

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Regulated Industries

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BILL: SB 328

INTRODUCER: Senator Latvala

SUBJECT: Public Accountancy

DATE: February 4, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Imhof	RI	<b>Pre-meeting</b>
2.			AP	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill increases the frequency of disbursements for approved scholarships funded by a portion of license fees set by the Board of Accountancy and collected by the Department of Business and Professional Regulation for the Certified Public Accountant Education Minority Assistance Program from once per year to twice per year and increases the amount available for scholarships from \$100,000.00 to \$200,000.00 per year.

The bill also requires CPA firms to enroll in a peer review program as a condition of license renewal after January 1, 2015. The bill establishes a peer review program defined as the study, appraisal or review by one or more independent Certified Public Accountants of one or more aspects of the professional work of a licensee engaged in the practice of public accounting.

It requires that the Florida Board of Accountancy adopt rules for the minimum standards for peer review programs and the minimum criteria for the peer review organizations that will administer the programs. The board is authorized to establish a peer review oversight committee of three to five members licensed under ch. 473, F.S., and whose firms are subject to peer review and have received a "pass" rating on the most recent peer review.

The bill provides an effective date of July 1, 2013.

This bill substantially amends sections 473.3065 and 473.311, Florida Statutes. This bill creates section 473.3125, Florida Statutes.

## II. Present Situation:

The Board of Accountancy (board) within the Department of Business and Professional Regulation (department) is the agency charged with regulating the practice of public accountancy.<sup>1</sup> The Division of Certified Public Accounting (division) performs for the board all services concerning the enforcement of ch. 473, F.S., including, but not limited to, recordkeeping services, examination services, legal services, and investigative services, and those services in ch. 455, F.S., necessary to perform the board's duties under the chapter. The offices of the division are located in Gainesville.<sup>2</sup>

Section 473.302(4), F.S., defines a "certified public accountant" to mean a person who holds a license to practice public accounting in this state under the authority of ch. 473, F.S.

Section 473.302(8), F.S., defines the "practice of," "practicing public accountancy," or "public accounting" to mean:

- (a) Offering to perform or performing for the public one or more types of services involving the expression of an opinion on financial statements, the attestation as an expert in accountancy to the reliability or fairness of presentation of financial information, the utilization of any form of opinion or financial statements that provide a level of assurance, the utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed, or the expression of an opinion on the reliability of an assertion by one party for the use by a third party;
- (b) Offering to perform or performing for the public one or more types of services involving the use of accounting skills, or one or more types of tax, management advisory, or consulting services, by any person who is a certified public accountant who holds an active license, including the performance of such services by a certified public accountant in the employ of a person or firm; or
- (c) Offering to perform or performing for the public one or more types of service involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, a firm of certified public accountants, or a firm in which a certified public accountant has an ownership interest, including the performance of such services in the employ of another person. The board shall adopt rules establishing standards of practice for such reports and financial statements; provided, however, that nothing in this paragraph shall be construed to permit the board to adopt rules that have the result of prohibiting licensees employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

However, these terms [of practice] shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of

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<sup>1</sup> Section 473.303, F.S.

<sup>2</sup> See s. 20.165(2)(c)2., F.S.

Certified Public Accountants, or any full service association of certified public accounting firms whose plans of administration have been approved by the board, to their members or services performed by these entities in reviewing the services provided to the public by members of these entities.

Section 473.302(5), F.S., defines the term “firm” to mean “any entity that is engaged in the practice of public accounting.”

Section 473.3101(1)(a), F.S., requires that firms must hold a license if the firm:

- Uses the title “CPA,” “CPA firm,” or any other title, designation, words, letters, abbreviations, or device tending to indicate that the firm practices public accounting; or
- Does not have an office in this state but performs the services described in s. 473.3141(4), F.S.,<sup>3</sup> for a client having its home office in this state, as defined by rule of the board.

### **Education Minority Assistance Program**

The Certified Public Accountant Education Minority Assistance Program for Florida residents was created by enactment of ch. 98-263, L.O.F., codified at s. 473.3065, F.S. The Certified Public Accountant Education Minority Assistance Advisory Council assists the board in administering the program, which provides scholarships to minority persons as defined in s. 288.703, F.S., who are students enrolled in their fifth year of a board-approved accounting education program at an institution in Florida.

