

HOUSE BILL REPORT

E2SSB 5593

As Passed House - Amended:

April 5, 2001

Title: An act relating to the public accountancy act.

Brief Description: Changing the public accountancy act.

Sponsors: By Senate Committee on Ways & Means (originally sponsored by Senators Gardner, Prentice and Winsley).

Brief History:

Committee Activity:

Commerce & Labor: 3/21/01 [DPA];

Appropriations: 3/27/01, 3/29/01 [DPA(APP w/o CL)s].

Floor Activity:

Passed House - Amended: 4/5/01, 89-8.

**Brief Summary of Engrossed Second Substitute Bill
(As Amended by House)**

- Revises regulation of Certified Public Accountants (CPA), including phasing out the issuance of new CPA certificates in favor of licensing only, but allowing CPAs holding certificates as of June 30, 2001, to renew their certificates as "inactive certificates."
- Requires a majority of owners of CPA firms to be licensed, with nonlicensee owners subject to the board's discipline.
- Allows certain out-of-state CPAs to practice in Washington without a Washington license.
- Grants authority to the Board of Accountancy to provide consumer protection and alerts, and to investigate Washington licensees when a complaint is made by the board of accountancy of another state.
- The amendment requires (1) the fees received as a result of granting practice privileges to certain out-of-state certificate holders to be deposited in the Certified Public Accountants' Account; and (2) the Board of Accountancy to report to the Senate Labor, Commerce & Financial Institutions Committee and to the House Commerce & Labor Committee by December 1, 2002, on the implementation of the act, including the fiscal impacts and the provisions governing nonlicensee owners of CPA firms.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass as amended. Signed by 8 members: Representatives Clements, Republican Co-Chair; Conway, Democratic Co-Chair; B. Chandler, Republican Vice Chair; Wood, Democratic Vice Chair; Hunt, Kenney, Lisk and McMorris.

Staff: Chris Cordes (786-7103).

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Commerce & Labor. Signed by 30 members: Representatives Sehlin, Republican Co-Chair; H. Sommers, Democratic Co-Chair; Barlean, Republican Vice Chair; Doumit, Democratic Vice Chair; Lisk, Republican Vice

Chair; Alexander, Benson, Boldt, Buck, Clements, Cody, Cox, Dunshee, Fromhold, Grant, Kagi, Keiser, Kenney, Lambert, Linville, Mastin, McIntire, Mulliken, Pearson, Pflug, Ruderman, D. Schmidt, Schual-Berke, Talcott and Tokuda.

Staff: Patricia Linehan (786-7178).

Background:

The Board of Accountancy administers a licensing program for persons and firms that engage in the practice of public accounting. Generally, public accounting involves the use of accounting or auditing skills and includes such services as reporting on financial statements, performing tax planning or preparing tax returns, and providing management advisory or consulting services.

A licensed Certified Public Accountant (CPA) may practice public accounting only in a licensed CPA firm. A person holding a valid CPA certificate, but not a license, may use the CPA designation as long as he or she meets certain conditions and does not hold himself or herself out as practicing public accounting.

Board membership. The board has seven members appointed by the Governor: four members must hold valid CPA certificates and must have been in public practice for at least 10 years; two members must have held valid CPA certificates for a least 10 years; and one member must represent the public. The executive director is also appointed by the Governor and must hold a certificate.

Board duties. As part of administering the licensing program, the board administers the CPA examination at least twice a year, issues certificates and licenses, investigates complaints, and sets fees to cover the cost of the program.

Certification and licensing. CPA certificates are issued to persons who meet specified requirements, including good character, and educational and examination requirements. The board may waive the education requirements for certain qualified persons.

Individuals and firms that wish to practice public accounting must obtain a license. For individuals to be eligible for a license, the individual must be certified, must maintain the required continuing professional education, and must have at least one year of experience. Under board rules, this experience must consist of 2,000 hours under the direct supervision of a licensed CPA actively engaged in public accounting. The experience must require the exercise of independent judgment and involve such services as accounting and auditing, issuance of reports on financial statements, and preparation of tax returns. The firm must participate in a board-approved peer or quality review program, or be a commercial or government organization that has filed a sponsorship agreement.

