



DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY
 2000 EVERGREEN STREET, SUITE 250
 SACRAMENTO, CA 95815-3832
 TELEPHONE: (916) 263-3680
 FACSIMILE: (916) 263-3675
 WEB ADDRESS: <http://www.cba.ca.gov>



**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
 PUBLIC MEETING NOTICE FOR THE ENFORCEMENT PROGRAM OVERSIGHT
 COMMITTEE (EPOC), LEGISLATIVE COMMITTEE (LC), COMMITTEE ON
 PROFESSIONAL CONDUCT (CPC) AND CBA MEETINGS**

DATE: Thursday, May 24, 2012

COMMITTEE MEETING (EPOC)

TIME: 9:00 a.m.

COMMITTEE MEETING (LC)

TIME: 9:30 a.m., or upon adjournment of the EPOC meeting.

COMMITTEE MEETING (CPC)

TIME: 10:00 a.m., or upon adjournment of the LC meeting.

CBA MEETING

TIME: 12:30 p.m. to 5:00 p.m.

DATE: Friday, May 25, 2012

CBA MEETING

TIME: 9:00 a.m. to 12:00 p.m.

PLACE: The Hilton Pasadena
 168 South Los Robles Ave.
 Pasadena, CA 91101
 Telephone: (626) 577-1000
 Fax: (626) 584-3148

Enclosed for your information is a copy of the agendas for the EPOC, LC, CPC and CBA meetings on May 24-25, 2012. For further information regarding these meetings, please contact:

Kari O'Connor, Board Relations Analyst
 (916) 561-1716, or koconnor@cba.ca.gov
 California Board of Accountancy
 2000 Evergreen Street, Suite 250
 Sacramento, CA 95815

An electronic copy of this notice can be found at <http://www.dca.ca.gov/cba/calendar.shtml>

The next CBA meeting is scheduled for July 26, 2012 in Northern CA.

The meeting is accessible to individuals who are physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting Kari O'Connor at (916) 561-1718, or email koconnor@cba.ca.gov, or send a written request to the CBA Office at 2000 Evergreen Street, Ste. 250, Sacramento, CA 95815. Providing your request is at least five (5) business days before the meeting will help to ensure availability of the requested accommodation.



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CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE (EPOC)
AGENDA

Thursday May 24, 2012
9:00 a.m.

The Hilton Pasadena
168 South Los Robles Ave.
Pasadena, CA 91101
Telephone: (626) 577-1000
Fax: (626) 584-3148

Roll Call and Call to Order (**Diana Bell, EPOC Chair**).

- I. Approve Minutes of the March 22, 2012 EPOC Meeting (**Diana Bell, EPOC Chair**).
- II. Discussion on Possible Changes to the Role of EPOC (**Rafael Ixta, Enforcement Chief**).
- III. Discussion on Possible Changes to the Role of the Enforcement Advisory Committee (EAC) (**Rafael Ixta**).
- IV. Public Comments.*
- V. Agenda Items for Next Meeting.

Adjournment.

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings Act, all meetings of the EPOC are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the EPOC prior to the EPOC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the EPOC. Individuals may appear before the EPOC to discuss items not on the agenda; however, the EPOC can take no official action on these items at the time of the same meeting. (Government Code sec. 11125.7(a).)

CBA members who are not members of the EPOC may be attending the meeting. However, if a majority of members of the full board are present at the EPOC meeting, members who are not members EPOC may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
LEGISLATIVE COMMITTEE (LC)
AGENDA**

Thursday May 24, 2012
9:30 a.m.

Or upon adjournment of the
Enforcement Program Oversight Committee

The Hilton Pasadena
168 South Los Robles Ave.
Pasadena, CA 91101
Telephone: (626) 577-1000
Fax: (626) 584-3148

Roll Call and Call to Order (**Sally Anderson, LC Chair**).

- I. Approve Minutes of the March 22, 2012 LC Meeting (**Sally Anderson, LC Chair**).
 - II. Update on Bills of Which the CBA Has Taken a Position (AB 1504, AB 1537, AB 1588, AB 1810, AB 1904, AB 1914, AB 1982, AB 2022, AB 2041, AB 2570, SB 103, SB 975, SB 1099, SB 1165, and SB 1576). (**Matthew Stanley, CBA Staff**).
 - III. AB 1345 – Local government: audits (**Matthew Stanley**).
 - IV. Consideration of Positions on Legislation (**Matthew Stanley**).
 - A. AB 1409 – Regulations: small businesses.
 - B. SB 1327 – State Government: Internet website.
 - C. SB 1405 – Accountancy: military service: inactive status.
 - IV. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice (**Matthew Stanley**).
 - V. Public Comments.*
 - VI. Agenda Items for Next Meeting.
- Adjournment.

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings Act, all meetings of the LC are open to the public.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or

consideration by the LC prior to the LC taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the LC. Individuals may appear before the LC to discuss items not on the agenda; however, the LC can take no official action on these items at the time of the same meeting. (Government Code sec. 11125.7(a).)

CBA members who are not members of the LC may be attending the meeting. However, if a majority of members of the full board are present at the LC meeting, members who are not members LC may attend the meeting only as observers.



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**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
COMMITTEE ON PROFESSIONAL CONDUCT (CPC)
AGENDA**

Thursday May 24, 2012
10:00 a.m.

Or upon adjournment of the
Legislative Committee

The Hilton Pasadena
168 South Los Robles Ave.
Pasadena, CA 91101
Telephone: (626) 577-1000
Fax: (626) 584-3148

Roll Call and Call to Order **(Michael Savoy, CPC Chair)**.

- I. Approve Minutes of the March 23, 2012 CPC Meeting **(Michael Savoy, CPC Chair)**.
- II. Discussion on Initiation of a Rulemaking to Amend Title 16, California Code of Regulations Sections 80, 80.1, 80.2, 81, 87, 87.1, 87.8, 87.9, 88, 88.1, and 89 **(Dominic Franzella, Licensing Chief)**.
- III. Discussion Regarding the CBA's Requirements for Maintaining Adequate Security for Claims Against an Accountancy Corporation (CBA Regulation 75.8) **(Matthew Stanley, CBA Staff)**.
- IV. Public Comments.*
- V. Agenda Items for Next Meeting.

Adjournment.

Action may be taken on any item on the agenda. In accordance with the Bagley-Keene Open Meetings Act, all meetings of the CPC are open to the public.

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CBA members who are not members of the CPC may be attending the meeting. However, if a majority of members of the full board are present at the CPC meeting, members who are not members CPC may attend the meeting only as observers.



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**DEPARTMENT OF CONSUMER AFFAIRS (DCA)
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)**

**CBA MEETING
AGENDA**

**Thursday, May 24, 2012
12:30 p.m. – 5:00 p.m.**

**Friday, May 25, 2012
9:00 a.m. – 12:00 p.m.**

Important Notice to the Public

The order of agenda items other than those identified as “time certain” are approximate. Agenda items may be discussed and action taken out of order at the discretion of the CBA President.

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May 24, 2012

Roll Call and Call to Order (**Marshal Oldman, President**).

- I. Report of the President (**Marshal Oldman**).
 - A. Probation Monitoring Overview (**Paul Fisher, Supervising Investigative CPA**).
- II. Report of the Vice President (**Leslie LaManna**).
 - A. Recommendations for Appointments/Reappointments to the Enforcement Advisory Committee (EAC).
 - B. Recommendations for Appointments/Reappointments to the Qualifications Committee (QC).

- C. Recommendations for Appointments/Reappointments to the Peer Review Oversight Committee (PROC).
- III. Report of the Secretary/Treasurer (**Michael Savoy**).
 - A. Discussion of Governor's Budget.
 - B. Fiscal Year 2011-2012 Third Quarter Financial Statement.
- IV. Report of the Executive Officer (EO) (**Patti Bowers**).
 - A. Update on Staffing.
 - B. Update on CBA 2010-2012 Communications and Outreach Plan (Written Report Only).
 - C. Discussion on Business and Professions Code Sections 5063(b)(2) and 5063.2 – Civil Action Settlements or Arbitration Awards (**Matthew Stanley, CBA Staff**).
- V. Report of the Licensing Chief (**Dominic Franzella**).
 - A. Report on Licensing Division Activity.
 - B. Report on Activities Related to the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014 (**Veronica Daniel, Licensing Manager**).
 - C. Presentation on the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014 (**Dominic Franzella**).
- VI. Report of the Enforcement Chief (**Rafael Ixta**).
 - A. Enforcement Case Activity and Aging Report.
 - B. Citation and Fine Activity Report.
 - C. Reportable Events Report.
 - D. Update on Peer Review Implementation.
- VII. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, and Proposed Decisions).
 - Roll Call and Call to Order (**Marshal Oldman**).

May 25, 2012

VIII. Committee and Task Force Reports.

A. Enforcement Program Oversight Committee (EPOC)
(Diana Bell, Chair).

1. Report of the May 24, 2012 EPOC Meeting.
2. Discussion on Possible Changes to the Role of EPOC.
3. Discussion on Possible Changes to the Role of the Enforcement Advisory Committee (EAC).

B. Legislative Committee (LC) **(Sally Anderson, Chair).**

1. Report of the May 24, 2012 LC Meeting.
2. Update on Bills of Which the CBA has Taken a Position (AB 1504, AB 1537, AB 1588, AB 1810, AB 1904, AB 1914, AB 1982, AB 2022, AB 2041, AB 2570, SB 103, SB 975, SB 1099, SB 1165, and SB 1576).
3. AB 1345 – Local government: audits.
4. Consideration of Positions on Legislation.
 - a. AB 1409 – Regulations: small businesses.
 - b. SB 1327 – State Government: Internet website.
 - c. SB 1405 – Accountancy: military service: inactive status.
5. Additional Legislation Impacting the CBA Identified by Staff After the Posting of the Meeting Notice.

C. Committee on Professional Conduct (CPC) **(Michael Savoy, Chair).**

1. Report of the May 24, 2012 CPC Meeting.
2. Discussion on Initiating a Rulemaking to Amend Title 16, California Code of Regulations Sections 80, 80.1, 80.2, 81, 87, 87.1, 87.8, 87.9, 88, 88.1, 88.2, and 89.
3. Discussion Regarding the CBA's Requirements for Maintaining Adequate Security for Claims Against an Accountancy Corporation (CBA Regulation 75.8).

D. Strategic Plan Committee (SPC) **(Manuel Ramirez, Chair).**

No Report.

E. Enforcement Advisory Committee (EAC) (**Cheryl Gerhardt, Chair**).

Report of the May 3, 2012 EAC Meeting.

F. Qualifications Committee (QC) (**Fausto Hinojosa, Chair**).

Report of the April 25, 2012 QC Meeting.

G. Peer Review Oversight Committee (PROC) (**Nancy Corrigan, Chair**).

Report of the April 20, 2012 PROC Meeting.

IX. Acceptance of Minutes.

A. Draft Minutes of the March 22-23, 2012 CBA Meeting.

B. Draft Minutes of the March 22, 2012 CBA Open House.

C. Minutes of the March 22, 2012 EPOC Meeting.

D. Minutes of the March 22, 2012 LC Meeting.

E. Minutes of the March 23, 2012 CPC Meeting.

F. Minutes of the January 25, 2012 QC Meeting.

G. Minutes of the February 2, 2012 EAC Meeting.

H. Minutes of the February 10, 2012 PROC Meeting.

X. Other Business.

A. American Institute of Certified Public Accountants (AICPA).

No Report.

B. National Association of State Boards of Accountancy (NASBA).

1. Nominations for NASBA 2012 Awards.

2. Update on NASBA Committees.

a. Accountancy Licensee Database Task Force
(**Patti Bowers/Sally Anderson**).

- b. Board Relevance & Effectiveness Committee.
(Marshal Oldman).
- c. Education Committee **(Donald Driftmier).**
- d. Uniform Accountancy Act Committee (UAA)
(Sally Anderson).

XI. Closing Business.

- A. Public Comments.*
- B. Agenda Items for Future CBA Meetings.
- C. Press Release Focus
(Deanne Pearce, Assistant Executive Officer).

Recent Press Releases.

Adjournment.

Action may be taken on any item on the agenda. The time and order of agenda items are subject to change at the discretion of the CBA President and items may be taken out of order.

In accordance with the Bagley-Keene Open Meetings Act, all meetings of the CBA are open to the public. While the CBA intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources.

*Government Code section 11125.7 provides the opportunity for the public to address each agenda item during discussion or consideration by the CBA prior to the CBA taking any action on said item. Members of the public will be provided appropriate opportunities to comment on any issue before the CBA, but the CBA President may, at his or her discretion, apportion available time among those who wish to speak. Individuals may appear before the CBA to discuss items not on the agenda; however, the CBA can neither discuss nor take official action on these items at the time of the same meeting (Government Code Sections 11125, 11125.7(a)).



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CBA Item I.A
May 24-25, 2012

Probation Monitoring Overview

Presented by: Paul Fisher / Supervising ICPA

Date: April 30, 2012

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) Members with an understanding of how licensees are monitored after they have been placed on probation following a disciplinary action.

Action(s) Needed

No action is required.

Background

Disciplinary actions adopted by the CBA frequently include a provision that the disciplinary action is stayed, and the licensee is placed on probation. During the probationary period, the licensee is allowed to continue practicing, provided they adhere to specific terms and conditions of probation. Upon successful completion of probation, the license is fully restored.

The purpose of probation is to ensure consumer protection and assist in the rehabilitation of the licensee. The *Manual of Disciplinary Guidelines and Model Disciplinary Orders* (Manual) states that the period of probation is generally three years. However, the Manual allows for a departure from the three years based on aggravating or mitigating circumstances.

The probation monitoring process begins with the disciplinary order. The order includes a list of terms and conditions that the licensee must abide by in order to complete probation, and have their license restored. Most disciplinary orders, whether generated from a stipulated settlement or the proposed decision of an Administrative Law Judge (ALJ) are effective thirty days after adoption by the CBA. Once the decision is effective, the probationer is assigned a probation monitor. On average, there are approximately 70 licensees on probation at one time.

Upon receipt of a CBA enforcement decision, the monitor begins by reviewing all terms and conditions of probation. The terms and conditions of probation typically consist of two parts: standard conditions of probation (included in all cases of probation) and optional conditions of probation (included in cases where appropriate). A complete list of standard and optional terms, and their definitions, is included as **Attachment 1** and **Attachment 2**, respectively.

