

- SUBJECT:** Regulating the practice of public accounting
- COMMITTEE:** Licensing and Administrative Procedures — favorable, without amendment
- VOTE:** 5 ayes — Wilson, Yarbrough, Goolsby, Haggerty, J. Moreno
0 nays
4 absent — Flores, D. Jones, A. Reyna, Wise
- SENATE VOTE:** On final passage, April 17 — voice vote
- WITNESSES:** For — Robert Owen; Texas Society of Certified Public Accountants;
Registered but did not testify: Bruce Galloway

Against — Carl S. Bowles; Don Clanton; Cynthia Lloyd; John R. Womack, Jr.

On — *Registered but did not testify:* William Treacy, Texas State Board of Public Accountancy
- BACKGROUND:** The 76th Legislature in 1999 codified revisions to the Public Accountancy Act under Occupations Code, chapter 901. The Texas State Board of Public Accountancy (TSBPA) regulates the practice of certified public accountancy (CPA) firms, including certification, registration, and licensing, and administers the uniform CPA examination. A individual accountant may practice public accountancy without a certificate issued by the board. A CPA or public accountant, a firm of CPAs or public accountants, and each office of that firm must register with the board to practice. A person may not practice public accountancy without a license, and each office of a firm of CPAs or public accountants must hold a license to practice.
- DIGEST:** SB 1358 would change the expiration date of the TSBPA from September 1, 2003, to September 1, 2005. The bill would modify the requirements for eligibility for a CPA certificate and eligibility to take the uniform CPA examination. It also would establish the requirements for a firm license, including issuance, renewal, revocation, application form, and fees.

The bill would apply provisions of the Public Accountancy Act to “certified public accountancy firms” rather than to “practice units.” Only one person in a firm would have to hold a firm license, rather than an office of a firm that is required register with the board, for the firm to practice public accountancy.

The bill would remove provisions prohibiting the TSBPA from restricting advertising and competitive bidding by a license holder and instead would authorize the board to regulate a license holder’s competitive practices.

The peer review program that the board is required to establish would have to include verification that each supervisory person in a CPA firm met the competency requirements of the applicable professional standards.

The board would have to keep confidential information regarding the qualifications of an applicant or firm license holder. Each board member, employee, or agent of the board or volunteer of a board committee would be immune from liability arising from claims or suits against that person for an action taken in good faith in discharging the board’s responsibilities.

The board would have to specify the services that constitute attest services, meaning an audit or other engagement that must be performed in accordance with standards adopted by nationally recognized organizations for auditing, accounting and review, attestation engagements, or any other service.

SB 1358 would modify the requirements for eligibility for a CPA certificate and eligibility to take the uniform CPA examination. To be eligible for a certificate, as an alternative to having at least two years of work experience under the supervision of a CPA, a person could have at least one year of work experience acceptable to the board, including experience providing a service or advice involving accounting, attest services, management or financial advisory or consulting services, tax services, or other services the board considered appropriate for an accountant.

Under current law, the board must issue a certificate to a person who holds a certificate from another state, who has passed the uniform CPA exam, and who satisfies other requirements. SB 1358 would allow the board to issue a certificate to a person licensed by another state who:

- ! held a CPA certificate or license from a state that the National Association of State Boards of Accountancy had verified as having certification or licensure standards that met national requirements; or
- ! obtained verification from the national association that the person's education, examination, and experience qualifications met national standards.

The board could issue a certificate to an applicant who held substantially equivalent foreign credentials if certain requirements were met.

The TSBPA could contract with another person to conduct uniform CPA examinations. The board would have to set and collect a fee for each examination not to exceed the cost of administering the exam, rather than a fee of up to \$250, as in current law. The board would have to establish by rule a grading method for the exam and the criteria used to determine a passing score. To the extent possible, these rules would have to be uniform with those of other states.

SB 1358 would establish the requirements for a firm license, including issuance, renewal, revocation, application form, and fee. A firm could not provide attest services or use the title "CPA," "auditing firm," or variations thereon unless the firm held a firm license. An applicant for a firm license or license renewal would have to show that a majority of its ownership belonged to CPAs certified in Texas or licensed in another state. A CPA firm could include people as owners who were not license holders under certain conditions. The board could adopt a system to investigate non-license owners, including obtaining criminal history record information and fingerprints. Each office of the firm would have to be registered and would have to show that all attest services performed were under the supervision of certified people.

The bill would delete specific provisions of current law regarding eligibility of a partnership for registration. Partnership registration requirements would be the same as those required of other entities, such as a sole proprietorship. If a CPA firm fell into noncompliance with firm licensing requirements because of a change in ownership or personnel, it would have to report that fact to the board within 30 days. Failure to bring the firm into compliance within a reasonable time as determined by the board would be grounds for

suspension or revocation of the firm's license.

