

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.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: CS/SB 1656

INTRODUCER: Regulated Industries Committee and Senator Latvala

SUBJECT: Public Accounting

DATE: February 27, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
2.	<u>Howard</u>	<u>DeLoach</u>	<u>BGA</u>	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|-----------------------------------------|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill deletes the requirement that the one year of work experience that is required for a license as a certified public accountant (CPA) must be under the supervision of a licensed CPA. The bill requires that the applicant's work must be verified by a licensed CPA.

The bill provides an alternative method for licensure by endorsement for out-of-state applicants who are licensed. The bill would permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application and meet the Florida requirements for good moral character.

The bill provides a process for reactivation of licenses that have become inactive due to failure to complete the continuing education requirements. If a person's license has become inactive due to a failure to complete continuing education requirements, the person is able to complete 120 hours of education if that person applies for reactivation between June 30, 2012, and December 31, 2012. The process would require the inactive licensee to pay a fee as determined by the department and to submit proof of satisfactorily completing the continuing education requirement. The inactive licensee must also submit the completed application for reactivation to the board by March 15 immediately following the inactive period.

The bill requires the Board of Accountancy, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

The bill provides an effective date of July 1, 2012.

This bill substantially amends sections 473.308, and 473.313, Florida Statutes. The bill creates an unnumbered section of the 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.¹ 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. The offices of the division are located in Gainesville.²

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

¹ Section 473.303, F.S.

² See s. 20.165(2)(c)2., F.S.

(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 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.,³ for a client having its home office in this state, as defined by rule of the board.

Section 473.308(4)(a), F.S., requires an applicant for licensure as a CPA to demonstrate work experience. The work experience must have been attained under the supervision of a licensed CPA.

Section 473.308(7), F.S., provides for the licensure by endorsement if an applicant holds a valid license to practice from another jurisdiction if the requirements for licensure were substantially equivalent to Florida’s requirements at the time the license was issued.

If not licensed in another state or territory, the person must:

- Meet the Florida requirement for education, work experience, and good moral character;
- Have passed a national, regional, state, or territorial licensing examination that is substantially equivalent to the examination required by s. 473.306, F.S.; and
- Have completed, during the two years immediately preceding her or his application for licensure by endorsement, the continuing education courses as the board deems appropriate for each applicable two year period, provided that such courses are equivalent to the continuing education requirements for a Florida certified public accountant licensed in this state;

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

Alternatively, a person may be licensed by endorsement if the person holds a valid license in another state or territory of the United States and the criteria for that license is substantially equivalent to the licensure criteria that existed in this state at the time the license was issued.

If the criteria in the other state or territory is not substantially equivalent to the criteria in Florida, the applicant may be licensed if he or she meets the Florida requirement for education, work experience, and good moral character, passed a licensing examination that is substantially equivalent to the examination required under Florida law, and has completed continuing education courses that are equivalent to those required in Florida during the two years immediately preceding her or his application for licensure by endorsement.

Inactive Licenses

Section 473.313(1), F.S., permits Florida-licensed CPA's to request that their license be placed on inactive status. Section 473.313(2), F.S., authorizes the board to provide that the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.

The minimum continuing education requirements are those required by board rule, the most recent biennium reporting period, and one-half of the requirements under s. 473.312, F.S.⁴

Section 473.303(2), F.S., provided a reduced number of hours for applicants to reactivate an inactive license if the license was inactive on June 30, 2009. To reactivate, the person must have complete 120 hours of continuing education, including at least 30 hours in accounting-related and auditing-related subjects, not more than 30 hours in behavioral subjects, and a minimum of eight hours in ethics subjects approved by the board. To reactivate, the CPA must also have notified the board by December 31, 2009, of his or her intention to reactivate such a license and have completed such reactivation by June 30, 2011.

The department noted that the last time amnesty was offered in 2009, the division notified approximately 2,900 inactive licensees of the amnesty provision. Five hundred and twenty-nine licensees submitted letters of intent to reactivate under the amnesty program and only 214 actually completed the reactivation process under that provision.

Rule 61H1-33.006, F.A.C., provides that licenses that have been inactive for no more than two reporting periods may be reactivated upon the completion of the most recent two year continuing education requirement plus a minimum of 120 hours of continuing education. The required additional continuing education hours increase to 200 hours if the CPA has been inactive for three or more reporting periods.

Peer Review

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

⁴ Section 473.312(1), F.S., requires that at least 48, but not more than 80 hours must be completed within 2 years prior to the application for renewal.

requirement. Also according to FICPA, Florida and Delaware are the only states without a peer review requirement.

Further, 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.

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 standards⁵ and public company audits which require 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 42 state CPA societies or groups of societies as "administering entities" to administer the peer review program for 55 licensing jurisdictions.⁶

The board has unanimously approved the concept of peer review as a requirement for firm license renewal.⁷

Section 473.308(4)(a), F.S., requires an applicant for licensure as a CPA to demonstrate work experience. The work experience must have been attained under the supervision of a licensed CPA.

