

# STATE OF NEW YORK

4278--B

2025-2026 Regular Sessions

## IN ASSEMBLY

February 3, 2025

Introduced by M. of A. SIMON, ALVAREZ, REYES, SHRESTHA, MAMDANI, KIM, DINOWITZ, GALLAGHER, ROSENTHAL, TAYLOR, CRUZ, BORES, FORREST, R. CARROLL, CUNNINGHAM, BURDICK, DAVILA, JACOBSON, BRONSON, TAPIA, RAGA, KELLES, LUCAS, LEVENBERG, EACHUS, GLICK, WEPRIN, COLTON, MEEKS, LUNSFORD, RAMOS, SANTABARBARA, GIBBS, CONRAD, SEPTIMO, RIVERA, SAYEGH, BICHOTTE HERMELYN, BURKE, STECK, WALKER, COOK, DeSTEFANO, LAVINE, ROZIC, HEVESI, GONZALEZ-ROJAS, RAJKUMAR, MITAYNES, ZINERMAN, LEE, SIMONE, PAULIN, OTIS, SHIMSKY, CLARK, McMAHON, SOLAGES, VALDEZ, STIRPE, P. CARROLL, WRIGHT, SEAWRIGHT, BENEDETTO, LASHER, SCHIAVONI, DE LOS SANTOS, HOOKS -- read once and referred to the Committee on Labor -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the labor law, in relation to enacting the "Empowering People in Rights Enforcement (EMPIRE) Worker Protection Act"

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "Empowering People in Rights Enforcement (EMPIRE) Worker Protection  
3 Act".  
4 § 2. Legislative findings. 1. The legislature finds and declares that  
5 violations of the labor law are often systemic, affecting many workers.  
6 2. The legislature further finds and declares that despite the labor  
7 law's strong protections for workers, limits on the availability of  
8 public enforcement resources have deleterious effects on the marketplace  
9 by allowing abuses targeting workers to persist unprosecuted. To ensure  
10 the robust enforcement of the labor law, while minimizing the outlay of  
11 scarce state funds, this act allows private individuals, labor organiza-  
12 tions, and labor organizations deputized by the state to bring public

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

LBD01897-12-6

1 enforcement actions in certain contexts in which the state does not have  
2 the means to fully enforce labor law protections.

3 3. The legislature further finds and declares that the purpose of the  
4 EMPIRE Worker Protection Act is to create a means of empowering citizens  
5 as private attorneys general to enforce the New York labor law.

6 4. The legislature further finds and declares that the purpose of the  
7 EMPIRE Worker Protection Act is to incentivize private parties to  
8 recover civil penalties for the government that otherwise may not have  
9 been assessed and collected by overburdened state enforcement agencies.  
10 When the New York labor law is effectively enforced, it protects the  
11 interests of all New Yorkers and the state of New York. Such public  
12 enforcement actions are an efficient mechanism to limit systemic  
13 violations, will enforce the rights of more workers, and can benefit the  
14 department of labor with enhanced resources.

15 5. The legislature further finds and declares that the purpose of the  
16 EMPIRE Worker Protection Act is to benefit those employers who are oper-  
17 ating within the labor law, and who, as a result, face unfair competi-  
18 tion from individuals and entities shirking the labor law.

19 6. The legislature further finds and declares that the purpose of the  
20 EMPIRE Worker Protection Act is to deter employers from stealing wages  
21 or committing other violations of the New York labor law and raise the  
22 cost of noncompliance with the New York labor law.

23 7. The legislature further finds and declares that the purpose of the  
24 EMPIRE Worker Protection Act is to incentivize labor organizations to  
25 aid working people to report violations of the New York labor law.

26 8. The legislature further finds and declares that the purpose of the  
27 EMPIRE Worker Protection Act is to facilitate whistleblowers suffering  
28 from violations of the New York labor law to report abuses without fear  
29 of retaliation and intimidation.

30 9. The legislature further finds and declares that the EMPIRE Worker  
31 Protection Act is part of a history both in New York state and in the  
32 United States of laws enabling private citizens to aid in public  
33 enforcement. In similar qui tam legislation enabling private citizens to  
34 aid in public enforcement, the resulting action is a public enforcement  
35 action.

