

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 Higher Education Committee

BILL: CS/SB 1640

INTRODUCER: Regulated Industries Committee and Senator Jones

SUBJECT: Public Accountancy

DATE: March 30, 2009 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Rhea</u>	<u>RI</u>	Fav/CS
2.	<u>Harkey</u>	<u>Matthews</u>	<u>HE</u>	Favorable
3.	_____	_____	<u>GA</u>	_____
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:

The bill exempts certified public accountants (CPA) from the requirement of a laws and rules examination as a condition of license renewal.

The bill requires CPA's to have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college or university. The 150 semester hours of college education required by the bill equal the same number of total educational hours that are required under current law. The bill provides an exception to the work experience requirement for any person who has completed the required 150 semester hours of college education on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

The bill would permit CPA's whose license is inactive or delinquent to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods during which the licensee was inactive or delinquent. The continuing education required for reactivation would be what is required for the most recent two-year license period plus one-half of the required continuing education, which is a minimum of 48 hours. A minimum of eight hours of continuing education must be in ethics subjects approved by the board. This bill

provides a six-month amnesty for an inactive licensee that limits the required continuing education to 120 hours.

The bill provides that seven members of the board must be certified public accountants licensed in Florida and have practiced full-time in Florida for at least five years. The bill would permit past board members to serve a term of two years, and provides that they may be reappointed for additional terms. Current law limits past board members to serving a maximum of two years.

The bill provides an effective date of July 1, 2009.

This bill substantially amends the following sections of the Florida Statutes: 455.217, 455.271, 473.303, 473.305, 473.308, 473.311, and 473.313.

II. Present Situation:

Department of Business and Professional Regulation

The Department of Business and Professional Regulation (department) was established in 1993 with the merger of the Department of Business Regulation and the Department of Professional Regulation.¹ The department is created in s. 20.165, F.S., and has ten divisions.²

In addition to administering the professional boards, the department processes applications for licensure and license renewal. The department also receives and investigates complaints made against licensees and, if necessary, brings administrative charges.

Chapter 455, F.S

Chapter 455, F.S., provides the general powers of the department and sets forth the procedural and administrative frame-work for all of the professional boards housed under the department, specifically the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.

Section 455.217(7), F.S., requires that, “in addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by a board, or by the department, if there is no board, to pass an examination pertaining to state laws and rules applicable to the practice of the profession regulated by that board or by the department.” This examination is known as the “laws and rules examination.”

Active and Delinquent License Status

Section 455.271, F.S., provides the process for placing a professional license in an inactive or delinquent status. This section does not apply to businesses or persons registered, permitted, or licensed pursuant to ch. 310, F.S., related to harbor pilots, and ch. 475, F.S., related to real estate brokers, sales persons, and schools, and real estate appraisers.

¹ Chapter 93-220, L.O.F.

² Section 20.165, F.S., creates the following divisions in the DBPR: (1) Administration; (2) Alcoholic Beverages and Tobacco; (3) Certified Public Accounting; (4) Florida Land Sales, Condominiums, and Mobile Homes; (5) Hotels and Restaurants; (6) Pari-mutuel Wagering; (7) Professions; (8) Real Estate; (9) Regulation; and (10) Technology, Licensure, and Testing.

Licenses are permitted to choose, at the time of licensure renewal, whether to be in an active or inactive status. A licensee who is in an inactive status may change to active status at any time if the licensee meets all requirements for active status, pays any additional licensure fees necessary to equal those imposed on an active status licensee, pays any applicable reactivation fees as set by the board, or the department when there is no board, and meets all continuing education requirements as specified in s. 455.271, F.S.

Section 455.271(6), F.S., provides that a licensee in delinquent status must affirmatively apply with a complete application for active or inactive status during the licensure cycle in which a licensee becomes delinquent. A license is rendered automatically void if a licensee in a delinquent status fails to become active or inactive before the expiration of the current licensure cycle. However, a board or the department, if there is no board, may reinstate the license of an individual whose license has become void if the board or department, as applicable, determines that the individual has made a good faith effort to comply but failed to comply because of illness or unusual hardship. The individual must apply for reinstatement in a manner prescribed by rules of the board or the department, as applicable, and shall pay an application fee in an amount determined by rule. The licensee must meet all continuing education requirements prescribed by law, pay appropriate licensing fees, and otherwise be eligible for renewal of licensure under this chapter. This subsection does not apply to certified public accountants under ch. 473, F.S.

