

**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 Regulated Industries Committee

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BILL: SB 662

INTRODUCER: Senator Jones

SUBJECT: Public Accountancy

DATE: March 29, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	<b>Favorable</b>
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

The bill requires, effective January 1, 2015, licensed certified public accountancy firms to enroll with a peer review organization and to undergo a peer review every three years as a condition for license renewal. The peer review requirements are limited to firms that practice public accountancy under s. 473.302(8)(a), F.S., which relates to public accountancy services that require the certified public accountant (CPA) to give a written opinion or attestation. The peer reviews would be performed by peer review organizations that would be approved by the Board of Public Accountancy (board).

The bill authorizes the board to establish a five-member peer review oversight committee to adopt rules for the qualifications, appointment, and terms of members. Each member of the committee must be a Florida-licensed CPA, and their firm must have undergone a peer review and received a review rating of “pass” on the most recent peer review. The term of appointment is at least 3 years and the member may not be a member of any state accountancy board or committee.

The bill provides immunity from civil liability for CPA’s and other persons appointed or authorized to perform administrative services for the peer review administering organization for furnishing information or performing within the scope or function of the duties of the peer review administering organization. The bill also provides that the proceedings, records, and work papers of a peer review administering organization are privileged, confidential, and not subject to discovery in a civil or arbitration proceeding. It also prohibits persons from testifying in a civil or arbitration proceeding in connection with a peer review.

The bill has an effective date of July 1, 2011.

This bill substantially amends sections 473.311 and 473.323, Florida Statutes. The bill creates sections 473.3066 and 473.3125.

## II. Present Situation:

The Board of Accountancy 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 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.

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.

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

However, these terms [of practice] shall not include services provided by the American Institute of Certified Public Accountants or the Florida Institute of 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>2</sup> for a client having its home office in this state, as defined by rule of the board.

Section 473.311(1), F.S., requires that CPA licensee’s, as a condition of license renewal every two years, complete continuing education requirements, and pass an examination on chs. 455 and 473, F.S. The biennial renewal fee for individual active and inactive status licenses is \$105.00.<sup>3</sup>

The continuing education requirement provides that every two years before each license renewal CPA’s must successfully complete not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board.<sup>4</sup>

The board may prescribe by rule additional continuing professional education hours, not to exceed 25 percent of the total hours required, for failure to complete the hours required for renewal by the end of the reestablishment period. Not less than 25 percent of the total hours required by the board must be in accounting-related and auditing-related subjects, as distinguished from federal and local taxation matters and management services. Not less than 5 percent of the total hours required by the board shall be in the practice of public accounting.<sup>5</sup>

Florida does not require that firms participate in a peer review program. It also does not have a peer review oversight committee or other oversight process for peer review. According to the Florida Institute of Certified Public Accountants (FICPA), 48 states have a peer review requirements. According to FICPA, Florida and Delaware are the only states without a peer review requirement.

Also according to the FICPA, the goal of a peer review is to help CPA firms improve their work, if needed, or to show that the CPA’s work meets professional auditing standards.

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<sup>2</sup> Section 473.3141, F.S., provides the practice requirements for CPA’s from out-of-state.

<sup>3</sup> See Rule 61H1-31.001, F.A.C., for the board’s fee schedule. Section 473.305, F.S., authorizes a maximum biennial renewal fee of \$250.

<sup>4</sup> Section 473.312, F.S.

<sup>5</sup> *Id.*

The Florida Institute of Certified Public Accountants has represented that Florida CPA firms that perform one or more audits, reviews, compilations, or any other agreed-upon attestation engagement, and are members of the American Institute of Certified Public Accountants are currently required to perform work under the Yellow Book standards<sup>6</sup> and public company audits which requires that they enroll in a peer review program and undergo a peer review at least once every three years.

The American Institute of Certified Public Accountants Peer Review Board has approved 41 state CPA societies or groups of societies as “administering entities” to administer the peer review program for 55 licensing jurisdictions.<sup>7</sup>

The board has unanimously approved the concept of peer review as a requirement for firm license renewal.<sup>8</sup>

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

#### **Peer Review Oversight Committee**

The bill creates s. 473.3066, F.S., to authorize the board to establish a five-member peer review oversight committee. The board is not required to establish this committee. If the board does establish the committee, it may adopt rules for the qualifications, appointment, and terms of members. Each member of the committee must be a Florida-licensed CPA, and their firm must have undergone a peer review and received a review rating of “pass” on the most recent peer review.

Members of any state board, members of another state accountancy board committee, and persons who perform enforcement-related duties for a state accountancy board may not serve on the committee. Committee members would serve without compensation, including no reimbursement for per diem or travel expenses. The bill provides for staggered term terms that are not to exceed three years.

