S T A T E O F N E W Y O R K

5542

2009-2010 Regular Sessions

I N S E N A T E

May 14, 2009

Introduced by Sen. SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the civil service law, in relation to injunctive relief incidental to employer and employee organization improper practices

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraphs (a), (b), and (d) of subdivision 4 of section 209-a of the civil service law, as added by chapter 695 of the laws of 1994, are amended to read as follows:

(a) A party filing an improper practice charge under this section may petition the board to obtain injunctive relief, pending a decision on the merits of said charge by an administrative law judge, upon a showing that: (i) there is reasonable cause to believe an improper practice has occurred, and (ii) [where] it appears that [immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating the maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF.

(b) Within ten days of the receipt by the board of such petition, if the board determines that a charging party has made a sufficient showing both that there is reasonable cause to believe an improper practice has occurred and it appears that [immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF, the board shall petition the supreme court, in Albany county, upon notice to all parties for the necessary injunctive relief or in the alternative may issue an order permitting the charging party to seek injunctive relief by petition to the supreme

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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court, in which case the board must be joined as a necessary party. The board or, where applicable, the charging party, shall not be required to give any undertakings or bond and shall not be liable for any damages or costs which may have been sustained by reason of any injunctive relief ordered. If the board fails to act within ten days as provided herein, the board, for purposes of review, shall be deemed to have made a final order determining not to seek injunctive relief.

(d) Injunctive relief may be granted by the court, after hearing all parties, if it determines that there is reasonable cause to believe an improper practice has occurred and that it appears that [immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF. Such relief shall expire on decision by an administrative law judge finding no improper practice to have occurred, successful appeal or motion by respondent to vacate or modify pursuant to the provisions of the civil practice law and rules, or subsequent finding by the board that no improper practice had occurred. The administrative law judge shall conclude the hearing process and issue a decision on the merits within sixty days after the imposition of such injunctive relief unless mutually agreed by the respondent and charging party.

S 2. Paragraphs (a), (b), and (d) of subdivision 5 of section 209-a of the civil service law, as added by chapter 695 of the laws of 1994, are amended to read as follows:

(a) A party filing an improper practice charge under section 12-306 of the administrative code of the city of New York may petition the board of collective bargaining to obtain injunctive relief before the supreme court, New York county, pending a decision on the merits by the board of collective bargaining, upon a showing that: (i) there is reasonable cause to believe an improper practice has occurred, and (ii) [where] it appears that [immediate and irreparable injury, loss or damage will result and thereby rendering a resulting judgment on the merits ineffectual necessitating the maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF.

(b) Within ten days of the receipt by the board of such petition, if the board of collective bargaining determines that a charging party has made a sufficient showing both that there is reasonable cause to believe an improper practice has occurred and it appears that [immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF, said board shall petition the supreme court in New York county, upon notice to all parties, for the necessary injunctive relief, or in the alternative said board may issue an order permitting the charging party to seek injunctive relief by petition to the supreme court, New York county, in which case said board must be joined as a necessary party. Such application shall be in conformance with the civil practice law and rules except that said board, or where applicable, the charging party shall not be required to give any undertaking or land and shall not be liable for any damages or costs which may have been sustained by reason of any injunc-

tive relief order. If the board of collective bargaining fails to act within ten days as provided in this paragraph, the board of collective bargaining, for purposes of review, shall be deemed to have made a final order determining not to permit the charging party to seek injunctive relief.

(d) Injunctive relief may be granted by the court, after hearing all parties, if it determines that there is reasonable cause to believe an improper practice has occurred and that it appears that [immediate and irreparable injury, loss or damage will result thereby rendering a resulting judgment on the merits ineffectual necessitating maintenance of, or return to, the status quo to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITHOUT SUCH PROVISIONAL RELIEF. Any injunctive relief granted by the court shall expire upon decision of the board of collective bargaining finding no improper practice to have occurred or successful challenge of the said board's decision pursuant to article seventy-eight of the civil practice law and rules. The said board shall conclude the hearing process and issue a decision on the merits within sixty days after the imposition of such injunctive relief unless mutually agreed by the respondent and charging party.

S 3. This act shall take effect immediately; provided, however, that the amendments to subdivisions 4 and 5 of section 209-a of the civil service law made by sections one and two of this act shall not affect the repeal of such subdivisions and shall expire and be deemed repealed therewith.