

BILL ANALYSIS

Senate Research Center

S.B. 893
By: Bivins
Education
8/24/2003
Enrolled

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. 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 from existing text. Requires that a teacher provide the commissioner of education (commissioner) with a copy of the notice of proposed action.

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

SECTION 2. Amends Subsections (c), (d), and (e), Education Code, as follows:

(c) Requires the commissioner, if a hearing examiner is not selected by the parties to a pending case under Subsection (e), to assign a hearing examiner to the case not earlier than the sixth business day and not later than the 10th business day after the date on which the commissioner receives the request for a hearing.

(d) Authorizes the parties to agree to reject a hearing examiner for any reason. Requires the commissioner, if the parties agree to reject the hearing examiner or if the commissioner determines that one, rather than the, party has a good cause to reject the hearing examiner, to assign another hearing examiner as provided by Subsection (b). Makes nonsubstantive changes.

(e) 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 in writing of the agreement, including the hearing examiner's name, before the date the commissioner is permitted to assign a hearing examiner. Deletes redundant text and makes nonsubstantive changes.

SECTION 3. Amends Subsections (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 by not more than 45 days, rather than waive, the right to a recommendation by the date prescribed in Subsection (a). Prohibits a hearing under this section from being held on a Saturday, Sunday, or state or federal holiday unless all parties agree.

SECTION 4. Amends Subchapter G, Chapter 21, 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 5. Amends Subsection (G), 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 6. Makes application of Subchapter F, Chapter 21, as amended by this Act, prospective.

SECTION 7. Effective date: upon passage or September 1, 2003.