

**ASSEMBLY CONCURRENT  
RESOLUTION No. 109**

**STATE OF NEW JERSEY  
217th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

**Sponsored by:**

**Assemblyman VINCENT PRIETO**

**District 32 (Bergen and Hudson)**

**Assemblywoman ANGELICA M. JIMENEZ**

**District 32 (Bergen and Hudson)**

**Assemblyman THOMAS P. GIBLIN**

**District 34 (Essex and Passaic)**

**Assemblyman RALPH R. CAPUTO**

**District 28 (Essex)**

**Assemblyman WAYNE P. DEANGELO**

**District 14 (Mercer and Middlesex)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**Co-Sponsored by:**

**Assemblymen Taliaferro, Johnson, Assemblywomen Caride, Chaparro,  
Quijano, Assemblymen Holley, Moriarty and Assemblywoman Mosquera**

**SYNOPSIS**

Proposes constitutional amendment to require payments by State to State-administered retirement systems and establish in Constitution right of public employees to pension benefit; provides for enforcement of funding obligations and benefit rights.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Judiciary Committee with technical review.

**(Sponsorship Updated As Of: 6/28/2016)**

1 **A CONCURRENT RESOLUTION** proposing to amend Article VII of  
2 the New Jersey Constitution by adding a new Section IV and to  
3 amend Article VIII, Section II, paragraphs 2 and 3.  
4

5 **BE IT RESOLVED** by the General Assembly of the State of New  
6 Jersey (the Senate concurring):  
7

8 1. The following proposed amendment to the Constitution of  
9 the State of New Jersey is agreed to:  
10

11 **PROPOSED AMENDMENT**  
12

13 a. Amend Article VII by adding a new Section IV to read as  
14 follows:

15 1. a. The State shall make its annual required contribution to  
16 each retirement system and pension fund for public employees  
17 administered by the State as that contribution is determined by the  
18 board of trustees of each system or fund in consultation with the  
19 actuary for that system or fund. The annual normal contribution  
20 plus the annual unfunded accrued liability contribution together  
21 shall be the annual required contribution. The actuary for each  
22 system or fund shall compute the annual required contribution  
23 based on an annual valuation of the assets and liabilities of the  
24 system or fund pursuant to consistent and generally accepted  
25 actuarial standards.

26 The State shall commence making its annual required  
27 contribution in full to each retirement system and pension fund for  
28 public employees administered by the State in the State fiscal year  
29 that commences July 1, 2021 and shall make the required  
30 contribution in full in each fiscal year thereafter. Commencing July  
31 1, 2017, the State shall make a payment to each retirement system  
32 and pension fund of at least 4/8ths of the full annual required  
33 contribution for each system and fund for that State fiscal year and  
34 a payment that increases by at least an additional 1/8th of the full  
35 annual required contribution for each system and fund for each  
36 subsequent fiscal year until payment of the full contribution is  
37 required to be made commencing July 1, 2021. The required  
38 contribution to be made by the State shall be paid in each State  
39 fiscal year to each system and fund on the following schedule: at  
40 least 25 percent by August 1; at least 50 percent by November 1; at  
41 least 75 percent by February 1; and at least 100 percent by May 1.

42 The amount of the contribution to be made to each retirement  
43 system and pension fund by the State shall be included in the  
44 general appropriation law for each State fiscal year. The payment  
45 of the required contributions to be made by the State pursuant to  
46 this subparagraph shall be an indefeasible obligation of the State.

47 b. Vested members of a retirement system or pension fund for  
48 public employees administered by the State who were members of a

1 system or fund prior to May 21, 2010 and who attained five years of  
2 service credit in the system or fund and were provided pursuant to  
3 law with a non-forfeitable right to receive benefits shall have an  
4 indefeasible non-forfeitable right to receive benefits as provided  
5 under the laws governing the system or fund upon the attainment of  
6 five years of service credit in the retirement system or fund. A  
7 "non-forfeitable right to receive benefits" shall mean that the  
8 benefits program, for any employee for whom the right has  
9 attached, cannot be reduced.