36 § 3. The labor law is amended by adding a new article 38 to read as  
37 follows:

### 38 ARTICLE 38

#### 39 EMPOWERING PEOPLE IN RIGHTS ENFORCEMENT (EMPIRE) WORKER PROTECTION ACT 40 Section 1150. Definitions.

##### 41 1151. Public enforcement action.

##### 42 1152. Procedure.

##### 43 1153. Non-application.

#### 44 § 1150. Definitions. Whenever used in this article:

##### 45 1. "affected employee" means:

46 a. any employee as defined by section two of this chapter who was  
47 employed by the alleged violator employer and against whom one of the  
48 alleged violations was committed, or was alleged to have been committed,  
49 as well as any person who is not classified by a business as an employee  
50 but who claims to be an employee and whose claims against the purported  
51 employer relate to this alleged misclassification; or

52 b. any model as defined in section one thousand thirty-one of this  
53 chapter who was engaged by the alleged violator model management compa-  
54 ny, model management group, or client and against whom one of the  
55 alleged violations was committed, or was alleged to have been committed.

1 An affected employee may maintain an action under this article whether  
2 or not that person has received full or partial relief from harm.

3 2. "relator" means an affected employee, a whistleblower, a represen-  
4 tative organization, or an organizational deputy that acts as a plain-  
5 tiff in a public enforcement action under this chapter.

6 3. "whistleblower" means any current or former employee, contractor,  
7 subcontractor, or employee of a contractor or subcontractor of the  
8 defendant with knowledge of the alleged violations that is independent  
9 of and materially adds to any publicly disclosed information about the  
10 alleged violations. Whistleblowers are not also "affected employees" if  
11 they do not seek civil penalties for violations that personally affected  
12 them in a public enforcement action under this chapter.

13 4. "employer" means:

14 a. any employer as defined by section two of this chapter; or  
15 b. any model management company, model management group, or client as  
16 defined by section one thousand thirty-one of this chapter. The term  
17 "employer" shall not include a governmental agency.

18 5. "representative organization" means a labor organization which  
19 exists and is constituted for the purpose, in whole or in part, of  
20 collective bargaining or of dealing with employers concerning griev-  
21 ances, terms or conditions of employment, is not a "company union" as  
22 defined by subdivision six of section seven hundred one of this chapter,  
23 and which has been selected by an affected employee or whistleblower to  
24 initiate a public enforcement action on the affected employee's or  
25 whistleblower's behalf, in written notice in such a manner as the  
26 commissioner may prescribe by regulation. Where a representative organ-  
27 ization is designated as the relator, the affected employee or whistle-  
28 blower may elect to have their name and personal identifying information  
29 be kept confidential until the relator, in its sole discretion, deems  
30 sharing such information is necessary to establish, litigate, mediate,  
31 settle, or otherwise pursue the claim.

32 6. "public enforcement action" means an action brought under this  
33 article intended to enforce this chapter's protections enforceable by  
34 the commissioner. Nothing in this article shall be interpreted to  
35 permit a public enforcement action against a governmental agency.

36 7. "commissioner" shall, for the purposes of this article, include the  
37 commissioner, and any division, board, commission, or part of the  
38 department authorized to impose or seek penalties or other remedies for  
39 violations of this chapter.

40 8. "violation" means an employer's noncompliance with any of the  
41 requirements of the following articles of this chapter and with regu-  
42 lations and wage orders promulgated by the commissioner in implementing  
43 such articles:

44 a. article six except sections one hundred ninety, one hundred nine-  
45 ty-one-a, one hundred ninety-six, one hundred ninety-six-a, one hundred  
46 ninety-eight-a, one hundred ninety-nine, and one hundred ninety-nine-a;

47 b. article nineteen except sections six hundred fifty, six hundred  
48 fifty-one, six hundred fifty-three through six hundred sixty, six  
49 hundred sixty-two, and six hundred sixty-five;

50 c. sections one hundred sixty, one hundred sixty-one, one hundred  
51 sixty-two, one hundred sixty-three-a, one hundred sixty-seven, and one  
52 hundred seventy of article five;

