

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 and must include  
11 with the request a copy of the notice. The teacher must provide the  
12 district with a copy of the request.

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. Section 21.254(e), Education Code, is amended to  
16 read as follows:

17 (e) After the teacher receives the notice of the proposed  
18 action, the parties by agreement may select a hearing examiner from  
19 the list maintained by the commissioner under Subsection (a) or a  
20 person who is not certified to serve as a hearing examiner. A  
21 person who is not a certified hearing examiner may be selected only  
22 if the person is [~~under this subsection must be~~] licensed to  
23 practice law in this state. If the parties agree on a hearing  
24 examiner, the parties shall, before the date the commissioner is

1 required to assign a hearing examiner, notify the commissioner in  
2 writing of [~~before the teacher files a request for hearing under~~  
3 ~~Section 21.253, the request shall include~~] the name of the hearing  
4 examiner selected. [~~If the parties agree on a hearing examiner~~  
5 ~~after the teacher files the request for hearing, the teacher shall~~  
6 ~~promptly notify the commissioner in writing of the name of the~~  
7 ~~hearing examiner.~~]

8 SECTION 3. Sections 21.257(a) and (c), Education Code, are  
9 amended to read as follows:

10 (a) Not later than the 60th [~~45th~~] day after the date on  
11 which the commissioner receives a teacher's written request for a  
12 hearing, the hearing examiner shall complete the hearing and make a  
13 written recommendation that:

14 (1) includes proposed findings of fact and conclusions  
15 of law; and

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

17 (c) The parties may agree in writing to extend by not more  
18 than 30 days [~~waive~~] the right to a recommendation by the date  
19 prescribed by Subsection (a).

20 SECTION 4. Sections 21.259(b) and (c), Education Code, are  
21 amended to read as follows:

22 (b) The board of trustees or board subcommittee may adopt,  
23 reject, or change the hearing examiner's:

24 (1) proposed findings of fact and conclusions of law;  
25 or

26 (2) proposal for granting relief.

27 (c) The board of trustees or board subcommittee may reject

1 or change a proposed finding of fact made by the hearing examiner or  
2 add a new finding of fact only after reviewing the record of the  
3 proceedings before the hearing examiner [~~and only if the finding of~~  
4 ~~fact is not supported by substantial evidence~~].

5 SECTION 5. Subchapter G, Chapter 21, Education Code, is  
6 amended by adding Section 21.3041 to read as follows:

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

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

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

17 SECTION 6. Section 21.307(b), Education Code, is amended to  
18 read as follows:

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

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

26 (2) if a request for rehearing is filed under Section  
27 21.3041, the date on which the request is denied by order of the

1 commissioner or by operation of law under Section 21.3041(c). [A  
2 ~~motion for rehearing is not required for the party to appeal.~~]

3 SECTION 7. Subchapter F, Chapter 21, Education Code, as  
4 amended by this Act, applies only to a hearing before a hearing  
5 examiner under that subchapter as to which a teacher makes a written  
6 request for a hearing on or after the effective date of this Act. A  
7 hearing under Subchapter F, Chapter 21, Education Code, as to which  
8 a teacher has made a written request for hearing before the  
9 effective date of this Act is governed by the law in effect on the  
10 date the teacher requests the hearing, and the former law is  
11 continued in effect for that purpose.

12 SECTION 8. This Act takes effect immediately if it receives  
13 a vote of two-thirds of all the members elected to each house, as  
14 provided by Section 39, Article III, Texas Constitution. If this  
15 Act does not receive the vote necessary for immediate effect, this  
16 Act takes effect September 1, 2003.