



## 1995 SENATE JOINT RESOLUTION 57

March 21, 1996 – Introduced by Senator ELLIS. Referred to Committee on Senate Organization.

- 1     **To create** section 13 of article XIII of the constitution; **relating to:** the  
2             administration and investment of any public employe trust fund administered  
3             by the state or by a county or city in this state and prohibiting the diversion of  
4             funds from such trust funds (2nd consideration).

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### *Analysis by the Legislative Reference Bureau*

This constitutional amendment, to be given 2nd consideration by the 1995 legislature for November 1996 submittal to the voters, was considered by the 1993 legislature as 1993 Senate Joint Resolution 8 (Enrolled Joint Resolution 11).

#### **EXPLANATION OF PROPOSAL**

This constitutional amendment provides that any public employe trust fund administered by the state or by a county or city shall be administered and invested by a board, for the state funds, or boards of trustees, for the county or city funds, having full fiduciary responsibilities, that such a fund, including moneys appropriated or required to be appropriated to the fund by law and income or other gain from the investment of moneys or other assets in the fund, may be used only for fulfilling the benefit commitments to public employes participating in the trust fund, and that such a fund may not be used for, diverted to or encumbered for any other purpose.

#### **PROCEDURE FOR 2ND CONSIDERATION**

When a constitutional amendment is before the current legislature on 2nd consideration, any change in the text approved by the preceding legislature reverts the proposal to first consideration status so that 2nd consideration approval would have to be given by the next legislature before the proposal could be submitted to the people for ratification [see joint rule 57 (2) (b)].

The decision of whether to approve a proposed constitutional amendment on 2nd consideration is up to the legislature. If the legislature approves a proposed

constitutional amendment on 2nd consideration, it must also set the date for submitting the constitutional amendment to the people for ratification and must determine the question or questions to be printed on the ballot.

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1           Whereas, the 1993 legislature in regular session proposed an amendment to  
2 the constitution by 1993 Senate Joint Resolution 8 (Enrolled Joint Resolution 11)  
3 and agreed to it by a majority of the members elected to each of the 2 houses, which  
4 amendment reads as follows:

**SECTION 1.** Section 13 of article XIII of the constitution is created to read:

[Article XIII] Section 13 (1) Any public employe trust fund administered by the state or by a county or city in this state, including moneys appropriated or required to be appropriated to the fund by law, the income or other gain from investment of moneys or other assets in the fund and any balances in the accounts of specific benefit plans, is a public trust that shall be administered and invested solely for the purpose of ensuring the fulfillment of the benefit commitments to public employe participants, as provided by law, and that may not be used for, diverted to or encumbered for any other purpose.

(2) The legislature shall provide by law, or the appropriate county board or city common council in the case of a locally administered public employe trust fund shall provide by ordinance, for trustees to administer and invest the assets of the public employe trust fund administered by the state or by that county or city. The trustees of each fund shall have full fiduciary authority over the fund administered by them, but the legislature may divide responsibility for the administration or investment of the public employe trust fund administered by the state between more than one board of trustees. Within their area of control, the trustees shall have full fiduciary responsibility to those having a beneficial interest in the public employe trust fund.

**SECTION 2.** Numbering of new section. The new section "13" of article XIII of the constitution, created in this joint resolution, shall be designated by the next higher open whole section number in that article if, prior to or simultaneously with the ratification by the people of the amendment proposed in this joint resolution, any other ratified amendment has created a section 13 of article XIII of the constitution of this state. If several ratified amendments simultaneously create a section 13 of article XIII, the chief of the legislative reference bureau shall determine the sequence and the numbering.

1           *Now, therefore, be it resolved by the senate, the assembly concurring,*  
2           *That* the foregoing amendment to the constitution is agreed to by the 1995  
3           legislature; and, be it further

4           *Resolved, That* the foregoing amendment be submitted to a vote of the people  
5           at the general election to be held in November, 1996; and, be it further

6           *Resolved, That* the question concerning ratification of the foregoing  
7           amendment be stated on the ballot as follows:

8           **QUESTION 1: “Public employe trust funds.** Shall section 13 of article XIII of  
9           the constitution be created to require public employe trust funds administered by the  
10          state or by a county or a city to be administered and invested by trustees and the  
11          funds to be used solely for fulfilling benefit commitments to public employe  
12          participants?”

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(END)