

# STATE OF NEW YORK

533

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

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

21 § 2. This act shall take effect immediately and shall apply to all  
22 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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