

**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 Committee on Banking and Insurance

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BILL: SB 1252

INTRODUCER: Senator Gruters

SUBJECT: Public Accountancy

DATE: March 29, 2019

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>IT</u>	<u>Favorable</u>
2.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1252 adds an attestation engagement to the services that require a certified public accountant license (CPA) for a person to perform or offer to perform. An attestation engagement is an arrangement with a client where an independent third party CPA investigates and reports on subject matter created by a client. Examples of attestation engagements include reporting on financial information formulated by a client, and reporting on how well the client's internal controls process functions. An attestation engagement gives users a higher level of confidence regarding the subject of the engagement.

The bill decreases the percentage of the required total hours of CPA continuing education that must relate to accounting-related and auditing-related subjects from 25 percent to 10 percent.

The bill also eliminates the process and the separate continuing education requirements for reactivation of a license that was inactive or delinquent on June 30, 2014. Under the bill, all inactive licensees must satisfy the same minimum continuing education requirements.

The effective date of the bill is July 1, 2019.

**II. Present Situation:**

The Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) is the agency responsible for regulating and licensing more than 35,000 active and inactive CPAs and more than 5,400 accounting firms in Florida.<sup>1</sup> The Division of Certified Public Accounting provides administrative support to the nine-member board, which consists of seven CPAs and two laypersons.<sup>2</sup>

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<sup>1</sup> Florida Department of Business and Professional Regulation, Fiscal Year 2017-2018 Annual Report, page 14, available at <http://www.myfloridalicense.com/DBPR/os/documents/ProfessionsAnnualReport2017-2018.pdf> (last visited Mar. 1, 2019).

<sup>2</sup> Section 473.303, F.S.

A certified public accountant is a person who holds a license to practice public accounting in this state under ch. 473, F.S., or an individual who is practicing public accounting in this state pursuant to the practice privilege granted in s. 473.3141, F.S.<sup>3</sup>

The practice of public accounting includes offering to the public the performance of services involving audits, reviews, compilations, tax preparations, management advisory or consulting services, or preparation of financial statements.<sup>4</sup> To engage in the practice of public accounting, as defined in s. 473.302(8)(a), F.S., an individual or firm must be licensed pursuant to ss. 473.308 or 473.3101, F.S., and business entities must meet the requirements of s. 473.309, F.S.

### Definitions

Section 473.302(8), F.S., define the terms “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, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141, [F.S.,] 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 services involving the preparation of financial statements not included within paragraph (a), by a certified public accountant who holds an active license, issued pursuant to this chapter, or who is authorized to practice public accounting pursuant to the practice privileges granted in s. 473.3141[, F.S.]; by a firm of certified public accountants; or by 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

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<sup>3</sup> See s. 473.302(4), F.S. Section 473.3141, F.S., permits a person who does not have an office in Florida to practice public accountancy in this state without obtaining a license under ch. 473, F.S., notifying or registering with the board, or paying a fee if the person meets the required criteria.

<sup>4</sup> Section 473.302(8), F.S.

shall be construed to permit the board to adopt rules that have the result of prohibiting Florida certified public accountants employed by unlicensed firms from preparing financial statements as authorized by this paragraph.

(Emphasis added.)

A “client” is any person, public officer, corporation, association, or other organization or entity, either public or private, who agrees with an accountant or accountant’s employer to receive professional services.<sup>5</sup>

### **Continuing Education**

Certified public accountants, as part of the license renewal procedure, are required to submit proof satisfactory to the board that, during the 2 years prior to their application for renewal, they have successfully completed not less than 48 or more than 80 hours of continuing professional education programs in public accounting subjects approved by the board.<sup>6</sup> The board has the authority to 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.<sup>7</sup>

At least 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.<sup>8</sup> Not less than 5 percent of the total hours required by the board must be in ethics applicable to the practice of public accounting.<sup>9</sup>

### **Inactive Licenses**

Section 473.313(1), F.S., allows Florida-licensed CPAs to request that their license be placed on inactive status. Section 473.313(2), F.S., authorizes the board to adopt rules establishing the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.<sup>10</sup>

Section 473.313(2), F.S., provides that a CPA who holds 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.,<sup>11</sup> upon application to the department. The minimum continuing education requirements are those required by board rule, the required hours for the most recent biennium reporting period, and one-half of the requirements under s. 473.312, F.S.<sup>12</sup>

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<sup>5</sup> See s. 473.316(1)(b), F.S.

<sup>6</sup> Section 473.312(1)(a), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Section 473.312(1)(b), F.S.

<sup>9</sup> Section 473.312(1)(c), F.S.

