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****FINAL ACTION****
****SEE FINAL ACTION STATUS SECTION****

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 4065 (PCB FS 98-05)

RELATING TO: Public accountancy

SPONSOR(S): Committee on Financial Services, Committee on Financial Services,
Representative Safley and others

COMPANION BILL(S): CS/SB1508 (i)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES YEAS 9 NAYS 0
- (2) FINANCIAL SERVICES YEAS 11 NAYS 0
- (3)
- (4)
- (5)

I. FINAL ACTION STATUS:

CS/HB 4065 passed the House, 115-0, on April 14, 1998 and the Senate, 31-0, on April 22, 1998. It became law without the Governor's signature on May 30, 1998: Chapter 98-340, Laws of Florida.

II. SUMMARY:

This bill allows the probable cause panel of the Board of Accountancy to be composed of an unlimited number of current and past board members who are licensees in good standing. The board would also be authorized to establish an Educational Advisory Committee and a Continuing Professional Education Council.

The Board of Accountancy would be authorized to adopt an alternative licensure exam for persons who have been licensed to practice public accountancy in foreign countries that the International Qualifications Appraisal of the National Association of State Boards of Accountancy has ratified an agreement with for reciprocal licensure. Currently, the board is authorized to require an alternative licensure exam to Canadian chartered accountants. A candidate for licensure who has not been licensed in this state or any other state would be required to complete continuing education requirements. The board would be allowed to waive the requirement for "hours in excess of a baccalaureate degree" for applicants who are licensed in foreign countries that the International Qualifications Appraisal of the National Association of State Boards of Accountancy has ratified an agreement with for reciprocal licensure.

An attorney who is a member of The Florida Bar and a CPA licensed by the state would be exempt from the standards of the practice of public accounting when those standards are in conflict with the rules of The Florida Bar and the orders of the Supreme Court.

All certified public accountants who are domiciled in Florida, are licensed in another state, and have an interest in a partnership, corporation or limited liability company that practices public accounting in Florida would be required to be licensed to practice public accounting in Florida. All firms that perform audited financial statements would have to be licensed by the department.

III. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Under chapter 473, Florida Statutes, certified public accountants are regulated by the Board of Accountancy of the Division of Certified Public Accountants of the Department of Business & Professional Regulation (department).

Board of Accountancy

The probable cause panel of the Board of Accountancy (the board) is appointed by the chair of the board, and its members serve one year terms. The purpose of the panel is to determine if probable cause exists to believe that a violation of chapter 473, Florida Statutes, occurred. By law, the panel is to be made up of at least one board member who serves as the chair of the panel and additional board members or one past board member who is a licensee in good standing. Currently, the probable cause panel is made up of three board members, all of whom are CPAs holding active licenses.

Examination and Licensure

A certified public accountant (CPA) in the state of Florida is licensed under s. 473.306, F.S. To be licensed as a CPA, a person must apply to the department for licensure. Applicants are entitled to take the licensure exam if they are of good moral character, as determined by the board, and have completed the following education requirements:

- a baccalaureate degree from an accredited college or university with a major in accounting or its equivalent with a concentration in business and accounting, if the application is made prior to August 2, 1983; or
- a baccalaureate degree from an accredited college or university with a major in accounting or its equivalent plus at least 30 semester hours or 45 quarter hours in excess of those required for a 4-year baccalaureate degree, with a concentration in accounting and business.

Good moral character is defined as “a personal history of honesty, fairness, and respect for the rights of others and for the laws of this state and nation.”

The board may adopt an alternative licensure exam for Canadian chartered accountants who have completed the Canadian chartered accountant exam and hold a chartered accountant license from a Canadian province.

Under s. 473.308, F.S., an applicant who satisfies the educational requirements, is of good moral character, and passes the licensure examination is certified by the board for licensure.

In addition, the board may certify as qualified for licensure an applicant who:

- is not licensed and has not been licensed in another state, qualifies to take the licensure exam in Florida, and has passed a national or state licensing exam which is equivalent to the examination in Florida;

- holds a valid license to practice public accounting issued by another state, provided the licensure requirements of that state are equivalent to the requirements for licensure in the state of Florida;
- holds a valid license to practice public accounting issued by another state where the licensure requirements are *not* equivalent to the requirements for licensure in the state of Florida, but qualifies to take the licensure exam in Florida, has passed a national exam equivalent to the exam required for licensure in Florida and has at least one year of experience under the supervision of a licensed CPA.

The board may waive the requirement for 30 semester hours or 45 quarter hours in excess of a baccalaureate degree for those applicants who have 5 years experience in the practice of public accountancy licensed in a state other than Florida or as a licensed chartered accountant in Canada. All experience used as a basis for this waiver must be outside the state of Florida.

According to the board, approximately 1,000 applicants are licensed by certification by the board.

Requirements for Business Entities Practicing Public Accountancy

Section 473.309, Florida Statutes, sets forth the requirements for business entities practicing public accountancy in Florida. Changes were made to this section during the 1997 session.