Section 455.271(10), F.S., requires, before reactivation, that an inactive or delinquent licensee meet the same continuing education requirements, if any, imposed on an active status licensee for all biennial licensure periods in which the licensee was inactive or delinquent.

Certified Public Accountants

Section 473.303, F.S., creates the Board of Accountancy (board) within the Department of Business and Professional Regulation (department) to regulate the practice of public accountancy. 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.

Certified Public Accountant-Definitions

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(7), 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 (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 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.

Examination and Licensure

Section 473.308, F.S., sets forth the requirements for obtaining a certified public accountant (CPA) license, including examination, education, and experience requirements. A person must apply to the department and pass an examination to be licensed as a CPA.³ Applicants for CPA licensure must of good moral character⁴ and have satisfied the following educational requirements from an accredited college or university:

- A baccalaureate degree with a major in accounting or its equivalent; and
- At least, an additional 30 semester hours or 45 quarter hours in excess of those required for a 4-year baccalaureate degree, with a concentration in accounting and business in the total educational program to the extent specified by the board.⁵

The four-year baccalaureate degree with a major in accounting equates to 120 semester hours or 160 quarter hours. The additional 30 semester or 45 quarter hour requirement is known as the “fifth year” requirement.

Section 473.306, F.S., permits a person to apply to the department to sit for the CPA examination before he or she has completed the “fifth year” requirement if they have completed 120 semester

³ See s. 473.308, F.S.

⁴ See s. 473.308(6)(a), F.S., for the definition of the term “good moral character.”

⁵ Section 473.308(3), F.S.

hours or 160 quarter hours of education from an accredited college or university with a concentration in accounting and business courses, as specified by the board by rule.

Section 473.308(4), F.S., provides that an applicant for licensure after December 31, 2008, must show that he or she has had one year of work experience. The required work experience includes providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills, all of which must be verified by a certified public accountant who is licensed by a state or territory of the United States and who has supervised the applicant. This experience may be gained through employment in government, industry, academia, or public practice; must have constituted a substantial part of the applicant's duties; and must have been under the supervision of a certified public accountant licensed by a state or territory of the United States.

Continuing Education

Section 473.312, F.S., requires a minimum of 48 hours and not more than 80 hours of continuing education in public accounting subjects during the biennial period.

The board may 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.

Not less than 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. Not less than five percent of the total hours required by the board shall be in the practice of public accounting.

License Renewal

Section 473.311(1), F.S., requires a CPA licensee, as a condition of license renewal, to complete continuing education requirements, and pass an examination on chs. 455 and 473, F.S. The biennial renewal fee for individual active and inactive status licenses is \$105.00.⁶

Section 473.313(2), F.S., also requires that a CPA must reactivate an inactive license by completing the continuing education requirement for the most recent biennium plus one-half of the requirements for each year or part thereof during which the licensee was inactive. The required continuing education requirements for reactivation of an inactive license are:

120 hours, including at least 30 hours in accounting-related and auditing-related subjects and not more than 30 hours in behavioral subjects, for the reactivation of a license that is inactive on June 30, 1998, if the licensee notifies the Board of Accountancy by December 31, 1998, of an intention to reactivate such a license and completes such reactivation by June 30, 2000.

If a CPA license was inactive after June 30, 1998, and the individual did not notify the board of their intention to reactivate their license before December 31, 1998, and did not

⁶ See Rule 61H1-31.001, F.A.C., for the board's fee schedule. Section 473.305, F.S., authorizes a maximum biennial renewal fee of \$250.

complete the reactivation of the license before June 30, 2000, the 120-hour continuing education requirement in s. 473.311(2), F.S., would not apply. Consequently, the continuing education requirement for each biennial period would be based on the minimum 48 hours requirement in s. 473.312, F.S.

III. Effect of Proposed Changes:

Laws and Rules Examination

The bill amends s. 455.217(7), F.S., to exempt a CPA from the requirement of a laws and rules examination as a condition of license renewal. The bill also amends s. 473.305, F.S., to delete the authority of the board to assess a late filing fee to the laws and rules examination.

Licensure Requirements

The bill amends s. 473.308, F.S., to provide that an applicant for licensure must have at least 150 semester hours of college education, including a baccalaureate or higher degree by an accredited college of university. The bill also deletes the reference to the additional 30 semester hours or 45 quarter hours (the "fifth year requirement"). Although the bill deletes the reference to the "fifth year requirement," the 150 semester hours required by the bill equal the same number of total educational hours required under current law.