For a firm to be eligible for a license, the principal purpose of the firm must be to furnish public accounting services, and certain members of the firm must be licensed. Only persons licensed in Washington or another state may hold corporate stock in a CPA corporation. Each office of the firm must be registered.

Certificates, licenses, and registrations are renewed every three years, subject to maintaining specified requirements.

Out-of-state CPAs are permitted to practice temporarily in Washington on business incidental to a regular practice. By rule, these CPAs may not maintain an office in Washington, advertise in Washington, or collect more than 10 percent of gross annual billings from Washington clients.

Washington certificates or licenses are issued to CPAs with an out-of-state certificate or license that permits the practice of public accountancy in the other state if the other state grants reciprocity to Washington CPAs with certificates or licenses.

Disciplinary actions. The board may take action for various causes, including if there is fraud in obtaining a certificate or license or in representing oneself as a CPA, a conviction of a crime, or failure to maintain requirements for certification or licensing.

Penalties. The board may revoke, suspend, or not renew a certificate or license, or impose a \$1,000 fine and investigation and legal costs for violations of the CPA licensing law. If the board has reason to believe a person is violating the CPA licensing law, it must certify the facts to the prosecuting attorney. A violation of the CPA licensing law is also a misdemeanor subject to a maximum fine of \$1,000 or imprisonment up to six months, or both.

Summary of Amended Bill:

Board membership. Beginning June 30, 2001, the Board of Accountancy membership is increased from seven to nine members by adding two members representing the public, including one member qualified to represent the interests of clients of licensees.

The executive director of the board must be a licensed CPA.

Board duties. The board is authorized to publish consumer alerts and public protection information regarding violations of the CPA licensing law.

The requirement for the board to administer examinations twice a year is deleted, along with the detailed provisions regarding the exam structure. The board is required to transition to a new exam structure or media for administering the exam.

The board must report to the Senate Labor, Commerce and Financial Institutions

Committee and to the House Commerce and Labor Committee by December 1, 2002, on the implementation of this act, including the fiscal impacts and the provisions governing nonlicensee owners of CPA firms.

Certification and licensing. Beginning July 1, 2001, no new certificates as a CPA will be issued. Licenses to practice public accounting will be issued under the criteria currently applying to certification as a CPA, except that the board may no longer waive the education requirement for becoming a licensee. Specific competency and experience requirements are added, including a requirement for one year of experience gained through the use of various accounting skills while employed in government, industry, or public practice.

A CPA holding a certificate on June 30, 2001, will be able to continue holding the certificate as an "inactive" certificate. An inactive certificate holder must display the term "inactive" as part of the CPA title and may not practice public accounting.

A CPA holding an inactive certificate who wishes to practice public accounting must transition to a license. If the application for a license is made by June 30, 2004, the CPA must have one year of experience in accounting, meet competency requirements, and have completed required continuing professional education. The experience may be gained at any time and must be gained through the use of certain skills including accounting, issuing reports or financial statements, or tax or financial advisory skills. After June 30, 2004, current certificate holders will be subject to the requirement that the one year of experience be gained in the prior eight years.

Licensing for firms is modified to:

- delete the requirement that the principal purpose of the firm be to furnish services consistent with the CPA licensing law;
- add a requirement that a majority of firm owners must be natural persons who are licensees in Washington or another state and to delete the prohibition against nonlicensees holding stock interests in a CPA corporation. Nonlicensed owners of firms must be natural persons and be active participants in the firm. They are subject to the board's discipline and, for resident nonlicensees, to the board's ethics CPE requirements; and
- require a licensed firm to meet competency standards established by the board.

A licensed firm that falls out of compliance with firm ownership requirements must take corrective action in a reasonable period of time as determined by the board.

For an applicant licensed in another state or country to be issued a license under the reciprocity provisions, the applicant must meet Washington's "good character" requirements. The licensee must notify the board in 30 days if the out-of-state license has lapsed or become invalid.

The provision allowing "incidental" practice by an out-of-state CPA is deleted. The board may allow an out-of-state licensed individual CPA (with a principal place of business in another state) with substantially equivalent education, examination, and experience, or from a state with substantially equivalent standards, to have license privileges without the need to obtain a license. These individuals must notify the board of their intent to enter Washington and are subject to jurisdiction, discipline, and payment of fees in Washington.

The board may accept the designation of "substantial equivalency" to national standards made by the National Association of State Boards of Accountancy.

