

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Representative Wilkins**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO CREATE A PROFESSIONAL EDUCATORS STANDARDS AND
9 PRACTICES BOARD; AND FOR OTHER PURPOSES."

Subtitle

12 "AN ACT TO CREATE A PROFESSIONAL EDUCATORS STANDARDS AND
13 PRACTICES BOARD."

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

17 SECTION 1. Purpose. (a) The General Assembly of the State of Arkansas
18 hereby recognizes that teaching, school administration and the rendering of
19 other professional educational services in the schools of this state affect
20 the public interest. The General Assembly further recognizes that in order to
21 achieve the highest possible educational standards in the schools, licensed
22 professional educators must be attracted and retained.

23 (b) It is hereby declared as the policy of this state to improve
24 continually the quality of preparation programs for professional educators; to
25 involve professional educators directly in establishing and maintaining the
26 standards of their profession; to safeguard the welfare of students by
27 preventing the utilization and continued employment of unlicensed personnel to
28 assure fair treatment to applicants for licensure; and to safeguard the
29 public's interest in effective expenditure of tax dollars for quality
30 education in the public schools. This policy can be accomplished most
31 effectively if the preparation and licensure of professional educators is
32 under the control of an autonomous state agency, composed in substantial part
33 of professional educators.

34 (c) The General Assembly has determined that the provisions of this act
35 will advance the policy described herein by allowing persons with relevant

1 expertise to oversee the preparation, certification and recertification of
2 professional educators.

3 (d) The provisions of this act shall be liberally construed so as to
4 advance the foregoing policy.

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6 SECTION 2. Board Created. (a) The Arkansas Professional Educators
7 Standards and Practices Board is hereby created.

8 (b) The board shall be composed of fifteen (15) voting members.

9 (1)(A) Eight (8) members of the board shall be licensed classroom
10 teachers or other licensed, non-supervisory professional public school
11 personnel, to be appointed in the following manner:

12 (i) one (1) member from each of the four (4) United
13 States Congressional districts to be appointed by the governor;

14 (ii) two (2) at-large members to be appointed by the
15 governor;

16 (iii) two (2) members to be elected by the Arkansas
17 Education Association;

18 (B) At least one (1) of these two (2) members elected by
19 the Arkansas Education Association shall be a Non-Caucasian member.

20 (C) Candidates for the teacher positions must be licensed
21 for the position to which currently assigned and have at least five (5) years
22 of teaching experience, including two (2) years in Arkansas immediately
23 preceding the election.

24 (2)(A) Two (2) members of the board shall be school
25 administrators with one (1) administrator elected by the Arkansas Association
26 of Educational Administrators and one (1) appointed by the governor.

27 (B) Candidates for the administrator position must be
28 licensed for the position to which currently assigned and have at least five
29 (5) years of administrative experience, including two (2) years in Arkansas
30 immediately preceding the election.

31 (3)(A) Three (3) members of the board shall be from a faculty or
32 teacher education division of Arkansas colleges and universities with one (1)
33 to be elected by the Arkansas Association of Teacher Educators, one (1) to be
34 elected by the Arkansas Association of Colleges of Teacher Education and one
35 (1) to be appointed by the governor.

1 (B) Candidates for the teacher educator positions shall
2 have at least five (5) years of professional experience, including two (2)
3 years in Arkansas immediately preceding election.

4 (4) One (1) member of the board shall represent the public and
5 shall be appointed by the governor. He or she shall not be, or ever have
6 been, employed as a teacher, administrator or in a professional position in
7 any institution of post-secondary education.

8 (5) One (1) member shall be the Director of the General Education
9 Division of the Department of Education or his designee.

10 (c) Two (2) teachers and one (1) teacher educator on the initial board
11 shall serve one (1) year terms; three (3) teachers, one (1) administrator, and
12 one (1) teacher educator on the initial board shall serve two (2) year terms;
13 three (3) teachers, one (1) administrator, one (1) teacher educator and the
14 lay representative on the initial board shall serve three (3) year terms. The
15 initial terms shall be determined by lot. Thereafter, board members shall
16 serve three (3) year terms, provided that no person, except the Director of
17 General Education, shall serve more than two (2) full terms. Service for two
18 (2) years or more shall count as a full term.

19

20 SECTION 3. Vacancies. (a) Any member of the board who through change
21 of employment status or residence, or for other reasons, no longer meets the
22 criteria for the position to which he or she was appointed or elected shall no
23 longer be eligible to serve in that position, and the position shall become
24 vacant thirty (30) days following notice to the board of the member's change
25 in circumstances. Vacancies shall be filled for the remainder of the
26 unexpired term by appointment by the remainder of the board.

27 (b) The board shall establish rules for the removal of any member from
28 the board for just cause.

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30 SECTION 4. Compensation. (a) All members of the board shall serve
31 without compensation but shall be reimbursed for actual and necessary expenses
32 incurred in the performance of board business.

33 (b) A member of the board who is an employee of this state or any of
34 its subdivisions, including a school district, shall be permitted to attend
35 board meetings and perform other board business without loss of income or

1 other benefits.

