

State of Connecticut

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Hartford

April 1, 2008

The Honorable Christopher Caruso, Co-chair
The Honorable Diana Urban, Vice-chair
Government Administration and Elections Committee
Legislative Office Building
Hartford, CT 06106-1591

Dear Representatives Caruso and Urban:

I am writing to reiterate and emphasize my support for legislation establishing a civil judicial process to revoke or reduce state public official or employee pensions when such officials and employees are convicted of serious crimes related to their public service. This legislation -- already adopted in 14 states -- would require the court to review all aspects of the crime and the impact on the criminal's family in a full due process hearing that would provide the individual a fair opportunity to contest any pension loss.

You have asked about retroactive application of such legislation. I support legislation that applies a fair judicial process to revoke or reduce state pensions of criminally convicted state employees and officials, regardless of when the offense occurred. I assure you that I will vigorously defend such retroactive application against any constitutional challenge.

Our Courts have never before addressed the constitutional issues raised by such a retroactive pension revocation or reduction measure. I cannot predict with certainty how a court would rule, but there are cogent and compelling arguments to support the pension revocation law. Courts must presume the constitutionality of all legislative enactments. There is a well founded understanding and expectation that state officials and employees must conduct themselves and their office in accordance with law. Indeed, every public official must swear under oath that he or she will "faithfully discharge according to law the duties of the office." Conn. Gen. Stat. § 1-24a. Further, the constitutional protections against ex post facto laws or double jeopardy only apply to criminal sanctions. Pension revocation or reduction is solely a civil matter. Finally, in at least one other state, New Jersey, state courts have explicitly upheld such retroactive pension revocation. Uricoli v. Board of Trustees, Police and Firemen's Retirement System, 91 N.J. 62, 449 A.2d 1267 (1982).

The courts should respect the powerful public policy that underlies this law and the due process involved in its application. The public has a right to integrity and honesty in public officials in their performance of official duties. As the New Jersey Supreme Court held:

“[H]onorable service is an implicit requirement of every public pension statute, whether or not this conditional term appears in the particular statute. See Masse v. Public Employment Retirem. Sys., 87 N.J. 252, 255-56, 432 A.2d 1339 (1981); Makwinski v. State, 76 N.J. 87, 90, 385 A.2d 1227 (1978). Courts in this State have consistently imputed to the Legislature the intent that a public employee’s right to pension benefits be conditioned upon honorable service.”

Uricoli, at p. 67. Betrayal of the public trust merits revoking or reducing a public pension benefit that flows from that employment. This law assures both fairness to individual property rights and respect for the public interest.

I would be pleased to answer more specific questions that you may wish to address. Please let me know if I can be of further assistance.

Very truly yours,



RICHARD BLUMENTHAL

RB/pas