

BILL ANALYSIS

Senate Research Center

S.B. 1750
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AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

Currently, no state agency provides for impartial review of internal employee grievances. Typically, employee grievances are channeled through an internal agency procedure of two to five steps corresponding to the chain of command. Agency administrators may be unlikely to overrule the actions of those supervisors and administrators further down the chain of command.

S.B. 1750 is intended to address this concern by providing procedures for grievances and complaints within the Texas Youth Commission.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Youth Commission in SECTION 1 (Sections 671.003 and 671.006, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 6, Government Code, by adding Chapter 671, as follows:

CHAPTER 671. GRIEVANCE AND COMPLAINT RESOLUTION PROCEDURES PILOT PROJECT

Sec. 671.001. DEFINITIONS. Defines "aggrieved employee," "complaint," "employee," "executive director," "grievance," and "supervisor."

Sec. 671.002. POLICY. Entitles an employee to due process under this chapter in the review of a decision that affects the employee's working conditions or employment.

Sec. 671.003. RULES. Requires the Texas Youth Commission (commission), by rule, to adopt standards and procedures in accordance with this chapter relating to the resolution of a grievance or complaint presented by an employee of the agency.

Sec. 671.004. INTERNAL AGENCY PROCEDURE. Requires the executive director of the Texas Youth Commission (executive director) to issue a written decision concerning the resolution or denial of a grievance or complaint not later than the 60th work day after the date the grievance or complaint is filed with the Texas Youth Commission under rules adopted by the agency under Section 671.003. Provides that review of a complaint by the executive director or the executive director's designee is the final review to which an employee is entitled for the complaint. Provides that the executive director's decision on a complaint is final and binding and that the executive director's decision on a grievance is final and binding in the absence of a timely appeal.

Sec. 671.005. APPEAL TO STATE OFFICE OF ADMINISTRATIVE HEARINGS; JUDICIAL REVIEW. (a) Authorizes an aggrieved employee, if a grievance is not resolved to the employee's satisfaction by the executive director, to appeal the grievance to the State Office of Administrative Hearings (office). Requires the employee to request the appeal on a form provided by the office not later than the 20th day after the date the employee receives the executive director's written decision.

(b) Requires the office to conduct a hearing on the grievance not later than the 20th day after the date the request for an appeal is received by the office.

Requires an administrative law judge employed by the office to conduct the hearing.

(c) Provides that a hearing under this section is subject to the contested case provisions of the administrative procedure law, Chapter 2001 (Administrative Procedure), Government Code.

(d) Requires the commission, if the administrative law judge renders a decision favorable to the employee, to pay the costs of a hearing conducted under this section. Requires the costs to be divided equally between the commission and the aggrieved employee if the decision is favorable to the commission.

(e) Provides that an employee who has exhausted all administrative remedies under this chapter and who is aggrieved by the final decision of the administrative law judge of the office is entitled to judicial review as provided by the administrative procedure law, Chapter 2001, for judicial review of a contested case.

Sec. 671.006. **TIME OFF.** Entitles an employee to a reasonable amount of time off with pay to prepare for and to attend a meeting or hearing conducted under this chapter for the resolution of a grievance or complaint. Requires the commission to adopt rules relating to an employee's entitlement to time off under this section.

Sec. 671.007. **RETALIATION PROHIBITED.** Prohibits an employee from being disciplined, penalized, or prejudiced for exercising a right to which the employee is entitled under this chapter or from being prohibited from, or disciplined, penalized, or prejudiced for acting as a witness in any proceeding under this chapter. Prohibits the supervisor, if the rules adopted by the commission under Section 671.003 authorize the supervisor of an employee presenting a grievance or complaint to render a decision relating to the resolution of the grievance or complaint, from being disciplined, penalized, or prejudiced for rendering a decision favorable to the supervised employee or coerced or restrained in making the decision.

Sec. 671.008. **REPORT TO THE LEGISLATURE.** Requires the commission, not later than December 1, 2006, to report to the legislature the commission's experience with the grievance and complaint resolution procedures under this chapter. Sets forth specific information to be included in the report.

Sec. 671.009. **EXPIRATION.** Provides that this chapter expires September 1, 2007.

SECTION 2. Requires the commission to adopt rules as provided by Sections 671.003 and 671.006, Government Code, as added by this Act, not later than January 1, 2006.

SECTION 3. Makes application of this Act prospective to January 1, 2006.

SECTION 4. Effective date: September 1, 2005.