

BILL ANALYSIS

Senate Research Center

H.B. 2144
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Most states, including Texas, have substantially equivalent education, experience, and testing requirements that are required to be met before a certificate as a certified public accountant is awarded to an individual. Additionally, all states have state regulatory requirements for practicing certified public accountants (CPAs). With the increased mobility of the business community and the continuing development of electronic commerce, the public users of accounting and auditing services frequently require their CPAs and CPA firms to provide services in more than one state.

Currently each state, including Texas, has different requirements for licensure, registration, or temporary permits for out-of-state CPAs who practice temporarily in the state. These many and varied requirements frequently interfere with the public's need to ask the CPA or CPA firm to provide professional services on short notice in various states. Amending current law will allow out-of-state CPAs and CPA firms to respond to the public's needs while continuing to ensure their appropriate regulation and discipline, regardless of the state of original licensure.

H.B. 2144 authorizes the Texas State Board of Public Accountancy (board) to discipline CPA licensees and CPA firm licensees from other states that practice in Texas. Furthermore, this bill requires a CPA firm to be licensed in Texas to provide audit services to any entity with its home office in Texas. For all other public accounting services, this bill grants a practice privilege to individual CPAs and CPA firms that are licensees of another state and do not maintain an office in Texas. H.B. 2144 eliminates any notice requirement to exercise the practice privilege and makes the out-of-state licensee subject to the jurisdiction and disciplinary authority of the board upon exercise of the practice privilege. If the out-of-state firm performs any attest service for an entity with its home office in Texas, the firm is required to comply with the ownership provisions of the Occupations Code and is subject to a peer review program. This bill also revokes the practice privilege if the CPA or CPA firm fails to maintain an active license in their home state.

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 Sections 901.002(4) and (5), Occupations Code, to redefine "certified public accountant" and "certified public accountancy firm."

SECTION 2. Amends Section 901.251(a), Occupations Code, to prohibit a person who is an individual from engaging in the practice of public accountancy unless the person holds a certificate issued under this chapter (Accountants) or practices in this state under a privilege under Section 901.462.

SECTION 3. Amends Section 901.351, Occupations Code, by amending Subsections (a) and (b) and adding Subsection (a-1), as follows:

- (a) Prohibits a sole proprietorship, partnership, corporation, limited liability company, or other business entity engaged in the practice of public accountancy (firm) from providing attest services or using the title "CPA's," "CPA Firm," "Certified Public Accountants,"

"Certified Public Accounting Firm," or "Auditing Firm," or a variation of one of those titles unless the firm holds a firm license (license) issued under this subchapter (Firm License Requirements) or practices in this state under a privilege under Section 901.461.

(a-1) Requires certain firms to hold a firm license under this subchapter.

(b) Requires the Texas State Board of Public Accountancy (board) to grant or renew a firm license to practice as a certified public accountancy firm to a firm originally licensed as a certified public accountancy firm in another state that is required to hold a firm license under Subsection (a-1), rather than establishes an office in this state, and demonstrates the necessary qualifications in accordance with this subchapter.

SECTION 4. Amends Sections 901.354(b), (f), and (g), Occupations Code, as follows:

(b) Authorizes a certified public accountancy firm to include individuals as owners who are not firm license holders if, among other requirements, the firm designates to the board as responsible for the firm's license and the supervision of the firm a license holder who resides in this state or an individual practicing under a privilege under Section 901.462 if the firm consists only of individuals practicing under a privilege under Section 901.462.

(f) Requires an applicant for issuance or renewal of a firm license under this section to register each office of the firm in this state.

(g) Requires an application for a firm license under this chapter to be made on an affidavit of the owner, an officer, or the general partner of the firm, as applicable, stating, among other required information, the firm's post office address in this state and the address of each office of the firm in this state if the firm has an office in this state.

SECTION 5. Amends Section 901.401(b), Occupations Code, to require each office in this state of a certified public accountancy firm or a firm of public accounts to hold a firm license issued under this chapter.

SECTION 6. Amends Section 901.405(f), Occupations Code, as follows:

(f) Authorizes a person described by this subsection whose firm license has been revoked under Section 901.502(3) or (4) (regarding grounds for disciplinary action) to obtain a new firm license under this subsection. Requires a person described by this subsection to pay to the board a fee that is equal to two times the normally required renewal fee for the firm license and provides that the person is not subject to additional fees under Section 901.408 (Consequence of Failure to Pay Certain Fees).

SECTION 7. Amends Section 901.408(a), Occupations Code, to provide an exception to this subsection (regarding fee payments) for persons described by Section 901.405(f).

