

By: Aycock

H.B. No. 19

A BILL TO BE ENTITLED

AN ACT

relating to hearings on public school educator contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter C, Chapter 21, Education Code, is amended by adding Section 21.1041 to read as follows:

Sec. 21.1041. HEARING UNDER PROBATIONARY CONTRACT. A teacher is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.104; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by Subchapter F, as determined by the board of trustees of the district, 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 under Section 44.011 that requires a reduction in personnel.

SECTION 2. Section 21.159(b), Education Code, is amended to read as follows:

(b) A teacher who notifies the board of trustees within the time prescribed by Subsection (a) is entitled to:

(1) a hearing as provided by Subchapter F, if the teacher is protesting proposed action under Section 21.156; or

(2) a hearing in a manner provided under Section 21.207 for nonrenewal of a term contract or a hearing provided by

1 Subchapter F, as determined by the board, if the teacher is
2 protesting proposed action under Section 21.157 or proposed action
3 to terminate a term contract at any time on the basis of a financial
4 exigency declared under Section 44.011 that requires a reduction in
5 personnel.

6 SECTION 3. Section 21.207, Education Code, is amended by
7 adding Subsection (b-1) and amending Subsection (c) to read as
8 follows:

9 (b-1) The board of trustees may designate an attorney
10 licensed to practice law in this state to hold the hearing on behalf
11 of the board, to create a hearing record for the board's
12 consideration and action, and to recommend an action to the board.
13 The attorney serving as the board's designee may not be employed by
14 a school district and neither the designee nor a law firm with which
15 the designee is associated may be serving as an agent or
16 representative of a school district, of a teacher in a dispute
17 between a district and a teacher, or of an organization of school
18 employees, school administrators, or school boards of trustees.
19 Not later than the 15th day after the completion of the hearing
20 under this subsection, the board's designee shall provide to the
21 board a record of the hearing and the designee's recommendation of
22 whether the contract should be renewed or not renewed. The board
23 shall consider the record of the hearing and the designee's
24 recommendation at the first board meeting for which notice can be
25 posted in compliance with Chapter 551, Government Code, following
26 the receipt of the record and recommendation from the board's
27 designee, unless the parties agree in writing to a different date.

1 At the meeting, the board shall consider the hearing record and the
2 designee's recommendation and allow each party to present an oral
3 argument to the board. The board by written policy may limit the
4 amount of time for oral argument. The policy must provide equal time
5 for each party. The board may obtain advice concerning legal
6 matters from an attorney who has not been involved in the
7 proceedings. The board may accept, reject, or modify the designee's
8 recommendation. The board shall notify the teacher in writing of
9 the board's decision not later than the 15th day after the date of
10 the meeting.

11 (c) At the hearing before the board or the board's designee,
12 the teacher may:

13 (1) be represented by a representative of the
14 teacher's choice;

15 (2) hear the evidence supporting the reason for
16 nonrenewal;

17 (3) cross-examine adverse witnesses; and

18 (4) present evidence.

19 SECTION 4. Section 21.251, Education Code, is amended to
20 read as follows:

21 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
22 if a teacher requests a hearing after receiving notice of the
23 proposed decision to:

24 (1) terminate the teacher's continuing contract at any
25 time, except as provided by Subsection (b)(3);

26 (2) terminate the teacher's probationary or term
27 contract before the end of the contract period, except as provided

1 by Subsection (b)(3); or

2 (3) suspend the teacher without pay.

3 (b) This subchapter does not apply to:

4 (1) a decision to terminate a teacher's employment at
5 the end of a probationary contract; ~~[or]~~

6 (2) a decision not to renew a teacher's term contract,
7 unless the board of trustees of the employing district has decided
8 to use the process prescribed by this subchapter for that purpose;

9 or

10 (3) a decision, on the basis of a financial exigency
11 declared under Section 44.011 that requires a reduction in
12 personnel, to terminate a probationary or term contract before the
13 end of the contract period or to terminate a continuing contract at
14 any time, unless the board of trustees has decided to use the
15 process prescribed by this subchapter for that purpose.

16 SECTION 5. Subchapter A, Chapter 44, Education Code, is
17 amended by adding Section 44.011 to read as follows:

18 Sec. 44.011. FINANCIAL EXIGENCY. (a) The board of trustees
19 of a school district may adopt a resolution declaring a financial
20 exigency for the district. The declaration expires at the end of the
21 fiscal year during which the declaration is made unless the board
22 adopts a resolution before the end of the fiscal year declaring
23 continuation of the financial exigency for the following fiscal
24 year.

25 (b) The board is not limited in the number of times the board
26 may adopt a resolution declaring continuation of the financial
27 exigency.

1 (c) A board may terminate a financial exigency declaration
2 at any time if the board considers it appropriate.

3 (d) Each time the board adopts a resolution under this
4 section, the board must notify the commissioner. The commissioner
5 by rule shall prescribe the time and manner in which notice must be
6 given to the commissioner under this subsection.

7 SECTION 6. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect on the 91st day after the last day of the
12 legislative session.