STATE OF NEW YORK

9293--A

IN SENATE

May 12, 2022

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the civil rights law, in relation to actions involving public petition and participation

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Paragraph (b) of subdivision 1 of section 70-a of the civil rights law, as added by chapter 767 of the laws of 1992, is amended to read as follows:

(b) other compensatory damages may only be recovered upon an additional demonstration that the action involving public petition and participation was commenced or continued for the purpose of harassing, intimidating, punishing or otherwise maliciously inhibiting the free exercise of speech, petition or association rights**, or rights under any federal, state, or local law preventing employment discrimination or retaliation**; and

§ 2. Subdivision 1 of section 76-a of the civil rights law, as amended by chapter 250 of the laws of 2020, is amended to read as follows:

1. For purposes of this section:

(a) An "action involving public petition and participation" is a claim based upon:

(1) any communication in a place open to the public or a public forum in connection with an issue of public interest**, provided that a protected allegation, as defined in subparagraph three of this paragraph, made within the context of employment shall constitute communication in a public forum**; [~~or~~]

(2) any other lawful conduct in furtherance of the exercise of the constitutional right of free speech in connection with an issue of public interest, or in furtherance of the exercise of the constitutional right of petition[~~.~~]**; or**

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

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(3) any "protected allegation," which shall be defined as an allegation made to any employer or its agent by a person protected by the New York state human rights law or the New York city human rights law, or such person's agent, of employment discrimination, including but not limited to, discriminatory harassment and/or retaliation, under any federal, state, or local law.

(b) "Claim" includes any lawsuit, cause of action, cross-claim, counterclaim, or other judicial pleading or filing requesting relief.

(c) "Communication" shall mean any statement, claim, allegation in a proceeding, decision, protest, writing, argument, contention or other expression.

(d) "Public interest" shall be construed broadly, and shall mean any subject other than a purely private matter**; provided that a protected allegation, as defined in subparagraph three of paragraph (a) of this subdivision, shall not be considered a purely private matter**.

§ 3. This act shall take effect immediately and shall apply to all actions commenced on and after such effective date.