53 d. article nineteen-A except sections six hundred seventy through six  
54 hundred seventy-two, six hundred seventy-four through six hundred seven-  
55 ty-eight, six hundred eighty, and six hundred eighty-three;

1 e. article nineteen-B except sections six hundred ninety, six hundred  
2 ninety-three, and six hundred ninety-four;

3 f. article nine except sections two hundred thirty, two hundred thirty-  
4 ty-four through two hundred thirty-six, and two hundred thirty-eight;

5 g. article twenty-five-A except sections eight hundred sixty, eight  
6 hundred sixty-a, eight hundred sixty-c through eight hundred sixty-f,  
7 and eight hundred sixty-i;

8 h. article twenty-five-B except sections eight hundred sixty-one  
9 through eight hundred sixty-one-b;

10 i. article twenty-five-C except sections eight hundred sixty-two and  
11 eight hundred sixty-two-a;

12 j. article eight except sections two hundred twenty-e through two  
13 hundred twenty-four, two hundred twenty-four-b, and two hundred twenty-  
14 four-c;

15 k. article twenty-C;

16 l. sections two hundred, two hundred one-d, two hundred one-g, two  
17 hundred six-c, two hundred fifteen, and two hundred eighteen-b of arti-  
18 cle seven;

19 m. section twenty-seven-d and section twenty-seven-e of article two;

20 n. article thirty-six;

21 o. article twenty-one-A;

22 p. this article; and

23 q. any other worker protections that are added to this chapter after  
24 the effective date of this article, unless the enacting statute specif-  
25 ically excludes them from this definition.

26 9. "organizational deputy" means a labor organization which exists and  
27 is constituted for the purpose, in whole or in part, of collective  
28 bargaining or of dealing with employers concerning grievances, terms or  
29 conditions of employment, and is not a "company union" as defined by  
30 subdivision six of section seven hundred one of this chapter, that has  
31 been appointed by the commissioner or the attorney general to represent  
32 the state as the relator in the public enforcement action. The commis-  
33 sioner or the attorney general shall have complete discretion to deter-  
34 mine what labor organizations may serve as their organizational deputy  
35 in a public enforcement action.

36 § 1151. Public enforcement action. 1. A relator may initiate a public  
37 enforcement action to collect civil penalties on behalf of the commis-  
38 sioner for a violation impacting affected employees pursuant to the  
39 procedures specified in section eleven hundred fifty-two of this arti-  
40 cle. A relator may allege multiple violations that have affected differ-  
41 ent employees and may seek injunctive and declaratory relief that the  
42 state would be entitled to seek.

43 2. a. For purposes of this section, whenever the commissioner has  
44 discretion to assess a civil penalty, a court is authorized to exercise  
45 the same discretion to assess a civil penalty. To the extent that the  
46 commissioner is authorized to determine that an employer has violated a  
47 provision of this chapter or regulation promulgated thereunder, in a  
48 public enforcement action, a court shall be authorized to determine that  
49 an employer has committed such a violation.

50 b. For any violation defined in this article, except those for which a  
51 civil penalty is specifically provided, there is established a civil  
52 penalty of five hundred dollars for each affected employee per pay peri-  
53 od per violation. That civil penalty will increase beginning on January  
54 first, two thousand twenty-seven at the same rate that the minimum wages  
55 increase each year as specified in paragraph (b) of section six hundred  
56 fifty-two of this chapter or any successor method by which minimum wage

1 rates are to be adjusted. The civil penalty rate shall be published  
2 annually by the commissioner. A court may not award a lesser amount,  
3 unless, based on the facts and circumstances of the particular case, the  
4 employer demonstrates that to do otherwise would result in an award that  
5 is unjust, arbitrary and oppressive, or confiscatory.