All moneys used to provide scholarships under the program are funded by a portion of existing license fees, as set by the board, not to exceed \$10 per license. The department is currently authorized to spend up to \$100,000 per year for the program but may not allocate overhead charges to it. Moneys for scholarships are disbursed annually upon recommendation of the advisory council and approval by the board, based on the adopted eligibility criteria and comparative evaluation of all applicants. Funds in the program account may be invested by the Chief Financial Officer under the same limitations that apply to investment of other state funds, and all interest earned thereon is credited to the program account. According to the department, the program account balance was \$139,754 as of June 30, 2012, the largest balance in the last six years.

The board is authorized to and has adopted rules in Chapter 61H1-38, Florida Administrative Code, for administration of the program, including eligibility criteria for receipt of a scholarship, (including financial need, ethnic, gender, or racial minority status pursuant to s. 288.703(4), F.S., and scholastic ability and performance), scholarship application procedures, amounts in which scholarships may be provided, the total amount that may be provided, the time frame for payments or partial payments, and criteria for how scholarship funds may be expended, the total amount of scholarships that can be made each year, and the minimum balance that must be maintained in the program account.

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<sup>3</sup> Section 473.3141, F.S., provides the practice requirements for CPA’s from out-of-state.

Determinations made by the board regarding recipients of scholarship moneys are not considered agency action for purposes of pursuing remedies available under the Administrative Procedure Act, ch. 120, F.S., and it is unlawful for any person or agent of such person to knowingly file with the board any notice, statement, or other document which is false or which contains any material misstatement of fact.

The Certified Public Accountant Education Minority Assistance Advisory Council assists the board in administering the program. The council must be diverse and representative of the gender, ethnic, and racial categories set forth in s. 288.703(4), F.S., and consists of five licensed Florida CPAs selected by the board. One member serves as chair of the council, one must be a representative of the National Association of Black Accountants, one must be a representative of the Cuban American CPA Association, and two are selected at large. At least one member of the council must be a woman.<sup>4</sup>

Any vacancy on the council shall be filled in the manner provided for the selection of the initial member. Any member appointed to fill a vacancy of an unexpired term shall be appointed for the remainder of that term. Three consecutive absences or absences constituting 50 percent or more of the council's meetings within any 12-month period shall cause the council membership of the member in question to become void, and the position shall be considered vacant. The members of the council serve without compensation, and any necessary and actual expenses incurred by a member while engaged in the business of the council shall be borne by such member or by the organization or agency such member represents, except that the council member who is a member of the board is compensated in accordance with s. 455.207(4), F.S. (\$50 for each day of participation in business involving the board) and s. 112.061, F.S. (per diem and travel expenses).

### **Peer Review**

According to the Florida Institute of Certified Public Accountants (FICPA), the American Institute of Certified Public Accountants (AICPA) requires its member firms to undergo a peer review every three years. A peer review is a periodic external review of a firm's quality control system in accounting and auditing and is also known as the AICPA's practice monitoring program. Members of the AICPA engaged in the practice of public accounting are required to practice in a firm that is enrolled in an approved practice-monitoring program such as the Peer Review Program. The FICPA administers the AICPA Peer Review Program for firms that are members of AICPA and for firms that are not members of AICPA. The program is designed to be educational for firms in public accounting to further enhance the quality in their performance of accounting and auditing work. The program also allows for firms to communicate with their fellow peers on the objectives of the Accounting profession.<sup>5</sup>

The State of Florida does not currently require that CPA firms participate in a peer review program as a condition of licensure. It also does not have a peer review oversight committee or other oversight process for peer review. According to the FICPA, which has over 18,000

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<sup>4</sup> Section 473.3065(6)(a), F.S.

<sup>5</sup> <http://www.ficpa.org/Content/Members/PeerReview.aspx> (Last visited February 4, 2013).

members,<sup>6</sup> Florida and Delaware are the only two states that do not require evidence of peer review as a condition of firm license renewal for those firms offering attest services to their clients. Public accounting services as described in s. 473.302(8)(a), F.S., involve offering to perform or performing for the public one or more types of services involving:

- The expression of an opinion on financial statements;
- The attestation as an expert in accountancy to the reliability or fairness of presentation of financial information;
- The utilization of any form of opinion or financial statements that provide a level of assurance;
- The utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed; or
- The expression of an opinion on the reliability of an assertion by one party for the use by a third party.

