

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 813 Certified Public Accountants
SPONSOR(S): Regulatory Reform & Economic Development Subcommittee, Caruso
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 954

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Regulatory Reform & Economic Development Subcommittee	15 Y, 0 N, As CS	Larkin	Anstead
2) Commerce Committee	18 Y, 0 N	Larkin	Hamon

SUMMARY ANALYSIS

In Florida, public accountancy is regulated by the Board of Accountancy under the Department of Business and Professional Regulation. The practice of public accountancy includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements. In order to practice public accountancy, a person must be licensed as a certified public accountant (CPA).

CPAs are allowed to request their license be placed on inactive status, or the licensee may be placed on inactive status for failing to meet the CPE requirements of 80 CPE hours every two years for license renewal. However, Florida law does not currently provide CPAs the option of placing licenses into a retired status as an alternative to an inactive status.

The bill:

- Allows a Florida-licensed CPA to submit an application to the DBPR to place a CPA license in a retired status if certain conditions are met.
- Provides that if a licensee with a retired status license reenters the workforce in a position that has an association with accounting or any of the CPA services, the licensee automatically loses the retired status.
- Provides a retired licensee may serve without compensation on a board of directors or board of trustees, provide volunteer tax preparation services, participate in government-sponsored business mentoring programs, or participate in an advisory role for a similar charitable, civic, or nonprofit organization.
- Provides that a retired licensee may reactivate a license in a conditional manner determined by the Florida Board of Accountancy, which requires the payment of fees and the completion of continuing education, which consists of 80 hours every two years.

The bill does not have a fiscal impact on state or local governments.

The bill has an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

The Florida Board of Accounting (board) in the Department of Business and Professional Regulation (DBPR) is the agency responsible for regulating and licensing active and inactive certified public accountants (CPA) and accounting firms in Florida. The Division of Certified Public Accounting provides administrative support to the 9-member board, which consists of 7 CPAs and 2 laypersons.¹

To engage in the practice of public accounting, an individual or firm must be licensed and business entities must meet certain formation requirements.²

The “practice of public accountancy” includes offering to the public the performance of services involving audits, reviews, compilations, tax preparation, management advisory or consulting services, or preparation of financial statements.³

The initial licensing fee for a CPA license is \$50⁴, and the biennial renewal fee is \$105.⁵

A person may be charged with a first-degree misdemeanor if they are not a licensed CPA and they perform:⁶

- Services involving the expression of an opinion on financial statements,
- The attestation as an expert in accountancy to the reliability or fairness of the 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.

Continuing Education

CPAs are required to complete 80 hours⁷ of continuing professional education (CPE), which is set by the board, in public accounting subjects every 2 years to renew their license. The board sets CPE hours and has the authority to require between 48 and 80 hours every 2 years. The board has the authority to prescribe by rule additional CPE 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.⁸

The Florida Institute of Certified Public Accountants (FICPA), one of Florida’s largest CPA voluntary associations, offers members 20 hours of free CPE per year. The membership fee is \$295 or \$395 per

¹ S. 473.303, F.S.

² S. 473.302, F.S.

³ S. 473.302(8), F.S.

⁴ “Initial CPA License”, Florida Department of Business and Professional Regulation,

www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=1035&clientCode=0101&XACT_DEFN_ID=18291 (last visited Jan .23, 2024).

⁵ Email from Derek Miller, Director of Legislative Affairs, Florida Department of Business and Professional Regulation, RE: CPAs (Jan. 23, 2024).

⁶ S. 473.322(1)(c), F.S.

⁷ S. 473.312(1)(a), F.S. allows the board to require between 48 and 80 hours of CPE every 2 years. The board requires 80 hours in r. 61H1-33.003, F.A.C.

⁸ S. 473.312(1)(a), F.S.

year depending on how many years a member has been licensed. Other organizations also offer free CPE hours. Otherwise, private companies offer courses that are available online year round for between \$200 and \$600 per year.