10 Vested members of a retirement system or pension fund for  
11 public employees administered by the State for whom the non-  
12 forfeitable right was not provided by law who attain ten years of  
13 service credit shall have an indefeasible right to receive the benefits  
14 earned each year under the laws governing the system or fund.

15 This paragraph shall not be construed to preclude forfeiture,  
16 suspension, or reduction in pension benefits for dishonorable  
17 service by a member.

18 c. Except as expressly provided in this paragraph and only to  
19 the extent so expressly provided, nothing in this paragraph shall be  
20 deemed to (1) limit the right of the State to alter, modify, or amend  
21 retirement systems and pension funds for public employees  
22 administered by the State, or (2) create in any member a right in the  
23 corpus or management of such a retirement system or pension fund.  
24 The rights reserved to the State in this paragraph shall not diminish  
25 or reduce the indefeasible obligations of the State and the  
26 indefeasible rights of members established by subparagraphs a. and  
27 b. of this paragraph.

28 d. The obligations and the rights set forth in this paragraph and  
29 in Article VIII, Section II, paragraph 2 shall be enforceable in the  
30 courts of this State. The courts of this State shall have jurisdiction  
31 over any action brought by a member of any system or fund or any  
32 board of trustees of such system or fund to enforce the obligations  
33 and rights set forth in this paragraph. The State shall submit to the  
34 jurisdiction of the courts and shall not assert sovereign immunity in  
35 such an action.

36 e. The provisions of this paragraph shall be given effect  
37 notwithstanding any other provision of this Constitution, provided,  
38 however, that the appropriation obligation in subparagraph a. of this  
39 paragraph is subject to and subordinate to appropriations for State  
40 general obligation bonds heretofore authorized in accordance with  
41 Article VIII, Section II, paragraph 3 of this Constitution.

42 b. Amend Article VIII, Section II, paragraphs 2 and 3 to read  
43 as follows:

44 2. No money shall be drawn from the State treasury but for  
45 appropriations made by law. All moneys for the support of the State  
46 government and for all other State purposes as far as can be  
47 ascertained or reasonably foreseen, shall be provided for in one  
48 general appropriation law covering one and the same fiscal year;

1 except that when a change in the fiscal year is made, necessary  
2 provision may be made to effect the transition. No general  
3 appropriation law or other law appropriating money for any State  
4 purpose shall be enacted if the appropriation contained therein,  
5 together with all prior appropriations made for the same fiscal  
6 period, shall exceed the total amount of revenue on hand and  
7 anticipated which will be available to meet such appropriations  
8 during such fiscal period, as certified by the Governor. No general  
9 appropriation law for a fiscal year shall be enacted without  
10 including appropriations for the State contributions to each  
11 retirement system and pension fund for public employees  
12 administered by the State required pursuant to other provisions of  
13 this Constitution.

14 (cf: Art.VIII, Sec.II, par. 2)

15 3. a. The Legislature shall not, in any manner, create in any  
16 fiscal year a debt or debts, liability or liabilities of the State, which  
17 together with any previous debts or liabilities shall exceed at any  
18 time one per centum of the total amount appropriated by the general  
19 appropriation law for that fiscal year, unless the same shall be  
20 authorized by a law for some single object or work distinctly  
21 specified therein. Regardless of any limitation relating to taxation in  
22 this Constitution, such law shall provide the ways and means,  
23 exclusive of loans, to pay the interest of such debt or liability as it  
24 falls due, and also to pay and discharge the principal thereof within  
25 thirty-five years from the time it is contracted; and the law shall not  
26 be repealed until such debt or liability and the interest thereon are  
27 fully paid and discharged. Except as hereinafter provided, no such  
28 law shall take effect until it shall have been submitted to the people  
29 at a general election and approved by a majority of the legally  
30 qualified voters of the State voting thereon.