In 2010, the board unanimously approved the concept of peer review as a requirement for firm license renewal.<sup>7</sup> Further, according to the FICPA, peer review:

- Will help improve the quality of a CPA firm's accounting and auditing practices;
- Is based on the principle that a systemic monitoring and educational process is the most effective way to attain high-quality performance throughout the profession; and
- Will provide reasonable assurance that a CPA firm is complying with professional standards in all material respects.

According to the AICPA website, Section 1002, Paragraph .06 of its Standards for Performing and Reporting on Peer Reviews delineates the following accounting procedures as subject to peer review:

*An accounting and auditing practice* for the purposes of these standards is defined as all engagements covered by Statements on Auditing Standards (SASs); Statements on Standards for Accounting and Review Services (SSARS) (see interpretations); Statements on Standards for Attestation Engagements (SSAEs); *Government Auditing Standards* (the Yellow Book) issued by the U.S. Government Accountability Office; and audits of non-SEC issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB) (see interpretations).<sup>8</sup>

According to the FICPA, not all CPA firms will be required to have a peer review conducted on their firm. CPA firms that limit their practices to tax or consulting services would not be required to have a peer review, as the requirement only applies to firms that perform attest services, including compilations. According to the FICPA, there will be no impact on CPAs in private

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<sup>6</sup> <http://www.ficpa.org/Content/AboutJoin/about.aspx> (Last visited February 4, 2013).

<sup>7</sup> See correspondence from David C. Tipton, CPA, Chairman, Florida Board of Accountancy, to the Florida Institute of Certified Public Accountants, dated December 7, 2010, which is on file with the Senate Committee on Regulated Industries.

<sup>8</sup> <http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf> (Last visited February 4, 2013).

industry, education, or government because the requirement applies only to CPAs in public practice (accounting and auditing practices).

Further, according to the FICPA, peer review is not an entirely new requirement for most Florida CPA firms performing attest and compilation services, as the American Institute of Certified Public Accountants (AICPA) has had a peer review program for its more than 30,000 members since 1989, and the approximate 75% of FICPA members that are also AICPA members are required to participate in that program. In addition, the Government Accounting Office has a peer review requirement for CPA firms that perform audits under government auditing standards.<sup>9</sup>

According to the FICPA, under the current standards of the AICPA regarding peer review, the FICPA administers the AICPA Peer Review Program for both AICPA members and non-member firms.

Further, according to the FICPA, under the standards of the AICPA, a reviewer would be required to meet certain requirements to serve as a reviewer and be approved by an approved administering entity or the AICPA National Peer Review Committee. Those standards require that a reviewer be currently active in the accounting and auditing area and be a partner or manager of a firm that has received a passing grade on its most recent peer review. A peer reviewer also must have current or recent experience for significant or high-risk industry areas in which the peer-reviewed firm performs attest services. Firms may select their own peer reviewer, as long as the reviewer and his or her firm are independent of the reviewed firm and do not provide certain restricted services to the reviewed firm.

### **III. Effect of Proposed Changes:**

The bill modifies the Certified Public Accountant Education Minority Assistance Program to allow disbursements for approved scholarships twice per year (previously once per year) and authorizes the Department of Business and Professional Regulation to spend up to \$200,000 per year (increased from \$100,000.00 per year) for the Certified Public Accountant Education Minority Assistance Program.

The bill also requires CPA firms to enroll in a peer review program as a condition of license renewal. The bill establishes a peer review program defined as the study, appraisal or review by one or more independent Certified Public Accountants of one or more aspects of the professional work of a licensee engaged in the practice of public accounting.

It requires that the Florida Board of Accountancy adopt rules for the minimum standards for peer review programs and the minimum criteria for the peer review organizations that will administer the programs. The board is authorized to establish a peer review oversight committee of three to five members licensed under ch. 473, F.S., and whose firms are subject to peer review and have received a “pass” rating on the most recent peer review.

