

GENERAL ASSEMBLY OF NORTH CAROLINA
1987 SESSION

CHAPTER 847
HOUSE BILL 1946

AN ACT TO ABOLISH THE BOARD OF STATE CONTRACT APPEALS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-1 is amended by deleting the last sentence of that section.

Sec. 2. G.S. 150B-1(d) is amended by rewriting the fourth paragraph of that subsection to read:

"Articles 2 and 3 of this Chapter shall not apply to the Department of Revenue. Except as provided in Chapter 136 of the General Statutes, Articles 2 and 3 of this Chapter do not apply to the Department of Transportation."

Sec. 3. G.S. 136-29 is rewritten to read:

"§ 136-29. Adjustment and resolution of highway construction contract claim. –

(a) A contractor who has completed a contract with the Department of Transportation to construct a State highway and who has not received the amount he claims is due under the contract may submit a verified written claim to the State Highway Administrator for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives his final statement from the Department and shall state the factual basis for the claim.

The State Highway Administrator shall investigate a submitted claim within 90 days of receiving the claim or within any longer time period agreed to by the State Highway Administrator and the contractor. The contractor may appear before the State Highway Administrator, either in person or through counsel, to present facts and arguments in support of his claim. The State Highway Administrator may allow, deny, or compromise the claim, in whole or in part. The State Highway Administrator shall give the contractor a written statement of the State Highway Administrator's decision on the contractor's claim.

(b) A contractor who is dissatisfied with the State Highway Administrator's decision on the contractor's claim may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the State Highway Administrator's written statement of the decision.

(c) As to any portion of a claim that is denied by the State Highway Administrator, the contractor may, in lieu of the procedures set forth in subsection (b) of this section, within six months of receipt of the State Highway Administrator's final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract

was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

(d) The provisions of this section shall be part of every contract for State highway construction between the Department of Transportation and a contractor. A provision in a contract that conflicts with this section is invalid."

Sec. 4. G.S. 143-135.3 is amended as follows:

(1) by rewriting the catch line to that section to read:

"Adjustment and resolution of building construction contract claim.";

(2) by designating the seventh and eighth paragraphs of that section as subsection (a) and deleting the remainder of that section; and

(3) by adding the following new subsections to read:

"(b) A contractor who has not completed a contract with a board for construction or repair work and who has not received the amount he claims is due under the contract may submit a verified written claim to the Director of the Office of State Construction of the Department of Administration for the amount the contractor claims is due. The Director may deny, allow, or compromise the claim, in whole or in part. A claim under this subsection is not a contested case under Chapter 150B of the General Statutes.

(c) A contractor who has completed a contract with a board for construction or repair work and who has not received the amount he claims is due under the contract may submit a verified written claim to the Director of the Office of State Construction of the Department of Administration for the amount the contractor claims is due. The claim shall be submitted within 60 days after the contractor receives a final statement of the board's disposition of his claim and shall state the factual basis for the claim.

The Director shall investigate a submitted claim within 90 days of receiving the claim, or within any longer time period upon which the Director and the contractor agree. The contractor may appear before the Director, either in person or through counsel, to present facts and arguments in support of his claim. The Director may allow, deny, or compromise the claim, in whole or in part. The Director shall give the contractor a written statement of the Director's decision on the contractor's claim.

A contractor who is dissatisfied with the Director's decision on a claim submitted under this subsection may commence a contested case on the claim under Chapter 150B of the General Statutes. The contested case shall be commenced within 60 days of receiving the Director's written statement of the decision.

(d) As to any portion of a claim that is denied by the Director, the contractor may, in lieu of the procedures set forth in the preceding subsection of this section, within six months or receipt of the Director's final decision, institute a civil action for the sum he claims to be entitled to under the contract by filing a verified complaint and the issuance of a summons in the Superior Court of Wake County or in the superior court of any county where the work under the contract was performed. The procedure shall be the same as in all civil actions except that all issues shall be tried by the judge, without a jury.

(e) The provisions of this section are part of every contract for construction or repair work made by a board and a contractor. A provision in a contract that conflicts with this section is invalid."

Sec. 5. G.S. 143-135.10 through G.S. 143-135.20, Article 8A of Chapter 143 of the General Statutes, are repealed.

Sec. 6. This act shall become effective October 1, 1987, and shall apply to actions brought for claims denied by the State Highway Administrator or by the Director of the Office of State Construction of the Department of Administration on or after that date.

In the General Assembly read three times and ratified this the 14th day of August, 1987.