

Accompanying the third recommendation of the Executive Office of Transportation and Construction (House, No. 180). The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT RELATIVE TO THE POWERS OF THE HIGHWAY COMMISSION AND GRIEVANCE PROCEDURES RELATIVE TO RELOCATION ASSISTANCE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5 of chapter 16 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended by
3 striking out paragraph (b) and inserting in its place the
4 following:—

5 (b) It shall act as a board of relocation appeals and as a board of
6 contract appeals and shall approve or disapprove all claims
7 brought under section 7 of chapter 79A and all claims made under
8 any contract with the department with the exception of claims
9 subject to section 39Q of chapter 30. To assist the commission in
10 performing these functions, the commissioner with the approval
11 of the governor may appoint a person of legal training and experi-
12 ence, who shall be a member of the bar of the commonwealth, to
13 the position of hearing examiner, and may remove him for cause
14 in like manner. The term of the hearing examiner shall be cotermi-
15 nous with the term of the governor. The hearing examiner shall
16 devote full time during business hours to the duties of his posi-
17 tion. The position shall be classified in accordance with section 45
18 of chapter 30 and the salary shall be determined in accordance
19 with section 46C of chapter 30. The department or commission
20 may refer any dispute concerning contracts, contract specifica-
21 tions or the execution of contracts not subject to the aforesaid
22 section 39Q of chapter 30 to the hearing examiner for a report of
23 the matter including a recommendation as to the disposition of the
24 dispute.

25 The hearing examiner shall hear all claims from persons
26 aggrieved by a determination as to eligibility for, or the amount
27 of, a payment authorized by chapter 79A, and all claims by con-
28 tractors from determinations of the department with the exception
29 of claims subject to section 39Q of chapter 30, and shall, after
30 hearing, render to the commission a report of the matter including
31 a recommendation as to the disposition of the claim. Said exam-
32 iner shall at the request of the contractor, aggrieved person or of
33 the department or on his own motion summon witnesses and
34 require the production of books and records and take testimony
35 under oath. Such reports shall be maintained as public records in a
36 place and form fully accessible to the public. Any person
37 aggrieved by a decision of the commission acting as a board of
38 contract appeals may bring suit against the commonwealth for
39 recovery of damages based on such claim under the provisions of
40 chapter 258. Any person aggrieved by a decision of the commis-
41 sion acting as a board of relocation appeals may bring suit against
42 the commonwealth under the provisions of chapter 30A.

1 SECTION 2. Section 7 of chapter 79A of the General Laws, as
2 appearing in the 1994 Official Edition, is hereby amended by
3 striking out the next to last paragraph and inserting in place
4 thereof the following paragraph:—

5 Any person aggrieved by a determination as to eligibility for, or
6 the amount of, a payment authorized by this act, may have his
7 claim reviewed by the head of the displacing agency through a
8 grievance procedure approved by the bureau of relocation. As to
9 any claim against the department of highways, the claim shall be
10 reviewed by the board of relocation appeals pursuant to section 5
11 of chapter 16, and the disposition by such board shall be final. For
12 any claim not involving the department of highways, where such
13 person is not satisfied with the agency's determination after such
14 review and reconsideration, he is entitled to review of his claim
15 by the bureau of relocation and the disposition of the bureau of
16 said claim shall be final.

1 SECTION 3. This act shall take effect upon its passage.