

VETO MESSAGE - No. 32

TO THE SENATE:

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

Senate Bill Number 4291, entitled:

"AN ACT to amend the retirement and social security law, in relation to retirement plans for sheriffs, undersheriffs, deputy sheriffs or corrections officers"

NOT APPROVED

This bill would create a new optional retirement plan for sheriffs, deputy sheriffs, undersheriffs, and county corrections officers, in which counties could elect to participate. The plan would pay an additional 1/60th of salary for each year over twenty-five years of service by the affected employees.

Proponents of this bill argue that it is not an "unfunded mandate," because counties have the option to participate. In practice, it is not entirely clear that this is true. The New York State Association of Counties--the representative of the government entities that would be given this option--opposes the bill, arguing that once in place it would generate pressure on them to join.

More importantly, at the very least there is an open question as to whether the choice will be taken out of counties' hands in collective bargaining and binding interest arbitration. In a 2005 decision in *In the Matter of County of Ulster and Ulster County Sheriff*, the Public Employment Relations Board held that an employer's participation in a voluntary retirement plan was a mandatory subject for bargaining, and one which therefore could be subject to binding arbitration.

Whether or not this decision remains the law, it makes clear that there is some risk that counties' options in regard to this plan may be constrained. Given that concern, it is unclear why this bill is necessary. There is already one optional plan that exists for the same employees under Article 14-B of the Retirement and Social Security Law. Other optional plans exist for particular counties. I do not believe there needs to be yet another.

Indeed, this bill would continue a practice that I consider unnecessary and cumbersome--the balkanization of the pension system into a proliferation of employee-specific and "optional" plans. The result is a piecemeal set of alternatives available to different bargaining units, without any rhyme or reason as to why particular employees have certain options. I am open to evidence that the unique circumstances of specific employers or group of employees warrant special pension treatment, but that has not been demonstrated in this case.

The bill is disapproved.

(signed) ELIOT SPITZER