

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 39 Public Accountancy

**SPONSOR(S):** Business & Professional Regulation Subcommittee; Ford and others

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 328

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professional Regulation Subcommittee	10 Y, 0 N, As CS	Collins	Luczynski
2) Government Operations Appropriations Subcommittee	11 Y, 0 N	Topp	Topp
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The bill amends s. 473.3065, F.S., to allow the Department of Business and Professional Regulation (Department) to spend up to \$200,000 annually from the Certified Public Accountant Education Minority Assistance Program to award scholarships. The statute currently allows the Department to spend up to \$100,000. However, an increase in appropriation in the General Appropriations Act would be necessary to increase the funding of the minority scholarships from the current \$100,000 to \$200,000. In addition, the bill allows the Department to disburse scholarship funds up to two times per year rather than the present annual disbursement of funds.

The bill amends s. 473.311(2), F.S., to require firms that provide certain services to enroll in a peer review program by January 1, 2015.

The bill creates s. 473.3125, F.S., to provide definitions and to direct the Board of Accountancy (Board) to adopt rules establishing minimum standards for both peer review programs and for organizations that administer peer review programs.

The bill is not expected to have a fiscal impact on state or local governments. However, private sector CPA firms will be required to participate in and pay for their participation in a peer review program as required by the bill.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### *Certified Public Accountant Education Minority Assistance Program*

##### **Current Situation**

The Certified Public Accountant (CPA) Education Minority Assistance Program provides scholarships for fifth year minority students seeking to become certified public accountants.<sup>1</sup> 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 ten dollars per license.<sup>2</sup> The funds for the program are held in the Professional Regulation Trust Fund, to be distributed by the Board of Accountancy (the Board).<sup>3</sup> The Board may disburse up to \$100,000 for the program annually, with one disbursement occurring per year.<sup>4</sup>

##### **Effect of Proposed Changes**

The bill amends s. 473.3065, F.S., to permit the Department to spend up to \$200,000 annually on the minority scholarships program. In addition, the bill allows the Department to disburse funds two times per year. However, an appropriation would be necessary to increase the annual funding for minority scholarships from the current funding of \$100,000 to \$200,000 as provided for in this bill.

##### *Peer Review Requirement*

##### **Current Situation**

A “peer review” is a practice-monitoring program wherein an independent evaluator audits a firm’s accounting and auditing practice and its related quality-control systems in order to ensure that the firm is complying with professional standards.<sup>5</sup> Currently, forty-eight states statutorily require CPA firms to participate in a peer review program; however, Florida does not have a statutory peer review requirement for its CPA firms.<sup>6</sup>

Despite the fact that participation in a peer review program is not statutorily required in Florida, many of the state’s firms are still required to undergo peer reviews due to their membership in the American Institute of Certified Public Accountants (AICPA). Since 1988, the AICPA has required its members that are engaged in the practice of public accounting and auditing to undergo a peer review once every three years.<sup>7</sup> The result of an AICPA peer review is not disclosed to the public; the general public may only ascertain whether a specific firm is enrolled in the peer review program.<sup>8</sup>

As it relates to the AICPA peer review program, an “accounting and auditing practice” includes all of a CPA firm’s engagements that are performed under:

- The Statements on Auditing Standards (SaSs);
- The Statements on Standards for Accounting and Review Services (SSARS);
- The Statements on Standard for Attestation Engagements (SSAEs) and Government Auditing Standards (the Yellow Book), issued by the U.S. General Accounting Office (GAO); and

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<sup>1</sup> Section 473.3065(1), Florida Statutes.

<sup>2</sup> Section 473.3065(2), Florida Statutes.

<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> AICPA Peer Review Program Manual, Appendix A, on file with subcommittee.

<sup>6</sup> Florida and Delaware are the only states without a statutory peer review requirement. *See*: AICPA Peer Review Program Annual Report on Oversight 2012, Exhibit 1, on file with subcommittee.

<sup>7</sup> <http://www.aicpa.org/Advocacy/State/Pages/PeerReview.aspx> (Last accessed on March 4, 2013).

<sup>8</sup> AICPA Peer Review Program Manual, page 6, on file with subcommittee.

- Audits of non-SEC issuers performed pursuant to the standards of the Public Company Accounting Oversight Board (PCAOB).<sup>9</sup>

As such, Florida CPA firms that perform these types of services and are members of the AICPA are required by the AICPA's bylaws to participate in its peer review program once every three years.

### **Effect of Proposed Changes**

The bill amends s. 473.311, F.S., to require the state's CPA firms that engage in the practice of public accounting as defined by s. 473.302(8)(a), F.S., with one exception, to enroll in a peer review program.

Section 473.302(8)(a), F.S., defines the practice of public accounting as 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, as 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 a 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 use by a third party.

The bill specifically exempts CPA firms that only engage in the practice of providing compilation services from having to comply with the peer review requirement. Firms that provide compilation services in addition to any of the other services listed in s. 473.302(8)(a), F.S., would still have to comply with the peer review requirement.

