

- SUBJECT:** Hearing procedures for teacher suspension or contract termination
- COMMITTEE:** Public Education — favorable, without amendment
- VOTE:** 7 ayes — Grusendorf, Oliveira, Branch, Dawson, Dutton, Eissler, Griggs
0 nays
2 absent — Hochberg, Madden
- SENATE VOTE:** On final passage, May 6 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** For — Lindsay Gustafson, Texas Classroom Teachers Association; Alejandra Martin, Texas Association of School Personnel Administrators; David Thompson, Texas Association of School Administrators; Marjorie Wall, Texas State Teachers Association

Against — None
- BACKGROUND:** Education Code, sec. 21.253 requires a teacher to file a written request for a hearing before a Texas Education Agency (TEA) hearing examiner with the education commissioner within 15 days after the date the teacher receives notice of a proposed action by a school district to terminate employment or suspend the teacher without pay. The teacher also must provide a copy of this written request to the district.
- Sec. 21.254 requires the commissioner to assign a hearing examiner to a case based on random selection from a list of examiners located in the region of the dispute. The commissioner must assign an examiner within 10 business days after receiving a request for a hearing. Once an examiner has been assigned, the commissioner must notify the parties immediately. Either party is entitled to reject the assigned hearing examiner for cause, and if the commissioner determines that the party has good cause, the commissioner must assign another examiner to the case.
- After a teacher receives notice of a proposed action, the parties may agree to select a person who is not certified to serve as a hearing examiner but who is

licensed to practice law in Texas to preside over the case. The teacher and the district may agree in writing that the hearing examiner's decision will be final and not subject to appeal on all or some issues. Absent such an agreement, a decision of a hearing examiner can be appealed to the commissioner.

A hearing examiner must complete the hearing and make a written recommendation within 45 days after the date on which the commissioner receives a teacher's written request. The parties may agree in writing to waive the right to a recommendation by this date.

DIGEST:

SB 893 would allow a teacher and a district to agree in writing to extend by up to 10 days the time limit for a teacher to file a written request for a hearing. It would allow the parties, by agreement, to select their own hearing examiner from the list maintained by the commissioner after the teacher receives notice of the proposed action. The parties could agree to reject a hearing examiner for any reason.

A hearing officer would have 60 days, rather than 45, to complete the hearing and make a written recommendation after the date on which the commissioner received the teacher's request. The parties could agree to extend this deadline by up to 45 days, rather than to waive the right to a recommendation.

Within 20 days after receiving notice of the commissioner's decision, a party could file a request for rehearing. The request would be denied by operation of law if the commissioner did not issue an order within 45 days after the party received notice of the commissioner's decision.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

SB 893 would clarify that the school district and teacher could agree on an examiner before the commissioner assigned an examiner. This would enable the teacher and district to choose an impartial person with expertise in a certain area, when necessary for more complicated cases, and would ensure that the ruling was fair to both parties.

The bill would give hearing examiners time to devote appropriate attention to each case. Hearing examiners have large dockets, and some cases require in-depth examination, making it difficult to complete a case within the 45-day deadline. Extending the initial deadline to 60 days and allowing the parties to agree to extend the deadline further would enable examiners to delve into cases properly so that they could render fair decisions.

SB 893 would respect teachers' rights to due process by allowing them to request a rehearing after the hearing examiner had made a determination. Although teachers currently have a right to appeal to the commissioner, they also should be entitled to have the examiner hear the case again when the circumstances warrant it.

**OPPONENTS
SAY:**

By extending the deadline for a hearing examiner to make a recommendation, SB 893 would increase school districts' costs to obtain these determinations. Teachers subject to these decisions usually are suspended with pay pending the determination, so districts continue to pay their salaries until a decision is rendered. Although an extension may be necessary in some cases, making it easier to obtain an extension would be costly to the districts.

SB 893 could promote delay tactics by allowing a teacher to request a rehearing after an examiner had made a determination. Current law allows teachers to appeal a decision to the commissioner. Allowing them to request rehearings, possibly for frivolous reasons, would increase districts' costs unnecessarily.