



SENATE BILL 255: State Board Construction Contract Claim.

2019-2020 General Assembly

Committee:	Senate Judiciary. If favorable, re-refer to Rules and Operations of the Senate	Date:	March 25, 2019
Introduced by:	Sen. Rabon	Prepared by:	Bill Patterson
Analysis of:	First Edition		Committee Co-Counsel

OVERVIEW: *Senate Bill 255 would impose deadlines for issuance of a final written decision by the Director of the Office of State Construction in a contractor's claim for amounts due under a completed building construction or repair contract with the State, a State agency, or a community college board.*

[As introduced, this bill was identical to H365, as introduced by Reps. Arp, Brody, Bell, Reives, which is currently in House State and Local Government.]

CURRENT LAW: A contractor who has completed a contract with a State agency or a board of a community college for construction or repair of a building, and who has not received the amount it contends is due, may submit a verified claim to the Director of the Office of State Construction of the Department of Administration stating the factual basis for the claim within 60 days after receipt of a final statement of the agency's or board's disposition of the claim.

Upon receipt of a verified claim, the Director is required to investigate the claim within 90 days, or any longer period agreed to by the Director and the contractor. The Director can allow, deny, or compromise the claim, in whole or in part, and is required to give the contractor a written statement of the decision. There currently is no statutorily-imposed deadline by which the written statement must be given.

Upon receipt of the written statement of decision, a contractor who is dissatisfied with it must either commence a contested case under Chapter 150B of the General Statutes within 60 days or bring a civil action in superior court within six months. The civil action may be brought in Wake County or any county where the work was performed, and all issues are tried by the judge without a jury.

BILL ANALYSIS:

Section 1 of the bill would provide that, after receiving a contractor's verified claim, the Director is required to issue a final written decision:

- Within 120 days for an original claim less than \$100,000;
- Within 180 days for an original claim greater than \$100,000 but less than \$5,000,000; and
- Within 270 days for an original claim equal to or greater than \$5,000,000.

Before expiration of the time permitted for issuance of the final written decision, the Director and contractor could agree in writing to an extension of time. If dissatisfied with the decision, the contractor would have the same options as under current law to contest it, either by a contested case commenced within 60 days or a civil action instituted within six months.

Section 2 of the bill would make conforming changes to the claims procedure for work done under a completed community college board construction contract.

EFFECTIVE DATE: This act is effective January 1, 2020 and applies to verified claims submitted on or after that date.

Karen Cochrane-Brown
Director



Legislative Analysis
Division
919-733-2578