31 b. On and after the date on which this subparagraph b. becomes  
32 part of the Constitution, the Legislature shall not enact any law that,  
33 in any manner, creates or authorizes the creation of a debt or  
34 liability of an autonomous public corporate entity, established either  
35 as an instrumentality of the State or otherwise exercising public and  
36 essential governmental functions, which debt or liability has a  
37 pledge of an annual appropriation as the ways and means to pay the  
38 interest of such debt or liability as it falls due and pay and  
39 discharge the principal of such debt, unless a law authorizing the  
40 creation of that debt for some single object or work distinctly  
41 specified therein shall have been submitted to the people at a  
42 general election and approved by a majority of the legally qualified  
43 voters of the State voting thereon. Voter approval shall not be  
44 required for any such law providing that the ways and means to pay  
45 the interest of and to pay and discharge the principal of such debt or  
46 liability shall be subject to appropriations of an independent non-  
47 State source of revenue paid by third persons for the use of the  
48 single object or work thereof, or from a source of State revenue

1 otherwise required to be appropriated pursuant to another provision  
2 of this Constitution.

3 c. No voter approval shall be required for any such law under  
4 subparagraphs a. or b. of this paragraph authorizing the creation of  
5 a debt or debts in a specified amount or an amount to be determined  
6 in accordance with such law for the refinancing of all or a portion  
7 of any outstanding debts or liabilities of the State, or of an  
8 autonomous public corporate entity, established either as an  
9 instrumentality of the State or otherwise exercising public and  
10 essential governmental functions, heretofore or hereafter created, so  
11 long as such law shall require that the refinancing provide a debt  
12 service savings determined in a manner to be provided in such law  
13 and that the proceeds of such debt or debts and any investment  
14 income therefrom shall be applied to the payment of the principal  
15 of, any redemption premium on, and interest due and to become due  
16 on such debts or liabilities being refinanced on or prior to the  
17 redemption date or maturity date thereof, together with the costs  
18 associated with such refinancing.

19 d. All money to be raised by the authority of such law shall be  
20 applied only to the specific object stated therein, and to the payment  
21 of the debt thereby created.

22 e. This paragraph shall not be construed to refer to any money  
23 that has been or may be deposited with this State by the government  
24 of the United States. Nor shall anything in this paragraph contained  
25 apply to the creation of any debts or liabilities for purposes of war,  
26 or to repel invasion, or to suppress insurrection or to meet an  
27 emergency caused by disaster or act of God. Nor shall anything in  
28 this paragraph apply to the infeasible obligation of the State to  
29 make contributions to each retirement system and pension fund for  
30 public employees administered by the State as required pursuant to  
31 other provisions of this Constitution.

32 (cf: Art.VIII, Sec.II, par. 3; amended effective December 4, 2008)

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

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

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

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

3 If you favor the proposition printed below make a cross (X), plus  
4 (+), or check (✓) in the square opposite the word "Yes." If you are  
5 opposed thereto make a cross (X), plus (+) or check (✓) in the  
6 square opposite the word "No."

7 b. In every municipality the following question:  
8

	YES	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT CONCERNING STATE PENSION PAYMENTS AND PUBLIC EMPLOYEE PENSION BENEFITS</p> <p>Do you approve amending the Constitution to require the State to make its payment to the pension systems for public employees each year and to establish in the Constitution the rights of public employees vested in these pension systems to receive earned pension benefits?</p> <p>The State would have until July 1, 2021 to start making each year's pension payment in full. Until then, the State would make a partial, but increasing, payment each year. The payment would be made on a quarterly basis.</p>
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	NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>This amendment to the Constitution concerns the State's payment to the pension systems for public employees and the pension benefits of those employees.</p> <p>Current law, adopted in 2011, required the State to make its pension payment each year. The New Jersey Supreme Court ruled that the State could not be compelled to make the payment because of certain provisions in the Constitution. This amendment is a response to that ruling.</p> <p>This amendment would require the State to make its pension payment each year as a constitutional obligation. The obligation would be enforceable in the State courts. Payment of the full amount would start July 1, 2021. Until then, partial, but increasing, payments would be made each year. Quarterly payments would be made on the first day of August, November, February, and May of each year.</p> <p>This amendment requires the annual State budget law to include the pension payment.</p> <p>Current law provides a non-forfeitable right to receive a pension benefit for vested public employees who were employed before May 21, 2010. This amendment would incorporate that right into the Constitution. This amendment would establish the right of vested public employees hired after May 21, 2010 to receive earned pension benefits after ten years of service. These rights would be enforceable in the State courts. This amendment does not increase any pension benefit.</p>
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