

VETO MESSAGE - No. 72

TO THE SENATE:

I am returning herewith, without my approval, the following bills:

Senate Bill Number 6703, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

and Senate Bill Number 8429, entitled:

"AN ACT to amend the retirement and social security law, in relation to certain medical presumptions applicable to members of the New York state and local employee's retirement system"

NOT APPROVED

Police officers, firefighters and other public safety employees in this State can receive certain benefits if they are disabled in the line of duty, and their families may claim death benefits if an employee dies as a result of his or her important work. When such disability or death is the result of an "accident," these benefits are augmented significantly. These bills are the latest salvo in a long battle over the appropriate way of determining what benefits should be given an employee that dies of heart disease and, under what circumstances such disease should be deemed the result of an "accident." Present law on this issue varies by title and location. For example, outside New York City, firefighters have a rebuttable presumption that any heart disease they suffer was caused by an accident, while police officers must affirmatively prove that an accident occurred. In New York City, in contrast, no proof of accident is required to obtain a comparable benefit.

These bills are aimed at giving public safety employees across the State parity with their counterparts in New York City by removing the requirement that they prove heart disease arose out of an accident. S.6703 would achieve this result for both death and disability benefits, while S.8429 does so only for disability. While the latter bill imposes a lower cost, the expense of both is significant: S.6703 would require additional annual pension contributions by the State and localities of over \$13 million, while S.8429 would impose costs of over \$4 million per year.

I commend the desire of the sponsors to remove differences in the

treatment of employees that seem to have no reason behind them. Nonetheless, these proposals cannot be viewed in isolation from the deep fiscal crisis in which the State now finds itself. However worthy the sponsors' goals, these bills would increase public spending at a time when the State must find extensive reductions in expenditures. This is not the approach the State should be taking.

I also note that, despite the sponsors' valiant efforts to remove inconsistencies from the standards governing such benefits, the potential for claims of unfairness will remain if these bills are enacted. For example, an officer injured while escorting a prisoner might be judged not to have been injured during an "accident," while an officer

disabled as a result of a heart attack in his or her home would automatically meet this standard, and receive a higher benefit. There is no perfect line that can be drawn between "accident" and "line of duty" disability pensions that would not produce troubling results in particular cases. Therefore, my touchstone in considering this legislation under the present climate must simply be the fiscal realities of the State. Those realities do not allow me to endorse these bills.

The bills are disapproved.

(signed) DAVID A. PATERSON

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