

BILL ANALYSIS

Senate Research Center
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S.B. 893
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Education
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DIGEST AND PURPOSE

Currently, the Texas Education Agency (TEA) appoints an examiner on a rotating basis when it is notified of a contract dispute. If both the district and the employee involved in the dispute agree to disallow the original examiner, they can both appoint another that is agreeable to both parties. As proposed, S.B. 893 authorizes the parties to select a hearing examiner and requires the parties to inform the education commissioner of the choice. This bill also increases the timeframe in which the examiner has to complete the findings of fact and authorizes certain entities to amend or reject the examiners finding of fact.

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. (a) Creates this subsection out of existing text. Requires that a teacher include a copy of the notice of proposed action with the written request for a hearing under this subchapter.

(b) Authorizes the parties to agree in writing to extend the deadline for requesting a hearing by not more than 10 days.

SECTION 2. Amends Section 21.254(e), Education Code, to authorize the parties, by agreement, to select a hearing examiner from the list maintained by the commissioner of education (commissioner), or the designee thereof, under Subsection (a) and to specify that a noncertified hearing examiner may be selected only if the person is licensed to practice law in this state. Requires the parties, if they agree on a hearing examiner, to notify the commissioner of the hearing examiner's name, before the date the commissioner is required to assign a hearing examiner. Deletes redundant text and makes nonsubstantive changes.

SECTION 3. Amends Sections 21.257(a) and (c), Education Code, as follows:

(a) Increases the timeframe in which the hearing examiner is required to complete the hearing and make a written recommendation including proposed findings of fact, from the 45th to the 60th day after the date on which the commissioner receives a teacher's written request for a hearing.

(c) Authorizes the parties to agree in writing to extend not more than 30 days, rather than waive, the right to a recommendation by the date prescribed in Subsection (a).

SECTION 4. Amends Sections 21.259(b) and (c), Education Code, as follows:

(b) Makes a conforming change.

(c) Authorizes the board of trustees or board subcommittee to adopt, reject, or change a

proposed finding of fact or add a new finding of fact after reviewing the record of proceedings before the hearing examiner. Deletes text requiring that the finding of fact not be supported by substantial evidence to be changed or rejected.

SECTION 5. Amends Chapter 21G, Education Code, by adding Section 21.3041, as follows:

Sec. 21.3041. REHEARING BY THE COMMISSIONER. (a) Authorizes the party to file a request for rehearing not later than 20th day after receiving notice of the commissioner's decision under Section 21.304 (Decision of Commissioner).

(b) Provides that a request for rehearing is not required to appeal the commissioner's decision under Section 21.307 (Judicial Appeals).

(c) Provides that a request for rehearing is denied by operation of law if the commissioner does not issue an order before the 45th day after the date the party or party's representative receives notice of the commissioner's decision.

SECTION 6. Amends Section 21.307(b), Education Code, to include the party's representative as a party that might receive a notice, and to include that an appeal under this section must be perfected not later than the 30th day after the date a request for hearing is filed under Section 21.3041 (Rehearing by the Commissioner), on which the request is denied by order of the commissioner or by operation of law under Section 21.3041(c) (Rehearing by the Commissioner). Deletes text referring to a motion for rehearing not being required for appeal. Makes nonsubstantive changes.

SECTION 7. Makes application of Chapter 21F, as amended by this Act prospective.

SECTION 8. Effective date: upon passage or September 1, 2003.