

-CITE-

31 USC Sec. 755

02/01/2010

-EXPCITE-

TITLE 31 - MONEY AND FINANCE

SUBTITLE I - GENERAL

CHAPTER 7 - GOVERNMENT ACCOUNTABILITY OFFICE

SUBCHAPTER IV - PERSONNEL APPEALS BOARD

-HEAD-

Sec. 755. Judicial review

-STATUTE-

(a) A final decision under section 753(a)(1)-(3), (6), (11) (7) or (9) of this title may be reviewed by the United States Court of Appeals for the Federal Circuit. Chapter 158 of title 28 applies to a review under this subchapter, except the petition for review shall be filed by the 30th day after the petitioner receives notice of the decision. The court shall set aside a final decision the court decides is -

(1) arbitrary, capricious, an abuse of discretion, or otherwise not consistent with law;

(2) not made consistent with required procedures; or

(3) unsupported by substantial evidence.

(b) If an officer, employee, applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants is the prevailing party in a proceeding under this section, and the decision is based on a finding of

discrimination prohibited under section 732(f) of this title or under section 312(e)(2) (!2) of the Architect of the Capitol Human Resources Act, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.

-SOURCE-

(Pub. L. 97-258, Sept. 13, 1982, 96 Stat. 902; Pub. L. 98-216, Sec. 1(1), Feb. 14, 1984, 98 Stat. 3; Pub. L. 100-426, title I, Sec. 103(a), (b), Sept. 9, 1988, 102 Stat. 1599; Pub. L. 103-283, title III, Sec. 312(e)(4)(C), July 22, 1994, 108 Stat. 1446.)

-MISC1-

HISTORICAL AND REVISION NOTES

1982 ACT

Revised	Source (U.S. Code)	Source (Statutes at Large)
Section		

755	31:52-3(1).	Feb. 15, 1980, Pub. L. 96-191, Sec. 4(1), 94 Stat. 31.
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In the section, before clause (1), the first sentence is substituted for 31:52-3(1)(1)(1st sentence) for consistency with other titles of the United States Code. The word "review" is substituted for "appeal" for consistency. The words "the procedures of", "any other provision of law", "of **a** final decision of the

Board . . . the date . . . of the Board", and "In any case filed under paragraph (1) . . . review the record and" are omitted as surplus. The words "final decision" are substituted for "agency action, findings, or conclusions" for consistency. Clause (2) is substituted for 31:52-3(1)(2)(B) to eliminate unnecessary words.

1984 ACT

This clarifies section 755 by conforming it more closely to the language of the source provision of the section.

-REFTEXT-

REFERENCES IN TEXT

Section 312(e)(2) of the Architect of the Capitol Human Resources Act, referred to in subsec. (b), was classified to section 1831(e)(2) of Title 2, The Congress, and was repealed by Pub. L. 104-1, title V, Sec. 504(c)(1), Jan. 23, 1995, 109 Stat. 41, except as provided in section 1435 of Title 2.

Section 706(k) of the Civil Rights Act of 1964, referred to in subsec. (b), is classified to section 2000e-5(k) of Title 42, The Public Health and Welfare.

-MISC2-

AMENDMENTS

1994 - Subsec. (a). Pub. L. 103-283, Sec. 312(e)(4)(C)(i), substituted ", (7) or (9)" for "or (7)" in introductory provisions. See Application of Provisions Amended by Pub. L. 103-283 note below.

Subsec. (b). Pub. L. 103-283, Sec. 312(e)(4)(C)(ii), substituted

"applicant for employment, or employee of the Architect of the Capitol, the Botanic Garden, or the Senate Restaurants" for "or applicant for employment", and inserted "or under section 312(e)(2) of the Architect of the Capitol Human Resources Act" after "of this title". See Application of Provisions Amended by Pub. L. 103-283 note below.

1988 - Subsec. (a). Pub. L. 100-426, Sec. 103(a), (b)(1), designated existing provisions as subsec. (a) and substituted "Federal Circuit" for "District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides".

Subsec. (b). Pub. L. 100-426, Sec. 103(b)(2), added subsec. (b).

1984 - Pub. L. 98-216 substituted "A final decision under section 753(a)(1)-(3), (6), or (7) of this title may be reviewed by the United States Court of Appeals for the District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides" for "A person may apply for review of a final decision under section 753(a)(1)-(3), (6), or (7) of this title by filing a petition for review with the United States Court of Appeals for the District of Columbia Circuit or with the court of appeals of the United States for the circuit in which the person resides" in provisions preceding par. (1).

EFFECTIVE DATE OF 1988 AMENDMENT

Section 103(c) of Pub. L. 100-426 provided that: "Nothing in any of the amendments made by this section [amending this section]

shall apply with respect to an appeal pending on the date of the enactment of this Act [Sept. 9, 1988]."

APPLICATION OF PROVISIONS AMENDED BY PUB. L. 103-283

Provisions of this section amended by section 312(e) of Pub. L. 103-283 to be applied and administered as if section 312(e) and the amendments made by section 312(e) had not been enacted, see section 504(c)(2) of Pub. L. 104-1, set out as a note under section 751 of this title.

-FOOTNOTE-

(!1) So in original. Second comma probably should follow "(7)".

(!2) See References in Text note below.