SECTION 8. Amends the heading to Subchapter J, Chapter 901, Occupations Code, to read as follows:

SUBCHAPTER J. PRACTICE OF PUBLIC ACCOUNTANCY

SECTION 9. Amends Section 901.451(b), Occupations Code, to make a conforming change.

SECTION 10. Amends Section 901.453(b), Occupations Code, to authorize a person to hold the person out to the public as an "accountant," "auditor," or any combination of those terms or assert that the person has expertise in accounting or auditing if the person practices under a privilege under Section 901.461 or 901.462. Makes nonsubstantive changes.

SECTION 11. Amends Section 901.454(a), Occupations Code, to authorize a person who is an accountant of another state to use the title under which the accountant is generally known in the state from which the accountant received a certificate, license, or degree if the person holds a firm license issued under this chapter or practices in this state under a privilege under Section 901.462 or 901.462 or any of the person's offices established or maintained in this state for the

practice of public accountancy are licensed under this chapter, rather than if the person holds a firm license issued under this chapter and each of the person's offices in this state for the practice of public accountancy is maintained and practices under a firm license required under Subchapter H (Firm License Requirements).

SECTION 12. Amends Section 901.455, Occupations Code, by adding Subsection (e), to require a firm that practices under Section 901.461 to use the firm name that it uses in the state in which it is licensed and has its principal place of business.

SECTION 13. Amends Sections 901.456(a), (b), and (f), Occupations Code, as follows:

(a) Authorizes a person who practices under a privilege under Section 901.461 or 901.462 to issue a report on a financial statement of another person or otherwise perform or offer to perform an attest service.

(b) Sets forth certain prohibitions and authorizations given to a person who is not a firm license holder and who does not practice under a privilege under Section 901.461 or 901.462.

(f) Requires an individual who practices under a privilege under Section 901.462 who performs attest services to provide those services in accordance with standards adopted by the American Institute of Certified Public Accounts or another national accountancy organization recognized by the board.

SECTION 14. Amends Section 901.460(b), Occupations Code, to require an individual who is a firm license holder or practices under a privilege under Section 901.462, rather than only a license holder who is an individual, and who is responsible for supervising attest services or signs or authorizes another person to sign an accountant's reports on financial statements on behalf of a certified public accountancy firm to meet the competency requirements of the professional standards that apply to those services.

SECTION 15. Amends Subchapter J, Chapter 901, Occupations Code, by adding Sections 901.461 and 901.462, as follows:

Sec. 901.461. PRACTICE BY CERTAIN OUT-OF-STATE FIRMS. (a) Authorizes a certified public accountancy firm that is licensed and has its primary place of business in another state and is not required to hold a firm license under Section 901.351(a-1) to practice in this state without a firm license or notice to the board if the firm's practice in this state is performed by an individual who holds a firm license under this chapter or who practices under a privilege under Section 901.462.

(b) Authorizes a firm described by Subsection (a) to exercise all the practice privileges of a firm license holder except for performing certain services under certain circumstances.

(c) Sets forth certain conditions that apply to a firm practicing under a privilege under this section as a condition of the privilege of practicing without a certificate or license.

(d) Requires a firm practicing under a privilege under this section to promptly cease offering or rendering professional services in this state if the firm's license to practice as a certified public accountancy firm in the state in which the firm's primary place of business is no longer valid.

Sec. 901.462. PRACTICE BY OUT-OF-STATE PRACTITIONER WITH SUBSTANTIALLY EQUIVALENT QUALIFICATIONS. (a) Authorizes an individual who holds a certificate or license as a certified public accountant issued by another state and whose principal place of business is not in this state to exercise all the privileges of certificate and license holders of this state without obtaining a certificate or license under this chapter if certain conditions are satisfied.

(b) Authorizes an individual who meets the requirements of Subsection (a)(1) or (2) and who offers or renders professional services in person or by mail, telephone, or electronic means to practice public accountancy in this state without notice to the board.

(c) Sets forth certain conditions that apply to an individual practicing under the privilege under this section as a condition of the privilege of practicing without a certificate or license.

(d) Requires an individual who practices under a privilege under this section to promptly cease offering or rendering professional services in this state if the individual's certificate or license in the state of the individual's principal place of business is no longer valid.

(e) Requires an individual practicing under this section to practice through a firm that holds a license under this chapter if, for an entity with its principal office in this state, the individual performs certain actions.

SECTION 16. Repealer: Sections 901.356 (Temporary Practice Permit for Certain Out-of-State Applicants) and 901.412 (Registration of Out-of-State Practitioner With Substantially Equivalent Qualifications), Occupations Code.

SECTION 17. Effective date: September 1, 2007.