

**SUBJECT:** Right to pursue judicial remedy instead of appealing to TEA

**COMMITTEE:** Public Education — committee substitute recommended

**VOTE:** 9 ayes — Eissler, Hochberg, Allen, Aycock, Farias, Jackson, Olivo, Patrick, Shelton

0 nays

2 absent — Dutton, Weber

**WITNESSES:** For — Ted Melina Raab, Texas AFT; (*Registered for, but not testify:* Portia Bosse, Texas State Teachers Association; Monty Exter, Association of Texas Professional Educators; Lindsay Gustafson, Texas Classroom Teachers Association)

Against — None

**BACKGROUND:** Education Code, Titles 1 and 2 contain state laws pertaining to public education. In *Harrison v. Neeley*, 229 S.W.3d 745 (Tex. App. — San Antonio 2007), the Fourth Court of Appeals affirmed an interpretation of current law that requires an individual aggrieved by a statute that was referenced within but codified outside Titles 1 and 2 of the Education Code — for example, open meetings laws — to exhaust all administrative remedies with the Texas Education Agency before pursuing a judicial remedy.

**DIGEST:** CSHB 829 would specify that a person was not required to appeal to the commissioner of education before pursuing a remedy under a law that was outside of Titles 1 or 2 of the Education Code but to which those titles make reference or with which they require compliance.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.

**SUPPORTERS SAY:** CSHB 829 would specify that someone with a complaint under a law that is referenced in the public education statutes but codified outside of those

statutes — such as open meetings laws codified in the Government Code - — was not required to appeal to the commissioner of education before pursuing a judicial remedy. The bill would provide more flexibility and clarity to someone with a grievance in choosing whether to pursue a remedy through the Texas Education Agency or through the judicial system. The commissioner of education is reviewing and deciding on matters that are not directly under state school laws, resulting in excess paperwork and administrative cost. The bill would reduce the number of complaints filed with the commissioner.

OPPONENTS  
SAY:

No apparent opposition