

STATE OF NEW YORK

3756

2023-2024 Regular Sessions

IN ASSEMBLY

February 7, 2023

Introduced by M. of A. PHEFFER AMATO -- read once and referred to the
Committee on Governmental Employees

AN ACT to amend the civil service law and the civil practice law and
rules, in relation to the grounds for which the public employment
relations board may seek injunctive relief

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

1 Section 1. Paragraph (a) of subdivision 4 of section 209-a of the
2 civil service law, as added by chapter 695 of the laws of 1994, is
3 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 inju-
9 ry, loss or damage will result thereby rendering a resulting judgment on
10 the merits ineffectual necessitating the maintenance of, or return to,
11 the status quo to provide meaningful relief. For the purposes of this
12 subdivision, "irreparable injury, loss or damage" shall include, but not
13 be limited to loss of employment, actions that adversely affect the
14 health or welfare, or permanent loss of an employee right or privilege
15 established pursuant to a collective bargaining agreement.

16 § 2. Section 6301 of the civil practice law and rules is amended to
17 read as follows:

18 § 6301. Grounds for preliminary injunction and temporary restraining
19 order. A preliminary injunction may be granted in any action where it
20 appears that the defendant threatens or is about to do, or is doing or
21 procuring or suffering to be done, an act in violation of the
22 plaintiff's rights respecting the subject of the action, and tending to
23 render the judgment ineffectual, or in any action where the plaintiff
24 has demanded and would be entitled to a judgment restraining the defend-

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

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1 ant from the commission or continuance of an act, which, if committed or
2 continued during the pendency of the action, would produce injury to the
3 plaintiff. A temporary restraining order may be granted pending a hear-
4 ing for a preliminary injunction where it appears that immediate and
5 irreparable injury, loss or damage will result unless the defendant is
6 restrained before the hearing can be had. For the purposes of this
7 section, "irreparable injury, loss or damage" shall include, but not be
8 limited to loss of employment, actions that adversely affect the health
9 or welfare, or permanent loss of an employee right or privilege estab-
10 lished pursuant to a collective bargaining agreement, as set forth in
11 subdivision four of section two hundred nine-a of the civil service law.

12 § 3. Subdivision (a) of section 6313 of the civil practice law and
13 rules, as amended by chapter 235 of the laws of 1982, is amended to read
14 as follows:

15 (a) Generally. If, on a motion for a preliminary injunction, the
16 plaintiff shall show that immediate and irreparable injury, loss or
17 damages will result unless the defendant is restrained before a hearing
18 can be had, a temporary restraining order may be granted without notice.
19 Upon granting a temporary restraining order, the court shall set the
20 hearing for the preliminary injunction at the earliest possible time. No
21 temporary restraining order may be granted in an action arising out of a
22 labor dispute as defined in section eight hundred seven of the labor
23 law, nor against a public officer, board or municipal corporation of the
24 state to restrain the performance of statutory duties. For the purposes
25 of this subdivision, "irreparable injury, loss or damage" shall have the
26 same meaning as set forth in section six thousand three hundred one of
27 this article.

28 § 4. This act shall take effect immediately.