

BILL ANALYSIS

Senate Research Center
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S.B. 228
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The bill amends Section 901.153(f) of the Occupations Code and Section 551.090 of the Government Code to resolve any potential conflict between codes. It allows an enforcement committee at the Texas State Board of Public Accountancy to discuss disciplinary actions in closed session.

S.B. 228 clarifies client confidentiality or what some refer to as the accountant-client privilege. Section 901.457 (Accountant-Client Privilege), Occupations Code, outlines the requirements for certified public accountants (CPA) to maintain client information confidentiality. The changes being proposed by this bill will make it clear that CPAs may disclose client information when required to do so by state or federal law or a court order signed by a judge. This change is needed to clarify what has been perceived by some to be a discrepancy between federal and state law. The bill also allows CPAs contemplating merger or sale of their accounting practice to protect client information by non-disclosure agreements.

The bill allows the Texas State Board of Public Accountancy to waive fees and penalties in extenuating circumstances, such as severe illness or injury, and removes certain outdated provisions which relate to a paper and pencil CPA examination.

As proposed, S.B. 228 amends current law relating to the regulation of the practice of public accountancy.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 901.153, Occupations Code, by adding Subsection (f) to authorize an enforcement committee to hold a closed meeting as provided by Section 551.090, Government Code, to investigate and deliberate a disciplinary action under Subchapter K (Prohibited Practices and Disciplinary Procedures) relating to the enforcement of this chapter or Texas State Board of Public Accountancy (TSBPA) rules.

SECTION 2. Amends Section 901.457(b), Occupations Code, as follows:

(b) Provides that this section does not prohibit a license holder from disclosing information that is required to be disclosed by the professional standards for reporting on the examination of a financial statement; under a summons or subpoena under the provisions of the Internal Revenue Code of 1986 and its subsequent amendments, the Securities Act of 1933 (15 U.S.C. Section 77a et seq.) and its subsequent amendments, the Securities Exchange Act of 1934 (15 U.S.C. Section 78a et seq.) and its subsequent amendments, or The Securities Act (Article 581-1 et seq., V.T.C.S.); under a court order signed by a judge if the order, rather than the summons or order, is addressed to the license holder, mentions the client by name, and requests specific information concerning the client; in an investigation or proceeding conducted by TSBPA; in an ethical investigation conducted by a professional organization of certified public accountants; in

the course of a peer review under Section 901.159 (Peer Review) or in accordance with the requirements of the Public Company Accounting Oversight Board or its successor; or in the course of a practice review by another certified public accountant or certified public accounting firm for a potential acquisition or merger of one firm with another, if both firms enter into a nondisclosure agreement with regard to all client information shared between the firms. Makes nonsubstantive changes.

SECTION 3. Amends Subchapter D, Chapter 551, Government Code, by adding Section 551.090, as follows:

Sec. 551.090. ENFORCEMENT COMMITTEE APPOINTED BY TEXAS STATE BOARD OF PUBLIC ACCOUNTANCY. Provides that this chapter does not require an enforcement committee appointed by TSBPA to conduct an open meeting to investigate and deliberate a disciplinary action under Subsection K, Chapter 901, Occupations Code, relating to the enforcement of Chapter 901 or the rules of TSBPA.

SECTION 4. Repealers: Section 901.154(c) (relating to prohibiting TSBPA from waiving certain fees and penalties), Sections 901.308(d) (relating to authorizing a person who failed a paper examination to inspect the questions and answers) and (e) (relating to requiring TSBPA to provide analysis of an individual's failed examination upon written request), Occupations Code.

SECTION 5. Makes application of this Act prospective.

SECTION 6. Effective date: September 1, 2013.