policy and protecting the health of the retirement system," Pearce said. "This has been a collaborative effort dealing with a difficult topic. Everyone has come together -- employee groups, employer groups, the administration, and the legislature -- to work to find the right balance. I commend the boards for their actions."

Under the proposal, judges would have the authority to order that public employees convicted of certain financial crimes related to their employment be required to forfeit some or all of their pensions. This would include offenses like embezzlement, theft, bribery and other crimes that involve an abuse of public office for financial gain. Roughly half of all states have some type of law dealing with pension issues linked to criminal cases.

"Our State work force is dedicated, hardworking, and committed to working day in and day out for Vermonters," said board Chair Kevin Gaffney of the Vermont State Employees' Retirement System. "When an employee violates the trust of public employment, we must ensure that taxpayers are protected. The board felt it was important to have a voice in this process and I am pleased we can offer our support of this bill."

An employee must be convicted specifically of one of the listed felonies. The Attorney General or State's Attorney would bring a civil forfeiture action against the convicted employee. The judge would then make a determination regarding the amount of the pension benefit that would be forfeited. The judge also may order that some or all of the retirement benefits be paid to any innocent spouse, dependent, or beneficiary as determined by the court.

"We must ensure that those that choose to steal money or commit financial crimes do not profit from their crimes," said Jon Harris, board Chair of the Vermont State Teachers' Retirement System. "This bill allows a judge to look at the entirety of circumstances, protects innocent dependents and ensures that Vermont taxpayers are not on the hook for these financial crimes."

"This bill provides protection to towns and taxpayers when financial crimes are committed by those given the public's trust," added Steve Jeffrey, board Chair of the Vermont Municipal Employees' Retirement System. "As chair, I am pleased the board has weighed in on this important topic and look forward to continuing to work towards passage."

Last month, Gov. Peter Shumlin and other leaders announced their support for such a measure.