

(G) (1) (I) IF THE COMMISSION FAILS TO COMPLY WITH ANY PROVISION OF THIS SUBTITLE SECTION AND A COMMISSION EMPLOYEE IS ADVERSELY AFFECTED, THE CERTIFIED REPRESENTATIVE OF THE EMPLOYEE MAY FILE AN ACTION APPEAL ON THE RECORD ON BEHALF OF THE EMPLOYEE IN THE CIRCUIT COURT FOR MONTGOMERY COUNTY, THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, OR THE DISTRICT COURT OF MARYLAND, DEPENDING ON THE AMOUNT IN CONTROVERSY BEFORE THE STATE OFFICE OF ADMINISTRATIVE HEARINGS IN ACCORDANCE WITH THE CONTESTED CASE PROVISIONS OF THE ADMINISTRATIVE PROCEDURE ACT, TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE.

~~(H) IF A COURT ENTERS A JUDGMENT IN FAVOR OF A COMMISSION EMPLOYEE, THE COMMISSION SHALL REIMBURSE THE EMPLOYEE FOR ANY LOSSES INCURRED BY THE EMPLOYEE AND REIMBURSE THE CERTIFIED REPRESENTATIVE FOR ALL COSTS AND ATTORNEYS' FEES.~~

(II) 1. IF THE HEARING OFFICER FINDS THAT THE COMMISSION WAS ARBITRARY AND CAPRICIOUS IN SOLICITING OR ENTERING INTO A SERVICE CONTRACT THAT IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION, AND THE COMMISSION EMPLOYEE HAS BEEN ADVERSELY AFFECTED, THE HEARING OFFICER MAY AWARD THE EMPLOYEE ACTUAL DAMAGES FOR BACK PAY AND FRONT PAY FOR A COMBINED PERIOD OF UP TO 2 YEARS BEGINNING ON THE DATE THE EMPLOYEE WAS FIRST ADVERSELY AFFECTED, PROVIDED THAT THE EMPLOYEE IS OBLIGATED TO MITIGATE THE ACTUAL DAMAGES.

2. THE AWARD OF ACTUAL DAMAGES AUTHORIZED UNDER THIS PARAGRAPH SHALL BE THE SOLE AND EXCLUSIVE REMEDY FOR A VIOLATION OF THIS SECTION THAT IS AVAILABLE TO THE EMPLOYEE, AND NO LIABILITY SHALL ACCRUE FOR PUNITIVE DAMAGES, CONSEQUENTIAL DAMAGES, OR DAMAGES FOR EMOTIONAL DISTRESS OR PAIN AND SUFFERING.

(2) NONCOMPLIANCE WITH THIS SECTION MAY NOT INVALIDATE A CONTRACT AWARD OR PROPOSED CONTRACT AWARD THAT THE COMMISSION HAS OTHERWISE VALIDLY AWARDED OR ISSUED.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2007.

Approved by the Governor, May 8, 2007.