Probation Monitoring Overview

Page 2 of 2

The probation monitor initiates contact with the licensee via an introductory letter. The letter includes a copy of the adopted disciplinary order, outlines the terms of probation, informs the licensee of their requirement to attend a probation meeting, and provides the appearance date.

When the licensee appears at the initial probation meeting, the probation monitor and the licensee discuss the terms of probation, and ensure that the licensee understands the terms of probation. Generally, probation meetings are scheduled in conjunction with Enforcement Advisory Committee (EAC) meetings, five times a year. If the next EAC meeting is not in the geographical location of the licensee, or if the licensee is unable to attend the meeting, a telephone interview will be conducted.

After the initial personal appearance meeting, subsequent meetings are scheduled as needed to discuss progress with probation, and generally at the conclusion of probation.

As a standard term of probation, all licensees are required to submit quarterly reports (**Attachment 3**). The report requires the licensee to report their current work situation, whether they have been living or practicing outside of the State of California, and if they have taken continuing education.

Another standard term of probation allows for practice investigations of any licensee practicing public accounting. During a practice investigation, the probation monitor and enforcement staff meet with the licensee in their place of business to ensure the licensee is abiding by all terms of their probation, and are practicing in accordance with professional standards. In the past 12 months, staff have completed 15 practice investigations.

Provided the licensee abides by the terms and conditions of their probation, the probation concludes on the date outlined in the decision, and the license is restored to a clear status. If the licensee fails to comply with the probationary terms, the probation monitor will contact the licensee and seek correction of the violation. If the licensee fails to comply, the probation monitor will initiate action with the Attorney General's Office to file a Petition to Revoke Probation. Once a Petition to Revoke Probation is filed, it follows the same process as any other disciplinary matter by eventually coming before the CBA members for adoption of a default decision, proposed decision, or stipulated settlement.

Comments

Staff will be available at the meeting to answer questions.

Recommendation

None

Attachments

1. Standard Terms of Probation
2. Optional Terms of Probation
3. Probationer's Quarterly Written Report of Compliance

STANDARD CONDITIONS: Conditions that appear in all probation orders.

These conditions emphasize the respondent's responsibility and provide the CBA with a means to take more immediate and severe action should another violation occur. Standard conditions of probation are applied to each probation regardless of why they are on probation and are published.

Obey All Laws

Respondent shall obey all federal, California, other states' and local laws, including those rules relating to the practice of public accountancy in California.

Cost Reimbursement

Respondent shall reimburse the CBA \$ ____ for its investigation and prosecution costs. The payment shall be made within ____ /months of the date the CBA's decision is final.

Option: The payment shall be made as follows: ____ [specify either prior to the resumption of practice or in quarterly payments (due with quarterly written reports), the final payment being due one year before probation is scheduled to terminate].

(Cost reimbursement provides the CBA the authority to recoup costs for various instances; for example, reimbursement for prosecution costs (Attorney General costs), investigation codes (internal or DOI), citation orders, restitution, and administrative penalty if ordered.)

Submit Written Reports

Respondent shall submit, within 10 days of completion of the quarter, written reports to the CBA on a form obtained from the CBA. The respondent shall submit, under penalty of perjury, such other written reports, declarations, and verification of actions as are required. These declarations shall contain statements relative to respondent's compliance with all the terms and conditions of probation. Respondent shall immediately execute all release of information forms as may be required by the CBA or its representatives.

Personal Appearances

Respondent shall, during the period of probation, appear in person at interviews/meetings as directed by the CBA or its designated representatives, provided such notification is accomplished in a timely manner.

(Meeting with the probationer provides a means for the CBA representative to make a periodic personal assessment of the respondent; to give guidance and direction to the probationer. The probationer is always requested to appear at the beginning of the probationary period and at various intervals and when issues arise. The probationer is required to report any changes in address, phone number and cooperate fully with investigations).

Comply With Probation

Respondent shall fully comply with the terms and conditions of the probation imposed by the CBA and shall cooperate fully with representatives of the California Board of Accountancy in its monitoring and investigation of the respondent's compliance with probation terms and conditions.

Practice Investigation

Respondent shall be subject to, and shall permit, a practice investigation of the respondent's professional practice. Such a practice investigation shall be conducted by representatives of the CBA, provided notification of such review is accomplished in a timely manner.

Comply With Citations

Respondent shall comply with all final orders resulting from citations issued by the California Board of Accountancy.

Tolling of Probation for Out-of-State Residence/Practice

In the event respondent should leave California to reside or practice outside this state, respondent must notify the CBA in writing of the dates of departure and return. Periods of non-California residency or practice outside the state shall not apply to reduction of the probationary period, or of any suspension. No obligation imposed herein, including requirements to file written reports, reimburse the CBA costs, and make restitution to consumers, shall be suspended or otherwise affected by such periods of out-of-state residency or practice except at the written direction of the CBA.

Violation of Probation

If respondent violates probation in any respect, the CBA, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or a petition to revoke probation is filed against respondent during probation, the CBA shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

The CBA's Executive Officer may issue a citation under California Code of Regulations, Section 95, to a licensee for a violation of a term or condition contained in a decision placing that licensee on probation.

Completion of Probation

Upon successful completion of probation, respondent's license will be fully restored.

OPTIONAL CONDITIONS: Conditions that are appropriate to the nature and circumstances of the particular violation. These are conditions that are applied for specific factors related to the probationer's situation. Optional conditions of probation are determined case-by-case, based on the specific cause for discipline, and may include: taking additional CE, Supervised Practice, Administrative Penalties, Maintaining an Active License, to name a few.

Supervised Practice

Within thirty days of the effective date of this decision, respondent shall submit to the CBA or its designee for its prior approval a plan of practice that shall be monitored by another CPA or PA who provides periodic reports to the CBA or its designee. Respondent shall pay all costs for such monitoring.

Restitution

Respondent shall make restitution to _____ in the amount of \$_____ and shall provide the CBA with a written release from _____ attesting that full restitution has been paid. Restitution shall be completed before the termination of probation.

Restricted Practice

Respondent shall be prohibited from _____ (performing certain types of engagements such as audits, reviews, compilations, or attestation engagements, etc.), and/or from practice in _____ (certain specialty areas, i.e. bookkeeping, write-up, tax, auditing, etc.).

Engagement Letters

Respondent shall use engagement letters with each engagement accepted during probation and shall provide copies of same to the CBA or its designee upon request.

Library Reference Materials

Respondent shall have immediate access to, shall use, and shall maintain published materials and/or checklists that are consistent with the practice. Such materials and checklists shall be produced on-site for review by the CBA or its designee upon reasonable notice.

Ethics Continuing Education

Respondent shall complete four hours of continuing education in course subject matter pertaining to the following: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations (within a given period of time or prior to resumption of practice.) Courses must be a minimum of one hour as described in California Code of Regulations Section 88.2, (Courses will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Regulatory Review Course

Respondent shall complete a CBA-approved course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations (within a given period to time or prior to the resumption of practice.) The course also will include an overview of historic and recent disciplinary actions taken by the CBA, highlighting the misconduct which led to licensees being disciplined. The course shall be (a minimum of two hours).

If respondent fails to complete said courses within the time period provided, respondent shall so notify the CBA and shall cease practice until respondent completes said courses, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to complete the required courses no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Peer Review

During the period of probation, all audit, review, and compilation reports and work papers shall be subject to peer review by a Board-recognized peer review program provider pursuant to California Business and Professions Code Section 5076 and California Code of Regulations, Title 16, Division 1, Article 6, at respondent's expense. The specific engagements to be reviewed shall be at the discretion of the peer reviewer. The peer review shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation.

Within 45 days of the peer review report being accepted by a Board-recognized peer review program provider, respondent shall submit to the CBA a copy of the peer review report, including any materials documenting the prescription of remedial or corrective actions imposed by the Board-recognized peer review program provider. Respondent shall also submit, if available, any materials documenting completion of any or all of the prescribed remedial or corrective actions.

CPA Exam

Respondent shall take and pass the (section) of the CPA examination (within a given period of time - e.g., within 180 days of the effective date of the decision or within 180 days of completion of educational program, etc. or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the CBA and shall cease practice until respondent takes and successfully passes said exam, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Enrolled Agents Exam

Respondent shall take and pass the enrolled agents exam (within a given period of time or prior to the resumption of practice). (Exam will be passed prior to resumption of practice where license has been suspended or where otherwise appropriate.)

If respondent fails to pass said examination within the time period provided or within two attempts, respondent shall so notify the CBA and shall cease practice until respondent takes and successfully passes said examination, has submitted proof of same to the CBA, and has been notified by the CBA that he or she may resume practice. Failure to pass the required examination no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Continuing Education Courses

Respondent shall complete and provide proper documentation of (specified) professional education courses within (a designated time). This (shall be/ shall not be) in addition to continuing education requirements for relicensing.

OR

Respondent shall complete professional education courses as specified by the CBA or its designee at the time of respondent's first probation appearance. The professional education courses shall be completed within a period of time designated and specified in writing by the CBA or its designee, which time frame shall be incorporated as a condition of this probation. This (shall be/shall not be) in addition to continuing education requirements for relicensing.

Failure to satisfactorily complete the required courses as scheduled or failure to complete same no later than 100 days prior to the termination of probation shall constitute a violation of probation.

Active License Status

Respondent shall at all times maintain an active license status with the CBA, including during any period of suspension. If the license is expired at the time the CBA's decision becomes effective, the license must be renewed within 30 days of the effective date of the decision.

Samples - Audit, Review or Compilation

During the period of probation, if the respondent undertakes an audit, review or compilation engagement, the respondent shall submit to the CBA as an attachment to the required quarterly report a listing of the same. The CBA or its designee may select one or more from each category and the resulting report and financial statement and all related working papers must be submitted to the CBA or its designee upon request.

Prohibition from Handling Funds

During the period of probation the respondent shall engage in no activities which require receiving or disbursing funds for or on behalf of any other person, company, partnership, association, corporation, or other business entity.

Community Service - Free Services

Respondent shall participate in a community service program as directed by the CBA or its designee in which respondent provides free professional services on a regular basis to a community or charitable facility or agency, amounting to a minimum of ____ hours. Such services to begin no later than ____ days after respondent is notified of the program and to be completed no later than _____. Respondent shall submit proof of compliance with this requirement to the CBA. Respondent is entirely responsible for his or her performance in the program and the CBA assumes neither express nor implied responsibility for respondent's performance nor for the product or services rendered.

Relinquish Certificate

Respondent shall relinquish and shall forward or deliver the certificate or permit to practice to the CBA office within 10 days of the effective date of this decision and order.

Notification to Clients/Cessation of Practice

In orders that provide for a cessation or suspension of practice, respondent shall comply with procedures provided by the CBA or its designee regarding notification to, and management of, clients.

Administrative Penalty

Respondent shall pay to the CBA an administrative penalty in the amount of \$_____ for violation of Section(s) _____ of the California Accountancy Act. The payment shall be made within _____ days/months of the date the CBA's decision is final.

Medical Treatment

Respondent shall undergo and continue treatment by a licensed physician of respondent's choice and approved by the CBA or its designee until the treating physician certifies in writing in a report to the CBA or its designee that treatment is no longer necessary. Respondent shall have the treating physician submit reports to the CBA at intervals determined by the CBA or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the CBA of its determination that respondent is physically fit to practice.

Psychotherapist

Respondent shall undergo and continue treatment by a licensed psychotherapist of respondent's choice and approved by the CBA or its designee until the treating psychotherapist certifies in writing in a report to the CBA or its designee that treatment is no longer necessary. Respondent shall have the treating psychotherapist submit reports to the CBA at intervals determined by the CBA or its designee. Respondent is responsible for costs of treatment and reports.

(Optional)

Respondent shall not engage in practice until notified by the CBA of its determination that respondent is mentally fit to practice.

Rehabilitation Program/Chemical Dependence

Respondent shall successfully complete or shall have successfully completed a rehabilitation program for chemical dependence that the CBA or its designee approves and shall have reports submitted by the program. If a program was not successfully completed prior to the period of probation, the respondent, within a reasonable period of time as determined by the CBA or its designee but not exceeding 90 days of the effective date of the decision, shall be enrolled in a program. In addition, respondent must attend support groups, (e.g. Narcotics Anonymous, Alcoholic Anonymous etc.), as directed by the CBA or its designee. Respondent is responsible for all costs of such a program.

Drugs - Abstain From Use

Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed.

Drugs - Screening

Respondent shall participate or shall have participated in a drug screening program acceptable to the CBA and shall have reports submitted by the program. Respondent is responsible for all costs associated with said screening and reporting.

Biological Fluid Testing

Respondent, at any time during the period of probation, shall fully cooperate with the CBA or its designee in its supervision and investigation of compliance with the terms and conditions of probation, and shall, when requested, submit to such tests and samples as the CBA or its designee may require for the detection of alcohol, narcotics, hypnotic, dangerous drugs, or controlled substances. Respondent is responsible for all costs associated with this investigation and testing.

Medical Treatment through Biological Fluid Testing shall be used when evidence indicates respondent may have physical or mental ailment(s) or condition(s) which contributed to the violation or when the same are alleged by respondent to be a contributing factor to the violation(s).



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PROBATIONER'S

Attachment 3

QUARTERLY WRITTEN REPORT OF COMPLIANCE

As part of your probation you are required to submit written reports. The reports shall certify and document your compliance with all terms and conditions of probation. These reports must be postmarked within ten (10) days of the close of each reporting period. Reports must cover the entire reporting period. Please note that reports submitted prior to the close of each quarter will be returned to you for completion.

FAILURE TO SUBMIT A COMPLETE QUARTERLY REPORT TEN (10) DAYS FROM THE CLOSE OF EACH QUARTER CONSTITUTES A VIOLATION OF PROBATION.

TYPE OR PRINT CLEARLY

QUARTERLY REPORTING PERIOD

<input type="checkbox"/> January 1 – March 31st, _____ Year	<input type="checkbox"/> July 1 – September 30th, _____ Year
<input type="checkbox"/> April 1 – June 30th, _____ Year	<input type="checkbox"/> October 1, - December 31st, _____ Year

PERSONAL INFORMATION

1. NAME _____

2. ADDRESS _____
 (Residence) Number Street ()
 City State Zip Telephone
 E-Mail Address: _____

Is this a new address? No Yes If Yes, have you completed an Address Change Form to notify the CBA?

