

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

As Engrossed: H3/18/97

A Bill

HOUSE BILL 2247

4
5 By: Representative Wilkins

For An Act To Be Entitled

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

Subtitle

13 "AN ACT TO CREATE A PROFESSIONAL
14 EDUCATORS STANDARDS AND PRACTICES BOARD;
15 AND FOR OTHER PURPOSES."

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

19 SECTION 1. Purpose.

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

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

1 (c) The General Assembly has determined that the provisions of this act
2 will advance the policy described herein by allowing persons with relevant
3 expertise to oversee the preparation, certification and recertification of
4 professional educators.

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

7

8 SECTION 2. Board created.

9 (a) The Arkansas Professional Educators Standards and Practices Board
10 is hereby created.

11 (b) The board shall be composed of sixteen (16) voting members.

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

15 (i) one (1) member from each of the four (4) congressional
16 districts to be appointed by the governor;

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

19 (iii) two (2) members to be elected by the Arkansas
20 Education Association;

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

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

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

30 (B) Candidates for the administrator position must be licensed
31 for the position to which currently assigned and have at least (5) years of
32 public school administrative experience, including two (2) years in Arkansas
33 immediately preceding the appointment or election.

34 (3)(A) Three (3) members of the board shall be from a faculty or
35 teacher education division of Arkansas colleges and universities with one (1)
36 to be elected by the Arkansas Association of Teacher Educators, one (1) to be

1 elected by the Arkansas Association of Colleges of Teacher Education and one
2 (1) to be appointed by the governor.

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

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

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

13 (6) One (1) member shall be the director of the Vocational
14 Division of the Department of Education or his designee.

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

24

25 SECTION 3. Vacancies.

26 (a) Any member of the board who through change of employment status or
27 residence, or for other reasons, no longer meets the criteria for the position
28 to which he or she was appointed or elected shall no longer be eligible to
29 serve in that position, and the position shall become vacant thirty (30) days
30 following notice to the board of the member's change in circumstances.

31 Vacancies shall be filled for the remainder of the unexpired term by
32 appointment by the remainder of the board.

33 (b) The board shall establish rules for the removal of any member from
34 the board for cause.

35

36 SECTION 4. Compensation.

1 (a) All members of the board shall serve without compensation but shall
2 be reimbursed for actual and necessary expenses incurred in the performance of
3 board business in accordance with § 25-16-901 et seq.

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

8

9 SECTION 5. Officers.

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

14

15 SECTION 6. Meetings.

16 (a) The board shall hold at least six (6) meetings annually. The
17 chairperson may call a special meeting at any time and shall call a special
18 meeting upon the written request of six (6) or more members of the board.

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

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

23 (d) No member of the board shall participate in any matter before the
24 board in which he or she has a pecuniary interest or other conflict of
25 interest. The board shall adopt regulations defining what constitutes a
26 conflict of interest with the advice and consent of the ethics commission.

27

28 SECTION 7. Staff.

29 (a) The board shall employ an executive director who shall perform and
30 discharge under the direction and control of the board those duties and
31 responsibilities vested in the board and delegated to the executive director
32 by the board. The executive director may be dismissed by a majority vote of
33 the members.

34 (b) The executive director with the approval of the board, may employ
35 additional professional and clerical personnel as may be necessary to carry
36 out his or her duties and responsibilities. The board shall be an equal

1 opportunity employer.

2

3 SECTION 8. Issuance and Revocation of License.

4 (a) The board shall have the exclusive authority to issue, revoke, or
5 suspend licenses of teachers and administrators. The board shall adopt
6 regulations setting forth the types and requirements for licensure within one
7 (1) year after the effective date of this act and shall modify or supplement
8 these regulations as appropriate. The board's regulations should be
9 responsive to new developments in the field of education. The board shall
10 establish such rules and regulations for the revocation, suspension and
11 issuance of a license.

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

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

22

23 SECTION 9. Grounds for Suspension or Revocation of License.

24 The board shall have the authority to suspend for a specified period of
25 time or revoke a license granted pursuant to this act in accordance with the
26 laws of the State of Arkansas.

27

28 SECTION 10. Complaint - Investigation - and Notice.

29 (a) This section shall supplement and be an addition to the procedures
30 set out in the Administrative Procedure Act, § 25-15-201, et seq.

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

35 (c) Upon receipt of the complaint, the executive director shall give
36 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, the board desires to
9 proceed further and hold a hearing to determine whether grounds for suspension
10 or revocation exist. If the board determines not to hold a hearing, then it
11 shall inform the party charged that it has decided not to take any action on
12 the complaint. If the board decides to hold a hearing then it shall follow
13 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:

28 (1) issue a public reprimand;

29 (2) suspend the license for a period of time to be determined by
30 the board; and

31 (3) revoke the license.

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

36 (k) The person against whom a complaint is lodged shall have the right

1 to representation of his or her choice throughout the hearing process.

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

5

6 SECTION 11. Approval of Teacher Preparation Program.

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

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

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

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

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

30

31 SECTION 12. Annual Report.

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

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

6

7 SECTION 13. Delegation.

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

13

14 SECTION 14. Transition.

15 (a) All rules, regulations, procedures and practices in effect upon the
16 adoption of this act shall continue in effect until the board issues
17 regulations to the contrary.

18 (b) All powers, duties and functions pertaining to the licensure of
19 educators, including but not limited to determining qualifications for
20 licensure and suspension and revocation of licenses are transferred from the
21 State Board of Education and the Department of Education at such time as the
22 board determines that it is prepared and capable of carrying out those
23 functions but no later than January 1, 1999.

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

28

29 SECTION 15. Funding.

30 The board shall have the authority to establish its operating budget.
31 The legislature shall provide an annual appropriation which shall be used to
32 pay costs incurred in administering this act.

33

34 SECTION 16. The board shall have the exclusive authority to establish
35 fees to be charged for obtaining and renewing licenses. These fees shall not
36 be deposited in the state treasury, but shall be deposited in one (1) or more

1 financial institutions located in this state. These revenues shall not be
2 subject to the cash funds restrictions of § 19-4-801 et seq., or any other law
3 pertaining to cash funds and shall not be subject to appropriation by the
4 General Assembly.

5

6 SECTION 17. Penalties.

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

12

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

16

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

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

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/s/Rep. Wilkins

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