

BILL ANALYSIS

Senate Research Center

H.B. 829
By: Hochberg (Shapiro)
Education
5/12/2009
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Public school laws of Texas are defined by Titles 1 and 2 of the Education Code and by rules adopted under those titles. Current law gives an individual the ability to appeal to the commissioner of education (commissioner) if the individual is aggrieved by the school laws of the state or by the actions or decisions of any school district board of trustees that violates school laws or a provision of an employment contract that may financially burden the employee. Once a grievance is appealed to the commissioner, there is no deadline for the commissioner to rule on that appeal.

Decisions by the commissioner have interpreted the school laws of Texas to include other statutes that are referenced in Titles 1 (General Provisions) and 2 (Public Education) of the Education Code, such as the open meetings laws (Chapter 551 (Open Meetings), Government Code). A recent court ruling interpreted the Education Code in a way that would require an individual who has a cause of action arising from the open meetings laws to exhaust administrative remedies by taking his or her complaint to the commissioner prior to filing a challenge in court.

H.B. 829 specifies that an individual with a complaint arising from a law that is referenced, but not codified, in Titles 1 and 2 of the Education Code is not required to first present the claim to the commissioner before pursuing a judicial remedy, although the individual could choose to appeal to the commissioner in such a case. The bill continues the commissioner's jurisdiction over laws such as the Open Meetings Act. For grievances that are appealed to the commissioner, the bill requires the commissioner to issue a decision within 180 days of receiving the appeal.

H.B. 829 relates to appeals to the commissioner of education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 7.057, Education Code, by amending Subsection (b) and adding Subsection (a-1), as follows:

(a-1) Provides that a person is not required to appeal to the commissioner of education (commissioner) before pursuing a remedy under a law outside of Title 1 (General Provisions) or this title to which Title 1 or this title makes reference or with which Title 1 or this title requires compliance.

(b) Requires the commissioner, except as provided by Subsection (c) (regarding requiring the commissioner to issue a decision relating to an appeal against a school district), after due notice to the parties interested, not later than the 180th day after the date an appeal under Subsection (a) (relating to authorizing a person to appeal to the commissioner) is filed, to hold a hearing and issue a decision without cost to the parties involved. Provides that the commissioner, in conducting a hearing under this subsection, has the same authority relating to discovery and conduct of a hearing as a hearing examiner has under Subchapter F (Hearings Before Hearing Examiners), Chapter 21.

Provides that this section does not deprive any party of any legal remedy. Makes a nonsubstantive change.

SECTION 2. Makes application of Section 7.057(b), Education Code, as amended by this Act, prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.