

By: Bivins

S.B. No. 893

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to certain procedures in a teacher suspension or contract  
3 termination hearing.

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

5 SECTION 1. Section 21.253, Education Code, is amended to  
6 read as follows:

7 Sec. 21.253. REQUEST FOR HEARING. (a) A teacher must file  
8 a written request for a hearing under this subchapter with the  
9 commissioner not later than the 15th day after the date the teacher  
10 receives written notice of the proposed action. The teacher must  
11 provide the district with a copy of the request and must provide the  
12 commissioner with a copy of the notice.

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

15 SECTION 2. Subsections (c), (d), and (e), Section 21.254,  
16 Education Code, are amended to read as follows:

17 (c) If a hearing examiner is not selected by the parties to a  
18 pending case under Subsection (e), the [The] commissioner shall  
19 assign a hearing examiner to the [a pending] case not earlier than  
20 the sixth business day and not later than the 10th business day  
21 after the date on which the commissioner receives the request for a  
22 hearing. When a hearing examiner has been assigned to a case, the  
23 commissioner shall immediately notify the parties.

24 (d) The parties may agree to reject a hearing examiner for

1 any reason and either [~~Either~~] party is entitled to reject the  
 2 assigned hearing examiner for cause. A rejection must be in writing  
 3 and filed with the commissioner not later than the third day after  
 4 the date of notification of the hearing examiner's assignment. If  
 5 the parties agree to reject the hearing examiner or if the  
 6 commissioner determines that one [~~the~~] party has good cause to  
 7 reject the hearing examiner, the commissioner shall assign another  
 8 hearing examiner as provided by Subsection (b). If neither party  
 9 makes a timely rejection, the assignment is final.

10 (e) After the teacher receives the notice of the proposed  
 11 action, the parties by agreement may select a hearing examiner from  
 12 the list maintained by the commissioner under Subsection (a) or a  
 13 person who is not certified to serve as a hearing examiner. A  
 14 person who is not a certified hearing examiner may be selected only  
 15 if the person is [~~under this subsection must be~~] licensed to  
 16 practice law in this state. If the parties agree on a hearing  
 17 examiner, the parties shall, before the date the commissioner is  
 18 permitted to assign a hearing examiner, notify the commissioner in  
 19 writing of the agreement, including [~~before the teacher files a~~  
 20 ~~request for hearing under Section 21.253, the request shall~~  
 21 ~~include~~] the name of the hearing examiner selected. [~~If the parties~~  
 22 ~~agree on a hearing examiner after the teacher files the request for~~  
 23 ~~hearing, the teacher shall promptly notify the commissioner in~~  
 24 ~~writing of the name of the hearing examiner.~~]

25 SECTION 3. Subsections (a) and (c), Section 21.257,  
 26 Education Code, are amended to read as follows:

27 (a) Not later than the 60th [~~45th~~] day after the date on

1 which the commissioner receives a teacher's written request for a  
2 hearing, the hearing examiner shall complete the hearing and make a  
3 written recommendation that:

4 (1) includes proposed findings of fact and conclusions  
5 of law; and

6 (2) may include a proposal for granting relief.

7 (c) The parties may agree in writing to extend by not more  
8 than 45 days [~~waive~~] the right to a recommendation by the date  
9 prescribed by Subsection (a). A hearing under this section may not  
10 be held on a Saturday, Sunday, or a state or federal holiday, unless  
11 all parties agree.

12 SECTION 4. Subchapter G, Chapter 21, Education Code, is  
13 amended by adding Section 21.3041 to read as follows:

14 Sec. 21.3041. REHEARING BY COMMISSIONER. (a) Not later  
15 than the 20th day after the date the party or the party's  
16 representative receives notice of the commissioner's decision  
17 under Section 21.304, the party may file a request for rehearing.

18 (b) A request for rehearing is not required for a party to  
19 appeal the commissioner's decision under Section 21.307.

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

24 SECTION 5. Subsection (b), Section 21.307, Education Code,  
25 is amended to read as follows:

26 (b) An appeal under this section must be perfected not later  
27 than the 30th day after:

1           (1) the date the party or the party's representative  
2 receives [~~received~~] notice of the commissioner's decision or the  
3 date on which the decision of the board of trustees is [~~was~~]  
4 affirmed by operation of law if the commissioner fails [~~failed~~] to  
5 issue a decision within the required period; or

6           (2) if a request for rehearing is filed under Section  
7 21.3041, the date on which the request is denied by order of the  
8 commissioner or by operation of law under Section 21.3041(c). [~~A~~  
9 ~~motion for rehearing is not required for the party to appeal.~~]

10           SECTION 6. Subchapter F, Chapter 21, Education Code, as  
11 amended by this Act, applies only to a hearing before a hearing  
12 examiner under that subchapter as to which a teacher makes a written  
13 request for a hearing on or after the effective date of this Act. A  
14 hearing under Subchapter F, Chapter 21, Education Code, as to which  
15 a teacher made a written request for a hearing before the effective  
16 date of this Act is governed by the law in effect on the date the  
17 teacher requests the hearing, and the former law is continued in  
18 effect for that purpose.

19           SECTION 7. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2003.