

## **Making Agencies Pay The Price Of Discrimination, Retaliation**

President Bush signed legislation yesterday that is designed to hold federal agencies more accountable for acts of discrimination or reprisal against their employees.

The new law will hit agencies in their pocketbooks, according to proponents.

It requires agencies to pay -- out of their budgets -- for settlements and judgments against them in discrimination and whistle-blower cases. Most settlements and awards in favor of federal employees who sue agencies in discrimination cases have been paid from a government-wide Judgment Fund.

In addition, the law requires agencies to file reports with Congress and the attorney general on the number of complaints filed against them by employees, the disposition of each case, the total of all monetary awards charged against the agency and the number of agency employees disciplined for discrimination or harassment.

The law directs agencies to post on their Internet sites "summary statistical data" about the numbers and types of equal employment opportunity complaints filed against them.

The legislation's chief sponsors were Reps. F. James Sensenbrenner Jr. (R-Wis.), Sheila Jackson Lee (D-Tex.) and Constance A. Morella (R-Md.) and Sen. John W. Warner (R-Va.).

The House, by a vote of 412 to 0, sent the measure to Bush on April 30 after Senate approval on April 23.

"No longer will discrimination and retaliation be swept under the rug and considered an inconvenience for working at a federal agency," said Sensenbrenner, chairman of the House Judiciary Committee. "By holding accountable those who insist upon discriminating against others, the federal government will become a role model for civil rights -- and not civil rights violations."

During the Senate debate, Warner hailed the measure as "the first civil rights bill of the new century" and predicted that it would "create a more productive work environment by ensuring that agencies enforce the laws intended to protect federal employees from harassment, discrimination and retaliation for whistle-blowing."

The legislation grew out of a House investigation two years ago into what Sensenbrenner aides called a disturbing pattern of intolerance, harassment and discrimination at the Environmental Protection Agency. During the probe, federal employees at other agencies complained of similar problems.

Among those who had pushed for the legislation was Marsha Coleman-Adebayo, an EPA employee who was awarded \$600,000 in 2000 by a Washington jury in a federal race and sex discrimination case against the agency. A judge later reduced the jury award to \$300,000.

The legislation -- the Notification and Federal Employee Antidiscrimination and Retaliation Act, or "No FEAR" -- alters a long-standing practice that permitted agencies to avoid the costs of

settlements and judgments in bias cases. Congress created the Judgment Fund to avoid having to approve specific appropriations for such legal costs and, in theory, to allow for prompt payment.

Under the new law, agencies must reimburse the fund for settlements and judgments. Because some judgments might leave agencies short of cash, the law allows for a "reasonable time" to reimburse the Judgment Fund and says agencies may extend repayments over several years to avoid layoffs or furloughs.

The General Accounting Office reported that in fiscal 2000 agencies paid about \$26 million in discrimination complaint settlements and judgments. In the same period, the Judgment Fund paid out about \$43 million more in such cases.