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3 SECTION 5. Officers. The board shall annually elect from its own
4 number a chairperson and vice-chairperson. They shall hold office for a one
5 (1) year term and may be re-elected up to two (2) times. No member may serve
6 as chairperson or vice-chairperson for more than three (3) consecutive years.

7

8 SECTION 6. Meetings. (a) The board shall hold at least six (6)
9 meetings annually. The chairperson may call a special meeting at any time and
10 shall call a special meeting upon the written request of five (5) or more
11 members of the board.

12 (b) The presence of a majority of the members of the board shall
13 constitute a quorum for transaction of business.

14 (c) Written and oral presentations may be made to the board in
15 accordance with procedures promulgated by the board.

16 (d) No member of the board shall participate in any matter before the
17 board in which he or she has a pecuniary interest or other conflict of
18 interest. The board shall adopt regulations defining what constitutes a
19 conflict of interest.

20

21 SECTION 7. Staff. (a) The board shall employ an executive director
22 who shall perform and discharge under the direction and control of the board
23 those duties and responsibilities vested in the board and delegated to the
24 executive director by the board. The executive director may be dismissed by a
25 majority vote of the members.

26 (b) The executive director, with the approval of the board, may employ
27 additional professional and clerical personnel as may be necessary to carry
28 out his or her duties and responsibilities. The board shall be an equal
29 opportunity employer.

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31 SECTION 8. Issuance and Revocation of License. (a) The board shall
32 have the exclusive authority to issue, revoke, or suspend licenses of teachers
33 and administrators. The board shall adopt regulations setting forth the types
34 and requirements for licensure within one (1) year after the effective date of
35 this act and shall modify or supplement these regulations as appropriate. The

1 board's regulations should be responsive to new developments in the field of
2 education. The board shall establish such rules and regulations for the
3 revocation, suspension and issuance of a license.

4 (b) A certificate which was issued pursuant to the laws and regulations
5 of this state prior to the effective date of this act shall remain in force as
6 long as it continues to be valid under the laws and regulations pursuant to
7 which it was issued. Any person who holds such a valid certificate shall,
8 upon proper application, be granted a license of the type most nearly
9 equivalent to the type of certificate held at the time of application,
10 notwithstanding any other provision of this act.

11 (c) Any person whose application for the issuance of a license is
12 denied shall be entitled to a hearing before the board as a whole, in
13 accordance with this act.

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15 SECTION 9. Grounds for Suspension or Revocation of License. The board
16 shall have the authority to suspend for a specified period of time or revoke a
17 license granted pursuant to this act on the following grounds:

18 (1) Conviction of a crime which renders the person convicted unfit to
19 perform the duties for which he or she has been licensed;

20 (2) Violation of ethical standards which renders the person unfit to
21 perform the duties for which he or she has been licensed. The board by
22 resolution shall maintain a published list of ethical standards;

23 (3) Failure to meet licensure requirements;

24 (4) Fraud or misrepresentation in obtaining a license; or

25 (5) Any other cause.

26

27 SECTION 10. Complaint - Investigation - and Notice. (a) This section
28 shall supplement and be an addition to the procedures set out in the
29 Administrative Procedure Act, Ark. Code Ann. §§25-15-201, et seq.

30 (b) A proceeding to suspend or revoke a license by filing a complaint
31 with the executive director. The complaint shall be in a form prescribed by
32 the board. It shall specify the nature and character of the charges. It
33 shall be verified under oath by the complaining party.

34 (c) Upon receipt of the complaint, the executive director shall give
35 notice by certified mail, return receipt requested, to the person against whom

1 the complaint has been lodged and the basis upon which the facts or conduct
2 may result in the suspension or revocation of that person's license. The
3 notice shall also require the person against whom the complaint is lodged to
4 forward to the executive director a written response to the charges in the
5 complaint within twenty (20) days.

6 (d) The executive director shall then present the complaint and the
7 response to the board. The board shall determine whether on the basis of the
8 complaint and response, if a response is provided, whether the board desires
9 to proceed further and hold a hearing to determine whether grounds for
10 suspension or revocation exist. If the board determines not to hold a
11 hearing, then it shall inform the party charged that it has decided not to
12 take any action on the complaint. If the board decides to hold a hearing then
13 it shall follow the procedures set out in the Administrative Procedure Act.

14 (e) If the board decides to hold a hearing, the board may ask the
15 executive director or other non-voting representative of the board to conduct
16 further investigation regarding all of the facts.

17 (f) The board is authorized to issue subpoenas for the attendance and
18 testimony of witnesses and the production of documents or other pertinent
19 information.

20 (g) The hearing shall be closed, unless the affected professional
21 educator requests that it be open.

22 (h) If the hearing is not scheduled to take place within one hundred
23 twenty (120) days after the time the affected professional educator is first
24 notified of the allegations, the board shall order the investigation
25 discontinued and the complaint dismissed.

