

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 2720

SPONSOR: Governmental Oversight & Productivity Committee and Senator Atwater

SUBJECT: Public Accountancy

DATE: April 14, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	<u>Favorable</u>
2.	<u>Rhea</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill provides an alternative method for waiving the fifth year education requirement for licensure as a Certified Public Accountant (CPA) for applications made before October 1, 2008. To qualify for the waiver, an applicant must have at least five years of experience as an auditor or accountant in the employment of a unit of federal, state, or local government, the employment must have required the use of accounting skills as a substantial part of the applicant's duties, and the applicant must have been under the supervision of a certified public accountant licensed by a state or territory of the United States. The experience must be while licensed as a CPA by another state or territory.

The bill requires, as a condition for renewal of a CPA license, completion of an ethics continuing professional education requirement that is not less than five percent of the total hours of continuing professional education required by the Board of Accountancy. The ethics education must be applicable to the practice of public accounting, and it must include a review of the provisions of chs. 455 and 473, F.S., and the related administrative rules. It must be completed before taking the license renewal examination.

This bill substantially amends the following sections of the Florida Statutes: 473.308, 473.311, and 473.312.

**II. Present Situation:**

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.

### **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 473.306, 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.<sup>1</sup>

Section 473.306(2)(b)2., F.S., establishes an educational requirement for persons who apply for licensure after August 1, 1983. The applicant must have a baccalaureate degree with a major in accounting, or its equivalent, and must have at least 30 semester or 45 quarters hours in excess of those required for a four-year baccalaureate degree, with a concentration in accounting and business in the total educational program to the extent specified by the board. The additional 30 semester or 45 quarter hour requirement is known as the fifth year requirement.

Section 473.308(4), F.S., provides a work experience alternative to the education requirement of s. 473.306(2)(b)2., F.S. It provides that for application for licensure made prior to October 1, 2005, the board shall waive the requirements of s. 473.306(2)(b) 2., F.S., that are in excess of a baccalaureate degree if:

- the applicant has 5 years of experience in the practice of public accountancy in the United States; or
- if the work experience was outside of Florida, the applicant has 5 years of experience in the practice of public accountancy or its equivalent in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States.

Section 473.308(4), F.S., further provides that all of the experience used to waive the requirements of s. 473.306(2)(b)2., F.S., must be experience outside this state after licensure by another state or territory of the United States, or after licensure in the practice of public accountancy, or its equivalent, in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States.

According to the Florida Institute of Certified Public Accountants (FICPA), in response to national standard changes from the American Institute of Certified Public Accountants, Florida passed the 150-hour education requirement in 1979 with an effective date of 1983.<sup>2</sup> According to FICPA, 48 of 53 states and jurisdictions have established the 150-hour requirement.<sup>3</sup> However, the effective date for this requirement in at least five of the 48 states and jurisdictions range from 2004 to 2009. To compensate for the lagging effective dates of other states, the sunset on this window of opportunity for out-of-state CPA's to use the work experience alternative to the fifth-year education requirement has been extended two times since it was first enacted in 1986.<sup>4</sup>

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<sup>1</sup> See s. 473.308, F.S.

<sup>2</sup> Chapter 79-202, s. 5, L.O.F.

<sup>3</sup> California, Colorado, Delaware, New Hampshire, and Vermont have not enacted the 150-hour education requirement.

<sup>4</sup> The waiver was first established by ch. 86-102, s.1, L.O.F.; and extended by chs. 94-119, s. 3 and 2000-114, L.O.F.

According to FICPA, if a person comes from a state that does not have the 150-hour requirement, the board has had to deny applications for Florida licensure under current law. An applicant may have 10 to 15 years of total accounting experience as a licensed CPA in another state in a governmental position, but may not have completed the five years in public accountancy practice outside the state of Florida. According to FICPA, a person licensed in another state without the required out-of-state work experience may move to Florida and work for a Florida CPA for five years, but that experience would not be sufficient to qualify for the waiver.

### **License Renewals**

Section 473.311(1), F.S., provides for the renewal of licenses. It provides that the department shall renew a license upon the receipt of a renewal application and fee if the renewal applicant:

- has satisfactorily completed the continuing education requirements in s. 473.312, F.S.; and
- has passed a board-approved examination on chs. 455 and 473, F.S., and the related administrative rules.<sup>5</sup>

### **Continuing Professional Education**

Section 473.312(1)(a), F.S., requires the board to require licensees to submit proof of successful completion of not less than 48 or more than 80 classroom hours of continuing professional education programs in public accounting subjects within the two years prior to license renewal. Section 473.312(1)(b), F.S., provides that not less than 25 percent of the total hours required by the board shall be in accounting-related and auditing-related subjects.

Current law does not require that any component of the continuing professional education requirement must be in the area of ethics. The National Association of State Boards of Accountancy (NASBA) has recommended that state boards of accountancy require ethics continuing education that emphasizes ethical reasoning and covers state specific rules.<sup>6</sup> NASBA's recommendation is based on the corporate scandals of Enron, WorldCom, and others; the recommendation is also a reaction to the Sarbanes-Oxley Act of 2002 (SOX), which regulates accountants and firms working for companies registered with the Securities and Exchange Commission.<sup>7</sup>

## **III. Effect of Proposed Changes:**

**Section 1.** The bill amends s. 473.308, F.S., to provide a third alternative method for waiving the fifth year education requirements of s. 473.306(2)(b)2., F.S. The bill provides that the board may waive the requirements of s. 473.306(2)(b) 2., F.S., if the applicant:

- has at least 5 years of experience as an auditor or accountant in the employment of a unit of federal, state, or local government;

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<sup>5</sup> Chapter 61H1, F.A.C.

<sup>6</sup> The National Association of State Boards of Accountancy, *NASBA Discussion Memorandum, Answering the SOX Challenge, Guidelines for State Boards of Accountancy*, September 30, 2003.

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

- the employment required the use of accounting skills as a substantial part of the applicant's duties; and
- the employment was under the supervision of a certified public accountant licensed by a state or territory of the United States.

The bill also requires that all of the experience that is used to waive the requirements of s. 473.306(2)(b) 2., F.S., must be experience while licensed outside this state by another state or territory of the United States, or while licensed in the practice of public accountancy, or its equivalent, in a foreign country that the International Qualifications Appraisal Board of the National Association of State Boards of Accountancy has determined has licensure standards that are substantially equivalent to those in the United States. The bill would permit work experience in Florida to count towards the waiver requirements in s. 473.306(2)(b)2., F.S.

The bill also extends the availability of this provision to applications made before October 1, 2008.

**Section 2.** The bill amends s. 473.311, F.S., to require, as a condition for renewal of licensure, the completion of the ethics continuing professional education requirement in s. 473.312, F.S.

**Section 3.** The bill amends s. 473.312, F.S., to provide that not less than five percent (four hours) of the total hours of continuing professional education required by the board shall be in ethics applicable to the practice of public accounting.

The bill provides that this requirement shall be administered by continuing professional education providers approved by the board, and requires that the providers include a review of the provisions of chs. 455 and 473, F.S., and the related administrative rules.

**Section 4.** This bill would take effect on July 1, 2004.

#### **IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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