3. Name and Address of Employer:
 Name _____
 Address _____
 Number Street City State Zip Telephone

4. Are you currently in the practice of public accountancy? YES NO
 If yes, % of time spent in each category (estimate)
 _____ Audit _____ Review _____ Compilation _____ Bookkeeping _____ Tax _____ Other

5. Since the effective date of the order of the Board placing you on probation, have you:

(a) Been convicted for violation of any federal or state statute, county or city ordinance (do not show minor traffic violations): Yes
 No

(b) Complied with all the laws and Board regulations pertaining to practice of accounting: Yes
 No

(c) Obtained a professional license in any other state: Yes
 No

NOTE: "Yes" answer to (a) or (c) "No" to (b) must be explained on the reverse side.

6. Have you completed and Professional Development/Continuing education courses, seminars, programs, education, training, etc., which you have received or in which you have participated in during this Quarterly Reporting Period, that is being completed as part of a probation requirement? List below the courses and attach the Certificate of Completion. (Note: Use a separate sheet if necessary.)

7. Please indicate which, if any, of the following "Optional Conditions" are applicable to your Probation.

- Supervised Practice
- Restitution
- Restricted Practice
- Engagement Letters
- Library Reference Materials
- Ethics Continuing Education
- Regulatory Review Course
- Peer Review
- Continuing Education Courses
- Active License Status
- Samples – Audit, Review or Compilation
- Prohibition from Handling Funds
- Community Service – Free Services
- Administrative Penalty
- Medical Treatment
- Psychotherapist
- Rehabilitation Program/Chemical Dependence
- Drugs – Abstain From Use
- Drugs – Screening
- Biological Fluid Testing

NOTE: Are you currently in compliance with each of your required probation terms? If "No" please explain on reverse.

8. Since the start of your probation, have you been outside the state to reside or practice?

Yes
No

If "Yes" please submit a statement listing the date(s) of departure and return.

9. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature

Date

Case No(s).



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CBA Item II.A
May 24-25, 2012

Recommendation For Appointment to the Enforcement Advisory Committee (EAC)

Presented by: Leslie LaManna, Vice President

Date: May 10, 2012

Purpose of the Item

The purpose of this agenda item is to recommend that Mr. Joseph R. Rosenbaum, CPA, CFF be appointed to the EAC.

Action Needed

It is requested that the CBA adopt the recommendation.

Background

None

Comments

Mr. Rosenbaum is being recommended for appointment to the EAC based on the advice of and in consultation with the committee chair, Cheryl Gerhardt, CPA, who carefully reviewed and considered the needs of this committee and the skills and talents of existing and prospective committee members.

Recommendation

Ms. Gerhardt recommends, with my concurrence, the appointment of Mr. Joseph R. Rosenbaum, CPA, CFF to the EAC.

Attachments

Interest Letter and Curriculum Vitae



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CBA Item II.C.
May 24-25, 2012

**Recommendations For Appointments/Reappointments
to the Peer Review Oversight Committee (PROC)**

Presented by: Leslie LaManna, Vice President

Date: May 14, 2012

Purpose of the Item

The purpose of this agenda item is to recommend the following members be reappointed to the PROC.

Katherine Allanson, CPA
Gary Bong, CPA
Tze Ki Lam, CPA
Robert Lee, CPA
Sherry McCoy, CPA
Seid Sadat, CPA

Action Needed

It is requested that the CBA adopt the recommendation.

Background

None

Comments

The above mentioned committee members are being recommended for reappointment to the PROC based on the advice of and in consultation with the committee chair, Nancy Corrigan, CPA, who carefully reviewed and considered the needs of this committee and the skills and talents of existing and prospective committee members.

Recommendation

Ms. Corrigan recommends, with my concurrence, the reappointment of Katherine Allanson, CPA; Gary Bong, CPA; Tze Ki Lam, CPA; Robert Lee, CPA; Sherry McCoy, CPA; and Seid Sadat, CPA to the PROC.

Attachments

1. Katherine Alanson's Curriculum Vitae
2. Gary Bong's Curriculum Vitae
3. Tze Ki Lam's Curriculum Vitae
4. Robert Lee's Curriculum Vitae
5. Sherry McCoy's Curriculum Vitae
6. Seid Sadat's Curriculum Vitae



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CBA Item II.C.
May 24-25, 2012

**Recommendation For Reappointment to the
Peer Review Oversight Committee (PROC)**

Presented by: Leslie LaManna, Vice President

Date: May 7, 2012

Purpose of the Item

The purpose of this agenda item is to recommend that Ms. Nancy Corrigan, CPA be reappointed as Chair to the PROC.

Action Needed

It is requested that the CBA adopt the recommendation.

Background

None

Comments

I am pleased to present for the CBA's approval, the recommendation of Nancy Corrigan, CPA for reappointment as Chair of the PROC. This recommendation is made after carefully reviewing and considering the needs of this committee and the skills and talents of Ms. Corrigan.

Recommendation

I recommend the reappointment of Ms. Nancy Corrigan, CPA as Chair of the PROC.

Attachment

Curriculum Vitae



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CBA Item III.B.
May 24-25, 2012

FY 2011-12 3rd Quarter Financial Statement

Presented by: Michael Savoy, Secretary/Treasurer

Date: May 10, 2012

Purpose of the Item

The purpose of this agenda item is to provide CBA Members with the financial report, descriptive narrative, and attachments.

Action(s) Needed

No specific action is required on this agenda item.

Background

CBA Financial Reports are prepared quarterly for the September, November, March, and May meetings. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

Comments

None

Recommendation

Staff has no recommendation on this item.

Attachments

- 1. 3rd Qtr Financial Report - Narrative**
- 2. 3rd Qtr Financial Report - Statistics**
- 3. CBA Budget Allocation History**
- 4. CBA Total Revenue and Expenditures**

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2011-12
3RD QUARTER FINANCIAL REPORT - NARRATIVE
(for period of 7/01/11 through 3/31/12)



DISCUSSION AND ANALYSIS OF FINANCIAL REPORT

DISCUSSION OF GOVERNOR'S BUDGET

At the March 2012 meeting, members inquired about the repayment of outstanding loans made by the CBA to the General Fund. Information was provided in the May Executive Officer's Report and is also included below.

To date, the CBA has a total of \$31.27 million loaned to the General Fund. Specific language in budget bills for the 2002, 2003, and 2008 loans (totaling \$21.27 million) is silent on when the monies will be repaid and instead states that that repayment be made so as to ensure that the programs loaning money are not adversely affected by the loan through reduction in service or through increased fees. The language addressing repayment for the 2010 and 2011 loans (totaling \$11 million) differs slightly from the prior loans and orders repayment only when (1) the fund or account from which the loan was made has a need for the moneys or (2) there is no longer a need for the moneys in the fund or account that received the loan. Determinations of when these occur are made by the Director of the Department of Finance.

Staff have projected that there is no immediate need for these monies at this time and can fully fund all operations even with the reduced renewal fees and current Reserve levels. However, this does not preclude the CBA from requesting that specific repayment schedules be considered to avoid future uncertainty.

The May Revision to the Governor's Budget will be presented in mid-May after distribution of this report. Staff will closely monitor the proposal to determine any impacts to the CBA. Information on changes, should any occur, will be distributed at the May meeting,

REVENUES/TOTAL RECEIPTS

Third quarter CBA revenues totaled \$7,747,622. As expected from the 40 percent renewal fee decrease, revenues in this category reflect a decrease of about 34 percent from the same period in FY 2010-11. An increase in fine revenue can be attributed to more than 800 citations and fines being issued to firms who did not respond to repeated requests for peer review information. Citations are likely to decrease as firms become more familiar and accustomed to the peer review reporting requirement.

EXPENDITURES

The CBA has been diligent in its efforts to reduce case backlog and increase its enforcement presence. In February 2012, three Investigative Certified Public Accountant (ICPA) positions were filled and these appointments have contributed to the 14 percent increase in personnel expenditures. Enforcement operating expenditures have also increased by over 56 percent and are likely a direct result of the increased Enforcement staffing. These costs include Attorney General, Office of Administrative Hearing, and evidence witness/court reporter services. The CBA has also increased spending on enforcement consultant contracts to assist with ongoing caseload.

Postage expenditures reflect a 70 percent increase over the same period last fiscal year. This increase can be attributed to peer review notification mail-outs as well as increased cite and fine mailings for firms not responding to requests to submit peer review information.

**CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2011-12
MID-YEAR FINANCIAL REPORT
PAGE 2**

RESERVES

The CBA ended the third quarter with 14.6 months in Reserve (MIR). Total expenditures exceeded total revenue through the 3rd quarter, however, higher than expected cost recovery reimbursements have temporarily offset the intended reduction in the Reserve. Cost recovery has been unusually high during the current year due to the reimbursement of a single large case. It is expected that expenditures will continue to exceed revenues for the rest of the fiscal year as the CBA currently only has two permanent positions vacant. The MIR is projected to decrease to 14 months by the end of the year which is approximately 1.5 months more than what was initially projected in the Governor's Budget.

CALIFORNIA BOARD OF ACCOUNTANCY
FISCAL YEAR 2011-12
3rd Quarter Financial Report
(for period of 7/1/11 through 3/31/12)

ATTACHMENT 2

	FY 2011-12 Received/Expended 7/01/11 - 3/31/12 (9 months) [9]	FY 2010-11 Received/Expended 7/01/10 - 3/31/11 (9 months) [9]	% Change FY 2011-12 to FY 2010-11 (A:B)	FY 2011-12 Annual Governor's Budget 7/01/11 - 6/30/12 (12 months) [10]	FY 2011-12 Receipts/Expenditures Over/Under Budget (D:A)	FY 2011-12 Annual Projections (12 months) [11]
RECEIPTS						
Revenues:						
Renewals [1]	4,694,955	7,090,660	-33.8%	5,531,500	-15.1%	5,657,998
Examination Fees	2,130,576	2,109,587	1.0%	2,969,700	-28.3%	2,860,989
Licensing Fees	687,501	696,993	-1.4%	946,900	-27.4%	916,599
Practice Privilege Fees	140,850	140,450	0.3%	186,100	-24.3%	172,549
Miscellaneous [2]	43,088	46,305	-6.9%	56,201	-23.3%	56,472
Monetary Sanctions [3]	0	0	NA	0	NA	0
Penalties and Fines	50,653	7,226	601.0%	26,104	94.0%	77,537
Total Revenues	7,747,622	10,091,221	-23.2%	9,716,505	-20.3%	9,742,144
Interest	24,211	34,836	NA	0	NA	49,049
TOTAL NET RECEIPTS	7,771,834	10,126,057	-23.2%	9,716,505	-20.0%	9,791,193
EXPENDITURES:						
Personal Services:						
Salaries & Wages	3,219,085	2,757,503	16.7%	4,301,649	-25.2%	4,536,716
Benefits	1,269,323	1,168,130	8.7%	1,875,601	-32.3%	1,692,431
Total Personal Services:	4,488,408	3,925,633	14.3%	6,177,250	-27.3%	6,229,147
Operating Expenses:						
Fingerprints	6,292	11,568	-45.6%	185,000	-96.6%	10,786
General Expense	94,692	129,465	-26.9%	91,314	3.7%	142,038
Printing	78,179	82,748	-5.5%	85,608	-8.7%	136,179
Communications	15,321	23,951	-36.0%	48,614	-68.5%	22,982
Postage	117,487	68,885	70.6%	195,988	-40.1%	91,427
Travel: In State	85,039	73,770	15.3%	132,886	-36.0%	132,886
Travel: Out of State	0	0	NA	0	NA	0
Training	13,696	8,774	56.1%	28,012	-51.1%	20,544
Facilities Operations	680,596	686,248	-0.8%	613,818	10.9%	687,682
Utilities	0	0	NA	0	NA	0
Consultant & Professional Services Inter.	0	0	NA	3,708	-100.0%	0
Consultant & Professional Services Ext.	404,696	230,585	75.5%	482,363	-16.1%	454,696
Departmental Services	873,694	886,390	-1.4%	1,165,977	-25.1%	1,165,977
Consolidated Data Center	15,527	30,000	-48.2%	41,148	-62.3%	30,000
Data Processing	17,624	7,753	127.3%	71,103	-75.2%	26,436
Central Administrative Services	385,613	373,020	3.4%	514,151	-25.0%	514,151
Exams	136,600	67,781	101.5%	0	NA	136,600
Enforcement	657,170	419,946	56.5%	1,463,551	-55.1%	920,267 [12]
Minor Equipment	18,863	6,419	193.9%	36,800	-48.7%	28,295
Major Equipment	0	0	NA	13,000	-100.0%	13,000
State Controller Operations	0	0	NA	13,000	-100.0%	13,000
FI\$Cal [4]	0	0	NA	53,000	-100.0%	53,000
Total Operating Expenses:	3,601,089	3,107,303	15.9%	5,239,041	-31.3%	4,599,946
TOTAL EXPENDITURES	8,089,497	7,032,936	15.0%	11,416,291	-29.1%	10,829,093
Less Scheduled Reimbursements	114,234	100,381	13.8%	296,000	-61.4%	205,738
TOTAL NET EXPENDITURES	7,975,263	6,932,555	15.0%	11,120,291	-28.3%	10,623,355
RECEIPTS IN EXCESS OF EXPENSES	-203,429	3,193,502		-1,403,786		-832,162
PLUS COST RECOVERY	761,405	210,603		0		800,506
BEGINNING RESERVES JULY 1 [5]	14,346,000	19,753,000		14,346,000		14,346,000
GENERAL FUND LOAN 2011 [6]	-1,000,000	0		-1,000,000		-1,000,000
GENERAL FUND LOAN 2010	0	-10,000,000		0		0
Total Resources	13,903,976	13,157,105		11,942,214		13,314,344
PROJECTED ENDING RESERVES	13,903,976	13,157,105	5.7%	11,942,214		13,314,344
GENERAL FUND LOAN 2002 [7]	(6,000,000)					
GENERAL FUND LOAN 2003 [7]	(270,000)					
GENERAL FUND LOAN 2008 [7]	(14,000,000)					
GENERAL FUND LOAN 2010 [7]	(10,000,000)					
GENERAL FUND LOAN 2011 [7]	(1,000,000)					
MONTHS IN RESERVE (MIR) [8]	14.6	12.9		12.6		14.0

Footnotes:

