

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**SENATE BILL 825
Judiciary I Committee Substitute Adopted 4/19/01**

Short Title: State Health Plan Contract/Exempt APA.

(Public)

Sponsors:

Referred to:

April 3, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO EXEMPT FROM THE CONTESTED CASE PROVISIONS OF THE
3 ADMINISTRATIVE PROCEDURE ACT CONTRACT DISPUTES BETWEEN
4 THE TEACHERS' AND STATE EMPLOYEES' COMPREHENSIVE MAJOR
5 MEDICAL PLAN AND ENTITIES UNDER CONTRACT WITH THE PLAN;
6 AND TO CLARIFY THAT A STATE AGENCY MAY SEEK RELIEF UNDER
7 THE DECLARATORY JUDGMENT ACT.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 150B-1(e) reads as rewritten:

10 "(e) Exemptions From Contested Case Provisions. – The contested case
11 provisions of this Chapter apply to all agencies and all proceedings not expressly
12 exempted from the Chapter. The contested case provisions of this Chapter do not apply
13 to the following:

- 14 (1) The Department of Health and Human Services and the Department of
15 Environment and Natural Resources in complying with the procedural
16 safeguards mandated by Section 680 of Part H of Public Law 99-457
17 as amended (Education of the Handicapped Act Amendments of
18 1986).
- 19 (2) Repealed by Session Laws 1993, c. 501, s. 29.
- 20 (3) The North Carolina Low-Level Radioactive Waste Management
21 Authority in administering the provisions of G.S. 104G-9, 104G-10,
22 and 104G-11.
- 23 (4) The North Carolina Hazardous Waste Management Commission in
24 administering the provisions of G.S. 130B-11, 130B-13, and 130B-14.
- 25 (5) Hearings required pursuant to the Rehabilitation Act of 1973, (Public
26 Law 93-122), as amended and federal regulations promulgated
27 thereunder. G.S. 150B-51(a) is considered a contested case hearing
28 provision that does not apply to these hearings.
- 29 (6) The Department of Revenue.

- 1 (7) The Department of Correction.
2 (8) The Department of Transportation, except as provided in G.S. 136-29.
3 (9) The Occupational Safety and Health Review Board.
4 (10) The North Carolina Global TransPark Authority with respect to the
5 acquisition, construction, operation, or use, including fees or charges,
6 of any portion of a cargo airport complex.
7 (11) Hearings that are provided by the Department of Health and Human
8 Services regarding the eligibility and provision of services for eligible
9 assaultive and violent children, as defined in G.S. 122C-3(13a), shall
10 be conducted pursuant to the provisions outlined in G.S. 122C, Article
11 4, Part 7.
12 (12) The North Carolina Teachers' and State Employees' Comprehensive
13 Major Medical Plan with respect to disputes involving the
14 performance, terms, or conditions of a contract between the Plan and
15 an entity under contract with the Plan."

16 **SECTION 2.** Part 2 of Article 3 of Chapter 135 of the General Statutes is
17 amended by adding the following new section to read:

18 "**§ 135-39.11. Contract disputes.**

19 A dispute involving the performance, terms, or conditions of a contract between the
20 Plan and an entity under contract with the Plan is not a contested case under Article 3 of
21 Chapter 150B of the General Statutes."

22 **SECTION 3.** G.S. 1-265 reads as rewritten:

23 "**§ 1-265. Word 'person' construed.**

24 The word 'person' wherever used in this Article, shall be construed to mean any
25 person, State agency, partnership, joint-stock company, unincorporated association, or
26 society, or municipal corporation or other corporation of any character whatsoever."

27 **SECTION 4.** This act is effective when it becomes law and applies to cases
28 pending on that date.