Disciplinary actions. The board is given additional authority to take action:

- against a nonlicensee owner who commits fraud or dishonesty while representing himself or herself as holding an interest in a licensed firm;
- for failure of a nonlicensee owner to comply with statute or rules; and
- for failure to comply with board orders.

A Washington licensee who uses its CPA title or provides services in another state is subject to discipline in Washington for an act committed in the other state if the licensee would be subject to discipline in the other state. The board is authorized to investigate complaints made by the board of another state.

"Reports on financial statements" is defined to exclude services that nonlicensees are permitted to provide.

Penalties. The maximum civil fine for violations of the CPA licensing law is increased from \$1,000 to \$10,000. The board may order full restitution to injured parties. The board may take action against a firm's license for a nonlicensee owner's failure to comply with the CPA licensing law or rules. The board is permitted to enter into stipulated agreements with first time violators and is not required to certify these to the prosecuting attorney.

The maximum fine for a misdemeanor violation is increased from \$1,000 to \$10,000. A new felony crime is added, punishable by a maximum fine of \$10,000 or imprisonment for up to two years, or both, for using a professional CPA title intended to deceive the public after entering into a stipulated agreement with the board.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect on July 1, 2001.

Testimony For: (Commerce & Labor) The bill has taken eight months of negotiations to get to this point. Twenty-two other states already have enacted some form of the policies contained in this bill with no known problems. The Board of Accountancy needs authority to regulate the changing CPA profession. The survey referred to by the bill's opponents was not done scientifically. Small CPA firms need the opportunity to attract and retain qualified specialists who can provide services outside of the traditional CPA skill set, such as human resources, computer systems, and financial services. Clients of CPA firms are asking for a wider array of services and CPA firms must be able to respond to stay competitive. Small employers who use accounting services can accept this bill in its current form.

Testimony For: (Appropriations) The Board of Accountancy sets its fees at a level adequate to pay the costs of administering the program. Revenue in excess of these costs may be used to fund expenditures until the fees can be adjusted. This is a self supporting program. The 49 percent ownership of CPA firms by non-licensed CPAs allows for incentives to be given to employees as a mechanism to retain valuable employees.

This bill represents about eight months of work and comes close to creating a model act that follows the national movement to create a uniform act. There are provisions in the bill for reciprocity, public protection, and to bring the state's three tiered licensing process to a single tier for certified public accountants. Additional revenue impacts include 1) the persons who currently hold certificates who may chose to become licensed certified public accountants; 2) the non-licensed owners of CPA firms who will need to register and pay a fee; and 3) the out-of-state reciprocity provision that allows for registration and payment of fees to the board.

(In support with concerns) This bill, as it is, doesn't protect the attest function of public accountancy from being influenced by consulting functions within a CPA firm that has non-licensed CPA ownership. The Board of Accountancy should be required, rather than granted authority, to provide consumer alerts and public protection information regarding violations of the act.

Testimony Against: (Commerce & Labor) There are two issues that remain a concern in the bill. One issue is whether the Board of Accountancy will have the resources to do an adequate job of consumer protection and education. The second issue relates to allowing some part of CPA firm ownership to be held by non-CPAs. According to the board's survey, many CPAs do not support this change in firm ownership. They believe the change will reduce the public's confidence in the profession because of the perceived lack of independence in performing public accounting activities. When small CPA firms need to provide services outside of their expertise, they can form alliances with other businesses, or CPAs can obtain other licences for added expertise. The bill would allow some CPA firm owners to let their licenses lapse and not keep up with continuing education requirements and other competency standards.

Testimony Against: (Appropriations) None.

Testified: (Commerce & Labor) (In support) Jim Boldt, Washington Society of Certified Public Accountants; Tom Neill, Washington Society of Certified Public Accountants; and Gary Smith, Independent Business Association, Washington Association of Accountants, and Washington State Society of Enrolled Agents.

(Opposed) Jim King, Newt Rumble, and Scott Salsbery, Associated Accountants of Washington.

Testified: (Appropriations) Senator Gardner, prime sponsor; and Jim Boldt, Washington Society of CPAs.

(In support with concerns) Gary Smith, Independent Business Association, Washington Association of Accountants, and Washington State Society of Enrolled Agents; and Jim King, Associated Accountants of Washington.