6 c. In any civil action commenced pursuant to this article, the court  
7 shall allow a prevailing relator to recover all reasonable attorneys'  
8 fees, expert fees and other costs. The court may also allow a prevail-  
9 ing relator to recover all reasonable ancillary costs associated with  
10 serving as a relator. For the purposes of this article, the term  
11 "prevailing" includes a relator whose commencement of litigation has  
12 acted as a catalyst to effect policy change on the part of the defend-  
13 ant, regardless of whether that change has been implemented voluntarily,  
14 as a result of a settlement or as a result of a judgment in such  
15 relator's favor.

16 d. Nothing in this section shall operate to limit an affected employ-  
17 ee's right to pursue or recover other remedies available under state or  
18 federal law, either separately or concurrently with an action taken  
19 under this section.

20 e. Nothing in this section shall operate to limit the commissioner's  
21 or the attorney general's right to seek restitution and damages, where  
22 available, for affected employees in conjunction with a public enforce-  
23 ment action in which it has intervened.

24 3. a. Civil penalties recovered in public enforcement actions shall  
25 be distributed as follows: where the commissioner or the attorney  
26 general has not intervened, or where the commissioner or the attorney  
27 general has appointed an organizational deputy to proceed as the rela-  
28 tor, forty percent to the relator; and sixty percent to the commissioner  
29 for enforcement of this chapter and education of employers and employees  
30 about their rights and responsibilities under this chapter, to be  
31 continuously appropriated to supplement and not supplant the funding to  
32 the agency for those purposes; where the commissioner or the attorney  
33 general has intervened, thirty percent to the relator; and seventy  
34 percent to the commissioner for enforcement of this chapter and educa-  
35 tion of employers and employees about their rights and responsibilities  
36 under this chapter, to be continuously appropriated to supplement and  
37 not supplant the funding to the agency for those purposes.

38 b. The relator shall equitably distribute the share of penalties due  
39 the relator among affected employees. If the relator is an affected  
40 employee or whistleblower, they shall also be entitled to recover a  
41 service award from the penalties recovered, if they prevail in achieving  
42 relief, in whole or in part, for violations that affected other employ-  
43 ees. The service award shall be not less than five thousand dollars and  
44 not more than twenty thousand dollars, unless the amount recovered as  
45 civil penalties is less than twenty thousand dollars. The court shall  
46 determine the service award by taking due consideration of the burdens  
47 and risks assumed by the relator in prosecuting the action. If the rela-  
48 tor is a representative organization or an organizational deputy  
49 appointed by the commissioner or the attorney general, it shall distrib-  
50 ute all recovered penalties to affected employees but may recover  
51 reasonable attorneys' fees and costs incurred in prosecuting the action  
52 and ancillary costs associated with serving as a relator. The relator  
53 shall submit a distribution summary to the commissioner and the attorney  
54 general.

55 4. The right to bring a public enforcement action under this article  
56 shall not be subject to private agreements between an affected employee

1 and an employer or alleged employer, unless such agreements are collec-  
2 tively bargained and the bargaining agreement provides a forum for the  
3 enforcement of rights and remedies otherwise enforceable under this  
4 article. The right to represent the state with respect to violations  
5 affecting other workers shall not be waivable by private agreement,  
6 unless such agreements are collectively bargained and the bargaining  
7 agreement provides a forum for the enforcement of rights and remedies  
8 otherwise enforceable under this article, including an award of penal-  
9 ties authorized by this article.

10 5. Notwithstanding any other provision of law, a public enforcement  
11 action to recover upon a penalty imposed by this article must be  
12 commenced within six years. The statute of limitations for bringing a  
13 public enforcement action under this article shall be tolled from the  
14 date a relator files a notice pursuant to section eleven hundred fifty-  
15 two of this article with the commissioner and the attorney general, or  
16 the commissioner or the attorney general commences an investigation,  
17 whichever is earlier.

18 6. The commissioner shall establish a database of public enforcement  
19 notices submitted pursuant to this article, including the parties, the  
20 disposition and any other information which the commissioner shall by  
21 regulation prescribe and shall make such database available to the  
22 public online. The commissioner shall also publish an annual report of  
23 total penalties recovered under this chapter.

