

FOR IMMEDIATE RELEASE

GOVERNMENT OFFICIALS FROM ACROSS THE STATE GATHER TO CALL FOR AN END TO DOUBLE DIPPING OF PUBLIC FUNDS

LOOPHOLE COSTS LOCAL GOVERNMENTS MILLIONS A YEAR

Contacts:

Senator Dale M. Volker's Office, (518) 455-3471

Assembly Member Harvey Weisenberg's Office, (518) 455-3028

Kate Ahlers/Connie Pankratz, NYC Law Department, (212) 788-0400, media@law.nyc.gov

Mark LaVigne, NYS Association of Counties, (518) 465-1473, mlavigne@nysac.org

Wade Beltramo, NYS Conference of Mayors and Municipal Officials, (518) 463-1185, wade@nycom.org

Albany, N.Y., May 20, 2008 – Representatives of an unprecedented group of nearly 1,400 public officials and governmental entities from across the state are urging the state legislature to enact a bill that would prevent the double dipping of public funds. The bill, S.4164/A.2989, would put an end to public employees unfairly collecting damages from lawsuits against their government employers on top of government benefits – thus getting paid twice on the taxpayers' dime.

If a government worker is injured, the worker can receive an accident disability pension tax-free for life. However, the worker can also sue his or her public employer for lost future earnings and collect the damages in addition to the pension. This practice of double dipping, which evolved from a legal quirk years ago, does not apply to private employers and carries a potential liability of nearly \$164 million in pending cases in New York City alone. This bill could save taxpayers at least \$11 million per year – funds that should be used for more essential public purposes.

The bill, which amends CPLR 4545, would require that any award for lost future earnings made to a public employee suing his or her public employer be reduced by the amount of the accident disability pension or any other collateral source of compensation the employee will receive to replace those very same lost earnings. The bill does not affect damage awards for pain and suffering. Aside from disability pensions, other examples of collateral sources might include insurance (except life insurance) and some forms of Social Security. Existing law already requires such an offset in lawsuits against private employers.

Although this bill has received widespread support, the conflicts of interest in Albany, and the opposition of the trial lawyers have continuously prevented its passage. In 2006, three members were added to the Assembly Judiciary Committee the morning of its vote, and the bill lost by only one vote in the committee. Five Democrats and five Republicans on the committee voted for the bill. While the bill's enactment will save local governments millions of dollars a year in both pending and future cases, **it will not cost the State a cent.**

Senator Dale M. Volker, Assembly Member Harvey Weisenberg, Albany County Executive Michael Breslin, and New York City Corporation Counsel Michael A. Cardozo were joined by supporters of the bill.

(more)

The bill is sponsored by 51 legislators and supporters include:

Governor Paterson
Albany County Executive Michael Breslin
Nassau County Executive Thomas R. Suozzi
New York City Mayor Michael R. Bloomberg
New York State Association of Counties
New York State Conference of Mayors and
Municipal Officials

Citizens Union
Association of Towns of the State of New York
New York State County Attorneys' Association
New York State Bar Association
Association of the Bar of the City of New York
All of the State's 62 cities and 55 of its 57
counties

The bill has also received previous editorial support from the *New York Times*, *Crain's New York Business*, *the Albany Times Union*, *Buffalo News*, *Rochester Democrat & Chronicle*, *Schenectady Daily Gazette*, *Daily News*, *New York Post*, *Newsday*, *New York Sun*, *Westchester Journal News*, *Poughkeepsie Journal*, *Utica Observer-Dispatch*, *Ithaca Journal*, *Staten Island Advance* and *New York Civic*. Support from a *Gannett* columnist ran as well in the Albany, Ithaca, Poughkeepsie, Rochester, Utica and Westchester newspapers, as well as in the *Binghamton Press & Sun Bulletin* and *Elmira Star Gazette*.

"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 Senator Volker (R-Erie, Livingston, Ontario and Wyoming Counties), the bill's prime Senate sponsor. Senator Volker added, "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."

"I have introduced this legislation to end the taxpayer-funded, 'double-dipping' windfalls against public employers," said Assembly Member Weisenberg (D-Nassau County), the prime sponsor of the Assembly measure. "The bill would require that awards of lost future 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," he added.

"Local property taxpayers should not have to pay again to the extent injured workers are already receiving accident disability or other compensation for their future lost earnings. Government employers should get the same treatment as commercial employers," said Albany County Executive Mike Breslin

"Taxpayers are already overburdened by rising school and property tax bills in New York State, and forcing them to pay twice to compensate public employees is unacceptable," said Nassau County Executive Thomas Suozzi. "It is time for this unfair and out-of-control system to come to an end."

New York State Conference of Mayors and Municipal Officials Executive Director, Peter A. Baynes, said, "The Conference of Mayors strongly supports this legislation. The current unequal treatment of public defendants only serves to further burden New York's property taxpayers. There is no reason to put public defendants and their taxpayers at a disadvantage when considering the offset of collateral sources."

New York State Association of Counties Executive Director, Stephen J. Acquario, said, "On behalf of the 62 counties of the State of New York, NYSAC fully supports this legislation as a corrective measure that will restore to local taxpayers and their municipalities the same benefit granted to all other litigants."

"We must level the playing field and ensure that local governments are treated fairly – the same way private employers are. This bill will eliminate a windfall to plaintiffs and an entirely unjustifiable financial burden that falls solely on public employers. It makes sense legally and morally," said New York City Corporation Counsel Michael A. Cardozo

(more)

The New York State Conference of Mayors and Municipal Officers is a voluntary membership association. Currently, 586 of the State's 620 cities and villages are members of NYCOM, including all of New York's 62 cities.

The New York State Association of Counties is a non-profit municipal association representing the 62 counties of the State of New York, including New York City.

#