
By: **Delegate Benson**
Introduced and read first time: February 18, 2002
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Bid Protest and Contract Claim Appeals - Award of Attorney**
3 **and Expert Witness Fees**

4 FOR the purpose of requiring the Board of Contract Appeals to award attorney and
5 expert witness fees to a prospective bidder, prospective offeror, bidder, or an
6 offeror under certain circumstances; and requiring the Board of Contract
7 Appeals to award attorney and expert witness fees to a contractor under certain
8 circumstances.

9 BY repealing and reenacting, with amendments,
10 Article - State Finance and Procurement
11 Section 15-221.1 and 15-221.2
12 Annotated Code of Maryland
13 (2001 Replacement Volume)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
15 MARYLAND, That the Laws of Maryland read as follows:

16 **Article - State Finance and Procurement**

17 15-221.1.

18 (a) The Board of Contract Appeals [may] SHALL award a prospective bidder
19 or offeror, a bidder, or an offeror the reasonable costs of filing and pursuing a protest,
20 [not] including [attorney's] ATTORNEY AND EXPERT WITNESS fees, if:

21 (1) the prospective bidder or offeror, bidder, or offeror appeals the final
22 action of an agency on a protest; AND

23 (2) the Board of Contract Appeals sustains the appeal[; and

24 (3) the Board of Contract Appeals finds that there has been a violation of
25 law or regulation].

1 (b) The Board of Contract Appeals shall adopt regulations to implement this
2 section and to determine what constitutes reasonable [costs of filing and pursuing a
3 protest] FEES.

4 15-221.2.

5 (a) [This section only applies to a claim resulting under a contract for
6 construction.

7 (b) The Appeals Board [may] SHALL award to a contractor the reasonable
8 costs of filing and pursuing a claim, including reasonable attorney AND EXPERT
9 WITNESS fees, if [the Appeals Board finds that the conduct of unit personnel in
10 processing a contract claim is in bad faith or without substantial justification.]:

11 (1) THE CONTRACTOR APPEALS THE FINAL ACTION OF AN AGENCY ON A
12 CLAIM UNDER A PROCUREMENT CONTRACT; AND

13 (2) THE APPEALS BOARD SUSTAINS THE APPEAL.

14 [(c)] (B) The Appeals Board shall adopt regulations to implement this section
15 AND TO DETERMINE WHAT CONSTITUTES REASONABLE FEES.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
17 effect October 1, 2002.