<sup>10</sup> See Fla. Admin R. 61H1-33.006.

<sup>11</sup> Section 473.311, F.S., provides for the renewal of licenses upon the satisfaction of continuing education requirements.

<sup>12</sup> Section 473.312(1), F.S., requires that at least 48, but not more than 80 hours, of continuing education must be completed within 2 years prior to the application for renewal.

A different continuing education requirement applies to a license that was inactive on June 30, 2014. To reactivate a license that was inactive on June 30, 2014, an applicant must have completed 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 8 hours in ethics subjects approved by the board. To reactivate, the applicant must also have notified the board by December 31, 2014, of his or her intention to reactivate such a license and have completed such reactivation by June 30, 2016.<sup>13</sup>

During the 2014 Regular Session, the Legislature extended the deadlines in the process for reactivation of licenses that had become inactive due to failure to complete the continuing education requirements. The deadlines or relevant dates were extended from:

- June 30, 2012, to June 30, 2014, the date by which a person must have been inactive or delinquent for failure to complete the continuing education requirement; and
- June 30, 2014, to June 30, 2016, the deadline to complete the reactivation of the license.<sup>14</sup>

Section 473.313(3), F.S., 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 the required fee.<sup>15</sup> The applicant must submit proof of satisfactorily completing the continuing education requirements. The applicant must also submit the completed application to the board by March 15 immediately following the inactive period.

### **Attestation Engagements**

An attestation engagement is an arrangement with a client where an independent third party investigates and reports on subject matter created by a client. Examples of attestation engagements include reporting on financial information formulated by a client, and reporting on how well the client's internal controls process functions. An attestation engagement gives users a higher level of confidence regarding the subject of the engagement.<sup>16</sup>

The Auditing Standards Board (ASB) is the senior technical committee designated by the American Institute of Certified Public Accountants (AICPA) to issue auditing, attestation, and quality control standards applicable to the performance and issuance of audit and attestation reports.<sup>17</sup> The ASB has issued a Statement on Standards for Attestation Engagements to be followed by a CPA performing an attestation engagement.<sup>18</sup>

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<sup>13</sup> Section 473.312(2), F.S.

<sup>14</sup> See ch. 2014-88, s. 2, Laws of Fla.

<sup>15</sup> 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.

<sup>16</sup> See Accounting Tools, *Attestation Engagement*, Nov. 11, 2018, available at: <https://www.accountingtools.com/articles/2017/5/7/attestation-engagement> (last visited Mar. 13, 2019).

<sup>17</sup> See Auditing Standards Board, at: <https://www.aicpa.org/research/standards/auditattest/asb.html> (last visited: Mar. 4, 2019).

<sup>18</sup> See Clarified Statements on Standards for Attestation Engagements at: <https://www.aicpa.org/research/standards/auditattest/ssae.html> (last visited: Mar. 4, 2019).

### III. Effect of Proposed Changes:

**Section 1** creates s. 473.302(8)(d), F.S., to add an attestation engagement within the types of services that require a CPA license for a person to perform or offer to perform. Pursuant to the bill, a person who performs or offers to perform one or more types of services involving any attestation engagement in accordance with the Statements on Standards for Attestation Engagements<sup>19</sup> is practicing public accounting. The “Statements on Standards for Attestation Engagements” applicable would be the version in effect at the time the Legislature acts but would not include future revisions unless those revisions are adopted by a future Legislature.<sup>20</sup>

**Section 4** amends s. 473.322(1)(c), F.S., which prohibits offering or performing specified services without a CPA license, to incorporate the offering or performance of an attestation engagement as provided by the bill.

**Section 2** amends s. 473.312(2), F.S., to decrease the percentage of the required total hours of CPA continuing education that must relate to accounting-related and auditing-related subjects from 25 percent to 10 percent.

**Section 3** amends s. 473.313(2), F.S., to eliminate the process and separate continuing education requirements for reactivation of a license that was inactive or delinquent on June 30, 2014. Under the bill, all inactive licensees must satisfy the same minimum continuing education requirements.

**Section 5** provides an effective date of July 1, 2019.

### IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

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<sup>19</sup> The bill does not specify that the “Statements on Standards for Attestation Engagements” are promulgated by the American Institute of Certified Public Accountants.

<sup>20</sup> See *Galaxy Fireworks, Inc. v. City of Orlando*, 842 So.2d 160, 167 (Fla. 5<sup>th</sup> DCA 2003)(noting that the “adoption of future code provisions may constitute an unlawful delegation of powers by a legislative body”).

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 473.302, 473.312, 473.313, and 473.322.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.