The board also requires that a specific number of hours be completed in set categories or subjects. At least 10 percent of the total hours required by the board must be in accounting-related and auditing-related subjects, as distinguished from other subjects that include federal and local taxation matters and management services.⁹ Five percent of the total hours required by the board must be in ethics applicable to the practice of public accounting. This requirement must be administered by providers approved by the board and include a review of the provisions of ch. 455, F.S., ch. 473, F.S., and the related administrative rules.¹⁰

Inactive Licenses

A CPA may request that their license be placed on inactive status. A CPA may also be placed on inactive status for failing to meet the CPE requirements for license renewal. A CPA with an inactive license cannot use the CPA designation and cannot practice public accounting.¹¹ Every two years, an individual with an inactive license has to pay \$105 to maintain his or her license.¹² However, CPE requirements are suspended while his or her license is inactive.¹³ The board is authorized to adopt rules establishing the minimum requirements for placing a license on inactive status, renewing an inactive license, and reactivating the inactive license.¹⁴

The current fee for reactivating an inactive CPA license is \$250.¹⁵ The CPE requirements for reactivating an inactive or delinquent license are 120 hours, regardless of how long the license is inactive. These CPE requirements include:

- 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.

Retired Status

The American Institute of CPAs (AICPA) estimated that approximately 75 percent of its members met the retirement age in 2020. According to AICPA, “many of these retirees are well respected business leaders in their communities who would like to find ways to continue to be of service, without necessarily remaining an active CPA in practice.”¹⁶

The AICPA provides a uniform retired CPA status in their model rules that states¹⁷ may adopt allowing retired CPAs to offer a limited array of volunteer, uncompensated services to the public. The Model Act allows inactive CPAs, who are at least 55 years of age to refer to themselves as “Retired-CPAs” and register as such with their state board of accountancy. They are able to participate in activities such as

⁹ S. 473.312(1)(b), F.S.

¹⁰ S. 473.312(1)(c), F.S.

¹¹ “Request Inactive Status”, The Florida Department of Business and Professional Regulation, www.myfloridalicense.com/CheckListDetail.asp?SID=&xactCode=4020&clientCode=0101&XACT_DEFN_ID=2738#:~:text=Licensees%20who%20no%20longer%20wish,can%20they%20practice%20public%20accounting (last visited Jan. 28, 2024).

¹² R. 61H1-31.003, F.A.C.

¹³ R. 61H1-30.040(1), F.A.C.

¹⁴ S. 473.313, F.S.

¹⁵ R. 61H1-31.006, F.A.C.

¹⁶ American Institute of Certified Public Accountants, Exposure Draft: AICPA/NASBA Uniform Accountancy Act and NASBA Uniform Accountancy Act Rules (November 2015)

<https://www.aicpa.org/advocacy/state/retiredcpastatusexposuredraft.html>, p. 3 (last visited Jan. 23, 2024).

¹⁷ See some states that have adopted “retired CPA status”, *i.e.*, Ohio Admin. Code 4701-7-06(c); 21 N.C. Admin. Code 8J.0112; La. Rev. Stat. § 37:76(D)(2).

volunteer tax preparation services, government-sponsored business mentoring programs, and on boards of nonprofit organizations.¹⁸

Florida law does not currently provide CPAs the option of placing licenses into a retired¹⁹ status as an alternative to an inactive status.

Uniform Accountancy Act

Section 473.302(9), F.S., defines the term "Uniform Accountancy Act" to mean the Uniform Accountancy Act, Seventh Edition, dated May 2014 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy. The Uniform Accountancy Act provides uniform standards for the regulation of accountancy. The current edition is the eighth edition, dated January 2018.

Effect of the Bill

Retired Status

The bill creates a "retired status" for CPA licensees. The bill defines a "retired licensee" as a licensee whose license has been placed in retired status by the department.

The bill allows a Florida-licensed CPA to submit an application to the DBPR to place a CPA license in a retired status if the licensee:

- Is at least 65 years of age;
- Holds a current active or inactive license; and
- Is in good standing and not the subject of any sanction or disciplinary action.