- [1] Includes biennial renewals, delinquent and prior year renewals, and initial licenses.
- [2] Includes miscellaneous services to the public, dishonored check fees, certification fees, duplicate licenses, name changes, over/short fees, suspended revenue, prior year adjustments, and unclaimed checks.
- [3] Enforcement monetary sanctions received as components of stipulated settlements and disciplinary orders approved by the CBA. These orders bring to a conclusion any accusations that had previously been filed by the Executive Officer, and are separate from fines or citations.
- [4] FI\$Cal is the Financial Information System for California, an historic project with four Partner Agencies having authority over the state's financial management. Comprised of the Department of Finance (DOF), the State Controller's Office (SCO), the State Treasurer's Office (STO), and the Department of General Services (DGS), the project represents a multi-year commitment by the State of California to operate within an integrated financial management system environment. Leveraging the power of Enterprise Resource Planning (ERP) will assist the project to integrate the data, functions and processes of state fiscal data management into one system. All Agencies contribute a portion of their expenditure authority to this project.
- [5] FY 2011-12 beginning reserve amount was taken from Analysis of Fund Condition statement, prepared by the Department of Consumer Affairs (DCA) Budget Office in December 2011.
- [6] The CBA budget for FY 2011-12 includes a \$1 million loan to the General Fund.
- [7] Funds borrowed per California Government Code Section 16320, which indicates that the Budget Act is the authority for these loans. The "terms and conditions" of the loans, per the Budget Act are: "The transfer made by this item is a loan to the General Fund. This loan shall be repaid with interest calculated at the rate earned by the Pooled Money Investment Account at the time of the transfer." (Estimated at .389% for 2011, .515% for 2010, 2.78% for 2008, 1.64% for 2003 loan, and 2.64% for 2002). "It is the intent of the Legislature that repayment be made so as to ensure that the programs supported by this fund are not adversely affected by the loan through a reduction in service or an increase in fees." Outstanding General Fund loans total \$31,270,000.
- [8] Calculation: expenditure authority for FY 2011-12 (\$11,416,291) divided by twelve months equals monthly expenditure authority (\$951,357). Total ending reserves divided by monthly authority equals "Months in Reserve" (MIR).
- [9] Received/Expended amounts through March 31, 2012 for FY 2011-12 and March 31, 2011 for FY 2010-11 include encumbrances, and are from DCA Budget Reports.
- [10] Figures reflect projected revenues from FY 2011-12 Workload and Revenue Statistics, expenditures are from the FY 2011-12 DCA Budget Galley STONE and the DCA Fund Condition statement prepared 12/9/2011.
- [11] This column reflects CBA's annual revenue and expenditure projections for FY 2011-12 based on nine months of actual data.
- [12] Annual expenditures projected for the Enforcement line item are based only on what the CBA has spent to date. No other factors are used in determining this projection. This estimate is not indicative of the number or type of enforcement cases the CBA anticipates being involved in or is currently investigating.

NOTE: CBA Financial Reports are prepared quarterly (October, January, April, and August) and included in CBA Meeting materials. These reports provide an overview of receipts, expenditures, and the status of the Accountancy Fund Reserve.

CBA Budget Allocation History

(including reimbursements FM09)

3rd Quarter FY 2011-12	Total Budget Act ¹	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
\$ Budgeted	\$11,054,291	197,834	821,552	1,220,260	572,984	1,088,238	4,381,334	2,130,304	489,076	0.0	152,709
\$ Spent*	\$8,089,497	137,215	773,257	914,246	457,577	772,476	2,980,296	1,573,106	411,300	0.0	70,024
Authorized Positions	83.5²	2.0	7.0	12.0	5.0	11.0	22.5	20.0	4.0	0.0	0.0

- Total Budget Act dollars (\$11,120,291), minus \$13,000 for State Controller Operations and \$53,000 for CBAs allocation toward FISCAL.
- Authorized positions increased to 87.5 in the first quarter resulting from the approval of two FY 2011-12 BCPs. The mid-year CBA budget includes the elimination of four positions. Three Office Technicians and one Associate Governmental Program Analyst were eliminated through a budget change proposal to finalize the Governor's Workforce Cap Plan. This plan was issued in January 2010 to achieve an additional five percent salary savings for all departments. Elimination of the funding for these positions already occurred in prior versions of the budget.

FY 2010-11	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services ³	Board
\$ Budgeted	\$11,928,725	176,337	1,023,455	1,208,197	618,616	929,864	5,150,079	2,169,348	519,624	0	133,206
\$ Spent	\$9,223,515	140,127	883,475	1,230,379	530,717	980,654	2,743,474	2,118,158	478,714	0	117,816
Authorized Positions	84.0	2.0	9.0	15.0	5.0	8.0	20.0	21.0	4.0	0.0	0.0

- The Client Services Unit was closed in 2010 and staff were redirected to the Examination, Enforcement, and RCC units.

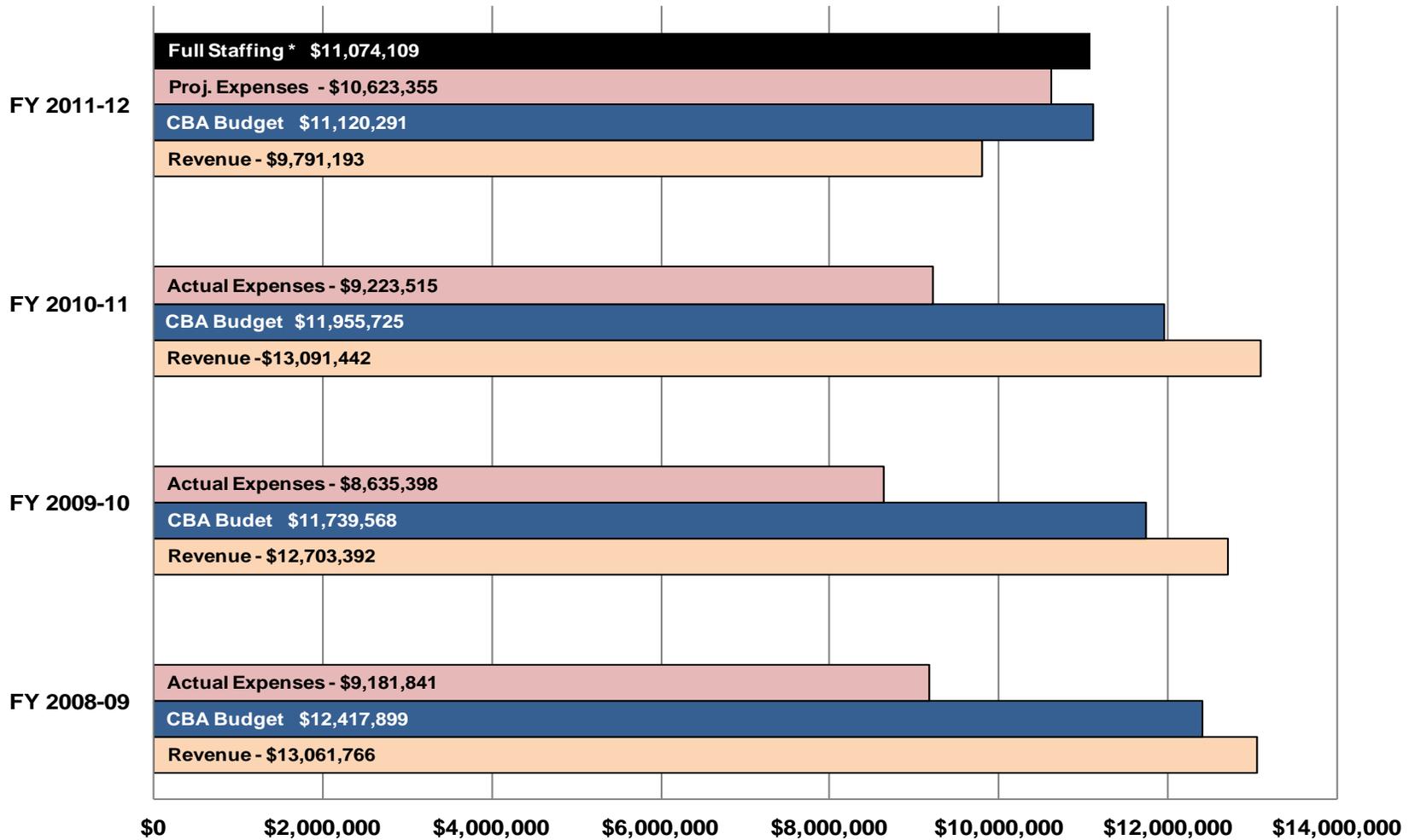
FY 2009-10	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
\$ Budgeted	\$11,739,568	446,994	617,118	1,311,926	568,326	788,597	4,970,948	1,830,145	591,295	501,841	112,378
\$ Spent	\$8,635,398	301,775	665,369	1,122,477	517,342	805,498	2,601,959	1,564,363	469,070	409,554	177,991
Authorized Positions	83.0	5.0	6.0	15.0	5.0	7.0	17.0	19.0	4.0	5.0	0.0

FY 2008-09	Total Budget Act	Practice Privilege	Exam	Initial Licensing	Licensing Administration	RCC	Enforcement	Administration	Executive	Client Services	Board
\$ Budgeted	\$12,417,899	494,269	648,337	1,519,371	514,956	909,587	4,985,373	2,068,830	655,651	515,029	106,496
\$ Spent	\$9,181,841	375,141	693,167	1,296,551	451,308	851,468	2,504,456	1,820,381	644,070	418,855	126,444
Authorized Positions	83.0	5.0	6.0	15.0	4.0	8.0	16.0	19.0	5.0	5.0	0.0

* Dollars spent through March 31, 2012.

FY 2011-12 - 3rd Quarter Financial Report
 (*Full staffing assumed for an entire year)

CBA Total Revenue and Expenditures





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CBA Item IV.B.
May 24-25, 2012

Update on CBA 2010-2012 Communications and Outreach Plan

Presented by: Lauren Hersh, Information & Planning Manager

Date: May 10, 2012

Purpose of the Item

The purpose of this agenda item is to keep CBA members informed of communications and outreach efforts and activities.

Action(s) Needed

No specific action is required on this agenda item.

Background

As requested by the CBA, staff is providing regular updates regarding the communications and outreach activities which have taken place since the last CBA meeting.

Comments

UPDATE Publication

At this writing, the Spring Edition of UPDATE is scheduled to be complete, posted to the CBA website and distributed via E-News May 17. It is scheduled to be mailed out June 5. Currently, there are 2,298 licensees and 47 interested parties who have opted in to receive a hard copy of UPDATE. This is an increase of approximately 300 individuals since the last CBA meeting. There have been nearly 13,000 additional hits to the Winter Edition of UPDATE online, bringing the total to 36,392 at this writing.

NASBA's Best Communications/Outreach Practices Directory

NASBA contacted CBA staff to follow up on the CBA's Communications & Outreach efforts, for possible inclusion in NASBA's Best Communications/Outreach Practices Directory. The CBA was one of eight boards contacted for specifics on information provided to NASBA in 2011 on this topic. NASBA has indicated it will send a copy of the directory to the CBA when complete.

E-News

E-News subscriptions have increased by nearly 5,000 since the last report. The largest increase was notably California Licensee, followed by those requesting Statutory/Regulatory information and the UPDATE publication. The table indicates the

Update on CBA 2010-2012 Communications and Outreach Plan

Page 2 of 3

number of subscribers by areas of interest, with many subscribers choosing more than one area of interest.

List Name	External	Internal	Total
California Licensee	6,338	45	7,433
Consumer Interest	3,425	50	3,475
Examination Applicant	2,217	40	2,257
Licensing Applicant	2,599	43	2,642
Out-of-State Licensee	1,727	38	1,765
Statutory/Regulatory	5,910	52	5,962
CBA Meeting Info & Agenda Materials	2,563	31	2,594
UPDATE Publication	4,892	11	4,903
Total subscriptions	30,721	310	31,031

Outreach

Staff engaged in outreach, focusing on Peer Review to licensees and consumers and new educational requirements for licensure to students and faculty.

Peer Review

During the January CBA Meeting, staff was directed to continue its efforts on performing outreach to consumers on Peer Review. Following the meeting, staff researched the following two ideas as an initial step in increasing outreach for Peer Review:

- Department of Consumer Affairs (DCA) Consumer Connection Magazine
Summer edition will feature an article written by CBA staff on choosing a CPA, which will include information regarding peer review and its benefit to consumers. Copies of the magazine will be provided to CBA members upon publication. The quarterly award-winning magazine contains a cross section of articles on subjects relating to consumer protection.
- Department of Consumer Affairs Website
The CBA's "Consumer Assistance Handbook" which includes information on peer review, is now included on DCA's website list of consumer related publications.
- CBA's UPDATE Publication
The spring edition of UPDATE contains three articles on Peer Review, including one on the benefits of Peer Review to consumers. Staff continues to research other

Update on CBA 2010-2012 Communications and Outreach Plan

Page 3 of 3

outreach opportunities both to consumers and licensees regarding the benefits of Peer Review.

New Education Requirements

CBA staff joined the California Society of CPAs to provide a presentation regarding the new educational requirements for CPA licensure. The presentation titled “150 Answers to 150 Hours” was available via webinar and presented before a live audience. Several CBA staff members participated remotely from the CBA office to field questions by participants.

Social media

Staff’s promotion of the “150 Answers to 150 Hours” webinar via social media appears to be partly responsible for the increased traffic to the CBA webpage. Five days in advance of the event, there had been approximately 6,000 hits to the event posted under the New Licensure Requirements information on the website.

In March, Facebook switched to a new format known as “Timeline.” There was both anecdotal and empirical evidence that the switch to the new format was responsible for a drop-off in activity by fans all across Facebook, but the impact to the CBA Facebook page was negligible. At this writing, the CBA has more than 1,350 Facebook fans. Twitter growth continues as well, with more than 765 Twitter followers and 18 lists.

Media Relations

Staff is now testing two new tools for pitching story ideas/press releases. Both serve as a matching service between reporters working on a story and looking for experts who can speak to an issue, and experts or government agencies/non-profits which are looking to get their stories told. Each service is provided at no cost to the government agencies and non-profits.

Recommendation

Staff has no recommendation on this item.



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CBA Item IV.C.
May 24-25, 2012

**Discussion on Business and Professions Code Sections 5063(b)(2)
and 5063.2 – Civil Action Settlements or Arbitration Awards**

Presented by: Matthew Stanley, Legislation/Regulation Analyst

Date: April 27, 2012

Purpose of the Item

The purpose of this agenda item is to report information obtained from interested parties regarding the reportable events thresholds for civil action settlements or arbitration awards (settlements and awards).

Action(s) Needed

No specific action is required on this agenda item.

