

SUBJECT: Exempting TWC hearings from the Administrative Procedures Act

COMMITTEE: Economic Development — favorable, without amendment

VOTE: 5 ayes — Oliveira, Yarbrough, Keffer, Seaman, Siebert

0 nays

4 absent — Greenberg, Luna, Raymond, Van de Putte

WITNESSES: For — None

Against — None

On — Esther Hadjar, Texas Workforce Commission

BACKGROUND : Sec. 2001.224 of the Government Code exempts unemployment compensation proceedings conducted by the Texas Workforce Commission from the declaratory judgment and contested case procedures of the Administrative Procedures Act. In addition, the commission is exempt from indexing and cross-indexing to statute and making available for public inspection all final orders, decisions and opinions regarding unemployment insurance matters. Federal rules govern unemployment insurance proceedings.

DIGEST: HB 564 would extend the exemptions from the Administrative Procedures Act (APA) to any hearings held by the Texas Workforce Commission (TWC) and all final orders and decisions made as a result of the hearings.

The bill would allow an examiner or other hearings officer employed by the commission to administer oaths, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of records in connection with a disputed claim. In addition, HB 564 would expand the jurisdiction of these examiners to all matters covered by the employment services and unemployment provisions of the Labor Code.

The bill would take effect September 1, 1997, and would apply to hearings occurring on or after that date.

SUPPORTERS SAY: HB 564 would create one consistent hearings process for all TWC proceedings. Because the APA and federal standards for unemployment insurance hearings are not the same, the commission is forced to abide by two different hearings processes. HB 564 would eliminate this confusion by allowing the commission to comply with just one process.

Examiners or other hearings officers employed by the commission are allowed to administer oaths and perform other tasks if given special authorization; HB 564 would provide these officers with statutory authority for the duties.

The commission receives most of its funds from the federal government and consequently is almost entirely governed by federal rules and procedures. Even though HB 564 would exempt the commission from the APA, the public's right to participate in the agency's proceedings would still be more than adequately protected because these proceedings are regulated by federal rules. In addition, TWC has few, if any, hearings on programs other than unemployment compensation.

OPPONENTS SAY: HB 564 would exempt the commission from state procedures at a time when states have been given more latitude with and waivers from federal procedures and requirements. Although the hearings conducted by some programs administered by the commission are governed by federal rules, HB 564 could leave some hearings unregulated.

NOTES: The companion bill, SB 1006 by Ellis, has been referred to the Senate Economic Development Committee.