

## **BILL ANALYSIS**

Senate Research Center  
77R2703 BDH-D

C.S.S.B. 207  
By: Bivins  
Education  
3/1/2001  
Committee Report (Substituted)

### **DIGEST AND PURPOSE**

Currently, Section 21.254(e), Texas Education Code, provides that parties involved in a teacher termination/suspension hearing are authorized to agree on the selection of a certified hearing examiner. Such agreement is only permitted, however, in instances in which the examiner is not on the commissioner's list of certified hearing examiners. C.S.S.B. 207 allows parties involved in a teacher termination/suspension hearing to come to an agreement on the selection of a certified hearing examiner even in those instances in which the examiners name appears on the commissioner's list. C.S.S.B. 207 also allows for a rehearing by the party at a certain date after the commissioner's initial decision.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 21.253, Education Code, as follows:

Sec. 21.253. REQUEST FOR HEARING. Requires a teacher to file a written request for a hearing under this subchapter with the commissioner of education (commissioner) not later than the 15th day after the date the teacher receives written notice of the proposed action and to include with the request a copy of the notice. Authorizes the parties to agree in writing to extend by not more than 10 days the deadline for requesting a hearing.

SECTION 2. Amends Section 21.254(e), Education Code, to authorize the parties by agreement, after the teacher receives the notice of the proposed action, to select a hearing examiner from the list maintained by the commissioner or a person who is not certified to serve as a hearing examiner. Authorizes a person who is not a certified hearing examiner to be selected only if the person is licensed to practice law in this state. Requires the request for hearing under Section 21.253, if the parties agree on a hearing examiner, to include the name of the hearing examiner selected. Deletes text regarding subsection. Deletes text regarding agreement to a hearing examiner before teacher files a request for hearing. Deletes text regarding the teacher notifying the commissioner of the examiner after the hearing request is filed.

SECTION 3. Amends Chapter 21G, Education Code, by adding Section 21.3041, as follows:

Sec. 21.3041. REHEARING BY COMMISSIONER. Authorizes the party, not later than the 20th day after the date the party or the party's attorney receives notice of the commissioner's decision under Section 21.304, to file a motion for rehearing. Provides that a motion for rehearing is not required for a party to appeal the commissioner's decision under Section 21.307. Provides that a motion for rehearing is overruled by operation of law if the commissioner does not issue an order before the 45th day after the date the party or the party's attorney receives notice of the commissioner's decision.

SECTION 4. Amends Section 21.307(b), Education Code, to require an appeal under this section to be perfected not later than the 30th day after the date the party or the party's attorney receives, rather than received, notice of the commissioner's decision or the date on which the decision of the board of trustees is, rather than was, affirmed by operation of law if the commissioner fails, rather than failed, to issue a decision within the required period, or if a motion for rehearing is filed under Section 21.3041, the date on which the motion is overruled by order of the commissioner or by operation of law under Section 21.3041(c). Deletes text regarding motion for rehearing.

SECTION 5. Effective date: upon passage or September 1, 2001.

### **SUMMARY OF COMMITTEE CHANGES**

SECTION 1 Amends as Filed S.B. 207, by adding Section 21.253 (Request for Hearing), Education Code.

SECTION 2. Redesignates SECTION 1 to SECTION 2. Deletes language pertaining to "if the parties agree to a hearing."

SECTION 3. Adds Section 21.3041 (Rehearing by Commissioner), Education Code.

SECTION 4. Adds Section 21.307(b), Education Code, proposing new text regarding the party's attorney.

SECTION 5. Redesignated from SECTION 2 as effective date.