26 (i) If, after the hearing, the board determines to take some
27 disciplinary action, it may (1) issue a public reprimand; (2) suspend the
28 license for a period of time to be determined by the board; and/or (3) revoke
29 the license.

30 (j) Any person whose certificate has been suspended or revoked may
31 apply to the board for a lifting of the suspension or a reinstatement of the
32 certificate. The board may order such a lifting or reinstatement based upon
33 standards prescribed by the board and regulations.

34 (k) The person against whom a complaint is lodged shall have the right
35 to representation of his or her choice throughout the hearing process.

1 (1) A complainant who is found by the board to have filed a frivolous
2 charge(s) shall bear the cost of expenses relevant to the frivolous charge(s)
3 incurred.

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5 SECTION 11. Approval of Teacher Preparation Program.

6 (a) The board shall have the exclusive authority to approve, renew
7 approval, and withdraw approval of teacher preparation programs. The board
8 shall adopt by regulation the standards governing the approval and withdrawal
9 of approval of teacher preparation programs and shall modify or supplement
10 these regulations as appropriate.

11 (b) Whenever the board denies approval to or withdraws approval from a
12 teacher preparation program, the institution of higher education offering said
13 program shall be entitled to appeal such denial or withdrawal in the manner
14 prescribed in this act. Approval may not be denied to or withdrawn from a
15 teacher preparation program except by a majority vote of the board.

16 (c) The board may enter into agreements with the agencies of other
17 states for reciprocal approval of teacher preparation programs in accordance
18 with resolutions adopted by the board.

19 (d) Any approval of a teacher preparation program which was granted
20 pursuant to the laws or regulations of this state prior to effective date of
21 this act shall remain in force until the time for renewing approval under this
22 act.

23 (e) Applications for licensure from persons who were enrolled and
24 participating in a teacher preparation program when that program lost its
25 approval or who entered an unapproved teacher preparation program that
26 subsequently received its approval while they were still enrolled and
27 participating shall be dealt with individually by the board in accordance with
28 regulations adopted by the board.

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30 SECTION 12. Annual Report. The board shall submit to the State Board
31 of Education and the General Assembly and publish an annual report of its
32 activities. Said report shall include specific findings and conclusions with
33 regard to licensure and teacher preparation program approval, an official
34 audit of all board expenditures, and such additional information as the board
35 deems appropriate. The board shall publish, from time to time, such other

1 reports as it deems appropriate. The board shall develop and recommend to the
2 General Assembly for its consideration any necessary or desirable legislation
3 with regard to the matters covered by this act. The board shall appoint such
4 committees as is deemed appropriate to assist it in an advisory capacity.

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6 SECTION 13. Delegation. Except as otherwise provided in this act, the
7 board may delegate to one (1) or more of its members, staff, or other agents
8 the authority to perform any of the functions to be performed by the board
9 itself under this act, and performance by said delegates shall for purposes of
10 this act be deemed an action of the board.

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12 SECTION 14. Transition. (a) All rules, regulations, procedures and
13 practices in effect upon the adoption of this act shall continue in effect
14 until the board issues regulations to the contrary.

15 (b) All powers, duties and functions pertaining to the licensure of
16 educators, including but not limited to determining qualifications for
17 licensure and suspension and revocation of licenses are transferred from the
18 State Board of Education and the Department of Education at such time as the
19 board determines that it is prepared and capable of carrying out those
20 functions.

21 (c) Members of the board may be appointed or elected any time after the
22 date of enactment of this act, except that time spent by a member in office
23 prior to the effective date of this act shall not be considered as part of the
24 term of such members for purposes of Section 3 of this act.

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26 SECTION 15. Funding. The board shall have the authority to establish
27 its operating budget. The legislature shall provide an annual appropriation
28 which shall be used to pay costs incurred in administering this act.

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30 SECTION 16. The board shall have the exclusive authority to establish
31 fees to be charged for obtaining and renewing licenses. These fees shall not
32 be deposited in the state treasury, but shall be deposited in one (1) or more
33 financial institutions located in this state. These revenues shall not be
34 subject to the cash funds restrictions of Arkansas Code §19-4-801 et seq., or
35 any other law pertaining to cash funds and shall not be subject to

1 appropriation by the General Assembly.

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3 SECTION 17. Penalties. The board may impose fines or other monetary
4 penalties on school districts for employing a nonlicensed person or assigning
5 a licensed educator to perform duties outside the terms of his or her license.
6 The board shall forward any monies received pursuant to this section to the
7 State Treasurer for deposit in the general treasury of this state.

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9 SECTION 18. All provisions of this act of a general and permanent
10 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
11 Code Revision Commission shall incorporate the same in the Code.

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13 SECTION 19. If any provision of this act or the application thereof to
14 any person or circumstance is held invalid, such invalidity shall not affect
15 other provisions or applications of the act which can be given effect without
16 the invalid provision or application, and to this end the provisions of this
17 act are declared to be severable.

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19 SECTION 20. All laws and parts of laws in conflict with this act are
20 hereby repealed.

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