

**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 Committee on Appropriations

**BILL:** CS/CS/SB 328

**INTRODUCER:** Appropriations Committee, Regulated Industries Committee, and Senator Latvala

**SUBJECT:** Public Accountancy

**DATE:** March 11, 2013      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<b>Fav/CS</b>
2.	<u>Davis</u>	<u>Hansen</u>	<u>AP</u>	<b>Fav/CS</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| 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:**

CS/CS/SB 328 increases the frequency of disbursements to twice per year for scholarships funded by a portion of license fees set by the Board of Accountancy and collected by the Department of Business and Professional Regulation under the Certified Public Accountant Education Minority Assistance Program. Currently, scholarship disbursements are made once per year. Additionally, the maximum amount the department is authorized to spend for scholarships is increased from \$100,000 to \$200,000 per year.

There is no fiscal impact for the 2013-2014 fiscal year related to agency workload, and there is no increased appropriation for the Certified Public Accountant Education Minority Assistance Program.

The bill also requires CPA firms engaged in the practice of public accounting as defined in s. 473.302(8)(a), F.S., except those who provide only compilation or review services, to be enrolled in a peer review program as a condition of licensure as of January 1, 2015. Peer review is defined in the bill as the study, appraisal or review by one or more independent Certified Public Accountants (CPA) of one or more aspects of the professional work of a licensee engaged in the practice of public accounting.

The Florida Board of Accountancy is required to adopt rules for the minimum standards for peer review programs and the minimum criteria for the peer review organizations that will administer the programs. A peer review oversight committee may be established by the board which includes 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 has an effective date of July 1, 2013.

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

The 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> Administrative services for the board are provided by the Division of Certified Public Accounting (division), 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 division’s offices 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

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

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

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 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 (program) for Florida residents was created by enactment of ch. 98-263, L.O.F., codified in s. 473.3065, F.S. It is administered by the board with the assistance of the Certified Public Accountant Education Minority Assistance Advisory Council (council) and 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.

The council consists of five licensed Florida CPAs selected by the board and is required to be diverse and representative of the gender, ethnic, and racial categories set forth in s. 288.703(4), F.S. One member of the board serves as chair of the council, one council

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

member must be a representative of the National Association of Black Accountants, one council member must be a representative of the Cuban American CPA Association, and two council members are selected at large. At least one member of the council must be a woman.<sup>4</sup>

Vacancies on the council must be filled in the manner provided for the selection of the initial member. A member appointed to fill a vacancy of an unexpired term is 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 cause the council membership of the member in question to become void, and the position is considered vacant. The members of the council serve without compensation; however, any necessary and actual expenses incurred by a member while engaged in the business of the council are borne by the member or by the organization or agency a 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).

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. Scholarship moneys 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.

Rule Chapter 61H1-38, Florida Administrative Code, contains the rules adopted by the board to administer the program. These rules include the 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, the amounts of scholarships, the total amount of scholarships 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. Decisions concerning recipients of scholarship moneys are not agency action for purposes of the Administrative Procedure Act, ch. 120, F.S.

### **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

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

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. At present, the FICPA administers the AICPA Peer Review Program for firms that are members of the AICPA and for firms that are not members of the AICPA. The program is designed to be educational for public accounting firms and to enhance the quality of their accounting and auditing work. It also allows firms to communicate with their fellow peers about the objectives of the accounting profession.<sup>5</sup>

The State of Florida currently does not require that CPA firms participate in a peer review program as a condition of licensure and does not have a peer review oversight committee or other oversight process for peer review. According to the FICPA, which has over 18,000 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;
- Attestation as an expert in accountancy to the reliability or fairness of presentation of financial information;
- Utilization of any form of opinion or financial statements that provide a level of assurance;
- Utilization of any form of disclaimer of opinion which conveys an assurance of reliability as to matters not specifically disclaimed; or
- 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

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

<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.

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.
- There will be no impact on CPAs in private industry, education, or government because the requirement applies only to CPAs in public practice (accounting and auditing practices).
- Peer review is not an entirely new requirement for most Florida CPA firms performing attest and compilation services. The American Institute of Certified Public Accountants (AICPA) has had a peer review program for its more than 30,000 members since 1989, and approximately 75 percent 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>

Furthermore, according to the FICPA, under AICPA standards, 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, rather than once per year, and authorizes the Department of Business and Professional Regulation to spend up to \$200,000 per year instead of up to \$100,000 per year, for the program.

Effective January 1, 2015, CPA firms that engage in the practice of public accounting as defined in s. 473.302(8)(a), F.S., with exceptions, are required by the bill to enroll in a peer review program as a condition of licensure. The bill specifically exempts CPA firms that only engage in the practice of providing compilations and reviews, as those terms are defined by the Florida

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

<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).

Board of Accountancy, from having to comply with the peer review requirement. The bill establishes a peer review program defined as the study, appraisal or review by one or more independent CPAs of one or more aspects of the professional work of a licensee engaged in the practice of public accounting.

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

Further, the FICPA anticipates 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

Effective January 1, 2015, all CPA firms engaged in the practice of public accounting pursuant to s. 473.302(8)(a), F.S., except those who provide only compilation or review services, 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 \$1,790 to \$2,315, depending upon the number of peer review hours required to conduct the review (annualized cost of \$597 to \$772), as calculated below.

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

Sole practitioner firm performing one audit – Administrative fee per year @ \$130 x 3yrs.	\$390
Peer review – reviewer – approximately 8-11 hrs at reviewer rate (say \$175/hr)	<u>\$1,400-\$1,925</u>
Total cost over three years	\$1,790-\$2,315
<b>Annualized cost</b>	<b>\$597-\$772</b>

**C. Government Sector Impact:**

Rules adopted by the board for the Certified Public Accountant Minority Assistance Program will require review and revision to conform to the modification of the frequency of scholarship awards and of the amount available for awarding of scholarships.

Additionally, 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 public accountants licensed 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, the bill:

- 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. This 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. This impact is indeterminate at this time.

No additional funds are needed to address workload associated with the bill for Fiscal Year 2013-2014. If future workload impacts be realized, the department may request additional resources as part of its legislative budget request.

No appropriation is included in the bill to increase the funding for the Certified Public Accountant Education Minority Assistance Program. The bill authorizes the department to spend up to \$200,000 for the program; however, the 2012-2013 General Appropriations Act provided \$100,000 for the program.

**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.)

**CS/CS by Appropriations on March 7, 2013:**

The committee substitute provides an exception to the peer review enrollment requirement for CPA firms that only conduct compilations and reviews, as those terms are defined by the Board of Accountancy.

**CS by Regulated Industries on February 6, 2013:**

The committee substitute requires that effective January 1, 2015, all CPA firms engaged in the practice of public accounting pursuant to s. 473.302(8)(a), F.S., (i.e. providing certain opinions or attest services) be enrolled in a peer review program. Under the original bill as filed, effective January 1, 2015, renewal of licensure for CPA firms engaged in the practice of public accounting pursuant to s. 473.302(8)(a), F.S., would have required certification by the Board of Accountancy that the firm requesting renewal of licensure was enrolled in a peer review program.

- 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).