A person who held a CPA certificate also would have to hold a license, as would each office of a CPA firm or a firm of public accountants. The board would have to issue a license to an applicant who held a firm license. The board would have to specify the requirements for the application form, license term, and renewal requirements.

All license holders would have to participate in a continuing education program that complied with rules adopted by the board. The bill would delete the current requirement of at least 120 hours of continuing education in each three-year period.

SB 1358 would outline the requirements that out-of-state practitioners with substantially equivalent qualifications would have to meet to register and practice in Texas. A person could not provide attest services or use "CPA" or similar titles unless the person held a firm license and complied with the bill's provisions and with board rules. A public accountant credentialed in a foreign jurisdiction could use any title under which the person practiced in that jurisdiction under limited conditions.

Only a license holder could issue a report on a financial statement or perform or offer to perform an attest service. Non-license holders could prepare financial statements and could issue nonattest transmittals or related information if the transmittals did not purport to be in compliance with national standards for accounting and review. Non-license holders could prepare tax returns, perform management advisory services, or prepare financial statements without issuing reports.

License holders, partners, members, shareholders, or employees could not disclose client confidences unless under a summons as provided by the U.S. Internal Revenue Code or associated federal laws or under a court order.

SB 1358 would modify TSBPA's disciplinary powers and grounds for disciplinary action and would add provisions on disciplinary action for acts committed in another state. It would specify in what district court an action to enjoin must be brought against people who were not licensed but were state residents and against people who were not residents but were licensed.

License holders or professional CPA organizations could intervene in or bring actions to enforce provisions against people who did not hold licenses or firm licenses. Evidence of a single prohibited act would be sufficient to bring an action. Nonresidents who applied for certificates or firm licenses would be considered as having appointed the secretary of state to act as their agent for service of process.

This bill would take effect September 1, 2001. The board would have to adopt the rules regarding examination fee and passing requirements not later than January 1, 2002.

**SUPPORTERS
SAY:**

SB 1358 would modernize the Public Accountancy Act and conform it with many elements of the federal Uniform Accountancy Act, making Texas' accounting regulation more consistent with other states' regulation. The bill would make it easier for CPAs to practice across state lines and would level the playing field for Texas CPAs in competing with those in other states. About 27 states have adopted part or all of the Uniform Accountancy Act.

The bill would increase the breadth of services that public accounting firms could provide to their clients, reflecting the increased competition among accounting and financial service providers. Clients are demanding more services, and CPA firms realize they must hire experienced professionals from other disciplines to meet those demands. Allowing these professionals to progress in their firms to become partners or owners would attract more professionals to accounting firms.

Allowing non-CPAs to be owners of CPA firms would not be detrimental to the public. Other states that have implemented non-CPA ownership show no indication of public confusion or harm. Clients are more interested in quality of service than in how a firm is organized. All financial statements services would still be under the supervision of a CPA, thus presenting no danger that the public would receive an inferior product. CPAs still would have to own a majority interest in both voting and financial interest of the firms. CPAs would be in charge of each office, and corporate entities could not become firm owners. Non-CPA owners would have to comply with the state board's rules of professional conduct and to pass the board's ethics exam. CPAs still would be responsible for integrity, objectivity, and competency regardless of the services they provided.

OPPONENTS
SAY:

Allowing non-CPAs to share ownership of accounting firms would be detrimental to the accounting profession. SB 1358 would downgrade the profession by allowing people who were not college graduates to be owners of accounting firms. A person only would have to have obtained an equivalent education, which the bill would not define. On the other hand, CPAs must complete 150 hours of college credit, which is equal to a master's degree. Non-CPA owners would not have to be involved actively in a firm, but could be involved with an affiliated entity, again not defined.

Allowing non-CPAs to share ownership of an accounting firm also would be detrimental to the public. The public places much confidence and trust in CPAs. The rules of professional conduct allow CPAs to accept engagements only if they are qualified. Non-CPAs clearly are not qualified. Current law protects the public, who expect owners of an accounting firm to know about and be qualified in accounting. Allowing non-CPA ownership would allow unqualified people to make decisions for a firm that would affect the clients. SB 1358 would require only that one person in a firm hold a firm license, rather than requiring the firm's office to be registered with TSBPA to practice public accountancy.

Other professions, such as the legal and medical profession, do not allow non-practitioners to be owners of their firms. The legal profession does not allow for a legal firm to provide services other than legal services.