Background

At its March meeting, the California Board of Accountancy (CBA) discussed whether the threshold for reporting settlements and awards should be raised from its current level of \$30,000. Staff provided the CBA with statistics (**Attachment 1**) reflecting only 22 reports of settlements between \$30,000 and \$100,000. Staff was directed to consult with stakeholders to determine if there was any objection to raising the reporting threshold.

Comments

Staff sent letters to the California Society of CPAs (CalCPA), CAMICO, and the Center for Public Interest Law seeking their input on raising the reporting threshold. As of May 1, 2012, only CalCPA had officially responded (**Attachment 2**). In its letter, CalCPA urges that the CBA retain the current \$30,000 threshold for reporting. Further, the letter indicates that CalCPA had communicated with CAMICO and that they also support retaining the current requirement.

Recommendation

Based on the minimal impact on enforcement resources and the letter from CalCPA, staff recommend that the CBA take no action on this item, thus retaining the current reporting threshold.

Attachments

1. Reportable Events- Settlements and Arbitration Awards
2. CalCPA Letter
3. Business & Professions Code §5063(b)(2) and 6063.2

**REPORTABLE EVENTS
SETTLEMENTS AND ARBITRATION AWARDS**

Licensee Reporting	08/09	09/10	10/11	TOTAL
Number Settlements Reported	4	24	15	43
\$30,000 to \$100,000	0	5	0	5
> \$100,000	4	19	15	38
No. Investigations Opened \$30,000 to \$100,000	0	0	0	0
No. Investigations Opened > \$100,000	0	2	1	3
Arbitration Awards Reported	0	0	0	0

Insurer Reporting	08/09	09/10	10/11	TOTAL
Number Settlements Reported	10	6	26	42
\$30,000 to \$100,000	3 ¹	3 ²	11 ³	17
> \$100,000	7 ⁴	3 ⁵	15 ⁶	25
No. Investigations Opened \$30,000 to \$100,000	0	1 (pending)	1 (closed no violation)	2
No. Investigations Opened > \$100,000	2 (closed no violation)	0	1 (pending)	3
Arbitration Awards Reported	0	0	0	0

¹ \$50,000 – 1; \$60,000 – 1; \$100,000 – 1

² \$38,500 – 1; \$50,000 – 1; \$87,000 – 1

³ \$39,500 – 1; \$40,000 – 1; \$47,500 – 1; \$60,000 – 1; \$65,000 – 1; \$75,000 – 2; \$87,500 – 1; \$95,000 – 2; \$100,000 - 1

⁴ \$195,000 – 1; \$250,000 – 2; \$650,000 – 1; \$1,000,000 – 1; \$1,100,000 – 1; \$1,250,000 – 1

⁵ \$200,000 – 1; \$500,000 – 1; \$730,000 – 1

⁶ \$110,000 – 2; \$150,000 – 1; \$175,000 – 1; \$240,000 – 2; \$300,000 – 2; \$350,000 – 2; \$675,000 – 1; \$750,000 – 1; \$850,000 – 1; \$1,250,000 – 1; \$13,900,000 – 1;



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April 11, 2012

Matthew Stanley, Regulation Analyst
California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815-3832

Dear Mr. Stanley and Board Members:

We believe that the threshold amounts for reporting civil settlements to the CBA should not be changed for several reasons. The relatively low level of reports does not appear to be a significant burden on enforcement staff (total of 22 over a three year period) and the reporting requirement has yielded some consumer protection. We would urge you to retain the current reporting level. We have no evidence that consumers are being ill-served by the reporting requirement or that CPAs are reluctant to settle due to the low reporting threshold.

While we agree that \$30,000 is a very low threshold, we cannot support a legislative effort where the benefit is minimal and the outcome is uncertain.

We have checked with CAMICO and they have indicated their support for retaining the current requirement.

Best regards,

A handwritten signature in black ink, appearing to read "Bruce C. Allen", written over a light blue horizontal line.

BRUCE C. ALLEN, Director
Government Relations

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**Attachment 3****Business & Professions Code****§5063(b)(2)**

Any civil action settlement or arbitration award against the licensee relating to the practice of public accountancy where the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater and where the licensee is not insured for the full amount of the award.

§5063.2

Within 30 days of payment of all or any portion of any civil action settlement or arbitration award against a licensee of the board in which the amount or value of the settlement or arbitration award is thirty thousand dollars (\$30,000) or greater, any insurer or licensed surplus broker providing professional liability insurance to that licensee shall report to the board the name of the licensee, the amount or value of the settlement or arbitration award, the amount paid by the insurer or licensed surplus broker, and the identity of the payee.

**CALIFORNIA BOARD OF ACCOUNTANCY
LICENSING DIVISION REPORT
February 2012 – April 2012**

CBA Item V.A.
May 24-25, 2012

EXAMINATION	February	March	April
CPA Examination Applications Received			
First-time Sitter	605	759	620
Repeat Sitter	1,351	1,888	1,060
CPA Examination Applications Processed			
First-time Sitter	677	732	538
Repeat Sitter	1,007	1,910	1,215
Processing Time Frames (Days)			
First-time Sitter	23	20	23
Repeat Sitter	7	7	7
INITIAL LICENSING			
CPA Licensure Applications Received			
CPA	259	280	220
Partnership	5	3	4
Corporation	20	12	12
Fictitious Name Permit (Registration)	17	11	7
Processing Time Frames (Days)			
CPA	14	12	14
Partnership	10	8	6
Corporation	10	8	6
Fictitious Name Permit (Registration)	10	8	6
Applicants Licensed Under			
Pathway 0	2	1	1
Pathway 1A	37	38	33
Pathway 1G	53	40	59
Pathway 2A	80	78	70
Pathway 2G	145	141	172

**CALIFORNIA BOARD OF ACCOUNTANCY
LICENSING DIVISION REPORT
February 2012 – April 2012**

RENEWAL AND CONTINUING COMPETENCY	February	March	April
Total Number of Licensees			
CPA	83,824	84,116	84,466
PA	124	123	123
Partnership	1,499	1,503	1,499
Corporation	3,877	3,886	3,898
Licenses Renewed			
CPA	3,484	3,342	2,614
PA	1	0	0
Partnership	71	105	59
Corporation	132	199	160
CE Worksheet Review			
CPA/PA Applications Reviewed	3,573	3,942	3,671
Deficient Applications Identified	267	323	360
Compliance Responses Received <i>(Including Requests for Inactive Status)</i>	205	145	11
Enforcement Referrals	0	1	0
Outstanding Deficiencies <i>(Including Abandonment)</i>	62	176	349
PRACTICE PRIVILEGE			
Notifications Received			
Hardcopy	88	61	37
Electronic	250	185	139
Disqualifying Conditions Received			
Approved	4	4	4
Denied	0	0	0
Pending	0	0	0
Practice Privilege Suspension Orders			
Notice of Intent to Suspend	3	4	8
Administrative Suspension Order	2	4	1

CALIFORNIA BOARD OF ACCOUNTANCY
LICENSING DIVISION REPORT
February 2012 – April 2012

DIVISION ACTIVITIES

- The Examination Unit is continuing to make progress on conducting site visits at Prometric Testing Centers. In April, QC member, Charles Hester, assisted in performing three visits, while PROC member, Sherry McCoy, assisted in performing one visit.
- At the March 2012 CBA meeting, the CBA elected to opt out of the iExam. Staff sent a letter to NASBA and posted a notice to the website announcing the CBA's decision. Also, Examination staff prepared an article for the Spring 2012 *UPDATE* that includes instructions for candidates who would like to a transfer to a participating state board.
- The License Renewal/Continuing Competency (RCC) Unit recently filled two vacancies, a Retired Annuitant Office Technician position and a seasonal position. The RCC Unit is now fully staffed.
- Staff approved two regulatory review courses bringing the total number of Board-approved courses to 21. Staff is actively working with an additional six course providers to amend their course materials to be in compliance with the course content requirements, with an additional four courses pending initial review.

COMMITTEE NEWS

CPA Qualifications Committee

At its April 25, 2012 meeting, Qualifications Committee (QC) continued the discussion related to the development of a training plan to be used by members as it relates to CBA Regulation Section 69 and personal appearance reviews. The purpose of the peer training is to establish and document best practices related to interview format and procedures for current and new members. Discussions related to the development of a training plan will continue to take place at future QC meetings and CBA members will be kept apprised at future meetings.



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CBA Item V.B.
May 24-25, 2012

Report on Activities Related to the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014

Presented by: Veronica Daniel, Licensing Manager

Date: May 1, 2012

Purpose of the Item

The purpose of this agenda item is to keep members informed on activities being undertaken related to the new educational requirements for licensure set to take effect January 1, 2014.

Action(s) Needed

No specific CBA action is required for this agenda item.

Background

Staff first began reporting on completed and proposed activities regarding the new educational requirements for licensure to members at the November 2011 meeting. Provided below are updates regarding these activities.

Overview of Activities

Accounting Study Regulations

Staff submitted the completed rulemaking package to the Department of Consumer Affairs (DCA) on April 4, 2012. Once DCA concludes its review, it will send the file to the Secretary of the State and Consumer Services Agency (SCSA) for approval. Finally, SCSA will send the file to the Department of Finance (DOF). As staff has previously reported, none of these agencies have (either by the Administrative Procedure Act or self-imposed) a required time in which to complete their respective reviews, although DCA does try to complete its review with 30 days. Once DOF completes its review, staff will file the final package with the Office of Administrative Law (OAL) for the final determination.

As always, staff plans for a full one-year period to complete the rulemaking file. Therefore, staff anticipates that OAL will render a decision on the rulemaking file by September 2012.

Report on Activities Related to the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014

Page 2 of 2

UPDATE

Staff continues to place an emphasis on getting information out to all affected stakeholders on the upcoming educational changes. As members are aware, in January and March staff conducted Open Houses focused on the new educational requirements. These Open Houses provided staff the opportunity to meet with students and faculty and overview the upcoming educational changes, as well as the initial plans for implementation. During these Open Houses, students and faculty took the opportunity to ask many questions, which provided staff with greater insight on concerns they have regarding the new educational requirements.

Heavily based on the questions received at the Open Houses, staff has developed a new series of frequently asked questions (FAQs), which will debut in the upcoming Spring 2012 *UPDATE* publication, and for publishing on the CBA website in the “New Educational Requirements” section.

150 Answers to 150 Hours

As previously reported at the March meeting, the California Society of CPAs (CalCPA) invited staff to participate in a webinar regarding the new educational requirements. The webinar was held on Friday, April 27, 2012 at Santa Clara University. For the webinar Dominic Franzella, Licensing Chief, presented a PowerPoint presentation regarding the requirements and our initial plans for implementation. In addition, a group of five staff members located at the CBA office assisted in answering questions from the online participants.

Approximately 70 individuals attended the live presentation, with another 350 plus who signed up to view via the webcast. Participants asked a wide range of questions from the new educational requirements to the experience and examination. Staff believed the event was highly successful. Going forward, staff will continue to work with CalCPA to determine if similar events can be held at different locales.

Comments

None

Recommendation

Although no recommendation is required for this agenda item, as always, staff would value any feedback members may have on the above activities, as well as any ideas they believe would assist in getting the message out on the new educational requirements.

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE ACTIVITY and AGING REPORT
April 1, 2011 - March 31, 2012**

CBA ITEM VI.A
MAY 23-24, 2012

	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12
COMPLAINTS												
Received	65	46	89	54	73	58	61	86	69	79	971	72
Closed	15	9	6	20	5	5	7	9	20	4	32	20
Assigned	58	34	73	47	66	54	47	69	56	78	937	50
Pending	4	7	17	4	6	5	12	20	14	10	12	14
Convictions/Arrest Reports												
Received	14	7	16	10	18	11	9	20	18	2	13	16
Closed	11	6	8	5	13	10	8	17	17	2	12	15
Assigned	3	1	5	8	5	1	1	1	3	0	0	2
Pending	0	0	3	0	0	0	0	2	0	0	1	0
INVESTIGATIONS (Non Sworn)												
Assigned	61	35	78	55	71	55	48	70	58	78	937	52
Closed	52	59	39	32	82	59	31	58	42	40	945	77
Pending	324	300	339	362	351	347	364	376	392	431	424	398
INVESTIGATIONS (Sworn)												
Assigned	0	1	0	0	0	0	0	0	0	0	0	0
Closed	0	0	0	0	0	0	1	0	0	0	0	0
Pending	0	1	1	1	1	1	0	0	0	0	0	0
CASE AGING												
< 18 months	295	269	307	321	308	302	318	333	339	376	370	347
18-24 months	18	21	20	28	30	30	29	27	35	33	30	28
> 24 months	11	10	12	13	13	15	17	16	18	22	24	23 ¹
Average Age of Pending Investigations (days)	236	256	240	241	237	249	256	244	253	240	250	253
Median Age of Pending Investigations (days)	171	196	157	166	163	172	189	169	184	173	184	173
¹ Of the 23-cases that are listed as greater than 24 months, eighteen (18) continue to be investigated, three (3) are waiting for a hearing date, one (1) is pending referral to the AG's office and one (1) has the accusation in the review process by the CBA.												

**CALIFORNIA BOARD OF ACCOUNTANCY
ENFORCEMENT CASE ACTIVITY and AGING REPORT
April 1, 2011 - March 31, 2012**

CBA ITEM VI.A
MAY 23-24, 2012

	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12
ENFORCEMENT ACTIONS												
AG Cases												
Initiated	2	5	1	5	5	5	4	6	3	5	3	4
AG Cases Pending	34	37	36	40	40	46	48	53	54	58	61	61
Petitions for Reinstatement Pending (Not included in Pre and Post Accusation Totals)	1	1	0	0	0	1	1	2	3	5	5	1
Accusations Filed	3	2	2	5	3	0	1	1	4	1	4	5
AG Cases Aging	Apr-11	May-11	Jun-11	Jul-11	Aug-11	Sep-11	Oct-11	Nov-11	Dec-11	Jan-12	Feb-12	Mar-12
Pre Accusation												
< 18 months	12	15	14	14	16	22	25	30	28	31	29	26
18-24 months	0	0	0	0	1	1	1	1	1	0	0	0
> 24 months	1	1	1	0	0	0	0	0	0	1	1	1 ²
Pre Accusation Total	13	16	15	14	17	23	26	31	29	32	30	27
Post Accusation												
< 18 months	19	19	18	23	20	20	18	18	21	22	28	31
18-24 months	1	1	3	3	3	3	4	1	1	1	0	0
> 24 months	1	1	0	0	0	0	0	3	3	3	3	3 ³
Post Accusation Total	21	21	21	26	23	23	22	22	25	26	31	34
² The one (1) case listed as Pre Accusation > 24 months is awaiting the outcome of a sentencing hearing scheduled for May 2012 at which time the CBA will take action.												
³ The three (3) cases that are listed as Post Accusation > 24, one (1) case will be eliminated from the next months report and two (2) are waiting on ALJ decisions.												