Moreover, firms that are not involved in the services described in s. 473.302(8)(a), F.S., and that instead limit their practice to tax or consulting services would not be required to undergo a peer review. The peer review requirement would also not apply to CPA's who practice in private industry, education, and government, as the requirement only applies to CPA firms in public practice.

Further, the bill creates s. 473.3125, F.S., to establish a peer review program, which is 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." The section directs the Board to adopt rules establishing minimum standards for both peer review programs and for organizations that administer peer review programs.

The requirement that certain CPA firms undergo a peer review would begin on July 1, 2015.

### **B. SECTION DIRECTORY:**

**Section 1:** amends s. 473.3065, F.S., to allow the Department to spend up to \$200,000 annually for scholarships awarded by the CPA Education Minority Assistance Program. The Department may make disbursements up to two times per year.

**Section 2:** amends s. 473.311, F.S., to require firms that provide certain services to enroll in a peer review program.

**Section 3:** creates s 473.3125, F.S., to provide definitions and to direct the Board of Accountancy to adopt rules establishing minimum standards for both peer review programs and for organizations that administer peer review programs.

**Section 4:** provides for an effective date of July 1, 2013.

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<sup>9</sup> AICPA Peer Review Program Manual, page 2, on file with subcommittee.  
**STORAGE NAME:** h0039b.GOAS  
**DATE:** 3/20/2013

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill is not expected to have a fiscal impact on state or local governments.

The bill allows the department to spend up to \$200,000 per year on the Certified Public Accountant Education Minority Program for scholarships. The current statutory spending cap for minority scholarships is \$100,000.<sup>10</sup> However, an increase in appropriation would be necessary to increase the funding amount of the minority scholarships from \$100,000 to \$200,000. The bill also allows for disbursement of scholarship funds to be twice a year rather than the current once a year.

The Department has indicated that the bill will not have a fiscal impact related to complaints and investigations based upon the failure of licensees to comply with the peer review requirements of the bill.<sup>11</sup> Rulemaking will be required regarding both the CPA Education Minority Assistance Program and the peer review program. However, the Department indicates that any rule making will be handled within existing resources.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

CPA firms will be required to participate in and pay for their participation in a peer review program. There is a potential for reduction in competition due to fewer firms performing audits if all current auditing firms do not enroll in a peer review program.

Moreover, CPA firms will incur costs related to preparing for and participating in a peer review program. The cost of a peer review is based upon the nature, complexity, and size of a firm's accounting and auditing practice. The FICPA has indicated that the cost of a peer review every three years is estimated to range from \$990 to \$3,015, depending on the number of peer review hours required to conduct the review, as shown below.<sup>12</sup>

#### **Sample Peer Review Costs for Sole Practitioner Firms**

##### *Sole practitioner with no audits:*

Administrative fee per year @ \$130 x 3 years	\$390
<u>Peer Review- reviewer- approximately</u>	<u>\$600</u>
Total cost over three years	\$990

<sup>10</sup> The CPA Education Minority Assistance Program account cash balance, as of June 30, 2012, is \$139,754. This is the largest account balance in the last six years. Department of Business and Professional Regulation Legislative Analysis, page 3, dated January 29, 2013, on file with subcommittee.

<sup>11</sup> E-mail correspondence between the staff of the Department of Business and Professional Regulation and staff of the House Government Operations Appropriations Subcommittee, March 13, 2013. E-mail correspondence on file with the subcommittee.

<sup>12</sup> FICPA CPA Licensure, page 3, dated January 14, 2013, on file with the Business and Professional Regulation Subcommittee.

Annualized Cost

\$330

*Sole practitioner firm with one audit, review, and compilations:*

Administrative fee per year @ \$130 x 3 years

\$390

Peer Review- reviewer- approximately 10-15 hours at

Reviewer rate (for example \$175/hour)

\$1,750- \$2,625

Total cost over three years

\$2,140- \$3,015

Annualized Cost

\$713- \$1,005

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of sales tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill modifies the frequency and maximum disbursement amount of scholarships for the CPA Education Minority Assistance Program. This change will require minor rulemaking revisions in order to conform the new statutory provisions to existing Board rules.

In addition, the bill provides the Board with the responsibility of adopting rules to establish minimum standards for both peer review programs and for organizations that administer peer review programs.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 7, 2013, the Business and Professional Regulation Subcommittee considered a proposed committee substitute and reported the proposed committee substitute favorably with a committee substitute.

The proposed committee substitute made the following changes to the filed version of the bill:

- Eliminated CPAs who solely conduct compilations from having to comply with the peer review requirement;
- Eliminated the requirement of the Board to adopt minimum standards related to the administering, performing, and reporting of peer reviews, although the Board must still adopt rules establishing minimum standards for the peer review program and minimum criteria for organizations that administer the peer review program; and
- Removed language permitting the Board to create a Peer Review Oversight Committee.

The staff analysis is drafted to reflect the committee substitute.