

SUBJECT: Conditions for allowing out-of-state CPAs to practice in Texas

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 7 ayes — Flores, Geren, Hamilton, Jones, Miles, Quintanilla, Thompson
0 nays
2 absent — Isett, Goolsby

WITNESSES: For — Bob Owen, Texas Society of CPAs; Randy Sweeten; (*Registered, but did not testify:* Mark Vane, Gardere Wynne Sewell)

Against — Richard Viktorin

On — (*Registered, but did not testify:* Greg Bailes and William Treacy, Texas State Board of Public Accountancy)

BACKGROUND: Occupations Code, sec. 901.251(a) prohibits a person from practicing public accountancy in Texas unless that person holds a certificate issued by the Texas State Board of Public Accountancy (TSBPA). Sec. 901.351 requires CPA firms in Texas to hold a license or registration to perform certain accounting services or use certain titles.

Sec. 901.356 allows out-of-state CPA firms without Texas licenses temporarily to practice in Texas if they submit an application to the board for a permit and follow Texas laws and board rules. Sec. 901.412 allows out-of-state CPAs to practice in Texas if they meet certain requirements and register with the board and comply with Texas laws and board rules.

DIGEST: CSHB 2144 would eliminate the current system of temporary registration and permits for out-of-state CPA firms and CPAs and replace it with a system that would allow out-of-state CPAs and CPA firms to obtain a Texas license or establish a practice privilege to work in Texas if certain conditions were met.

CSHB 2144 would take effect September 1, 2007.

Practice in Texas by out-of-state firms. CPA firms would be required to hold a Texas license if they established or maintained an office in Texas or if they performed financial statement audits for entities with their principal office in Texas.

CPA firms licensed in other states and with their primary place of business in another state would be able to practice in Texas under certain circumstances. The person doing the work in Texas would have to hold a Texas license or practice under the privilege established by the bill. These firms would not be able to perform audits for entities with their principal office in Texas.

These firms would be able to perform other professional accounting services if they met certain ownership requirements and complied with the board's peer review program. These services would have to be performed by a person who either held a Texas license or practiced under the privilege established by the bill. These firms would be subject to the disciplinary authority of the TSBPA and would have to comply with the board rules and Texas law. They would have to stop working in Texas if their home state license were no longer valid.

Practice privilege for out-of-state CPAs. CPAs licensed by other states would be able to work in Texas if the other state had requirements for licensing or certification that were comparable to or exceeded Texas' requirements or if the out-of-state CPA individually met or exceeded Texas requirements. These CPAs would have to comply with Texas laws and rules and would be subject to the disciplinary authority of the TSBPA. CPAs who met these requirements would be able to practice in Texas without notifying the board. They would have to stop working in Texas if their home state license were no longer valid.

These CPAs would have to practice through a firm with a Texas license if the CPA were performing financial audits for entities with their principal offices in Texas.

SUPPORTERS
SAY:

CSHB 2144 would revise Texas' system for allowing out-of-state CPAs and CPA firms to work in Texas to better meet the needs of Texas clients while ensuring that the public was protected through appropriate regulation and discipline.

The state's current system of temporary permits for firms and registration for out-of-state CPAs is cumbersome and ineffective. Requiring out-of-state CPAs to register with Texas before doing work in the state inhibits quick responses to requests from Texas clients, and in today's fast-paced world clients want work performed quickly, efficiently, and often on short notice. CSHB 2144 would set up a system in which out-of-state CPAs with the same or greater qualifications as Texas CPAs could work in Texas without getting a license, but the bill also would hold them to the laws and rules of Texas.

CSHB 2144 would require that out-of-state CPAs and firms met or exceeded the Texas requirements. This would be verified by the national association of state CPA regulators. In addition, the bill would require that out-of-state CPAs and firms be held to the rules and discipline of the TSBPA to ensure that the public was protected. Complaints and misconduct would be quickly passed on to a CPA's home-state licensing board.

Another feature of the bill that would help protect the public is the prohibition on out-of-state CPAs doing audit work unless they held a Texas license. Audits have the most potential for affecting the public, so it would be appropriate to carve out this type of accounting work for those who hold a Texas license only.

CSHB 2144 would not harm Texas CPAs but instead would benefit them. Texas has the second-largest number of CPAs of any state, and they often are asked to do work in other states. As more states adopt the system that would be established by CSHB 2144, more Texas CPAs could perform work in other states. Currently, five states have the mobility system proposed in the bill, and about 10 more are considering it. Other states often follow Texas' lead on this type of issue.

Concerns that the bill could hurt the public because more out-of-state CPAs could operate under the radar in Texas are unfounded. Under the current system, out-of-state CPAs may operate in Texas under a grace period before obtaining a temporary practice permit, and many of them do. The public adequately is protected under CSHB 2144 because any complaints or misconduct would be dealt with by the TSBPA board and swiftly passed on to their home-state licensing board. Tracking down out-of-state CPAs would be easier through the national association that is used to verify out-of-state CPAs' qualifications. Because the bill requires out-

of-state CPAs' qualification to meet or exceed Texas' qualifications, there would be more assurances that those who were working in Texas would be qualified.

CSHB 2144 would be designed to address the mobility of out-of-state CPAs and would be the wrong place to address the issue of an inactive license status for Texas CPAs.

OPPONENTS
SAY:

CSHB 2144 could result in more out-of-state CPAs operating in Texas under the radar of the state board. Under current law, out-of-state CPAs at least must register with the board, but the bill would allow them to operate in Texas without the board being aware of their presence. This could result in the public being more at risk for low-quality work.

Anything that allowed more out-of-state CPAs to operate in Texas could be especially unfair to Texas CPAs who were not in the workforce but did not have the option of an inactive status for their licenses. These Texas CPAs still are required to pay the state's professional fee, something that out-of-state CPAs are not required to do.

NOTES:

The committee substitute made several changes to the original bill, including: revising the list of services that must be performed only by a CPA with a Texas license; eliminating a requirement that out-of-state firms and CPAs give notice to the board in certain circumstances; and requiring out-of-state firms to meet certain ownership requirements, to comply with the board's peer review program, and to provide services through those who have Texas licenses or who are practicing under the privilege established by the bill.

The companion bill, SB 1364 by Williams, has been referred to the Senate Business and Commerce Committee.