

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1902

H.P. 1316

House of Representatives, May 22, 1991

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.
Reference to the Committee on Education suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative HANDY of Lewiston.

Cosponsored by Senator CLARK of Cumberland, Senator ESTES of York and
Representative MORRISON of Bangor.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

An Act to Establish a Professional Standards Board for Maine Educators.

(AFTER DEADLINE)



Be it enacted by the People of the State of Maine as follows:

2
3 **Sec. 1. 5 MRSA §12004-A, sub-§12-A** is enacted to read:

4 12-A. Professional Expenses 20-A MRSA
5 Standards Board for Only §13042
6 Educators

7
8
9
10 **Sec. 2. 20-A MRSA c. 502-B** is enacted to read:

11 **CHAPTER 502-B**

12
13 **PROFESSIONAL STANDARDS BOARD FOR EDUCATORS**

14
15 **§13041. Definitions**

16
17 As used in this chapter, unless the context otherwise
18 indicates, the following terms have the following meanings.

19
20 1. Administrator. "Administrator" means a member of a
21 school or school district's professional staff with direct
22 responsibility for the evaluation and discipline of personnel or
23 the development, supervision or internal management of a school,
24 school system or school program regardless of whether that
25 person's duties also include the furnishing of direct
26 instructional or other services to students in schools,
27 kindergarten and grades one to 12.

28
29 2. Administrators organization. "Administrators
30 organization" means any organization the primary purpose of which
31 is to advance the interests of school administrators.

32
33 3. Approved professional preparation program. "Approved
34 professional preparation program" means a professional
35 preparation program whose students, upon completion, meet the
36 initial requirements for specific licenses for which the program
37 has been approved by the board.

38
39 4. Board. "Board" means the Professional Standards Board
40 for Educators.

41
42 5. License. "License" means the authority given by the
43 State to teachers or administrators to exercise their respective
44 responsibilities in the schools of the State and includes
45 certificates issued prior to the enactment of this chapter.

46
47 6. Professional preparation program. "Professional
48 preparation program" means a course of study designed to lead to
49 individual teacher or administrator licensure.

2 7. School. "School" means a public school educating
3 children in kindergarten and grades one to 12 or a private school
4 approved for attendance purposes under section 2901, subsection
5 2, paragraph B.

6 8. Teacher. "Teacher" means a member of a school
7 professional staff with primary responsibility for planning,
8 implementing and evaluating instructional programs for students
9 in schools in kindergarten and grades one to 12.

10 9. Teachers organization. "Teachers organization" means
11 any organization, agency, committee, council or group of any kind
12 more than 1/2 of the membership of which is engaged in classroom
13 instruction, a primary purpose of which is to advance the
14 interests of the education profession. A teachers organization
15 and any affiliated organizations are considered a single
16 organization for the purposes of this chapter.

17 **§13042. Establishment of board**

18
19
20 The Professional Standards Board for Educators, as
21 authorized in Title 5, section 12004-A, subsection 12-A, is
22 established to involve professional educators directly in
23 establishing and maintaining the standards of their profession
24 and to ensure fair treatment to individual applicants for
25 licensure and all members of the profession.

26
27 **§13043. Powers and duties**

28
29 The board is authorized to:

30
31 1. License. Issue and supervise licenses authorizing
32 educators to teach in schools; to establish criteria for the
33 issuance and renewal of those licenses; to approve professional
34 preparation programs for educators licensed pursuant to this
35 chapter; and to establish and supervise by rule administrative
36 policies and procedures of the board and the department governing
37 the duties described in this subsection;

38
39 2. Enforce. Enforce rules adopted by the board through
40 revocation and suspension of licenses and professional
41 preparation program approval;

42
43 3. Appeals. Hear appeals regarding application, renewal,
44 suspension or revocation of a license or professional
45 preparation program approval;

46
47 4. Agreements. Enter into agreements with other states and
48 with other agencies or organizations within the State as
49 necessary to carry out its responsibilities;

50
51 5. Advisory committees. Appoint advisory committees;