24 7. a. No employer or the employer's agent, employee, contractor,  
25 subcontractor or the officer or agent of any corporation, partnership,  
26 or limited liability company, or any other person shall discharge,  
27 demote, suspend, threaten, harass, or in any other manner discriminate  
28 against any person because of any lawful act done because:

29 (i) the relator or potential relator brought or is perceived to have  
30 brought a public enforcement action;

31 (ii) the relator or potential relator has provided information, caused  
32 information to be provided, or otherwise assisted in a public enforce-  
33 ment action or provided information, or caused information to be  
34 provided to a person with supervisory authority over the relator or  
35 potential relator regarding conduct that the relator or potential rela-  
36 tor reasonably believes constitutes a violation of this section; or

37 (iii) the person believes that the relator or potential relator may  
38 bring a public enforcement action or cooperate with one.

39 b. Any person affected by a violation of this subdivision, or any  
40 affected employee, whistleblower, representative organization, organiza-  
41 tional deputy, or the commissioner, or the attorney general may bring a  
42 public enforcement action for all appropriate relief, including enjoin-  
43 ing the conduct of any person or employer; ordering payment of civil  
44 penalties as provided by section two hundred fifteen of this chapter,  
45 costs and reasonable attorneys' fees to the employee by the person or  
46 entity in violation; and, where the person or entity in violation is an  
47 employer, ordering rehiring or reinstatement of the employee to the  
48 employee's former position with restoration of seniority. Any person  
49 affected by a violation of this subdivision may also bring a civil  
50 action in a court of competent jurisdiction against any employer or  
51 persons alleged to have violated the provisions of this subdivision  
52 pursuant to subdivision two of section two hundred fifteen of this chap-  
53 ter.

54 c. There shall be a rebuttable presumption that any adverse actions  
55 taken against a relator within one hundred eighty days after the relator  
56 has filed an action under this chapter is retaliatory. Nothing in this

1 subdivision shall be interpreted to prohibit an inference of retaliatory  
2 motive after one hundred eighty days after the relator has filed an  
3 action under this chapter.

4 § 1152. Procedure. 1. No public enforcement action by a relator pursu-  
5 ant to section eleven hundred fifty-one of this article may be  
6 commenced:

7 a. prior to sixty days after written notice has been given by the  
8 relator to the commissioner and to the attorney general. The relator  
9 shall submit a filing fee of seventy-five dollars to the commissioner,  
10 and the time periods in this section shall begin when notice and filing  
11 fee have been submitted. The fees required by this paragraph are subject  
12 to waiver in accordance with rules promulgated by the commissioner. The  
13 written notice shall be given in such a manner as the commissioner may  
14 prescribe by regulation, shall be construed in a light favorable to the  
15 relator, and shall include:

16 (i) the name, address and contact information of the employer.

17 (ii) the name, address, and contact information of the affected  
18 employee or whistleblower.

19 (iii) if the action is brought by a representative organization, the  
20 name, address and contact information of the representative organiza-  
21 tion, its qualification as a representative organization as defined in  
22 this chapter, and the form on which the whistleblower or affected  
23 employee has designated the representative organization.

24 (iv) if the action is brought by an affected employee or whistleblow-  
25 er, the name, address, and contact information of any labor organization  
26 that has assisted with the filing of the written notice, and who would  
27 be available to serve as an organizational deputy should they be so  
28 appointed by the commissioner or the attorney general.

29 (v) the name, address and contact information of the relator's legal  
30 counsel, should one exist.

31 (vi) a statement of the underlying claim.

32 (vii) if the relator is a "whistleblower", the relator's knowledge of  
33 the alleged violations that is independent of and materially adds to  
34 publicly disclosed information.

35 (viii) after searching the database established pursuant to subdivi-  
36 sion six of section eleven hundred fifty-one of this article for notices  
37 alleging the same facts and legal theories, a summary of such notices or  
38 statement that no such notices exist, provided that a notice filed by a  
39 pro se litigant may not be rejected for failure to conduct such a  
40 search.

41 b. if the commissioner or the attorney general, at any time prior to  
42 the end of the sixty-day notice period prescribed in paragraph a of this  
43 subdivision or prior to commencement of such action, whichever is later,  
44 and upon written notice to the relator who provided the notice  
45 prescribed in paragraph a of this subdivision, has commenced and is  
46 actively prosecuting an administrative enforcement proceeding pursuant  
47 to this chapter relative to the alleged violation.