**CALIFORNIA BOARD OF ACCOUNTANCY
CITATION AND FINE ACTIVITY REPORT
FOR THE PERIOD 7/1/11 THRU 4/20/12**

CBA tem VI.B
May 24-25, 2012

VIOLATION ANALYSIS

RULE		AVERAGE FINE AMOUNT	TOTAL CITATIONS ISSUED	TOTAL FINES ASSESSED	APPEALS RECEIVED
	ACCOUNTANCY RULES AND REGULATIONS				
3	NOTIFICATION OF CHANGE OF ADDRESS	\$150	3	\$450	
52	RESPONSE TO BOARD INQUIRY	\$330	22 ¹	\$7,250	5
63	ADVERTISING				2 ²
87	CE BASIC REQUIREMENTS	\$355	19	\$6,750	4
87.8	CE REGULATORY REVIEW COURSE	\$250	2	\$500	
89	CE CONTROL AND REPORTING	\$375	2	\$750	
93	UNEXPIRED LICENSES	\$375	2	\$750	1
	BUSINESS AND PROFESSIONS CODE SECTION				
5037/68	OWNERSHIP OF ACCOUNTANTS' WORKPAPERS	\$750	3	\$2,250	
5050	PERMIT	\$750	4	\$3,000	2
5060	NAME OF FIRM	\$625	6	\$3,750	3
5070.5	EXPIRATION OF PERMITS; RENEWAL/CE REQUIREMENTS.	\$375	2	\$750	1
5070.6	RENEWAL OF EXPIRED PERMITS	\$0	1	\$0	
5100c	DISCIPLINE IN GENERAL- DISHONESTY, FRAUD, GROSS NEGLIGENCE, REPEATED ACTS	\$750	2	\$1,500	
TOTALS			68	\$27,700	

¹ The citations and fines issued for the Rule 52 violations will be reported separately under the Peer Review Program.

² Appeals received for violation(s) of CCR 63 were from citations issued in previous FY.

RECONCILIATION OF FINES OUTSTANDING 7/1/11-4/20/12

Balance at 7/1/11	\$53,451
Fines Assessed 7/1/11 - 4/20/12	\$27,700
Reinstated - Revoked License	\$1,200
Appeal Adjustments 7/1/11 - 4/20/12	
Withdrawn Violations (1 violation, 1 case)	(\$250)
Modified Citations (9 violations, 3 cases)	(\$1,350)
Collections 7/1/11 - 4/20/12	(\$20,396)
Fines Outstanding at 4/20/12	\$60,355

COMPOSITION OF FINES OUTSTANDING

Fine Added to License Renewal Fee/B & P 125.9 (59 violations, 30 cases)	\$48,200
AG Referral (Citation Appealed/Non Compliance) (0 violations, 0 cases)	\$0
Issued/Pending Receipt of Fine (28 violations, 11 cases)	\$10,100
Installment Payments (2 violations, 1 case)	\$805
Appeal Request Pending Review (2 violations, 2 cases)	\$1,250
Total Fines Outstanding at 4/20/12	\$60,355

5/17/2012 8:46 AM

**CALIFORNIA BOARD OF ACCOUNTANCY
 REPORTABLE EVENTS REPORT
 07/01/11 – 04/20/12**

	RECEIVED
Felony Conviction – 5063(a)(1)(A)	1
Criminal Conviction – 5063(a)(1)(B)	0
Criminal Conviction – 5063(a)(1)(C)	0
Cancellation, Revocation, Suspension of Right to Practice by Other State or Foreign Country – 5063(a)(2)	2
Cancellation, Revocation, Suspension of Right to Practice before any Governmental Body or Agency – 5063(a)(3)	2
Restatements – 5063(b)(1) <ul style="list-style-type: none"> • Governmental – 80 • Non Profit – 5 	85
Civil Action Settlement – 5063(b)(2)	7
Civil Action Arbitration Award – 5063(b)(2)	1
SEC Investigation – 5063(b)(3)	2
Wells Submission – 5063(b)(4)	1
PCAOB Investigation – 5063(b)(5)	2
Civil Action Judgement – 5063(c)(1)(2)(3)(4)(5)	2
Reporting by Courts – 5063.1	0
Reporting by Insurers – 5063.2	15
TOTAL REPORTABLE EVENTS RECEIVED 07/01/11 TO 04/20/12	120



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CBA Item VI.D.
 May 24-25, 2012

Update on Peer Review Implementation

Presented by: Rafael Ixta, Chief, Enforcement Division

Date: April 27, 2012

Purpose of the Item

The purpose of this agenda item is to highlight actions that have occurred in the peer review program since the March 2012 California Board of Accountancy (CBA) meeting.

Action Needed

No specific action is required on this agenda item.

Background

Citations

Enforcement staff continue to address the 872 citations issued in February to licensees for failing to respond to CBA letters regarding their mandatory peer review reporting requirements. The results of the 872 citations as of April 23 are as follows:

- Appealed: 401
- Paid: 252
- Returned: 28
- No Response: 191

The Enforcement Division is presently recruiting for two student assistants. The students will assist in issuing citations to approximately 600 delinquent licensees who failed to respond to CBA letters and to assist with verifying the accuracy of Peer Review Reporting Forms filed.

Reporting Statistics

As of April 24, 2012, 35,075 peer review reporting forms have been submitted to the CBA from licensees in the first two groups of the phase-in period. The reporting forms are categorized as follows:

<i>Licenses Ending in 01-33</i>	
Peer Review Required	2,222
Peer Review Not Required (firms)	4,214
Peer Review Not Applicable (non-firms)	<u>15,423</u>
	21,859

Licenses Ending in 34-66

Peer Review Required	926
Peer Review Not Required (firms)	2,601
Peer Review Not Applicable (non-firms)	<u>9,689</u>
	13,216

Telephone and Email Statistics

The statistics for contacts concerning peer review are as follows:

Method of Contact:	Oct	Nov	Dec	Jan	Feb	Mar
Telephone	239	180	163	173	875	629
E-mail	67	40	33	55	138	171

Correspondence to Licensees Regarding Peer Review Reporting

In May, staff will begin preparing peer review notification letters to be mailed to licensees in the third group who are due to submit a Peer Review Reporting Form by July 1, 2013. The target date for the mailing is July 1, 2012.

Comments

None

Recommendation

None

Attachment

None



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EPOC Item II.
May 24, 2012

CBA Item VIII.A.2.
May 24-25, 2012

Discussion on Possible Changes to the Role of the Enforcement Program Oversight Committee (EPOC)

Presented by: Rafael Ixta, Chief, Enforcement Division

Date: May 9, 2012

Purpose of the Item

The purpose of this agenda item is to present proposed changes to the role of the Enforcement Program Oversight Committee (EPOC) to ensure a clear separation of functions as required under the Administrative Procedures Act (APA).

Action(s) Needed

The EPOC will be asked to review proposed changes to the role of the EPOC in the CBA Member Guidelines and Procedures Manual (G&P Manual) and provide a recommendation to the California Board of Accountancy (CBA).

Background

At the March 22, 2012 EPOC meeting, the Members discussed the current role of the EPOC as established in the CBA G&P Manual. The G&P Manual currently states that the purpose of the EPOC is to assist the CBA in the consideration of issues relating to professional conduct by:

- Reviewing policy issues related to the Enforcement Program.
- Overseeing the program's compliance with CBA policies by way of performing periodic internal audits.

During discussion, Department of Consumer Affairs (DCA) Legal Counsel, Kristy Shellans, noted the following as potential issues of concern regarding the EPOC's current role:

Separation of Functions

Each member of an agency has specific function to perform. The Executive Officer is responsible for the prosecution portion of enforcement which is performed by the investigative staff, the Enforcement Advisory Committee (EAC), and the Attorney General's Office. The CBA Members, advised by DCA Legal Counsel, and the Administrative Law Judge are the decision makers.

Role of EPOC

Page 2

Under the APA, there should be no communication between the prosecutors and the decision makers to ensure objectivity in the prosecution of a case.

Commitment to a Particular Result

If the CBA Members provide guidance or policy direction in the investigative process, it may appear that the CBA Members are committed to achieving a specific result.

Confidentiality of Investigations

In regard to CBA Members performing internal audits, discussion of cases and policy development for investigations in public at CBA meetings would compromise the confidentiality of the CBA's investigative process.

The EPOC Members expressed the following concerns during the March 22, 2012 EPOC meeting:

Consumer Protection

How can the CBA perform its responsibility to protect consumers if it cannot give guidance on CBA functions?

Problems with Investigative Procedures

If the CBA is precluded from discussing investigative matters with the Executive Officer, how can the CBA Members communicate to the Executive Officer if it believes that not enough has been done in an investigation?

The EPOC requested that CBA staff draft suggestions for the future role of the EPOC for consideration at the May 24, 2012 EPOC meeting. Ms. Bell suggested that the EPOC also request guidance on this issue from the full CBA at the March 23, 2012 meeting.

Following Ms. Bell's report at the March 23, 2012 CBA meeting, Mr. Ramirez commented that it was the Legislature's intent to establish the EPOC and require oversight of the Enforcement Program as part of the CBA's sunset review. It was the Legislature's intent for the Committee to be composed of CBA Members to draft statutes and policies on the enforcement process. He stated that the full CBA has to decide whether it wishes to carry out the duties it was appointed to do for public protection.

Mr. Marshall noted the importance of the EPOC's responsibilities and stated that he envisioned the role of the EPOC to be a committee that sets general policies on the enforcement process and discusses with Enforcement staff the deployment of resources to carry out general policies.

Role of EPOC

Page 3

Comments

To assist EPOC Members during deliberations, CBA staff researched other DCA Boards to determine if Enforcement Committees exist elsewhere. The research identified that Enforcement Committees do exist in select Boards throughout DCA; however, the role of these committees is generally limited to non-policy related tasks such as reviewing the Disciplinary Guidelines, review of performance measures, review of enforcement statistics, reviewing the Strategic Plan objectives relating to enforcement goals, and discussing potential regulatory and/or legislative changes relating to the Enforcement Program.

In drafting suggestions for the future role of the EPOC, CBA staff attempted to propose duties that will comply with the APA and also address DCA Legal Counsel and EPOC Members' concerns.

As discussed at the March 22, 2012 EPOC meeting, the EAC has the authority under Business and Professions Code Sections 5020 and 5103 to investigate complaints and to make recommendations to the Executive Officer (**Attachment 1**). CBA Members can direct the EAC, which has the authority to meet in closed session, to review investigations. The EAC can then provide advice to the Executive Officer on investigative procedures. In addition, if the CBA Members have a concern with the investigation of a specific case that comes before them, the CBA President can appoint two CBA Members to perform an internal audit once the case is closed and final. The two CBA Members would not vote on any future action regarding that licensee.

The role of the EAC is also being proposed for revision under a separate agenda item (EPOC Item III. and CBA Item VIII.A.3.).

Recommendation

Based on the above discussion, staff has prepared proposed changes to the G&P Manual, Section II, Item B.2., (**Attachment 2**) for consideration.

Please note – the fourth proposed bullet regarding an internal audit of a closed and finalized enforcement case refers to “established guidelines” for performing the audit. It is staff’s intent that these guidelines would be drafted by the EPOC for approval by the full CBA at a future meeting if this proposed change is approved by the CBA.

Attachments

- 1) Excerpts from the Business and Professions Code.
- 2) Proposed revisions to the CBA Member Guidelines and Procedures Manual.



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Attachment 1

EXCERPTS FROM THE BUSINESS AND PROFESSIONS CODE

Enforcement Advisory Committee

Business and Professions Code Section 5020

The board may, for the purpose of obtaining technical expertise, appoint an enforcement advisory committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the board, or upon direction of the board, to the executive officer.

Business and Professions Code Section 5103

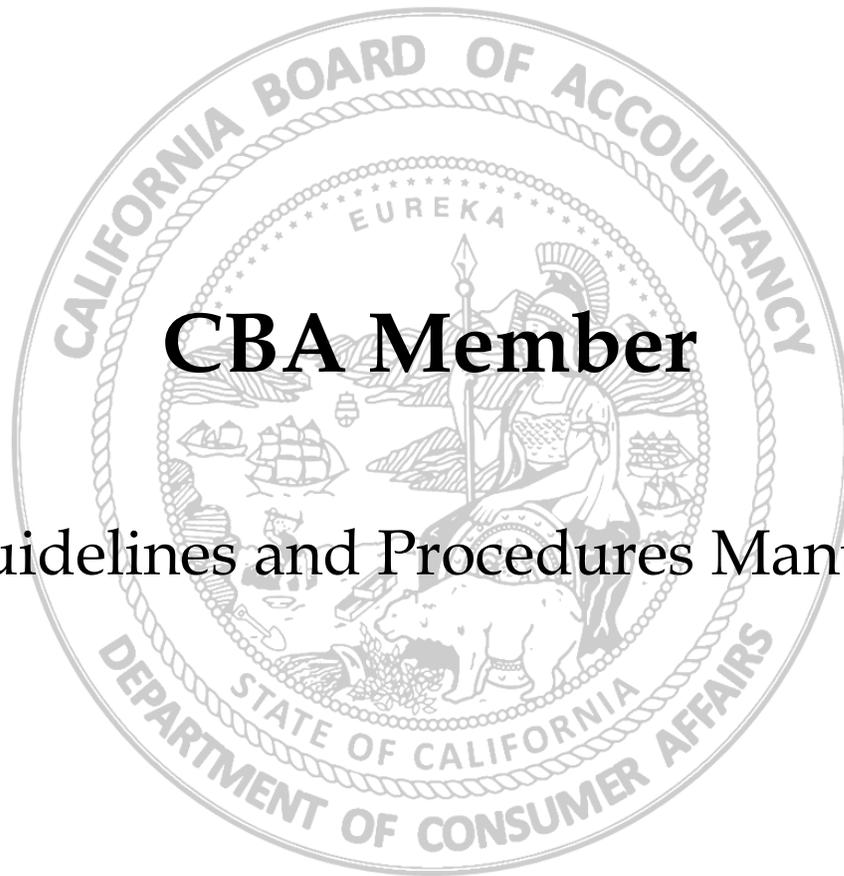
(a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.

