

By: Ellis

S.B. No. 1750

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 671 to read as follows:

CHAPTER 671. GRIEVANCE AND COMPLAINT RESOLUTION

PROCEDURES PILOT PROJECT

Sec. 671.001. DEFINITIONS. In this chapter:

(1) "Aggrieved employee" means an employee of the Texas Youth Commission 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 the Texas Youth Commission who is not an at-will employee. The term does not include a probationary or seasonal employee.

(4) "Executive director" means the executive director of the Texas Youth Commission.

1 (5) "Grievance" means a written expression of
2 dissatisfaction presented by an employee regarding the fact that
3 the employee has been:

4 (A) terminated from employment;

5 (B) demoted; or

6 (C) suspended without pay.

7 (6) "Supervisor" means the immediate supervisor of an
8 employee.

9 Sec. 671.002. POLICY. An employee is entitled to due
10 process under this chapter in the review of a decision that affects
11 the employee's working conditions or employment.

12 Sec. 671.003. RULES. The Texas Youth Commission by rule
13 shall adopt standards and procedures in accordance with this
14 chapter relating to the resolution of a grievance or complaint
15 presented by an employee of the agency.

16 Sec. 671.004. INTERNAL AGENCY PROCEDURE. (a) The
17 executive director shall issue a written decision concerning the
18 resolution or denial of a grievance or complaint not later than the
19 60th work day after the date the grievance or complaint is filed
20 with the Texas Youth Commission under rules adopted by the agency
21 under Section 671.003.

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

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

27 (d) The executive director's decision on a grievance is

1 final and binding in the absence of a timely appeal.

2 Sec. 671.005. APPEAL TO STATE OFFICE OF ADMINISTRATIVE
3 HEARINGS; JUDICIAL REVIEW. (a) If a grievance is not resolved to
4 the employee's satisfaction by the executive director, the
5 aggrieved employee may appeal the grievance to the State Office of
6 Administrative Hearings. The employee must request the appeal on a
7 form provided by the State Office of Administrative Hearings not
8 later than the 20th day after the date the employee receives the
9 executive director's written decision.

10 (b) The State Office of Administrative Hearings shall
11 conduct a hearing on the grievance not later than the 20th day after
12 the date the request for an appeal is received by the State Office
13 of Administrative Hearings. An administrative law judge employed
14 by the State Office of Administrative Hearings shall conduct the
15 hearing.

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

19 (d) If the administrative law judge renders a decision
20 favorable to the employee, the Texas Youth Commission shall pay the
21 costs of a hearing conducted under this section. If the decision is
22 favorable to the Texas Youth Commission, the costs shall be divided
23 equally between the commission and the aggrieved employee.

24 (e) An employee who has exhausted all administrative
25 remedies under this chapter and who is aggrieved by the final
26 decision of the State Office of Administrative Hearings
27 administrative law judge is entitled to judicial review as provided

1 by the administrative procedure law, Chapter 2001, for judicial
2 review of a contested case.

3 Sec. 671.006. TIME OFF. (a) An employee is entitled to a
4 reasonable amount of time off with pay to prepare for and to attend
5 a meeting or hearing conducted under this chapter for the
6 resolution of a grievance or complaint.

7 (b) The Texas Youth Commission shall adopt rules relating to
8 an employee's entitlement to time off under this section.

9 Sec. 671.007. RETALIATION PROHIBITED. (a) An employee may
10 not be disciplined, penalized, or prejudiced for exercising a right
11 to which the employee is entitled under this chapter.

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

15 (c) If the rules adopted by the Texas Youth Commission under
16 Section 671.003 authorize the supervisor of an employee presenting
17 a grievance or complaint to render a decision relating to the
18 resolution of the grievance or complaint, the supervisor may not
19 be:

20 (1) disciplined, penalized, or prejudiced for
21 rendering a decision favorable to the supervised employee; or

22 (2) coerced or restrained in making the decision.

23 Sec. 671.008. REPORT TO THE LEGISLATURE. Not later than
24 December 1, 2006, the Texas Youth Commission shall report to the
25 legislature the commission's experience with the grievance and
26 complaint resolution procedures under this chapter. The
27 commission's report must:

1 (1) identify any problems the commission experienced
2 with the grievance and complaint resolution procedures;

3 (2) state whether the commission found the grievance
4 and complaint resolution procedures to be cost-effective; and

5 (3) contain the commission's recommendation about
6 whether the grievance and complaint resolution procedures should
7 apply to all state agencies.

8 Sec. 671.009. EXPIRATION. This chapter expires September
9 1, 2007.

10 SECTION 2. The Texas Youth Commission shall adopt rules as
11 provided by Sections 671.003 and 671.006, Government Code, as added
12 by this Act, not later than January 1, 2006.

13 SECTION 3. This Act applies to a grievance or complaint the
14 grounds for which are discovered by an employee on or after January
15 1, 2006. A grievance or complaint the grounds for which are
16 discovered by an employee before January 1, 2006, is covered by the
17 law in effect immediately before September 1, 2005, and the former
18 law is continued in effect for that purpose.

19 SECTION 4. This Act takes effect September 1, 2005.