2 6. Fees. Establish, collect and refund fees for licensure
and program approval;

4 7. Staff. Employ staff to carry out the provisions of this
6 chapter;

8 8. Rules. Adopt rules pursuant to the Maine Administrative
10 Procedure Act to carry out the provisions of this chapter;

12 9. Budget. Prepare and submit budgets to the Legislature
and administer approved budgets;

14 10. Study; advise. Carry out studies and reviews of
16 educator licensing and advise the Legislature on matters
regarding licensing of educators;

18 11. Report Report annually to the Legislature on the
20 activity of the board and related facts concerning the licensing
of educators in the State; and

22 12. Recommendations. Make recommendations to the
24 Legislature regarding educator certification.

26 §13044. Composition of board

28 The board is composed of the following 13 members:

30 1. Teachers. Seven persons employed as teachers in the
public schools of the State;

32 2. Administrators. Three persons employed as
34 administrators in the public schools of the State, one of whom
must be an elementary school principal, one of whom must be a
36 secondary school principal and one of whom must be a school
superintendent;

38 3. Teacher educators. Two persons representing teacher
education programs; and

40 4. Member of public. One public member.

42 §13045. Appointments; vacancies

44 The members of the board must be appointed by the Governor
46 and approved by the Legislature.

48 1. Appointments. Appointments must be made by the Governor
50 from a list of at least 3 nominees for each position, submitted
to the Governor as follows.

2 A. Teacher members must be nominated by a teachers
3 organization representing the majority of public school
4 teachers in the State who teach at the educational level
5 from which the appointment is being made.

6 B. Administrator members must be nominated by the
7 elementary, secondary and superintendent organizations of
8 administrators in which the majority of administrators of
9 schools in the State have membership.

10 C. Teacher education members must be nominated by a
11 national council of higher education.

12 D. Public members must be nominated by the majority
13 parent-teacher organization representing parents in the
14 State.

15 2. Vacancies. A vacancy on the board must be filled in the
16 same manner as the original appointment within 60 days after the
17 vacancy occurs. Nominations to fill a vacancy must be submitted
18 by the appropriate organization within 30 days after the vacancy
19 occurs. Nominations to fill an expiring term must be submitted at
20 least 30 days before the expiration of the term.

21 The Governor shall appoint members from among the nominations
22 submitted pursuant to this section. If no timely nominations are
23 received or the nominations received do not include a sufficient
24 number of qualified candidates, the Governor may appoint any
25 qualified person. Nominations may be withdrawn by the persons or
26 organizations that made them.

27 **§13046. Qualifications for board members**

28 1. Teacher and administrator representatives. All members
29 of the board representing teachers and administrators must have
30 been employed in the State under the authority of a professional
31 educator license for 5 years prior to appointment to the board.

32 2. Representation. The Governor must attempt to achieve
33 geographical, racial and gender representation in appointments to
34 the board.

35 3. Failure to continue to meet criteria. Any member of the
36 board who through change of employment status or residence, or
37 for other reasons, no longer meets the criteria for the position
38 to which the member was appointed is no longer eligible to serve
39 in that position and the position becomes vacant 60 days
40 following the member's change in circumstances.

41 **§13047. Removal from board**

2 The Governor may remove a member from the board only for
3 ineligibility, misconduct or malfeasance in office, incapacity,
4 or neglect of duty.

6 **§13048. Terms and conditions of service**

8 1. Terms. Members are appointed for 3-year terms and may
9 be reappointed once. By October 1, 1991, the Governor shall
10 nominate the following members to the board for the following
11 terms:

12 A. Three teachers for 3-year terms to expire September 1,
13 1994; 3 teachers for 2-year terms to expire September 1,
14 1993; and one teacher for a one-year term to expire
15 September 1, 1992;

16 B. One administrator for a term to expire September 1,
17 1994; one administrator for a term to expire September 1,
18 1993; and one administrator for a term to expire September
19 1, 1992;

20 C. One public member for a term to expire September 1,
21 1994; and

22 D. One teacher education representative for a term to
23 expire September 1, 1994; and one teacher education
24 representative for a term to expire September 1, 1993.