(b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:

(1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

(2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

The California Board of Accountancy



CBA Member

Guidelines and Procedures Manual

Last updated
March 2012



SECTION II

CBA COMMITTEES AND TASK FORCES

The intent of all committees is to serve in an advisory capacity to the CBA. The Enforcement Advisory, Peer Review Oversight, and Qualifications Committees are statutory in nature, meaning their use is written into the Accountancy Act. All other committees are standing in nature, and may be created/dissolved at the CBA's discretion.

Each committee and/or task force shall have a Chairperson. The Chairperson is designated by the CBA President, and is tasked with running the committee/task force meeting. The Chair opens and closes the meeting, and counts the vote. The Chair is also responsible for coordinating with staff the creation of the minutes, and the presentation of those minutes to the CBA.

CBA members who wish to attend committee meetings, but that are not a part of the committee, may do so. However, pursuant to the Bagley-Keene Act, if the CBA member's presence at the committee meeting would constitute a CBA quorum, they may make no comment, vote on any agenda item, or sit at the table with the committee.

At the November CBA meeting, the President shall inform CBA members that if they wish to participate on a committee for the next year, they must submit written notice to the Executive Analyst. The Executive Analyst will then compile the list of interested parties, and supply it to the President in December. The President, at their discretion, will then make appointments to CBA committees effective the first of January, the following year.

A. STATUTORY COMMITTEES (Ref. Business & Professions Code §§ 5020, 5023, & 5024).

B. STANDING, AD HOC, and OTHER COMMITTEES/TASK FORCES.

1. Committee on Professional Conduct (CPC).

a. Purpose.

To assist the CBA in consideration of issues relating to professional conduct by:

- Considering and developing recommendations on issues that apply to the practice of public accountancy and affect consumers
- Considering, formulating, and proposing policies and procedures related to emerging and unresolved issues
- Reviewing selected exposure drafts and developing recommendations to present to the CBA

b. Membership.

The CPC may be comprised of up to seven CBA members.

c. Meetings/Minutes.

The CPC generally meets before scheduled CBA meetings. Minutes are prepared from the meeting, and presented to the CBA for acceptance.

2. Enforcement Program Oversight Committee (EPOC).

a. Purpose.

To assist the CBA in the consideration of issues relating to ~~professional conduct~~the Enforcement Program by:

- ~~Reviewing policy issues related to the Enforcement Program~~
- ~~Overseeing the program's compliance with CBA policies by way of performing periodic internal audits~~
- Reviewing and proposing revisions to the CBA's *Manual of Disciplinary Guidelines and Model Disciplinary Orders*.
- Providing oversight on enforcement goals and objectives.
- Recommending proposed legislative and/or regulatory changes related to the Enforcement Program.
- Performing an internal audit of a closed and finalized enforcement case when specific concerns are raised by the CBA in a final decision, in accordance with established guidelines.
- Defining the responsibilities of the CBA member liaison to the Enforcement Advisory Committee.

b. Membership.

The EPOC may be comprised of up to seven CBA members.

c. Meetings/Minutes

Meeting to review the CBA's Disciplinary Guidelines shall be held on a tri-annual basis. More frequent meeting for any purpose may be called as deemed necessary. Minutes are prepared from the meeting, and presented to the CBA for acceptance.



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EPOC Item III.
May 24, 2012

CBA Item VIII.A.3.
May 24-25, 2012

Discussion on Possible Changes to the Role of the Enforcement Advisory Committee (EAC)

Presented by: Rafael Ixta, Chief, Enforcement Division

Date: May 1, 2012

Purpose of the Item

The purpose of this agenda item is to review the role of the Enforcement Advisory Committee (EAC) outlined in the California Board of Accountancy (CBA) Member Guidelines and Procedures Manual (G&P Manual) to ensure it reflects the EAC's role as authorized in statute.

Action(s) Needed

The Enforcement Program Oversight Committee (EPOC) will be asked to review proposed changes to the role of the EAC in the G&P Manual.

Background

The CBA reviewed the role of the EAC at the March 22-23, 2012 meeting. In reviewing the materials to be presented at the meeting, it was noted that there is some inconsistency between the EAC's role as shown in the CBA's G&P Manual and the EAC's authority as set forth in Business and Professions (B&P) Code Sections 5020 and 5103 (**Attachment 1**).

Under B&P Code Section 5020, the EAC acts in an advisory capacity to the Executive Officer by providing technical expertise and assistance in investigations and conducting investigative hearings, as specified in B&P Code Section 5103.

The CBA's G&P Manual states that the purpose of the EAC is to assist the CBA in an advisory nature with its enforcement activities by:

- Serving in a technical advisory capacity to the Executive Officer and the Enforcement Program. The EAC members may participate in investigative hearings along with staff investigators; counsel from the Attorney General's Office, and where appropriate, outside counsel.
- In an appropriate manner, consistent with the Administrative Procedure Act, reporting its findings from any investigation or hearing to the CBA, or upon direction of the CBA, to the Executive Officer.

Role of the EAC

Page 2 of 2

- Considering, formulating and proposing policies and procedures related to the CBA's Enforcement Program.
- Making recommendations and forwarding reports to the CBA for action on any matter on which it is authorized by the CBA to consider.

Comments

As previously stated, there is some inconsistency between the EAC's role and authority as set forth in the G&P Manual and in B&P Code Sections 5020 and 5103. The G&P Manual states that the EAC may assist in "considering, formulating and proposing policies and procedures related to the CBA's Enforcement Program," whereas by statute, the EAC's activities are limited to providing advice and technical expertise in investigations.

Recommendation

Staff recommends two revisions to the G&P Manual as presented on **Attachment 2**. These revisions will update the G&P Manual to reflect the actual duties performed by the EAC.

The first revision eliminates the third bullet regarding considering, formulating, and proposing policies and procedures related to the CBA's Enforcement Program. As previously stated in the "Comments" section, the EAC's activities are limited to providing advice and technical expertise in investigations.

The second revision adds a third bullet regarding the EAC's review of open files to, upon request, provide technical assistance to Enforcement staff.

The third revision adds a fourth bullet regarding EAC review of closed files. The EAC reviews approximately 20 percent of cases that involve administrative or technical issues and are closed by Enforcement staff because of insufficient evidence or no violation.

Attachments

1. Business and Professions Code Sections 5020 and 5103
2. Excerpt from the CBA Member Guidelines and Procedures Manual.



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Attachment 1

EXCERPTS FROM THE BUSINESS AND PROFESSIONS CODE

Enforcement Advisory Committee

Business and Professions Code Section 5020

The board may, for the purpose of obtaining technical expertise, appoint an enforcement advisory committee of not more than 13 licensees to provide advice and assistance related to the functions specified in Section 5103. The committee shall act only in an advisory capacity, shall have no authority to initiate any disciplinary action against a licensee, and shall only be authorized to report its findings from any investigation or hearing conducted pursuant to this section to the board, or upon direction of the board, to the executive officer.

Business and Professions Code Section 5103

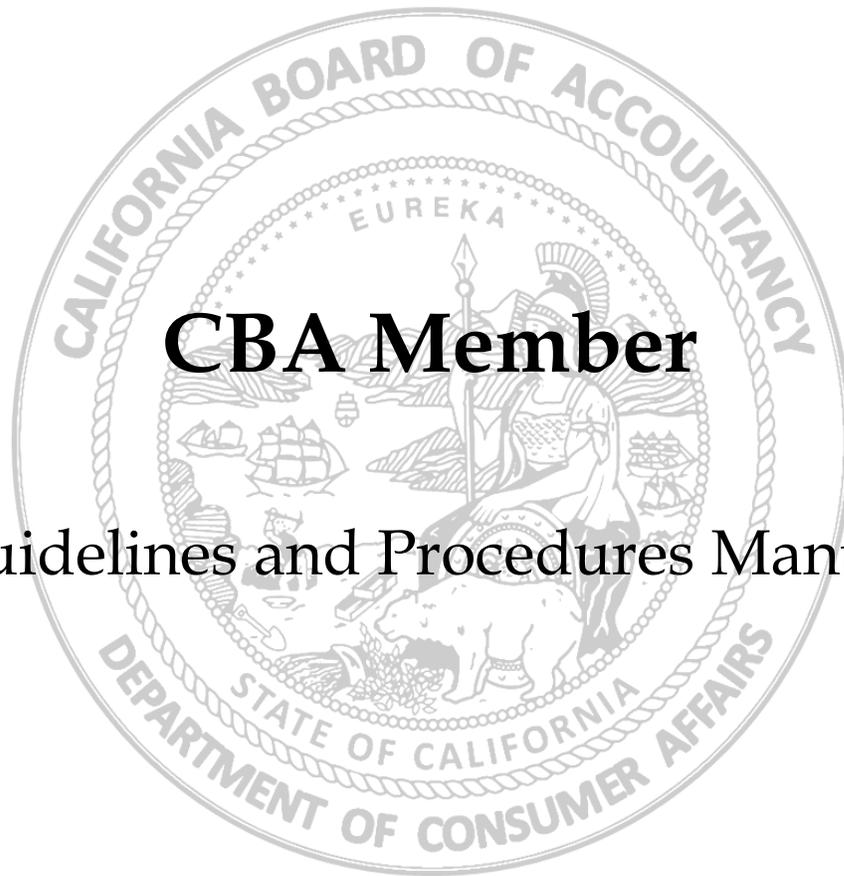
(a) Notwithstanding any other provision of law, the board may inquire into any alleged violation of this chapter or any other state or federal law, regulation, or rule relevant to the practice of accountancy.

(b) The board, or its executive officer pursuant to a delegation of authority from the board, is authorized to perform the following functions:

(1) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving the conduct of licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

(2) To receive and investigate complaints and to conduct investigations or hearings, with or without the filing of any complaint, and to obtain information and evidence relating to any matter involving any violation or alleged violation of this chapter by licensees, as directed by the board, or as directed by the executive officer pursuant to a delegation of authority from the board.

The California Board of Accountancy



CBA Member

Guidelines and Procedures Manual

Last updated
March 2012



SECTION II

CBA COMMITTEES AND TASK FORCES

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At the November CBA meeting, the President shall inform CBA members that if they wish to participate on a committee for the next year, they must submit written notice to the Executive Analyst. The Executive Analyst will then compile the list of interested parties, and supply it to the President in December. The President, at their discretion, will then make appointments to CBA committees effective the first of January, the following year.

A. STATUTORY COMMITTEES (Ref. Business & Professions Code §§ 5020, 5023, & 5024).

1. Enforcement Advisory Committee (EAC).

a. Purpose.

To assist the CBA in an advisory nature with its enforcement activities by:

- Serving in a technical advisory capacity to the Executive Officer and the Enforcement Program. The EAC members may participate in investigative hearings along with staff investigators; counsel from the Attorney General's Office and where appropriate, outside counsel.
- In an appropriate manner, consistent with the Administrative Procedure Act, reporting its findings from any investigation or hearing to the CBA, or upon direction of the CBA, to the Executive Officer.
- ~~Considering, formulating and proposing policies and procedures related to the CBA's Enforcement Program.~~

- Reviewing open investigations upon request by Enforcement staff and providing technical assistance.
- Reviewing closed investigations and reporting its findings and recommendations to the CBA or upon direction of the CBA, to the Executive Officer.
- Making recommendations and forwarding reports to the CBA for action on any matter on which it is authorized by the CBA to consider.

b. Membership.

The EAC is comprised of up to 13 licensees.

c. Meetings/Minutes.

The EAC meets approximately four times annually, generally for one day each meeting. Minutes are prepared from the meeting, and presented to the CBA for acceptance.



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LC Item II.
 May 24, 2012

CBA Item VIII.B.2.
 May 24-25, 2012

Update on Bills of Which the CBA Has Taken a Position

Presented by: Matthew Stanley, Legislation/Regulation Analyst

Date: April 26, 2012

Purpose of the Item

The purpose of this agenda item is to present the status of legislation being followed by the California Board of Accountancy (CBA).

Action(s) Needed

No action is needed unless the CBA wishes to change a position or discontinue following a bill.

Background

The CBA took positions on various pieces of legislation (**Attachment 1**) at its March meeting. Of those, staff recommends maintaining the current position on the following bills which have not been amended or only been amended with minor, technical amendments: AB 1537, AB 1588, AB 1904, AB 1982, AB 2022, AB 2041, AB 2570, and SB 103.

In addition, staff recommend that the CBA discontinue following bills which have failed or been amended in such a way as they no longer are relevant to the CBA, including AB 1504, AB 1810, and SB 1165.

Comments

The remaining bills are still moving through the process, are still relevant to the CBA and have been amended since the CBA March meeting.

AB 1914 – Agency reports (Attachment 2)

CBA Position: Oppose

What It Did

This bill would require agencies to annually report to the Legislature its progress on its required reports to the Legislature and explain any overdue reports. In addition, the bill states Legislative intent to withhold appropriations from an agency that fails to submit timely reports.

Amendments

The amendments add Legislative findings, expand the scope of the annual report to include a compliance plan, and add specifics for how the Legislature could withhold appropriations from an agency that fails to submit timely reports.

Update on Bills of Which the CBA Has Taken a Position

Page 2 of 3

Recommendation

Maintain Oppose position.

SB 975 – Regulatory authority (Attachment 3)

CBA Position: Watch

What It Did

This bill states that the boards, bureaus and commissions within the Department of Consumer Affairs have the exclusive authority in the State to license and regulate their respective professions and vocations. This bill is a response to legislation that was vetoed by the Governor last year regarding the Water Commission establishing continuing education requirements for professional engineers. This bill is not in line with the Governor's veto message, and the Governor has already authorized DCA to take an Oppose position on this bill.

Amendments

The amendments add Legislative findings, and broaden the scope of the bill to include local agencies as entities that cannot impose licensing requirements. There has been no change in DCA's position.

Recommendation

Maintain Watch position.

SB 1099 – Regulations: effective date (Attachment 4)

CBA Position: Oppose

What It Did

This bill would make regulations effective on either January 1 or July 1 with few exceptions. Currently regulations are effective 30 days after being approved by the Office of Administrative Law. This could potentially add several months to the rulemaking process.

Amendments

The amendments add April 1 and October 1 as dates on which regulations could become effective. While this is better than the previous version of the bill, it still has the potential to add up to three months to the current rulemaking timeframe.

Recommendation

Maintain Oppose position.