48 c. if the commissioner or the attorney general, on the same facts and  
49 theories, cites a person within the timeframes set forth in this section  
50 for a violation of the same section or sections of this chapter under  
51 which the relator is attempting to recover a civil penalty or remedy on  
52 behalf of the relator or others.

53 d. if the violation is of a posting or agency reporting requirement or  
54 agency filing requirement, except where the filing or reporting require-  
55 ment involves mandatory payroll or injury reporting.

1 e. if the violation is for minor variations in the legal name or  
2 address of the employer in a wage statement or wage notice required  
3 under article six of this chapter, provided that the variations do not  
4 impair a worker's ability to promptly and easily identify the employer.

5 2. The commissioner or the attorney general may, after receiving the  
6 notice, appoint an organizational deputy for the commissioner or the  
7 attorney general (based on who makes the appointment) to serve as the  
8 relator, instead of the person who filed the notice. That organizational  
9 deputy may then proceed with the public enforcement action on behalf of  
10 the state. If the commissioner or the attorney general has appointed an  
11 organizational deputy as the relator, that organizational deputy shall  
12 serve as the relator in accordance with all the other procedures  
13 outlined in this article. The decision to appoint an organizational  
14 deputy shall not be construed as the commissioner's or the attorney  
15 general's direct intervening in the public enforcement action.

16 3. The commissioner or the attorney general may intervene in the  
17 public enforcement action and proceed with any and all claims in the  
18 action:

19 a. as of right within the sixty-day notice period prescribed in para-  
20 graph a of subdivision one of this section;

21 b. for good cause, as determined by the court, after the expiration of  
22 the sixty-day notice period prescribed in paragraph a of subdivision one  
23 of this section; or

24 c. if a previous relator becomes unavailable to continue the public  
25 enforcement action, by appointing an organizational deputy for the  
26 commissioner or the attorney general (based on who makes the appoint-  
27 ment) to proceed with the public enforcement action on behalf of the  
28 state. If the commissioner or the attorney general has so appointed an  
29 organizational deputy, the organizational deputy shall serve as the  
30 relator in accordance with all the other procedures outlined in this  
31 article. The decision to appoint an organizational deputy shall not be  
32 construed as the commissioner or the attorney general directly interven-  
33 ing in the public enforcement action.

34 4. If the commissioner or the attorney general intervenes in an  
35 action, the commissioner may take primary responsibility for litigating  
36 the action and shall not be bound by an act of the relator bringing the  
37 action. In such cases, the relator shall remain a party to the action.  
38 The commissioner or the attorney general may also intervene in the  
39 action for the limited purpose of filing a statement of interest or  
40 otherwise advancing the state's view about legal issues at stake in the  
41 action. If the commissioner or the attorney general has intervened for  
42 the purpose of taking primary responsibility for litigating the action,  
43 the commissioner or attorney general may dismiss or settle the action  
44 after the relator has been notified of the filing of the motion and has  
45 been provided with an opportunity to be heard, and the court determines  
46 that such dismissal or settlement is fair, adequate, reasonable, and in  
47 the public interest.

48 5. Either the commissioner, the attorney general, or a federal or  
49 state court of competent jurisdiction shall review and approve any  
50 settlement of any civil action filed pursuant to this article or of any  
51 claim for which a relator has provided notice pursuant to this section.  
52 The commissioner, the attorney general, or the court shall approve the  
53 settlement if it is fair, reasonable and adequate, in light of the stat-  
54 utory purpose of the provision of this chapter alleged to have been  
55 violated and the purpose of this article.

1 6. a. The relator shall, within ten days following commencement of a  
2 civil action pursuant to this article, provide the commissioner and the  
3 attorney general with a file-stamped copy of the complaint that includes  
4 the case number assigned by the court.

5 b. If the commissioner or the attorney general so requests, the  
6 commissioner or the attorney general shall be served with copies of  
7 pleadings filed in the action and shall be supplied with copies of all  
8 deposition transcripts. The commissioner or the attorney general shall  
9 bear any costs associated with service of such pleadings and depositions  
10 if there are such costs.