The bill amends s. 473.308(4), F.S., to provide an exception to the work experience requirement for any person who has completed the 150 hours education requirement on or before December 31, 2008, and who has passed the licensure examination on or before June 30, 2010.

Inactive or Delinquent Status

The bill amends s. 455.271, F.S., to exempt a CPA from the provisions of s. 455.271(10), F.S. The bill would permit a CPA who is on inactive or delinquent status to apply for reactivation without having to complete all of the continuing education hours for all of the biennial licensure periods during which the licensee was inactive or delinquent.

The bill also amends s. 473.311(1), F.S., to delete the reference to the requirement in s. 455.271, F.S. It also deletes the requirement in this subsection that at least five percent of a CPA's continuing education hours must be in ethics applicable to the practice of public accounting.

The bill amends s. 473.313(2), F.S., to provide that the continuing education requirements for reactivation of an inactive CPA license would be those prescribed for the most recent biennium plus one-half of the requirements in s. 473.312, F.S. The bill deletes the requirement for reactivation of an inactive license that the CPA also complete one-half of the requirements for each year or part thereof during which the licensee was inactive.

The bill amends s. 473.313(2), F.S., to provide that a minimum of eight hours of the continuing education for renewal of an inactive license must be in ethics subjects approved by the board.

The bill also extends the applicable dates for the 120 continuing education hours requirement for reactivating an inactive license. Under the bill, the 120 hours requirement would apply if the CPA license was inactive on June 30, 2009, the licensee notified the

board of his or her intention to reactivate the inactive license before December 31, 2009, and the licensee completes the reactivation of the license before June 30, 2011. This provides a six-month amnesty for inactive or delinquent licenses by limiting the required continuing education for reactivation to 120 hours.

The bill amends s. 473.313(3), F.S., to delete the requirement for an examination concerning chs. 455 and 473, F.S., and the related administrative rules as a condition of reactivating an inactive license.

The bill also amends s. 473.313(4), F.S., which relates to the reactivation of a license of an individual whose license has become null and void if the individual made a good faith effort to comply with the reactivation requirements in s. 473.313, F.S., but failed to comply because of illness or unusual hardship. The bill would require the individual to complete all of the continuing education requirements for reactivation in s. 473.313(2), F.S. The individual would not have to complete all of the continuing education requirements in s. 473.312, F.S.

Board of Accountancy

The bill amends s. 473.303(1), F.S., to provide that seven members of the Board of Accountancy must be certified public accountants licensed in Florida and must have practiced full-time in Florida for at least five years. Current law does not provide the members must be licensed in this state or have practiced in this state.

The bill amends s. 473.303(2), F.S., relating to the probable cause panel, to include the term “current” in reference to board members, and to clarify that the reference to “past members” refers to “past board members.” The bill also deletes the provision that limits past board members to serving a maximum of two years. The bill would permit past board members to serve a term of two years, and provides that they may be reappointed for additional terms.

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:

The bill exempts a CPA from the laws and rules examination required under s. 455.217, F.S. The biennial renewal fee for individual active and inactive status licenses is \$105.00. It is not clear whether individuals holding a CPA license issued by the Board of Accountancy would be able to save the costs related to the laws and rules examination. This is because the cost of the laws and rules examination is included in the current renewal fees for the profession.

A certified public accountant with an inactive or delinquent license could reactivate his or her license by obtaining fewer continuing education hours than currently required. This could result in lower education costs for individuals who wish to reactivate their license. To reactivate a delinquent or inactive license, an individual would be able to complete the continuing education requirement prescribed for the most recent biennium plus one-half of the requirements in s. 473.312, F.S., instead of having to complete one-half of the requirements for each year or part thereof during which the licensee has been inactive.

C. Government Sector Impact:

According to the department, approximately \$110,000 would be saved by the Board of Accountancy by eliminating the law and rules examination.

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 March 17, 2009:**

The committee substitute does not repeal s. 455.207(7), F.S., to delete the requirement for a laws and rules examination as a condition of license renewal for all of the professions licensed by the Department of Business and Professional Regulation. Instead, the CS amends s. 455.207(7), F.S., to exempt a CPA from the requirement of a laws and rules examination as a condition of license renewal.

B. Amendments:

None.