25 2. Reappointment. All initial appointees to the board are
26 eligible for reappointment to one additional 3-year term.

27 3. Compensation. Board members are not eligible for
28 compensation for service on the board, but receive reimbursement
29 from the board for all actual and necessary expenses incurred in
30 the performance of board business.

31 4. Loss of wages; benefits. A nonpublic board member may
32 not suffer loss of wages or benefits from an employer due to
33 service on the board. A state agency or any political subdivision
34 of the State, including a school district, that is required to
35 employ a substitute for a member of the board who is absent from
36 employment while performing board business must be reimbursed by
37 the board for the actual amount of any costs so incurred.

38 **§13049. Meetings; chair**

39 1. Elections of officers; chair. The board shall elect, by
40 a majority vote of its members, a chair and a vice-chair from
41 among the membership. At the last regular meeting of each
42 calendar year the chair and vice-chair are elected for one-year
43 terms and may be reelected up to 2 times. A member may not serve
44 as chair or vice-chair for more than 3 consecutive years. The
45 board shall elect a chair and a vice-chair from among the
46 members of the board.

2 chair and vice-chair may be removed from office at any time by a
3 majority of the board's members, in which event the vacancy must
4 be filled for the unexpired term in the same manner as the
5 original selection.

6 2. Authority of chair; vice-chair. The chair shall serve
7 as the presiding officer at meetings of the board and is an ex
8 officio member of all committees established within the board.
9 In the absence of the chair, or if the chair is unable to act,
10 the vice-chair has the powers and shall perform the duties of the
11 chair. The chair and vice-chair have such powers and duties as
12 may be necessary for the performance of the functions of their
13 offices. If both the chair and vice-chair are absent from or
14 unable to act at a meeting, the board shall elect for that
15 meeting a chair pro tempore.

16 3. Meetings; headquarters. The board shall hold regular
17 meetings at least 4 times each year and shall hold such other
18 special meetings as may be necessary. The board's headquarters
19 is in Augusta; meetings are held primarily in Augusta, but may be
20 held at any place in the State designated by the board. The
21 chair may call a special meeting of the board at any time and
22 shall call a special meeting upon the written request of 7 or
23 more members of the board. Members must be mailed written notice
24 of the time and place of all regular meetings at least 14 days
25 prior to each such meeting. Members must be mailed written
26 notice of the time, place and purpose of all special meetings at
27 least 7 days prior to each such meeting whenever practicable.

30 4. Quorum; minutes; agenda. The presence of a majority of
31 the members of the board constitutes a quorum for transaction of
32 business. All meetings of the board must be open and public,
33 unless the board calls for an executive session and publicly sets
34 forth a written statement of reasons for such session.
35 Unofficial minutes of each board meeting must be prepared and
36 mailed to each member of the board at least 14 days prior to the
37 next regular meeting. An agenda must be prepared for each
38 meeting by or at the direction of the chair. Members must be
39 mailed the agenda for each regular meeting at least 7 days prior
40 to each such meeting. Members must be mailed the agenda for each
41 special meeting at least 3 days prior to each such meeting
42 whenever practicable.

44 5. Official seal. The board must have an official seal,
45 which must be judicially noticed.

46 6. Presentations. Written and oral presentations may be
47 made to the board in accordance with rules adopted by the board.
48 These rules must be made available to any interested person in
49 accordance with the Maine Administrative Procedure Act.
50

2 7. Conflict of interest. A member of the board may not
4 participate in any matter before the board in which that member
6 has a conflict of interest. The board shall adopt rules defining
8 what constitutes a conflict of interest.

6 §13050. Staff

8 1. Executive director. The board, by a vote of 2/3 of its
10 members, shall employ an executive director, who shall perform
12 and discharge under the direction and control of the board those
14 duties and responsibilities vested in the board and delegated to
16 the executive director by the board. The executive director may
18 be dismissed by a majority vote of the members.

