

1-1 By: Bivins S.B. No. 893
1-2 (In the Senate - Filed March 5, 2003; March 11, 2003, read
1-3 first time and referred to Committee on Education; April 25, 2003,
1-4 reported adversely, with favorable Committee Substitute by the
1-5 following vote: Yeas 8, Nays 0; April 25, 2003, sent to printer.)

1-6 COMMITTEE SUBSTITUTE FOR S.B. No. 893 By: West

1-7 A BILL TO BE ENTITLED
1-8 AN ACT

1-9 relating to certain procedures in a teacher suspension or contract
1-10 termination hearing.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 21.253, Education Code, is amended to
1-13 read as follows:

1-14 Sec. 21.253. REQUEST FOR HEARING. (a) A teacher must file
1-15 a written request for a hearing under this subchapter with the
1-16 commissioner not later than the 15th day after the date the teacher
1-17 receives written notice of the proposed action. The teacher must
1-18 provide the district with a copy of the request and must provide the
1-19 commissioner with a copy of the notice.

1-20 (b) The parties may agree in writing to extend by not more
1-21 than 10 days the deadline for requesting a hearing.

1-22 SECTION 2. Subsections (c), (d), and (e), Section 21.254,
1-23 Education Code, are amended to read as follows:

1-24 (c) If a hearing examiner is not selected by the parties to a
1-25 pending case under Subsection (e), the [The] commissioner shall
1-26 assign a hearing examiner to the [a pending] case not earlier than
1-27 the sixth business day and not later than the 10th business day
1-28 after the date on which the commissioner receives the request for a
1-29 hearing. When a hearing examiner has been assigned to a case, the
1-30 commissioner shall immediately notify the parties.

1-31 (d) The parties may agree to reject a hearing examiner for
1-32 any reason and either [Either] party is entitled to reject the
1-33 assigned hearing examiner for cause. A rejection must be in writing
1-34 and filed with the commissioner not later than the third day after
1-35 the date of notification of the hearing examiner's assignment. If
1-36 the parties agree to reject the hearing examiner or if the
1-37 commissioner determines that one [the] party has good cause to
1-38 reject the hearing examiner, the commissioner shall assign another
1-39 hearing examiner as provided by Subsection (b). If neither party
1-40 makes a timely rejection, the assignment is final.

1-41 (e) After the teacher receives the notice of the proposed
1-42 action, the parties by agreement may select a hearing examiner from
1-43 the list maintained by the commissioner under Subsection (a) or a
1-44 person who is not certified to serve as a hearing examiner. A
1-45 person who is not a certified hearing examiner may be selected only
1-46 if the person is [under this subsection must be] licensed to
1-47 practice law in this state. If the parties agree on a hearing
1-48 examiner, the parties shall, before the date the commissioner is
1-49 permitted to assign a hearing examiner, notify the commissioner in
1-50 writing of the agreement, including [before the teacher files a
1-51 request for hearing under Section 21.253, the request shall
1-52 include] the name of the hearing examiner selected. [If the parties
1-53 agree on a hearing examiner after the teacher files the request for
1-54 hearing, the teacher shall promptly notify the commissioner in
1-55 writing of the name of the hearing examiner.]

1-56 SECTION 3. Subsections (a) and (c), Section 21.257,
1-57 Education Code, are amended to read as follows:

1-58 (a) Not later than the 60th [~~45th~~] day after the date on
1-59 which the commissioner receives a teacher's written request for a
1-60 hearing, the hearing examiner shall complete the hearing and make a
1-61 written recommendation that:

1-62 (1) includes proposed findings of fact and conclusions
1-63 of law; and

2-1 (2) may include a proposal for granting relief.
2-2 (c) The parties may agree in writing to extend by not more
2-3 than 45 days [~~waive~~] the right to a recommendation by the date
2-4 prescribed by Subsection (a). A hearing under this section may not
2-5 be held on a Saturday, Sunday, or a state or federal holiday, unless
2-6 all parties agree.

2-7 SECTION 4. Subchapter G, Chapter 21, Education Code, is
2-8 amended by adding Section 21.3041 to read as follows:

2-9 Sec. 21.3041. REHEARING BY COMMISSIONER. (a) Not later
2-10 than the 20th day after the date the party or the party's
2-11 representative receives notice of the commissioner's decision
2-12 under Section 21.304, the party may file a request for rehearing.

2-13 (b) A request for rehearing is not required for a party to
2-14 appeal the commissioner's decision under Section 21.307.

2-15 (c) A request for rehearing is denied by operation of law if
2-16 the commissioner does not issue an order before the 45th day after
2-17 the date the party or the party's representative receives notice of
2-18 the commissioner's decision.

2-19 SECTION 5. Subsection (b), Section 21.307, Education Code,
2-20 is amended to read as follows:

2-21 (b) An appeal under this section must be perfected not later
2-22 than the 30th day after:

2-23 (1) the date the party or the party's representative
2-24 receives [~~received~~] notice of the commissioner's decision or the
2-25 date on which the decision of the board of trustees is [~~was~~]
2-26 affirmed by operation of law if the commissioner fails [~~failed~~] to
2-27 issue a decision within the required period; or

2-28 (2) if a request for rehearing is filed under Section
2-29 21.3041, the date on which the request is denied by order of the
2-30 commissioner or by operation of law under Section 21.3041(c). [~~A~~
2-31 ~~motion for rehearing is not required for the party to appeal.~~]

2-32 SECTION 6. Subchapter F, Chapter 21, Education Code, as
2-33 amended by this Act, applies only to a hearing before a hearing
2-34 examiner under that subchapter as to which a teacher makes a written
2-35 request for a hearing on or after the effective date of this Act. A
2-36 hearing under Subchapter F, Chapter 21, Education Code, as to which
2-37 a teacher made a written request for a hearing before the effective
2-38 date of this Act is governed by the law in effect on the date the
2-39 teacher requests the hearing, and the former law is continued in
2-40 effect for that purpose.

2-41 SECTION 7. This Act takes effect immediately if it receives
2-42 a vote of two-thirds of all the members elected to each house, as
2-43 provided by Section 39, Article III, Texas Constitution. If this
2-44 Act does not receive the vote necessary for immediate effect, this
2-45 Act takes effect September 1, 2003.

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