

COALITION FOR PUBLIC EMPLOYER EQUALITY IN THE SET-OFF OF JURY AWARDS

For Immediate Release

STATEWIDE COALITION OF MORE THAN 280 PUBLIC ENTITIES AND OFFICIALS CALLS FOR THE END OF TAXPAYER-FUNDED, DOUBLE-DIPPING WINDFALLS AGAINST PUBLIC EMPLOYERS.

**Contact:: Lynn Kopka, Director of Planning, City of Troy, (518) 270-4560,
lynn.kopka@troyny.org**

**Kate O'Brien Ahlers, Communications Director, New York City Law Department,
(212) 788-0400, kahlers@law.nyc.gov**

Albany, April 1, 2003 – Representatives of an extraordinary coalition of more than 280 public entities and officials, including the New York State Attorney General's Office; the New York State Conference of Mayors and Municipal Officials; the New York State Association of Counties; the New York State Association of Towns; Nassau County; the Cities of Buffalo, New York, Syracuse, Troy, Utica and Watervliet; and the Westchester Municipal Officials Association, met in Albany today, and called on the State Legislature to enact S.622/A.3483, which would end "double-dipping" in lawsuits against public employers. New York State Governor George Pataki has also proposed similar legislation.

This bill would require that awards of future lost earnings made to a public employee suing his or her public employer be offset by the disability pension or other collateral sources the employee will receive to replace those lost earnings. Existing law already requires such an offset in lawsuits against private employers. While the enactment of the bill will save local governments millions of dollars in both pending and future cases, it will not cost the State a cent.

Current law works like this: Assume a public sanitation worker claims to be disabled by a fall in a garage caused by a municipality's negligence. The worker usually receives a pension, mainly funded by the municipality, that will pay the employee a significant percentage of his or her salary, tax free. The worker will also receive, on top of that, whatever amount is awarded by a jury for lost earnings. In other words, there is no offset for the "collateral source" or the pension benefits the worker will receive. The result is that the municipal worker is paid twice for not working. The revised law would change that, affording cities and municipalities the right, like private employers, to deduct the pension payments from the amount they have to pay in damages .

"The facts are sound and confirm that our tort system is out of control and costing the City of New York hundreds of millions of dollars that could otherwise be spent on our children's education, putting more police officers on the street, and lowering our taxes," said Sen. Dale M. Volker, the bill's Senate sponsor, who attended the press conference. "The collateral source bill will make a positive and immediate impact for the City of New York, which in turn, will create a more fair and balanced civil justice system that will protect 'real' victims of negligence, decrease frivolous lawsuits and protect the taxpayers of New York State."

The statewide coalition of public entities and officials urging the enactment of the bill includes the Attorney General, 42 counties, 40 cities, 79 towns and 99 villages.

As part of that coalition, New York City Mayor Michael R. Bloomberg, whose Corporation Counsel, Michael A. Cardozo appeared at the press conference, noted that the bill would prevent double dipping by plaintiffs and ensure that they do not profit by being made "more than whole". In the case of New York City, the windfall plaintiffs receive results from the current law's failure to require an offset of a tax-free disability pension of three-quarters of the worker's salary, at least 80 percent of which is funded by the

City. "The Mayor and I feel this important bill is critical to leveling the playing field and ensuring that municipalities are treated fairly – the same way private employers are," he said. "This bill will save New York City approximately \$11 million annually, including \$133 million in pending lawsuits alone, and will not cost the State anything. Moreover, it makes both legal and moral sense."

Buffalo Mayor Anthony M. Masiello, who was represented at the press conference by his Senior Deputy Corporation Counsel, David J. State, stated: "We need to correct the current anomaly in the law and protect municipalities from significant damage awards." As an example of the unjust windfalls presently allowed, and the need to put Buffalo instead on equal footing with other employers, Mayor Masiello noted one personal injury lawsuit for lost future wages now pending against Buffalo by one of its employees. Over a 20-year period, the employee will also receive disability payments totaling more than \$1.5 million, which are intended to replace those very same lost earnings.

Troy Mayor Mark P. Pattison, who was represented at the press conference by his Corporation Counsel Patrick T. Morphy, and Director of Planning Lynn Kopka, said, "We need to rectify the present unequal treatment that has left public employers, and thus the taxpayers, in a position inferior to all other defendants." Mayor Timothy J. Julian of Utica, represented at the press conference by his First Assistant Corporation Counsel Charles N. Brown, echoed this sentiment. "There is simply no rational basis for the inequitable treatment of public employers, the continuation of which can create a significant cost to the Utica and other cities," he said.

Representing the New York State Conference of Mayors and Municipal Officials at the press conference was its Executive Director, Edward C. Farrell. He stated, "The Conference of Mayors strongly supports this legislation. At a time when local budgets are under intense pressure, the relief provided through this bill would be of assistance. There is no reason to put public defendants and their taxpayers at a disadvantage when considering the offset of collateral sources."

Speaking on behalf of the New York State Association of Counties was its Counsel and Legislative Director, Stephen Acquario. He remarked, "The Association fully supports this legislation as a corrective measure that will restore to municipalities the same benefit granted to all other litigants." Other County support for the bill was expressed at the press conference by Nassau County Attorney Lorna Goodman, whose Managing Attorney, Peter Reinharz, appeared at the press conference, added: "There is no important public policy served by the discriminatory practice against public employers."

Also voicing strong support for the bill was the Westchester Municipal Officials Association, which was represented at the press conference by its Past President, and current Executive Committee Member, Croton-on-Hudson Mayor Robert W. Elliott. Mayor Elliott stated that 36 of the Association's 45 member municipalities already had registered their support for the bill in order to "correct the inequity in the present law" and thereby "protect all municipalities from an unfair and inequitable financial award process" by replacing it with one under which "all taxpayers will benefit equally."

The 79 towns which have individually registered their support for the bill were also heard at the press conference through the New York State Association of Towns by its Executive Director, G. Jeffrey Haber. The Association stated that, "By eliminating the ability for plaintiffs to receive double recovery, this bill could save our membership across New York State millions of dollars annually."

The New York State Conference of Mayors and Municipal Officers is a voluntary membership association which advocates the interests of the 557 of the State's 620 cities and villages which are currently its members.

The New York State Association of Counties is a non-profit municipal association which has been serving the 57 counties of New York State, and the City of New York, since its inception in 1925 and today represents the interests of close to 5,000 elected and appointed county officials, including county executives, legislators, supervisors, administrators, commissioners and other county employees who deliver essential services to the public.

The New York State Association of Towns is a not-for-profit voluntary membership association which currently represents the interests of 910 of this State's 932 towns.

The Coalition for Public Employer Equality in the Set-Off of Jury Awards represents the more than 280 public entities and officials who have banded together in an effort to change the collateral source law in Albany.

###