

STATE OF NEW YORK

4493

2023-2024 Regular Sessions

IN SENATE

February 9, 2023

Introduced by Sen. GOUNARDES -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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:

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

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

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

14 1. For purposes of this section:

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

17 (1) any communication in a place open to the public or a public forum
18 in connection with an issue of public interest, provided that a
19 protected allegation, as defined in subparagraph three of this para-
20 graph, made within the context of employment shall constitute communi-
21 cation in a public forum; [~~or~~]

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

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

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

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

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

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

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