

BILL ANALYSIS

C.S.H.B. 829
By: Hochberg
Public Education
Committee Report (Substituted)

BACKGROUND AND PURPOSE

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 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.

Commissioner of education decisions have interpreted the school laws of Texas to include other statutes that are referenced in Titles 1 and 2 of the Education Code, such as the open meetings laws, codified in Chapter 551, 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.

C.S.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, but eliminates the requirement for exhaustion of administrative remedies before the commissioner for laws not specifically codified in Titles 1 and 2 of the Education Code.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 829 amends the Education Code to establish that a person aggrieved by the school laws of this state or certain actions or decisions of any school district board of trustees is not required to appeal to the commissioner of education before pursuing a remedy under a law outside of Titles 1 or 2 of the Education Code to which those titles make reference or with which those titles require compliance.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 829 differs from the original by adding a new provision establishing that a person aggrieved by certain laws or actions is not required to appeal to the commissioner of education

before pursuing a remedy under a law outside of either Title 1 or Title 2, Education Code, or a law to which those titles refer or with which those titles require compliance, whereas the original amended the definition of "school laws of this state" for purposes of such appeal to mean specifically laws codified in those titles and to exclude laws outside those titles to which those titles refer or with which those titles require compliance.