16 2. General counsel. The board may retain the services of a
18 general counsel as necessary.

18 3. Additional staff. The executive director, with the
20 approval of the board, may employ such additional professional
22 and clerical personnel as may be necessary to carry out the
24 executive director's duties and responsibilities.

22 §13051. Fees

24 1. License fee. Each application for the issuance or
26 renewal of a license must be accompanied by a fee in the
28 following amount: for renewals of active license, \$25; for
30 renewals of inactive licenses, \$50; and for issue of initial
32 licenses, \$50. The fee is nonrefundable for applicants who do
34 not qualify for a license. If the applicant is determined
36 eligible for a license, the board shall issue the license without
38 additional charge.

34 2. Teacher preparation fee. Each application for the
36 approval of a teacher preparation program must be accompanied by
38 a fee in an amount to be fixed by the board. The fee is
40 nonrefundable for teacher preparation programs that are denied
42 approval.

40 Sec. 3. Reports, recommendations; committees. By January 15,
42 1993, the board shall submit a report on its activities to the
44 joint standing committee of the Legislature having jurisdiction
46 over education matters. Thereafter, the board shall submit to
48 the Governor and the Legislature and publish an annual report of
50 its activities. This annual report must include specific
52 findings and conclusions with regard to licensure and teacher
preparation program approval, an official audit of all board
expenditures, and such additional information as the board
considers appropriate. The board shall publish, from time to
time, such other reports as it considers appropriate. The board
shall develop and recommend to the Legislature for its
consideration any necessary or desirable legislation with regard

2 to the matters covered by this Act. The board shall appoint such
committees as it considers appropriate to assist it in an
advisory capacity.

4
6 **Sec. 4. Delegation of functions.** Except as otherwise provided in
this Act, the board may delegate to one or more of its members,
8 staff or other agents the authority to perform any of the
functions to be performed by the board itself under this Act, and
10 performance by that delegate is for purposes of this Act deemed
an action of the board.

12 **Sec. 5. Interim chair.** The Governor shall designate one member
of the board to serve as chair until the board elects a chair
14 pursuant to the Maine Revised Statutes, Title 20-A, section 13049.

16 **Sec. 6. Appointment of board members.** The time served by
board members prior to January 1, 1992 may not be considered as
18 part of the term of those board members for purposes of the Maine
Revised Statutes, Title 20-A, section 13048.

20 **Sec. 7. Transition provisions.**

22
24 1. Educator certification laws in effect on the effective
date of this Act, specifically the Maine Revised Statutes, Title
20-A, sections 13003 to 13006, 13011 to 13021 and 13031 to 13036,
26 continue to govern educator licensing until amended by the
Legislature, with the exception that the exclusive authority for
28 educator licensing as described in Title 20-A, section 13043 is
vested in the Professional Standards Board for Educators.

30
32 2. Any educator license that was issued pursuant to the
laws of the State prior to the effective date of this Act remains
34 in effect as long as the license continues to be valid under the
laws and rules pursuant to which it was issued.

36
38 3. Any approval of a teacher preparation program that was
granted pursuant to the laws of the State prior to the effective
date of this Act remains in effect until the regular time for
renewing approval, which must be done under this Act.

40
42 4. The board created by this Act is the successor to the
State Board of Education in matters relating to the issuance of
certificates of license to teach in the schools of the State.
44 The State Board of Education continues to serve in that capacity
until the effective date of this Act.

46
48 5. Assets, liabilities, contracts, property, records and
unexpended balances of appropriations or other funds employed,
held by or available to any state agency or department for
50 carrying out the functions assigned to the board under this Act
are transferred to the board as of the effective date of this Act.

2

Sec. 8. Funding. All fees collected under this Act must be set at a level to produce revenue that does not substantially exceed the cost and expense of administering this Act. All fees payable under this Act must be paid to and collected by the board and transmitted for deposit to the General Fund.

4

6

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Sec. 9. Effective date. This Act takes effect January 1, 1992.

10

12

STATEMENT OF FACT

14

This bill establishes the Professional Standards Board for Educators.