

---

By: **Senators Conway, Gladden, Green, Grosfeld, Hughes, and Jones**

Introduced and read first time: February 1, 2006

Assigned to: Education, Health, and Environmental Affairs

---

A BILL ENTITLED

1 AN ACT concerning

2 **Procurement - Board of Contract Appeals - Award of Costs**

3 FOR the purpose of authorizing the Board of Contract Appeals to award attorney's  
4 fees, under certain circumstances, to a prospective bidder or offeror, a bidder, or  
5 an offeror who files or pursues a protest; expanding the type of contracts for  
6 which a contractor may pursue a claim and be awarded certain costs; altering  
7 the standards under which the Board of Contract Appeals may award a  
8 contractor the reasonable costs of pursuing a claim; and generally relating to the  
9 award of certain costs to certain persons by the Board of Contract Appeals.

10 BY repealing and reenacting, with amendments,  
11 Article - State Finance and Procurement  
12 Section 15-221.1 and 15-221.2  
13 Annotated Code of Maryland  
14 (2001 Replacement Volume and 2005 Supplement)

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

17 **Article - State Finance and Procurement**

18 15-221.1.

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

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

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

25 (3) the Board of Contract Appeals finds that there has been a violation of  
26 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.

4 15-221.2.

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

7 (b) The Appeals Board may award to a contractor the reasonable costs of filing  
8 and pursuing a claim, including reasonable attorney fees, [if] UNLESS the Appeals  
9 Board finds that the conduct of unit personnel in processing a contract claim is [in  
10 bad faith or without substantial justification] SUBSTANTIALLY JUSTIFIED OR THAT  
11 SPECIAL CIRCUMSTANCES MAKE AN AWARD UNJUST.

12 (c) The Appeals Board shall adopt regulations to implement this section.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2006.