

VETO MESSAGE:

VETO MESSAGE - No. 91

TO THE SENATE:

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

Senate Bill Number 1989, entitled:

"AN ACT to amend the civil service law, in relation to credits allowed to children and siblings of uniformed sanitation workers killed in the line of duty"

NOT APPROVED

Chapter 495 of the Laws of 2002 provides the children and siblings of firefighters and police officers killed in the line of duty with ten additional points on their civil service examinations. This bill would extend that benefit to the children and siblings of uniformed sanitation workers.

The sponsors of the bill justify the bestowal of this benefit by citing the "care and devotion" that sanitation workers "display for every neighborhood," and ask that the "importance of their work" be recognized through enactment of this legislation. I cannot disagree with the sponsors' description of the importance of the work that sanitation workers perform for New Yorkers' health and well-being, or of the professionalism and dedication with which they carry out their job. Nonetheless, I do not believe that the appropriate way to honor that work is to give children and siblings of deceased workers a leg up over their competitors in vying for state jobs.

The supporters of the bill submit no evidence to show that sanitation workers are subject to a risk of violent death comparable to that faced by firefighters or police officers, nor do they otherwise explain why

their offspring and siblings should receive a competitive advantage over other New Yorkers - including those whose brother, sister or parent was also killed while working at a job not included within the titles covered by this bill. Whatever the merits of this approach to addressing tragedies that arise from public employment - and my general view is that any deviation from the merit-based process of selecting civil servants should be limited and rare - it makes little sense to bestow such benefits piecemeal on particular titles, without any limiting principle as to why they are included, and others are left out.

Finally, I note that this bill raises serious constitutional concerns. Under Article V, Section 6 of the New York Constitution, appointments and promotions in the civil service should be "according to merit and fitness to be ascertained, as far as practicable, by examination which, as far as practicable, shall be competitive." The Section sets forth certain exceptions for veterans, but does not offer any exception for the workers covered by this bill.

The "merit and fitness" principle is at the bedrock of our system of public employment. Yet the more the civil service system is used as a means to favor individuals for reasons unrelated to their fitness for the jobs at issue, the more it will drift from its constitutional moorings. We should not permit that to occur.

The bill is disapproved.

(signed) ELIOT SPITZER