In a suit filed against the state of Florida by American Express, the U.S. Appeals Court found that American Express, a corporation not owned by CPAs, had the right to advertise the fact that its accounting and tax services were performed by CPA employees. Under Florida law, licensed CPA may not advertise that he or she is a CPA unless he or she is employed by a firm that is owned by licensed CPAs. For example, if a licensed CPA works for a corporation that is not owned by CPAs, that licensed CPA may not advertise or "hold out" that he or she is a CPA.

A partnership may not practice public accounting in Florida unless partners owning at least two-thirds of the financial interest and voting rights in a partnership are CPAs in some state, and at least one general partner holds an active license as a CPA in Florida. All non-CPA partners must be engaged in the business of the partnership as their principal occupation.

A corporation may not practice public accounting in Florida unless shareholders owning at least two-thirds of the financial interest and voting rights of a corporation are CPAs in some state and are principally engaged in the business of the corporation. The principal officer of the corporation must be a CPA in some state, and at least one shareholder must be a CPA in this state and hold an active license. All non-CPA shareholders are engaged in the business of the corporation as their primary occupation.

A limited liability company may not practice public accounting in Florida unless the members owning at least two-thirds of the financial interest and voting rights of the company are CPAs in some state, and at least one member is a CPA holding an active

license in Florida. All non-CPA members must be engaged in the business of the company as their primary occupation.

Attorney CPAs

Chapter 473, Florida Statutes, does not address the issue of conflicts between the standards for the practice of public accountancy and the rules of The Florida Bar and the orders of the Supreme Court for attorney CPAs.

B. EFFECT OF PROPOSED CHANGES:

Board of Accountancy

The probable cause panel of the Board of Accountancy would be composed of current and past board members who are licensees in good standing. Current law provides that only one past member may be appointed to the panel.

The board would be authorized to appoint an Educational Advisory Committee to maintain "proper educational qualifications for licensure." This committee would be composed of one member of the board, two people licensed to practice public accounting in Florida, and four people who are on the faculties of universities in Florida.

In order to maintain "proper continuing education requirements for renewal of licensure," the board would appoint a Continuing Professional Education Advisory Committee. This committee would be composed of one member of the board, one member of the faculty of a university in Florida, and six CPAs.

Examination and Licensure

Persons who are licensed to practice public accountancy in a foreign country that has ratified an agreement for reciprocal licensure with the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy would be eligible to take an alternative licensure exam adopted by the board. The National Association of State Boards of Accountancy is a national association to which the Florida Board of Accountancy belongs. According to the board, every board of accountancy of every state is a member of this national association.

An applicant for licensure who is not licensed and has not been licensed in another state, qualifies to take the licensure exam in Florida, and has passed a national or state licensing exam which is equivalent to the examination in Florida would be required to complete continuing education requirements prior to becoming licensed in Florida.

The board would waive the requirement for 30 semester hours or 45 quarter hours in excess of a baccalaureate degree for those applicants for licensure who have five years experience in public accountancy in another state or a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has standards equivalent to those in the United States,

A CPA who holds an inactive license on June 30, 1998, would have to complete 120 hours of continuing education requirements to reactivate his or her license by June 30, 2000. At least 30 hours of the 120 hours would have to be in accounting-related or auditing-related courses, and no more than 30 hours could be in behavioral subjects.

Requirements for Business Entities Practicing Public Accounting

In response to the holding in the American Express case, the definition of public accountancy was amended to distinguish CPAs who prepare unaudited financial statements from those CPAs who prepare audited financial statements. CPAs who prepare audited financial statements would have to be employed by an audit firm licensed by the department.

Legislation passed during the 1997 session would allow CPAs licensed in another state and domiciled in Florida to practice public accounting in Florida without a license. For a partnership to be eligible to practice public accounting in Florida, each partner who owns at least two-thirds financial interest and voting rights, is licensed as a CPA in another state and domiciled in Florida, would have to be a CPA in Florida and hold an active license. All non-CPA partners could not be licensed as a CPA in another state.

For a corporation to be eligible to practice public accounting in Florida, each shareholder who owns at least two-thirds financial interest and voting rights, is licensed as a CPA in another state and domiciled in Florida, would have to be a CPA in Florida and hold an active license. All non-CPA shareholders could not be licensed as a CPA in another state.

For a limited liability company to be eligible to practice public accounting in Florida, each member who owns at least two-thirds financial interest and voting rights, is licensed as a CPA in another state and domiciled in Florida, would have to be a CPA in Florida and hold an active license. All non-CPA members could not be licensed as a CPA in another state.

An example of this would be a large national or international accounting firm that has an office in the state of Florida. Each partner, shareholder or member who holds a controlling interest in the business, is licensed as a CPA in another state, and is domiciled in Florida would need to be licensed as a CPA in Florida, also.