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<sup>9</sup> See Paragraph 3.82b of 2011 Government Auditing Standards (GAGAS 2011) as revised December 23, 2011 at <http://www.gao.gov/yellowbook> (Last visited February 4, 2013).

Further, according to the FICPA, it is anticipated that adoption of peer review as a state licensing requirement in Florida will result in the implementation of standards similar to those that are already in place throughout virtually all of the United States.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact

All CPA firms seeking renewal of licenses to engage in the practice of public accounting pursuant to s. 473.311(2), F.S. will be required to be enrolled in a peer review program, which will require payment of peer reviewer fees. The FICPA has indicated that the cost of peer review is not fixed, but depends upon the nature, complexity and size of a firm’s accounting and auditing practice. The cost of peer review every three years is estimated by the FICPA to range from \$990 to \$3,015 depending upon the number of peer review hours required to conduct the review (annualized cost of \$330 to \$1,015), as calculated below.

**Sample peer review costs for sole practitioner firms**

Sole practitioner firm performing no audits –	
Administrative fee per year @ \$130 x 3 yrs	\$390
Peer review – reviewer – approximately	<u>\$600</u>
Total cost over three years	\$990
<b>Annualized cost</b>	<b>\$330</b>

Sole practitioner firm performing one audit, review and compilation – Administrative fee per year @ \$130 x 3yrs. \$390	
Peer review – reviewer – approximately 10-15 hrs	
at reviewer rate (say \$175/hr)	<u>\$1,750 - \$2,625</u>
Total cost over three years	\$2,140 - \$3,015
<b>Annualized cost</b>	<b>\$713 - \$1,005</b>

C. Government Sector Impact:

The rules adopted by the Florida Board of Accountancy (board) regarding the Certified Public Accountant Minority Assistance Program will require review and revision as needed in order to conform to any modification of the frequency of scholarship awards and of the amount available for awarding of approved scholarships.

The board will be required to adopt rules establishing minimum standards for peer review programs and minimum criteria for the board’s approval of one or more organizations that facilitate and administer peer review programs. The board may establish a peer review oversight committee of between three and five members who are licensed as public accountants under ch. 473, F.S. whose firms are subject to the biennial license renewal requirements of s. 473.311(2), F.S. and have undergone peer review and received a review rating of “pass” on the most recent review.

According to the Department of Business and Professional Regulation (department), the fiscal impact of the bill:

- Will require one additional full-time Regulatory Specialist II position for the Central Intake Unit of the Division of Service Operations (division), to verify compliance with the peer review enrollment requirement prior to license renewal;
- May require additional resources for the division’s Enforcement Section to handle potential complaints and investigations based upon the failure to comply with the peer review requirement, but such impact is indeterminate at this time;
- May increase workload at both the investigative and prosecutorial level for pursuit of disciplinary cases by the department’s General Counsel for failure to comply with the peer review requirement, but any impact is indeterminate at this time.

The department has advised that Division of Certified Public Accounting expenditures are made from the Professional Regulation Trust Fund, and Division of Service Operations and Office of General Counsel expenditures are paid through the Administrative Trust Fund.

The department estimates that the minimum recurring budget expenses for salary, benefits and expenses for the additional full-time Regulatory Specialist II position to handle verification of compliance with the peer review enrollment requirement is \$49,631, with a non-recurring budget expense of \$4,143.

The department also has a concern that those firms providing attest services requiring compliance with the peer review requirement will have to be identified separately from the remaining licensees who do not have to comply with that requirement. Further, those licensees providing proof of compliance for manual verification by the division will not be able to use the present online renewal process, which will significantly delay the renewal process.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill provides that a member of the peer review oversight committee would have to be a member of a CPA firm that has participated in peer review and has received a rating of “pass” on its most recent peer review. This provision assumes that the board rules will follow the standards and terminology of the AICPA regarding these ratings.<sup>10</sup>

**VIII. Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>10</sup> The AICPA standards rate a CPA firm as pass, pass with deficiencies, and fail. *See* <http://www.aicpa.org/Research/Standards/PeerReview/DownloadableDocuments/PeerReviewStandards.pdf> (Last visited February 4, 2013).