

By: Coleman

H.B. No. 2706

A BILL TO BE ENTITLED

AN ACT

relating to grievance and complaint resolution procedures for certain state employees.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 6, Government Code, is amended by adding Chapter 670 to read as follows:

CHAPTER 670. GRIEVANCE AND COMPLAINT RESOLUTION PROCEDURES

Sec. 670.001. DEFINITIONS. In this chapter:

(1) "Aggrieved employee" means an employee of a state agency who presents a grievance or a complaint under this chapter.

(2) "Complaint" means a written expression of dissatisfaction presented by an employee regarding:

(A) compensation;

(B) work hours; or

(C) another issue related to employment conditions that does not constitute a grievance.

(3) "Employee" means a person employed either full-time or part-time by a state agency who is in a position subject to the state position classification plan or an analogous classification plan in effect at an institution of higher education or who is exempt from a classification plan but compensated at a rate not to exceed the amount prescribed by the General Appropriations Act for step 1, salary group 21, of the position

1 classification salary schedule. The term does not include a
2 probationary or seasonal employee.

3 (4) "Executive director" means the chief
4 administrative officer of a state agency. The term includes the
5 president of an institution of higher education.

6 (5) "Grievance" means a written expression of
7 dissatisfaction presented by an employee regarding the fact that
8 the employee has been:

9 (A) terminated from employment;

10 (B) demoted; or

11 (C) suspended without pay.

12 (6) "State agency" means a department, commission,
13 board, office, or other agency in the executive branch of state
14 government created by the constitution or a statute of this state.
15 The term includes an institution of higher education as defined by
16 Section 61.003, Education Code.

17 (7) "Supervisor" means the immediate supervisor of an
18 aggrieved employee.

19 Sec. 670.002. POLICY; EXISTING RIGHTS UNAFFECTED. (a) An
20 employee is entitled to due process under this chapter in the review
21 of a decision that affects the employee's working conditions or
22 employment and may not be dismissed from the employment without
23 cause.

24 (b) This chapter does not affect a right existing on January
25 1, 2004, relating to an employee's ability to use an established
26 dispute resolution process concerning the employee's:

27 (1) wages;

1 (2) work hours; or

2 (3) other conditions of employment.

3 Sec. 670.003. RULES. A state agency by rule shall adopt
4 standards and procedures in accordance with this chapter relating
5 to the resolution of a grievance or complaint presented by an
6 employee of the agency.

7 Sec. 670.004. INTERNAL AGENCY PROCEDURE. (a) The executive
8 director shall issue a written decision concerning the resolution
9 or denial of a grievance or complaint not later than the 60th day
10 after the date the grievance or complaint is filed with the state
11 agency under rules adopted by the agency under Section 670.003.

12 (b) Review of a complaint by the executive director or the
13 executive director's designee is the final review to which an
14 employee is entitled for the complaint.

15 (c) The executive director's decision on a complaint is
16 final and binding.

17 (d) The executive director's decision on a grievance is
18 final and binding in the absence of a timely appeal.

19 Sec. 670.005. APPEAL TO STATE OFFICE OF ADMINISTRATIVE
20 HEARINGS; JUDICIAL REVIEW. (a) If a grievance is not resolved to
21 the employee's satisfaction by the executive director, the
22 aggrieved employee may appeal the grievance to the State Office of
23 Administrative Hearings. The employee must request the appeal on a
24 form provided by the State Office of Administrative Hearings not
25 later than the 20th day after the date the employee receives the
26 executive director's written decision.

27 (b) The State Office of Administrative Hearings shall

1 conduct a hearing on the grievance not later than the 20th day after
2 the date the request for an appeal is received by the State Office
3 of Administrative Hearings. A hearings examiner employed by the
4 State Office of Administrative Hearings shall conduct the hearing.

5 (c) A hearing conducted under this section is subject to the
6 contested case provisions of the administrative procedure law,
7 Chapter 2001.

8 (d) If the hearings examiner renders a decision favorable to
9 the employee, the state agency shall pay the costs of a hearing
10 conducted under this section. If the decision is favorable to the
11 agency, the costs shall be divided equally between the state agency
12 and the aggrieved employee.

13 (e) An employee who has exhausted all administrative
14 remedies under this chapter and who is aggrieved by the final
15 decision of the State Office of Administrative Hearings hearings
16 examiner is entitled to judicial review as provided by the
17 administrative procedure law, Chapter 2001, for judicial review of
18 a contested case.

19 Sec. 670.006. TIME OFF. (a) An employee is entitled to a
20 reasonable amount of time off with pay to prepare for and to attend
21 a meeting or hearing conducted under this chapter for the
22 resolution of a grievance or complaint.

23 (b) A state agency shall adopt rules relating to an
24 employee's entitlement to time off under this section.

25 Sec. 670.007. RETALIATION PROHIBITED. (a) An employee may
26 not be disciplined, penalized, or prejudiced for exercising a right
27 to which the employee is entitled under this chapter.

1 (b) An employee may not be prohibited from or disciplined,
2 penalized, or prejudiced for acting as a witness in any proceeding
3 under this chapter.

4 (c) If the rules adopted by a state agency under Section
5 670.003 authorize the supervisor of an employee presenting a
6 grievance or complaint to render a decision relating to the
7 resolution of the grievance or complaint, the supervisor may not
8 be:

9 (1) disciplined, penalized, or prejudiced for
10 rendering a decision favorable to an aggrieved employee; or

11 (2) coerced or restrained in making a decision under
12 this chapter.

13 SECTION 2. A state agency shall adopt rules as provided by
14 Sections 670.003 and 670.006, Government Code, as added by this
15 Act, not later than January 1, 2004.

16 SECTION 3. This Act takes effect September 1, 2003, and
17 applies only to a grievance or complaint discovered by an employee
18 on or after January 1, 2004. A grievance or complaint discovered by
19 an employee before January 1, 2004, is covered by the law in effect
20 immediately before September 1, 2003, and the former law is
21 continued in effect for that purpose.