

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:

1 Section 1. Paragraphs (a), (b), and (d) of subdivision 4 of section
2 209-a of the civil service law, as added by chapter 695 of the laws of
3 1994, are amended to read as follows:

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

14 (b) Within ten days of the receipt by the board of such petition, if
15 the board determines that a charging party has made a sufficient showing
16 both that there is reasonable cause to believe an improper practice has
17 occurred and it appears that [immediate and irreparable injury, loss or
18 damage will result thereby rendering a resulting judgment on the merits
19 ineffectual necessitating maintenance of, or return to, the status quo
20 to provide meaningful relief] THE BOARD'S RESULTING JUDGMENT ON THE
21 MERITS OF THE IMPROPER PRACTICE CHARGE MAY BE RENDERED INEFFECTUAL WITH-
22 OUT SUCH PROVISIONAL RELIEF, the board shall petition the supreme court,
23 in Albany county, upon notice to all parties for the necessary injunc-
24 tive relief or in the alternative may issue an order permitting the
25 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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1 court, in which case the board must be joined as a necessary party. The
2 board or, where applicable, the charging party, shall not be required to
3 give any undertakings or bond and shall not be liable for any damages or
4 costs which may have been sustained by reason of any injunctive relief
5 ordered. If the board fails to act within ten days as provided herein,
6 the board, for purposes of review, shall be deemed to have made a final
7 order determining not to seek injunctive relief.

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

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

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

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

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

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

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