

28 chapter; or

29 (c) the employer believes that the employee may file a complaint or testify in any
30 proceeding relative to the enforcement of this chapter.

31 (3) (a) An employee claiming to be aggrieved by an adverse action of the employer in
32 violation of Subsection (2) may file with the division a request for agency action.

33 (b) On receipt of a request for agency action under Subsection (3)(a), the division:

34 (i) shall conduct an adjudicative proceeding pursuant to Title 63, Chapter 46b,

35 Administrative Procedures Act; and

36 (ii) may attempt to reach a settlement between the parties through a settlement conference.

37 [~~(2)~~] (4) If [a violation has been determined,] the division [shall: (a)] determines that a
38 violation has occurred, the division may require the employer to:

39 (a) cease and desist any retaliatory action; [and]

40 (b) [reach a resolution with the parties which shall] compensate the employee, which
41 compensation may not exceed reimbursement for, and payment of, lost wages and benefits to the
42 employee[-]; or

43 [~~(3) Failure to reach a resolution]~~

44 (c) do both (4)(a) and (b).

45 (5) The division may enforce this section in accordance with [Subsection (2) shall result
46 in a full hearing before an administrative law judge in the Division of Adjudication. The decision
47 of the administrative law judge may be appealed to the commissioner or Appeals Board in
48 accordance with Title 34A, Chapter 1, Part 3, Adjudicative Proceedings] Section 34-28-9.

49 [~~(4)~~] (6) The commission shall adopt rules, as required, to implement this section.

Legislative Review Note
as of 12-15-98 7:42 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel