

## **BILL ANALYSIS**

Senate Research Center  
81R1102 SJM-D

S.B. 1490  
By: Watson  
Education  
3/31/2009  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

In order to qualify for special education services, a student must be a "child with a disability," and a student's eligibility for special education and related services is determined by the student's admission, review, and dismissal (ARD) committee. If a student is determined to be eligible for special education services, the ARD committee is required to develop an individualized education program (IEP) for the student to be reviewed not less than annually, to determine whether the annual goals for the child are being achieved or are in need of revision. Some of the disputes involve the definition of a "child with disabilities," involve children with autism, or involve the student's IEP and whether the school district is providing sufficient services to ensure that the student is receiving a free appropriate education in the least restrictive environment.

Over the past several years, parents of special education students have become concerned that due process hearings are not conducted in an impartial manner. The perception is that most hearings officers, who are contracted by the Texas Education Agency (TEA), favor school districts to the detriment of the student. Transferring the due process hearings from TEA to the State Office of Administrative Hearings (SOAH) creates a better environment for an impartial hearing.

As proposed, S.B. 1490 requires SOAH to conduct TEA's special education due process hearings under the terms of an interagency contract.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 29.0161, Education Code, as follows:

Sec. 29.0161. CONTRACT WITH STATE OFFICE OF ADMINISTRATIVE HEARINGS FOR SPECIAL EDUCATION DUE PROCESS HEARINGS. Requires the Texas Education Agency (TEA) and the State Office of Administrative Hearings (SOAH) to enter an interagency contract for the purpose provided by this section. Requires SOAH to conduct TEA's special education due process hearings under the terms of the contract and under 20 U.S.C. Section 1415 (Procedural Safeguards). Deletes existing text requiring TEA and SOAH, not later than December 1, 2003, to jointly determine whether it would be cost-effective for TEA to enter an interagency contract with SOAH under which SOAH would conduct all or part of TEA's special education due process hearings under 20 U.S.C. Section 1415 and its subsequent amendments.

SECTION 2. Requires TEA and SOAH, not later than January 1, 2010, to execute the contract required by Section 29.0161, Education Code, as amended by this Act.

SECTION 3. Effective date: September 1, 2009.