The bill authorizes the board to prescribe by rule the application for placing a license into retired status. The application must state that the applicant has no association with accounting or any of the services defined in s. 473.302(8), F.S.

Under the bill, a licensee in retired status who reenters the workforce in a position that has an association with accounting, or any related services defined in s. 473.302(8), F.S., automatically loses his or her retired status except as provided in s. 473.313(8)(a), F.S., relating to placing a license in an inactive status.

The bill provides that the term "retired licensee" for the purposes of a retired license status in s. 473.313(2), F.S., means a licensee whose license has been placed in a retired status by the department.

The bill authorizes a retired licensee to:

- Serve without compensation on a board of directors or board of trustees;
- Provide volunteer tax preparation services;
- Participate in government-sponsored business mentoring program such as the Internal Revenue Service's Volunteer Income Tax Assistance program or the Small Business's SCORE program;
- or
- Participate in an advisory role for a similar charitable, civic, or nonprofit organization.

The board must require retired licensees to affirm in writing their understanding of the limited types of activities allowed while in retired status and their professional duty to ensure competency to participate in the activities.

¹⁸ *Supra* note 11.

¹⁹ The FICA offers membership to "retired CPAs" in Florida. "Retired" members pay \$115 a year for membership and must be 55 years or older and have been licensed in the U.S. in the past 10 years. See "Membership Types", *Florida Institute of CPAs*, www.ficpa.org/membership/types (last visited Jan. 27, 2024).

Under the bill, a retired licensee may accept routine reimbursement for actual costs of travel and meals associated with volunteer services or de minimis per diem amounts paid to the retired licensee to cover such expenses as allowed by law.

Retired licensees are permitted to use the title of “retired CPA” on any business card or letterhead or any other printed or electronic document as long as it is used in a manner that is not confusing to the public.

A “retired CPA” title may not offer or render professional services that require her or his signature and the use of the CPA title, regardless of whether “retired” is attached to such title.

Retired licensees are not required:

- To have a certificate issued with the word “retired”.
- To maintain the CPE requirements set forth in s. 473.312, F.S.

A retired licensee may reactivate his or her license in a conditional manner determined by the board. The conditions of reactivation must require the payment of fees and the completion of any continuing education requirements.

Under the bill, the CPE requirements for reactivation are those of the most recent biennium plus one-half of the continuing education requirements in s. 473.312, F.S., for each biennium or part thereof during which the license was on retired status.

Uniform Accountancy Act

The bill updates the definition of “Uniform Accountancy Act” to reference the current Eighth Edition, dated January 2018 and published by the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy.

B. SECTION DIRECTORY:

- Section 1: Amends s. 473.313, F.S., providing requirements for CPA retired status licenses.
Section 2: Amends s. 73.302, updating definition of Uniform Accountancy Act.
Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

A retired CPA wishing to reactivate her or his license will be subject to reactivation fees in an amount determined by the board, and the expense of completing required continuing education hours.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

Section 19(a), Article VII of the State Constitution limits the authority of the legislature to enact legislation that imposes a new state tax or fee by requiring such legislation to be approved by a two-thirds vote in each chamber of the legislature. Section 19(e), Article VII of the Florida Constitution provides that a state tax or fee imposed, authorized, or raised must be contained in a separate bill that contains no other subject. The bill permits a licensed CPA in retired status to reactivate his or her license in a conditional manner determined by the Florida Board of Accountancy.

The bill requires that the conditions for the reactivation of a license in retired status must include the payment of fees. The board currently has the authority to impose a fee for the reactivation of an inactive license. Because the bill requires the board to impose a fee of an unknown amount for the reactivation of a license in retired status, it is unclear if the voting and separate bill requirements found in the State Constitution apply to the bill.

B. RULE-MAKING AUTHORITY:

The board will need to generate rules for retired status licenses. There is sufficient rulemaking authority to do so.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 1, 2024, the Regulatory Reform & Economic Development Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute makes technical changes, and clarifies continuing education requirements for retired status licensees who become active licensees.

This analysis is drafted to the committee substitute as passed by the Regulatory Reform & Economic Development Subcommittee.