

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

U

D

BILL DRAFT 2017-TQ-3 [v.5] (11/17)

(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
12/09/2016 11:55:13 AM

Short Title: Clarify Contested Case Policy.

(Public)

Sponsors:

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THAT A PARTY MAY COMMENCE A CONTESTED CASE IN A
3 DISPUTE WITH AN AGENCY WITHOUT PETITIONING THE AGENCY FOR RULE
4 MAKING OR OBTAINING A DECLARATORY RULING.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 150B-22 reads as rewritten:

7 **"§ 150B-22. Settlement; contested case.**

8 (a) It is the policy of this State that any dispute between an agency and another person that
9 involves the person's rights, duties, or privileges, including licensing or the levy of a monetary
10 penalty, should be settled through informal procedures. In trying to reach a settlement through
11 informal procedures, the agency may not conduct a proceeding at which sworn testimony is taken
12 and witnesses may be cross-examined.

13 (b) If the agency and the other person do not agree to a resolution of the dispute through
14 informal procedures, either the agency or the person may commence an administrative proceeding
15 to determine the person's rights, duties, or privileges, at which time the dispute becomes a
16 "contested case." A party or person aggrieved shall not be required to petition an agency for rule
17 making or to seek or obtain a declaratory ruling before commencing a contested case pursuant to
18 G.S. 150B-23."

19 **SECTION 2.** G.S. 150B-43 reads as rewritten:

20 **"§ 150B-43. Right to judicial review.**

21 Any party or person aggrieved by the final decision in a contested case, and who has exhausted
22 all administrative remedies made available to the party or person aggrieved by statute or agency
23 rule, is entitled to judicial review of the decision under this Article, unless adequate procedure for
24 judicial review is provided by another statute, in which case the review shall be under such other
25 statute. Nothing in this Chapter shall prevent any party or person aggrieved from invoking any
26 judicial remedy available to the party or person aggrieved under the law to test the validity of any
27 administrative action not made reviewable under this Article. ~~Absent a specific statutory~~
28 ~~requirement, nothing in this Chapter shall require a~~ A party or person aggrieved shall not be
29 required to petition an agency for rule making or to seek or obtain a declaratory ruling before
30 obtaining judicial review of a final decision or order made pursuant to G.S. 150B-34."

31 **SECTION 3.** This act is effective when it becomes law.

