

BILL ANALYSIS

Senate Research Center
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S.B. 1645
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current Texas statute there is ambiguity regarding the Texas Department of Banking's (TDB) use of a contracted hearing officer in enforcement cases, resulting in courts offering different decisions based upon differing interpretations.

In 2019, a license holder challenged TDB's authority to use a contracted hearing officer for contested enforcement cases by filing suit in Travis County district court. The judge in that case ruled in favor of TDB. In 2022, a different license holder filed suit in Travis County district court making the same argument, and a different judge in the district court ruled the opposite way.

S.B. 1645 makes changes to Section 11.202 of the Finance Code to clarify TDB's authority to use a contracted hearing officer. TDB's use of a contracted hearing officer is necessary to ensure that the individual hearing enforcement matters brought by the agency have the necessary expertise and dedicated focus to understand and rule on questions involving financial matters that can be very complex and technical.

S.B. 1645 states explicitly that the contracted hearing officer may be a part-time, contracted individual, rather than a full-time employee of TDB.

As proposed, S.B. 1645 amends current law relating to the hearings officer of the Texas Department of Banking.

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 11.202(b), Finance Code, as follows:

(b) Authorizes a hearings officer employed under Section 11.202 (Hearings Officer and Auditor) to be retained under contract to provide services on a part-time basis and provides that the hearings officer is considered to be an employee of each agency for which hearing services are provided, for the purposes of Section 2003.021 (Office), Government Code. Provides that the hearings officer's only duty under the hearings officer's contract is to preside over matters related to contested cases before a finance agency.

SECTION 2. Effective date: upon passage or September 1, 2023.