

# STATE OF NEW YORK

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6299

2023-2024 Regular Sessions

## IN ASSEMBLY

April 3, 2023

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

AN ACT to amend the civil practice law and rules, in relation to judgments in favor of a petitioner in article 78 proceedings relating to disability pensions

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

1 Section 1. Section 7806 of the civil practice law and rules, as  
2 amended by chapter 318 of the laws of 1962, is amended to read as  
3 follows:

4 § 7806. Judgment. The judgment may grant the petitioner the relief to  
5 which he is entitled, or may dismiss the proceeding either on the merits  
6 or with leave to renew. If the proceeding was brought to review a deter-  
7 mination, the judgment may annul or confirm the determination in whole  
8 or in part, or modify it, and may direct or prohibit specified action by  
9 the respondent, provided, however, that when the determination being  
10 reviewed is a determination by a pension or retirement system of the  
11 state or civil division thereof denying the petitioner a disability  
12 pension, the court, upon a finding that the determination was arbitrary  
13 and capricious and not supported by substantial evidence, may annul the  
14 determination and grant the petitioner the requested disability pension.  
15 Any restitution or damages granted to the petitioner must be incidental  
16 to the primary relief sought by the petitioner, and must be such as he  
17 might otherwise recover on the same set of facts in a separate action or  
18 proceeding suable in the supreme court against the same body or officer  
19 in its or his official capacity.

20 § 2. This act shall take effect immediately and shall apply to all  
21 appeals that have been filed but not yet adjudicated.

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

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