

BILL ANALYSIS

H.B. 19
By: Aycock
Public Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Some school administrators and parents claim current law requires districts to use a costly independent hearing examiner process when implementing a reduction in personnel for financial exigency. It is further noted that some school administrators claim that when districts are facing financial exigency, the districts should be paying teachers instead of lawyers. Interested parties note that there is a need to streamline the reduction in personnel process for districts declaring financial exigency while providing due process to teachers who are laid off due to financial exigency. The parties report that such a streamlined process would be less costly than the independent hearing examiner process. The parties note that there is also a need for the establishment of a process for districts to enter and exit financial exigency.

H.B. 19 addresses these matters relating to hearings on public school educator contracts.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the commissioner of education in SECTION 5 of this bill.

ANALYSIS

H.B. 19 amends the Education Code to authorize a school district board of trustees to adopt a resolution declaring a financial exigency for the district. The bill provides that such a declaration expires at the end of the fiscal year during which the declaration is made unless the board adopts a resolution before the end of the fiscal year declaring continuation of the financial exigency for the following fiscal year. The bill specifies that the board is not limited in the number of times the board may adopt a resolution declaring continuation of the financial exigency. The bill authorizes the board to terminate a financial exigency declaration at any time if the board considers it appropriate. The bill requires the board to notify the commissioner of education each time the board adopts a resolution declaring a financial exigency and requires the commissioner by rule to prescribe the time and manner in which notice must be given to the commissioner.

H.B. 19 entitles a teacher employed under a probationary contract to a hearing before a hearing examiner if the teacher is protesting a proposed discharge or suspension without pay. The bill entitles a teacher employed under a probationary contract to a hearing in the manner provided for a hearing regarding the nonrenewal of a term contract or to a hearing before a hearing examiner, as determined by the board of trustees, if the teacher is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared by the board that requires a reduction in personnel.

H.B. 19 specifies that a teacher employed under a continuing contract is entitled to a hearing before a hearing examiner if the teacher is protesting a proposed discharge or suspension without pay. The bill entitles a teacher employed under a continuing contract to a hearing in the manner provided for a hearing regarding the nonrenewal of a term contract or to a hearing before a hearing examiner, as determined by the board of trustees, if the teacher is protesting proposed

action to terminate the continuing contract at the end of the school year because of a necessary reduction of personnel or proposed action to terminate a term contract at any time on the basis of a financial exigency declared by the board that requires a reduction in personnel.

H.B. 19 authorizes a board of trustees to designate an attorney licensed to practice law in Texas to hold a hearing on a proposed nonrenewal of a teacher's term contract on behalf of the board, to create a hearing record for the board's consideration and action, and to recommend an action to the board. The bill prohibits the attorney serving as the board's designee from being employed by a school district and prohibits the designee and a law firm with which the designee is associated from serving as an agent or representative of a school district, of a teacher in a dispute between a district and a teacher, or of an organization of school employees, school administrators, or school boards of trustees. The bill requires the board's designee, not later than the 15th day after the completion of the hearing, to provide to the board a record of the hearing and the designee's recommendation of whether the contract should be renewed or not renewed. The bill requires the board to consider the record of the hearing and the designee's recommendation at the first board meeting for which notice can be posted in compliance with state open meetings law following the receipt of the record and recommendation from the board's designee, unless the parties agree in writing to a different date. The bill requires the board, at the meeting, to consider the hearing record and the designee's recommendation and allow each party to present an oral argument to the board. The bill authorizes the board to limit by written policy the amount of time for oral argument and requires such a policy to provide equal time for each party. The bill authorizes the board to obtain advice concerning legal matters from an attorney who has not been involved in the proceedings. The bill authorizes the board to accept, reject, or modify the designee's recommendation and requires the board to notify the teacher in writing of the board's decision not later than the 15th day after the date of the meeting.

H.B. 19 exempts from provisions of law relating to a hearing before a hearing examiner for teachers requesting such a hearing regarding certain employment actions a decision, on the basis of a financial exigency declared by a board of trustees that requires a reduction in personnel, to terminate a probationary or term contract before the end of the contract period or to terminate a continuing contract at any time, unless the board of trustees has decided to use the process prescribed for a hearing before a hearing examiner for that purpose.

EFFECTIVE DATE

On passage or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.