Attorney CPAs

An attorney who is a member of The Florida Bar and a CPA licensed by the state would be exempt from the standards provided for in the definition of "practice of public accountancy" when those standards are in conflict with the rules of The Florida Bar and the orders of the Supreme Court.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Currently, some CPAs who are licensed in another state and domiciled in Florida can practice public accounting in Florida without a license. This bill would require all practicing CPAs domiciled in Florida to hold an active license.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Currently, some CPAs who are licensed in another state and domiciled in Florida can practice public accounting in Florida without a license. This bill would require all practicing CPAs domiciled in Florida to hold an active license.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Amending ss. 473.302, 473.303, 473.306, 473.308, 473.309, 473.3101, 473.312, 473.313, 473.315, 473.319, 473.3205, and 473.322, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 473.302, F.S., to include definitions of “firm,” “licensed audit firm,” and “public accounting firm” and delete the definition of “holding out.” Allows CPAs employed by non-licensed firms to prepare basic financial statements.

Section 2 amends s. 473.303, F.S., to require the Board of Accountancy to appoint to the probable cause panel one member to serve as chair and an unlimited number of additional members who are either current board members or past members who are licensees in good standing. Current law specifies that only one past member may be appointed to the panel.

Section 3 amends s. 473.306, F.S., allowing the Board of Accountancy to adopt an alternative licensure exam for those persons who have been licensed to practice public accountancy in foreign countries that the International Qualifications Appraisal of the National Association of State Boards of Accountancy has ratified an agreement with for reciprocal licensure. Currently, the board is authorized to require an alternative licensure exam to Canadian chartered accountants. The Board of Accountancy would be authorized to appoint an Educational Advisory Committee to maintain “proper educational qualifications for licensure.”

Section 4 amends s. 473.308, F.S., to require a candidate for licensure who has not been licensed in this state or any other state to complete continuing education requirements. Expands the waiver for “hours in excess of a baccalaureate degree” to an applicant for licensure in Florida who is licensed in foreign countries that the International Qualifications Appraisal of the National Association of State Boards of Accountancy has ratified an agreement with for reciprocal licensure.

Section 5 amends s. 473.309, F.S., to require all certified public accountants who are partners, shareholders, or members with controlling interest of a partnership, corporation, or limited liability company, domiciled in Florida and licensed in another state be licensed in Florida.

Section 6 amends s. 473.3101, F.S., to include “sole proprietor” and “other legal entity” under the licensure requirements.

Section 7 amends s. 473.312, F.S., to allow the Board of Accountancy to appoint a Continuing Professional Education Advisory Committee.

Section 8 amends s. 473.313, F.S., to require 120 hours of continuing education for the reactivation of an inactive license by June 30, 2000. Of those 120 hours, at least 30 must be in accounting-related or auditing-related subjects, but no more than 30 hours may be in behavioral subjects. A licensee who holds an inactive license could reactivate his or her license conditionally. A conditional reactivation would require the payment of fees, the passing of an examination approved by the board, and the completion of continuing education requirements.

Section 9 amends s. 473.315, F.S., to provide that an attorney who is a member of The Florida Bar and a CPA licensed by the state is exempt from the standards of practice of public accounting provided for in the definition of “practice of public accountancy” when

those standards are in direct conflict with the rules of The Florida Bar and the orders of the Supreme Court.

Section 10 amends s. 473.319, F.S., to correct a cross-reference to the definition of public accounting, as it relates to contingent fees.

Section 11 amends s. 473.3205, F.S., to correct a cross-reference to the definition of public accounting, as it relates to referral fees.

Section 12 amends s. 473.322, F.S., to prohibit a person from performing audited financial statements, unless that person is a licensed CPA and practices public accounting under a licensed audit firm.

Section 13 provides an effective date of October 1 of the year in which the bill is enacted.

IV. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Some CPAs who are not required to be licensed to practice public accounting in the state would now be required to hold an active license in Florida.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

Some CPAs who are not required to be licensed to practice public accounting in the state would now be required to hold an active license in Florida.

D. FISCAL COMMENTS:

N/A

V. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

VI. COMMENTS:

N/A

VII. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute makes the following changes to the original bill:

- Clarifies that certified public accountants employed by non-CPA owned firms may prepare basic financial statements.

- Allows the probable cause panel of the Board of Accountancy to be composed of an unlimited number of past board members.
- Amends the continuing education requirements for a licensee who holds an inactive license on June 30, 1998, and desires to reactive his or her inactive license by June 30, 2000. At least 30 hours of the 120 continuing education requirements would have to be in accounting-related and auditing-related subjects, and no more than 30 hours could be in behavioral subjects.
- Allows for the conditional reactivation of a license. A person who wishes to reactivate his or her license conditionally would be required to pay fees, take an examination and complete continuing education requirement.
- Provides that an attorney who is a member of The Florida Bar and a CPA licensed by the state is exempt from the standards of practice of public accounting provided for in the definition of "practice of public accountancy" when those standards are in conflict with the rules of The Florida Bar and the orders of the Supreme Court.

VIII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

Meredith Woodrum Snowden

Stephen Hogge

FINAL RESEARCH PREPARED BY COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

Legislative Research Director:

Meredith Woodrum Snowden

Stephen Hogge