

NORTH CAROLINA GENERAL ASSEMBLY
1965 SESSION

CHAPTER 1022
HOUSE BILL 889

1 AN ACT TO PROVIDE FOR THE EQUITABLE AND EXPEDITIOUS SETTLEMENT OF
2 CONTROVERSIES ARISING BETWEEN BOARDS OF GOVERNING BODIES OF
3 THE STATE GOVERNMENT OR OF A STATE INSTITUTION, AND THE
4 AWARDEES OF BUILDING CONSTRUCTION CONTRACTS WHICH ARE SUBJECT
5 TO ARTICLE 8 OF CHAPTER 143 OF THE GENERAL STATUTES.
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7 The General Assembly of North Carolina do enact:
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9 **Section 1.** Article 8 of Chapter 143 of the General Statutes of North Carolina, 1964
10 Replacement Volume 3C, is amended by adding a new Section immediately following Section
11 143-135.2, to be designated as G.S. 143-135.3 and to read as follows:

12 "(a) Upon the completion of any contract for construction or repair work awarded by any
13 State board to any contractor, under the provisions of this Article, if the contractor fails to
14 receive such settlement as he claims to be entitled to under his contract, he may, within sixty
15 days from the time of receiving written notice as to the disposition to be made of his claim,
16 submit to the Director of the State Department of Administration a written and verified claim
17 for such amount as he deems himself entitled to under the said contract setting forth the facts
18 upon which said claim is based. In addition, the claimant, either in person or through counsel,
19 may appear before the Director of the State Department of Administration and present any
20 additional facts and arguments in support of his claim. Within ninety days from the receipt of
21 the said written claim the Director of the State Department of Administration shall make an
22 investigation of said claim and may allow all or any part or may deny said claim and shall have
23 the authority to reach a compromise agreement with the contractor and shall notify the
24 contractor in writing of his decision.

25 "(b) As to such portion of the claim as is denied by the Director of the State Department
26 of Administration, the contractor may, within six months from receipt of said decision, institute
27 a civil action for such sum as he claims to be entitled to under said contract by the filing of a
28 verified complaint and issuance of summons in the Superior Court of Wake County or in the
29 Superior Court of any county wherein the work under said contract was performed. The
30 procedure shall be the same as in all civil actions except as herein and as hereinafter set out.

31 "(c) All issues of law and fact and every other issue shall be tried by the judge, without a
32 jury; provided that the matter may be referred in the instances and in the manner provided for
33 in Article 20 of Chapter 1 of the General Statutes.

34 "(d) The submission of the claim to the Director of the State Department of
35 Administration within the time and as set out in subsection (a) of this Section and the filing of
36 an action in the Superior Court within the time as set out in subsection (b) of this Section shall
37 be a condition precedent to bringing such an action under this Section and shall not be a Statute
38 of Limitations.

39 "(e) The provisions of this Section shall be deemed to enter into and form a part of every
40 contract entered into between the board and any contractor, and no provision in said contracts
41 shall be valid that is in conflict herewith.

1 (f) The word 'board' as used in this Section shall mean the State of North Carolina or
2 any board, bureau, commission, institution, or other agency of the State, as distinguished from
3 a board or governing body of a subdivision of the State.

4 (g) 'A contract for construction or repair work', as used in this Section, is defined as any
5 contract for the construction of buildings and appurtenances thereto, including, but not by way
6 of limitation, utilities, plumbing, heating, electrical, air conditioning, elevator, excavation,
7 grading, paving, roofing, masonry work, tile work and painting, and repair work."

8 **Sec. 2.** All laws and clauses of laws in conflict with this Act are hereby repealed.

9 **Sec. 3.** This Act shall be in full force and effect on and after its ratification.

10 In the General Assembly read three times and ratified, this the 14th day of June,
11 1965.