11 c. A copy of the court's judgment in any civil action filed pursuant  
12 to this article and any other order in that action that either provides  
13 for or denies an award of civil penalties under this article shall be  
14 submitted to the commissioner and the attorney general within ten days  
15 after entry of the judgment or order.

16 d. Items required to be submitted to the commissioner under this  
17 subdivision shall be transmitted in such a manner as the commissioner  
18 shall prescribe for the filing of notices under paragraph a of subdivi-  
19 sion one of this section.

20 7. Such regulations prescribed pursuant to paragraph a of subdivision  
21 one of this section shall provide for the right of the relator to  
22 furnish an amended notice, after the notice by the commissioner to the  
23 relator that the original notice was not in compliance with this section  
24 or the regulations issued thereunder and specifying with particularity  
25 what the deficiencies were in the original notice. Such notice and  
26 opportunity to amend shall be provided by the commissioner within sixty  
27 days of the original notice or the original notice shall be deemed in  
28 compliance with this section. The relator shall have thirty days from  
29 receiving notice from the commissioner that their original notice was  
30 not in compliance with this section to amend the notice.

31 8. A public enforcement action shall be tried promptly, without regard  
32 to concurrent adjudication of private claims, including without regard  
33 to concurrent adjudication of claims for violations personally affecting  
34 the relator.

35 9. No public enforcement action brought pursuant to this article shall  
36 be required to meet the requirements of Rule 23(a) of the Federal Rules  
37 of Civil Procedure or article nine of the civil practice law and rules.

38 10. The rules governing pretrial discovery in a public enforcement  
39 action brought pursuant to this article shall be the same as those  
40 applicable to other civil actions. No special showing of merit or other  
41 additional requirement shall be imposed on a relator's discovery rights  
42 in such an action.

43 11. A relator bringing an action pursuant to this article shall be  
44 entitled to discovery regarding the alleged violations as to all  
45 affected employees as defined in this article.

46 12. When related public enforcement actions are pending, the parties  
47 shall immediately notify the courts overseeing such actions of the over-  
48 lap and submit a joint statement describing the overlap, which may  
49 propose a process to ensure the just, speedy, and efficient determi-  
50 nation of the actions. The court may appoint lead enforcement counsel  
51 with sole responsibility for asserting the related claims, with consid-  
52 eration of the following factors:

53 a. the work that counsel has done in investigating the claims;

54 b. counsel's experience litigating labor law and past performance in  
55 similar cases;

56 c. counsel's diligence in advancing the case;

1 d. the resources that counsel has committed and will commit to prose-  
2 cuting the case, and the relative resources at counsel's disposal; and  
3 e. the length of time each action has been pending.

4 § 1153. Non-application. 1. This article shall not apply to the recov-  
5 ery of administrative and civil penalties in connection with the unem-  
6 ployment insurance law as contained in article eighteen of this chapter.

7 2. This article shall not apply to the recovery of administrative and  
8 civil penalties in connection with the New York state labor relations  
9 act as contained in article twenty of this chapter.

10 3. Severability. If any word, phrase, clause, sentence, paragraph,  
11 subdivision, section or part of this article or the application thereof  
12 to any person or circumstances shall be adjudged invalid by a court of  
13 competent jurisdiction, such order or judgment shall be confined in its  
14 operation to the controversy in which it was rendered, and shall not  
15 affect or invalidate the remainder of this article, but shall be  
16 confined in its operation to the word, phrase, clause, sentence, para-  
17 graph, subdivision, section or part thereof directly involved in the  
18 controversy in which such judgment shall have been rendered.

19 4. This article shall be construed in light of its remedial purposes  
20 to expand the enforcement of this chapter.

21 § 4. This act shall take effect immediately, and shall permit relators  
22 to bring actions concerning New York labor law violations that occurred  
23 within the six years prior to this act's effective date, unless the  
24 labor law provides a shorter statute of limitations with respect to the  
25 specific violation in question, in which case that shorter statute of  
26 limitations shall apply.