

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: S3/16/09 S3/17/09

A Bill

HOUSE BILL 1372

5 By: Representatives J. Roebuck, *Harrelson*
6 By: Senator J. Jeffress
7
8

For An Act To Be Entitled

10 AN ACT TO GRANT SUBPOENA POWER TO THE STATE BOARD
11 OF EDUCATION AND THE PROFESSIONAL LICENSURE
12 STANDARDS BOARD; AND FOR OTHER PURPOSES.
13

Subtitle

14 TO GRANT SUBPOENA POWER TO THE STATE
15 BOARD OF EDUCATION AND THE PROFESSIONAL
16 LICENSURE STANDARDS BOARD.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 *SECTION 1. Arkansas Code Title 6, Chapter 17, Subchapter 4 is amended*
23 *to add an additional section to read as follows:*

24 6-17-424. Subpoena Powers.

25 (a)(1) The following boards shall have the power to issue subpoenas
26 and bring before the board as a witness any person in this state:

27 (A) Professional Licensure Standards Board, § 6-17-422;

28 and

29 (B) State Board of Education, § 6-11-101 et seq.

30 (2) The Professional Licensure Standards Board or the State
31 Board of Education shall by rule provide for the issuance of a subpoena upon
32 the request of a party to a proceeding pending before the Professional
33 Licensure Standards Board or the State Board of Education or at the request
34 of the Professional Licensure Standards Board or the State Board of
35 Education.

36 (3) The subpoena shall:



1 (A) Be in the name of either the Professional Licensure
2 Standards Board or the State Board of Education;

3 (B) State the name of the board hearing the proceeding and
4 the name of the proceeding; and

5 (C)(i) Command each person to whom it is directed to give
6 testimony at the time and place specified in the subpoena in one (1) of the
7 following ways:

8 (a) In person;

9 (b) Before a certified court reporter under
10 oath at the place of the witness' residence or employment;

11 (c) By video-taped deposition at the place of
12 the witness' residence or employment; or

13 (d) By live video communications from the
14 witness' residence, place of employment, or a nearby facility capable of
15 providing video transmission to the board hearing the proceeding that has
16 subpoenaed the witness.

17 (ii) The manner of providing testimony under the
18 subpoena shall be agreed upon by the board and the person who is the subject
19 of the subpoena.

20 (4) The subpoena may require the witness to bring with him or
21 her any book, writing, or other thing under his or her control that he or she
22 is bound by law to produce in evidence.

23 (5) Service of the subpoena shall be in the manner as provided
24 by law or rule for the service of subpoenas in civil cases.

25 (b)(1) A witness who has been served by subpoena under this section
26 and who appears in person to testify at the trial or case pending before the
27 Professional Licensure Standards Board or the State Board of Education shall
28 be reimbursed the for travel and attendance as provided by law.

29 (2) If a witness is served with subpoena under this section and
30 fails to provide testimony in obedience to the subpoena, the Professional
31 Licensure Standards Board or the State Board of Education may apply to the
32 circuit court of the county in which the Professional Licensure Standards
33 Board or the State Board of Education is holding the preceding for an order
34 causing the arrest of the witness and directing that the witness be brought
35 before the court.

36 (3) The court shall have the power to punish the disobedient

1 witness for contempt as provided by the Arkansas Rules of Civil Procedure.

2 (4) A witness who has been served with a subpoena under this
3 section may challenge the validity of the subpoena in the circuit court of
4 the county in which the witness resides or is employed.

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6 SECTION 2. EMERGENCY CLAUSE. It is found and determined by the
7 General Assembly of the State of Arkansas that the law does not provide
8 subpoena power for the State Board of Education or the Professional Licensure
9 Standards Board; that the State Board of Education and the Professional
10 Licensure Standards Board are unable to fully implement their duties due to
11 lack of subpoena. Therefore, an emergency is declared to exist and this act
12 being immediately necessary for the preservation of the public peace, health,
13 and safety shall become effective on:

14 (1) The date of its approval by the Governor;

15 (2) If the bill is neither approved nor vetoed by the Governor,
16 the expiration of the period of time during which the Governor may veto the
17 bill; or

18 (3) If the bill is vetoed by the Governor and the veto is
19 overridden, the date the last house overrides the veto.

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21 /s/ J. Roebuck
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