Management Privatization Act

Section 455.32, F.S., provides the model for the privatization of the regulation of professionals under the department. It provides that, at the request of any board, the department may establish and contract with a nonprofit corporation to provide administrative, investigative, and prosecutorial services to any board created with the department.

Section 455.32(4), F.S., requires that the board's privatization request must contain a business case that includes a needs assessment and financial feasibility study with specific performance standards and measurable outcomes. The term "business case" means a needs assessment, financial feasibility study, and corporate financial model as specified in s. 455.32(4), F.S.⁸ The term "performance standards and measurable outcomes" is defined to include, but not be limited to, timeliness and quantitative criteria for activities specified in s. 455.32(6)(o), F.S.⁹

⁵ The "Yellow Book" provides the government auditing standards.

⁶ *Peer Review Program, Annual Report on Oversight*, American Institute of Certified Public Accountants, January 12, 2012.

A copy is located at:

<http://www.aicpa.org/interestareas/peerreview/resources/transparency/downloadabledocuments/annrptoversight2011.pdf>

(Last visited February 4, 2011).

⁷ 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.

⁸ Section 455.32(3)(e), F.S.

⁹ Section 455.32(3)(f), F.S.

Section 455.32(4), F.S., requires that the feasibility study must evaluate the department's current and projected performance standards in regard to those standards. The financial model must include projected costs and expenses for the first two years of operation and specific performance standards and measurable outcomes. The business case must be approved by the Executive Office of the Governor and the Legislature pursuant to s. 216.023, F.S., which requires state agencies to submit legislative budget requests to the Governor and the Legislature.

III. Effect of Proposed Changes:

Licensure by Endorsement

The bill amends s. 473.308(4)(a), F.S., to provide that applicants for licensure must submit proof of experience verified by a licensed CPA. It deletes the requirement that the work experience must be under the CPA who supervised the applicant.

The bill also amends s. s. 473.308(7), F.S., to provide an alternative method for licensure by endorsement for out-of-state applicants who are licensed. The bill would permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application. They must also meet the requirements for good moral character as provided in s. 473.308, F.S.

Inactive Licenses

The bill amends s. 473.313(2), F.S., to provide CPAs who hold an inactive license due to failure to complete the continuing education requirements in s. 473.312, F.S., may be reactivated under s. 473.311, F.S.,¹⁰ upon application to the department.

Section 473.313(3), permits a license that has become inactive due to failure to meet the continuing education requirements to be renewed upon the licensee applying to the department with payment of a fee as determined by the department.¹¹ The applicant must submit proof of satisfactorily completing the continuing education requirement. The applicant must also submit the completed application to the board by March 15 immediately following the inactive period.

Privatization Report

The bill creates an unnumbered section of the Florida Statutes to require the Board of Accountancy, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

Effective Date

The bill provides an effective date of July 1, 2012.

¹⁰ Section 473.311, F.S., provides for the renewal of licenses upon the satisfaction of continuing education requirements.

¹¹ Section 473.305, F.S., authorizes the board to establish, by rule, a reactivation fee, and a delinquency fee not to exceed \$50 for continuing professional education reporting forms. This section also provides that the board must "establish fees which are adequate to ensure the continued operation of the board and to fund the proportionate expenses incurred by the department which are allocated to the regulation of public accountants." The fees established by the board must be based on department estimates of the revenue required to implement ch. 473, F.S., and the provisions of law with respect to the regulation of certified public accountants.

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:

None.

C. Government Sector Impact:

Upon approval of the Board of Accountancy, the board shall complete a report on the potential cost savings for privatization of the Division of Certified Public Accounting. The report can be completed using existing resources.

Incidental indeterminate costs associated with rulemaking, increased calls to the call center, and changes to computer applications can also be absorbed with existing resources.

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.)

CS by Regulated Industries on February 7, 2012:

The committee substitute (CS) does not amend s. 473.3035(3), F.S., to require the Department of Business and Professional Regulation (department), upon the approval of

the Board of Accountancy (board), to conduct a feasibility study, in accordance with the Management Privatization Act, to assess the privatization of the Division of Certified Public Accounting (division). Instead, the CS creates an unnumbered section of the Florida Statutes to require the department, upon the approval of the board, to complete a report on the potential cost savings for privatization of the division or its functions as outlined in s. 455.32, F.S. The CS also requires that the report must be submitted to the presiding officers of the Senate and the House of Representatives no later than November 30, 2012.

The CS does not amend s. s. 473.308(7), F.S., to permit a CPA who is licensed in another state or territory to become licensed in Florida if they have completed a license exam substantially equivalent to Florida's exam at least 10 years before filing their application. Instead, the CS amends this subsection to permit a CPA who has been licensed in another state or territory to become licensed in Florida if they have been licensed in another state for at least 10 years before the date of application.

The CS does not amend s. 473.311, F.S., relating to the renewal of the license for a firm upon certification by the board that it is enrolled in a peer review program.

The CS does not create s. 473.3125, F.S, relating to peer review.

B. Amendments:

None.