The board’s rules may also establish the duties of the committee, may include, but are not limited to, providing or performing:

- Oversight for peer review programs and peer review administering organizations;
- Periodically reporting to the board on the effectiveness of peer review programs and providing a list of licensees that participate in the programs; and
- Other duties relating to oversight of peer review programs.

#### **License Renewal Requirement**

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<sup>6</sup> The “Yellow Book” provides the government auditing standards.

<sup>7</sup> *Peer Review Resources*, American Institute of Certified Public Accountants, <http://www.aicpa.org/InterestAreas/PeerReview/Resources/Pages/default.aspx> (last visited March 27, 2011).

<sup>8</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 professional staff of the Senate Committee on Regulated Industries.

The bill amends s. 473.311, F.S., to clarify that the department shall renew a license issued under section 473.308 F.S.

The bill creates subsection (2) of s. 473.311, F.S., to require that, effective January 1, 2015, a firm must satisfactorily comply with the peer review requirements in order to renew a firm license. The firm's license may be renewed if the board has extended the time to comply with the peer review requirement.

The bill amends s. 473.311(3), F.S., to clarify that the board's authority to adopt rules for license renewals relates to the CPA license and the firm license under ss. 473.308 and 473.3101, F.S., respectively.

### **Peer Review**

The bill creates s. 473.3125, F.S., to define terms as used in this section and to provide standards for peer review.

Section 473.3125(1)(a), defines the term "licensee" to mean firms that are required to be licensed under s. 473.3101, F.S., and that practice public accounting as defined in s. 473.302(8)(a), F.S.

Section 473.3125(1)(b), F.S., defines the term "peer review" to mean "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."

Section 473.3125(2)(a), F.S., requires that the CPA firm:

- Enroll in a peer review program of a peer review administering organization approved by the board; and
- Undergo a peer review at least once every 3 years which is performed according to this section and the rules of the board and submitted to and accepted by a peer review administering organization.

Section 473.3125(2)(b), F.S., provides that licensees are not required to enroll in a peer review program or undergo a peer review if they do not perform the accounting services defined in s. 473.302(8)(a), F.S.

Section 473.3125(2)(c), F.S., provides an exception from the requirements to enroll in a peer review program and for a peer review requirement for licensees that have been licensed less than 18 months.

Section 473.3125(2)(d), F.S., provides that a licensee that receives a review rating of "fail" on two consecutive peer reviews must submit any documentation requested by the board.

Section 473.3125(3), F.S., requires the board to adopt rules establishing minimum standards for peer review programs including establishing minimum criteria for the board's approval of one or more peer review administering organizations to facilitate and administer the peer review program. The rules must require the peer review administering organization to submit to the

board a written summary of the organization's peer review program that includes a description of its entire peer review process.

Section 473.3125(3)(c), F.S., sets forth the minimum standards for the board to approve peer review organizations. The organization must demonstrate the ability to administer its peer review program in the manner described in its written summary and to comply with the board's minimum standards.

Section 473.3125(3)(d), F.S., authorizes the board to withdraw its approval of any organization that fails to comply with s. 473.3125, F.S., or the board's rules.

Section 473.3125(4), F.S., provides immunity from civil liability for CPA's and other persons appointed or authorized to perform administrative services for the peer review administering organization for furnishing information or performing within the scope or function of the duties of the peer review administering organization.

Section 473.3125(5), F.S., provides that the proceedings, records, and work papers of a peer review administering organization are privileged, confidential, and not subject to discovery in a civil or arbitration proceeding. The bill also prohibits a person from testifying in a civil or arbitration proceeding in connection with a peer review. The privilege does not apply to public records and materials prepared for a particular engagement. The privilege does not apply to any dispute between a peer review administering organization and licensee relating to a subject arising from the performance of the peer review.

### **Disciplinary Proceedings**

The bill amends s. 473.323 F.S., to authorize the board to discipline any licensed audit firm or public accounting firm that is subject to the peer review requirement if the firm fails to enroll in a peer review program or undergo a peer review as required by s. 473.3125, F.S.

The firm may also be disciplined by the board if it engages in material noncooperation with a peer review administering organization approved by the board.

### **Effective Date**

The bill has an effective date of July 1, 2011.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

None.

### **B. Public Records/Open Meetings Issues:**

The confidentiality of records provided in s. 473.3125(5), F.S., would not apply to any documentation provided to the board, as provided in 473.3125(2)(d), F.S., and which are subject to the public records requirements in s. 119.07, F.S.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Public accountancy firms that are licensed under s. 473.3101, F.S., and that practice public accounting as defined in s. 473.302(8)(a), F.S., would be required to enroll with a peer review organization and submit to peer review at least every three years as a condition for renewal of their license every two years. According to the Florida Institute of Certified Public Accountants, the cost of a peer review varies depending on the type of accountancy practiced and the complexity of the subject, but advised that a peer review may cost at least \$900.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**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.