SB 1576 – Omnibus bill (Attachment 5)

CBA Position: Support

What It Did

SB 1576 is the annual omnibus bill. It contains various provisions affecting the CBA and other boards. Specifically, it will

Update on Bills of Which the CBA Has Taken a Position

Page 3 of 3

- change an out-of-date provision requiring the Rules of Professional Conduct to be printed on the licensing application;
- clarify that two public accounting corporations may form a public accounting partnership;
- delete obsolete language from the peer review code section;
- remove an obsolete provision regarding the Ethics Curriculum Committee;
- delete obsolete provisions regarding the adoption of the accounting study guidelines and the California Research Bureau report; and
- extend from one year to three years the length of time the CBA may grant to a licensee to repay investigation costs.

Amendments

The amendments which impact the CBA added the language approved by the CBA at its January meeting regarding retired status. Specifically, it will allow holders of canceled and delinquent licenses to apply for retired status. Not all of the CBA's recommended changes were included as legislative staff inadvertently submitted an earlier draft of the language to Legislative Counsel. This will be rectified when the next set of amendments is added to the bill.

Recommendation

Maintain Support position.

Recommendation

Staff recommendations were noted in the above analysis.

Attachments

- 1 – Legislative Tracking List
- 2 – AB 1914 – Agency reports
- 3 – SB 975 – Regulatory authority
- 4 – SB 1099 – Regulations: effective date
- 5 – SB 1576 – Omnibus bill (relevant portions)



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Attachment 1

LEGISLATIVE TRACKING LIST

<u>Bill #</u>	<u>Author</u>	<u>Topic</u>	<u>Board Position</u>
AB 1345	Lara	Local Government: audits	Oppose
AB 1504	Morrell	Administrative Regulations	Oppose
AB 1537	Cook	Regulations: sunset date	Oppose
AB 1588	Atkins	Reservist licensees	Support if Amended
AB 1810	Norby	Custom upholsterers	Watch
AB 1904	Block	Military Spouses	Support if Amended
AB 1914	Garrick	Agency Reports	Oppose
AB 1982	Wagner	Regulations: effective date	Oppose
AB 2022	Wagner	Controller: Financial Information	Watch
AB 2041	Swanson	Regulations: disability access	Support if Amended
AB 2570	Hill	Settlement agreements	Oppose
SB 103	Liu	Teleconferencing	Oppose
SB 975	Wright	Regulatory Authority	Watch
SB 1099	Wright	Regulations: effective date	Oppose
SB 1165	Wright	Public Utilities Commission	Watch
SB 1576	Sen. B&P	Omnibus Bill	Support

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1914

Introduced by Assembly Member Garrick
(Coauthors: Assembly Members Olsen and Portantino)

February 22, 2012

An act to add Section 9796 to the Government Code, relating to state and local agency reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 1914, as amended, Garrick. Agency reports.

Existing law specifies how reports required or requested by law to be submitted by a state or local agency to the Members of either house of the Legislature generally are to be submitted.

This bill would require each state or local agency that is required to submit one or more reports to the Legislature to submit, by April 1 of each year, a list of all reports the agency has not yet submitted to the Legislature along with a status summary for each report, including a statement explaining why any overdue report has not yet been submitted *and a compliance plan, as specified*. In addition, the bill would ~~state the intent of~~ *provide that* the Legislature ~~to~~ *may* withhold appropriations for an agency that fails to submit timely reports.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 **SECTION 1.** *The Legislature finds and declares all of the*
2 *following:*

1 (a) Information gathering is an integral part of the policymaking
2 process.

3 (b) Reports required by the Legislature are necessary to evaluate
4 the effectiveness and efficiency of state and local government
5 programs.

6 (c) The Legislature is responsible for exercising oversight over
7 state and local government agencies.

8 (d) Legislative oversight ensures government accountability
9 and the responsible expenditure of public funds.

10 (e) The Legislature is responsible for passing the Budget Bill
11 and may withhold appropriations for any agency that fails to
12 submit timely reports.

13 ~~SECTION 1.~~

14 SEC. 2. Section 9796 is added to the Government Code, to
15 read:

16 9796. (a) For purposes of this section, “report” means a report
17 required by law to be submitted by a state or local agency to the
18 Members of either house of the Legislature generally that the
19 agency is required to submit pursuant to a provision of law that is
20 effective on or after January 1, 2013.

21 (b) By April 1 of each year, each state or local agency that is
22 required to submit one or more reports shall submit to the
23 Legislature, *in a printed form to the Secretary of the Senate and*
24 *in an electronic form to the Chief Clerk of the Assembly*, a list of
25 all reports the agency has not yet submitted to the Legislature as
26 of that date. The list shall include ~~a status~~ *all of the following*:

27 (1) A status summary for each report and a statement explaining
28 why any overdue report has not yet been submitted.

29 (2) A compliance plan for the submission of each report,
30 including a timeline for submitting the report that specifies
31 identifiable goals, objectives, and benchmarks to be met prior to
32 completion and submission of each report.

33 (c) Upon receiving the lists required to be submitted pursuant
34 to subdivision (b), the Chief Clerk of the Assembly shall forward
35 those lists to the Assembly Committee on Budget, and the Secretary
36 of the Senate shall forward those lists to the Senate Committee on
37 Budget and Fiscal Review.

38 (d) The Assembly Committee on Budget or the Senate Committee
39 on Budget and Fiscal Review may require an agency that has failed

- 1 *to submit timely reports to appear before the committee and explain*
2 *the failure to submit those reports as required.*
3 *(e) The Legislature may consider, in connection with the state*
4 *budget, information obtained pursuant to this section and*
5 ~~*(e) It is the intent of the Legislature to withhold appropriations*~~
6 ~~*for*~~ *to an agency that fails to submit timely reports.*

AMENDED IN SENATE MARCH 27, 2012

SENATE BILL**No. 975**

Introduced by Senator WrightJanuary 19, 2012

An act to add Section 101.2 to the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 975, as amended, Wright. Professions and vocations: regulatory authority.

Existing law, the Business and Professions Code, provides for the licensure and regulation of various professions and vocations by boards, bureaus, and commissions within the Department of Consumer Affairs. *Under existing law, a city or county shall not prohibit a person or group of persons, authorized by one of these boards, bureaus, or commissions, as specified, to engage in a particular business from engaging in that business, and shall not prohibit a healing arts professional licensed by one of those boards from engaging in any act or performing any procedure that falls within the professionally recognized scope of practice of that licensee.*

This bill would provide that those boards, bureaus, and commissions have the sole and exclusive authority ~~in state government~~ to license and regulate the practice of professions and vocations regulated by those boards pursuant to provisions of that code, and that no licensing requirements, as specified, shall be imposed upon a person licensed to practice one of those professions or vocations other than under that code or by regulation promulgated by the applicable board through its authority granted under that code. *The bill would prohibit a city, county, city and county, school district, other special district, a local or regional*

agency, or joint powers agency from imposing a licensing requirement upon a person licensed to practice a profession or vocation regulated by one of these boards. The bill would state findings and declarations of the Legislature.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *The Legislature finds and declares the following:*
 2 (a) *The State of California, State and Consumer Services*
 3 *Agency, contains the Department of Consumer Affairs, which*
 4 *contains approximately 38 boards, bureaus, and commissions the*
 5 *mission of which is to regulate specified professions and vocations.*
 6 *In addition to those boards, bureaus, and commissions, the state*
 7 *government also is comprised of dozens of other state agencies,*
 8 *departments, boards, bureaus, and commissions.*
 9 (b) *California local government is comprised of 58 counties,*
 10 *approximately 470 cities, and over 2,000 special districts, local*
 11 *and regional agencies, and joint powers agencies.*
 12 (c) *If other state governmental entities or local governmental*
 13 *entities were to require persons licensed to practice a profession*
 14 *or vocation by a board, bureau, or commission within the*
 15 *Department of Consumer Affairs to satisfy additional licensing*
 16 *requirements in order to practice their professions or vocations,*
 17 *before or within the respective governmental entity, this would*
 18 *impose enormous regulatory burdens upon those persons.*
 19 (d) *The practice of adopting continuing education requirements*
 20 *through regulatory action, and the imposition of mandatory*
 21 *training programs to satisfy requirements for licensure,*
 22 *certification, or registration, is becoming more prevalent with*
 23 *each passing year as authority is shifted from direct legislative*
 24 *action to increasingly broad, yet undefined, regulatory mandates.*
 25 (e) *The imposition of educational and training requirements by*
 26 *these governmental entities, in addition to state licensing*
 27 *requirements, inhibits the practice of those professions within or*
 28 *before those governmental entities.*
 29 (f) *Further, as additional licensing requirements are imposed,*
 30 *it is becoming difficult and impractical for the state and local*

1 *governmental entities to administer conflicting and diverse*
2 *requirements, resulting in greater confusion and increased costs.*
3 *(g) It is therefore imperative that the licensed professions and*
4 *vocations have a single set of licensing requirements that apply*
5 *uniformly throughout the state and apply equally in all state and*
6 *local governmental entities, and that licensed professionals clearly*
7 *understand the expectations with which they must comply in order*
8 *to legally operate within their scopes of practice in the state.*

9 **SECTION 1.**

10 *SEC. 2.* Section 101.2 is added to the Business and Professions
11 Code, to read:

12 101.2. (a) (1) The boards specified in Section 101 shall have
13 the sole and exclusive authority ~~in state government~~ to license and
14 regulate the practice of professions and vocations regulated by
15 those boards pursuant to provisions of this code.

16 (2) *No city, county, city and county, school district, other special*
17 *district, local or regional agency, or joint powers agency, shall*
18 *impose a licensing requirement upon a person licensed to practice*
19 *a profession or vocation regulated by a board specified in Section*
20 *101.*

21 ~~(2) No~~

22 (3) A licensing requirement shall *not* be imposed upon a person
23 licensed to practice a profession or vocation regulated by a board
24 specified in Section 101 other than by this code or by regulation
25 promulgated by the applicable board through its authority granted
26 under this code.

27 (b) For purposes of this section, “licensing requirements”
28 include, but are not limited to, the following with respect to a
29 profession or vocation licensed and regulated by a board specified
30 in Section 101:

31 (1) Additional training or certification requirements to practice
32 within the scope of practice of a profession or vocation licensed
33 under this code.

34 (2) Continuing education requirements for renewal or
35 continuation of licensure.

36 (3) Any additional requirements beyond those provided in this
37 code or pursuant to regulations promulgated by the applicable
38 board specified in Section 101 through its authority granted under
39 this code.

1 (c) Nothing in this section shall be construed to do either of the
2 following:

3 (1) Prohibit parties from contractually agreeing to additional
4 experience, qualifications, or training of a licensee under this code
5 in connection with performance of a contract.

6 (2) Prohibit a licensee from voluntarily undertaking satisfaction
7 of certification programs not required under this code for licensure
8 by a board specified in Section 101.

O

AMENDED IN SENATE MAY 17, 2012

AMENDED IN SENATE APRIL 25, 2012

SENATE BILL

No. 1099

Introduced by Senator Wright
(Principal coauthor: Senator Correa)
(Coauthors: Senators Dutton and Rubio)
(Coauthors: Assembly Members Logue, Ma, Perea, and Wieckowski)

February 16, 2012

An act to amend Sections 11343, 11343.4, and 11344 of the Government Code, *and to amend Section 116064 of the Health and Safety Code*, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1099, as amended, Wright. Regulations.

(1) The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The act specifically provides that a regulation or order of repeal required to be filed with the Secretary of State shall become effective on the 30th day after the date of filing, subject to certain exceptions.

This bill would instead provide that a regulation or order of repeal is effective on January 1, April 1, July 1, or October 1, as specified, subject to the same exceptions.

(2) The act requires the Office of Administrative Law to make a free copy of the full text of the California Code of Regulations available on its Internet Web site.

This bill would also require the office to provide on its Internet Web site a list of, and a link to the full text of, each regulation filed with the Secretary of State that is pending effectiveness, as specified.

(3) Existing law requires that every state agency subject to the act that maintains an Internet Web site or similar forum for the electronic publication or distribution of written material publish on that Internet Web site or other forum specified information regarding a proposed regulation or regulatory repeal or amendment.

This bill would also require a state agency to post on its Internet Web site each regulation that is filed with the Secretary of State, as specified, and to send to the office the Internet Web site link of the regulation. The bill would not apply to a state agency that does not maintain an Internet Web site.

This bill would also make a conforming change.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11343 of the Government Code is
2 amended to read:
3 11343. Every state agency shall:
4 (a) Transmit to the office for filing with the Secretary of State
5 a certified copy of every regulation adopted or amended by it
6 except one that is a building standard.
7 (b) Transmit to the office for filing with the Secretary of State
8 a certified copy of every order of repeal of a regulation required
9 to be filed under subdivision (a).
10 (c) (1) Within 15 days of the office filing a state agency's
11 regulation with the Secretary of State, post the regulation on its
12 Internet Web site in an easily marked and identifiable location.
13 The state agency shall keep the regulation on its Internet Web site
14 for at least six months from the date the regulation is filed with
15 the Secretary of State.
16 (2) Within five days of posting, the state agency shall send to
17 the office the Internet Web site link of each regulation that the
18 agency posts on its Internet Web site pursuant to paragraph (1).
19 (3) This subdivision shall not apply to a state agency that does
20 not maintain an Internet Web site.
21 (e)
22 (d) Deliver to the office, at the time of transmittal for filing a
23 regulation or order of repeal, six duplicate copies of the regulation

1 or order of repeal, together with a citation of the authority pursuant
2 to which it or any part thereof was adopted.

3 ~~(d)~~

4 (e) Deliver to the office a copy of the notice of proposed action
5 required by Section 11346.4.

6 ~~(e)~~

7 (f) Transmit to the California Building Standards Commission
8 for approval a certified copy of every regulation, or order of repeal
9 of a regulation, that is a building standard, together with a citation
10 of authority pursuant to which it or any part thereof was adopted,
11 a copy of the notice of proposed action required by Section
12 11346.4, and any other records prescribed by the State Building
13 Standards Law (Part 2.5 (commencing with Section 18901) of
14 Division 13 of the Health and Safety Code).

15 ~~(f)~~

16 (g) Whenever a certification is required by this section, it shall
17 be made by the head of the state agency that is adopting, amending,
18 or repealing the regulation, or by a designee of the agency head,
19 and the certification and delegation shall be in writing.

20 **SECTION 1.**

21 *SEC. 2.* Section 11343.4 of the Government Code is amended
22 to read:

23 11343.4. (a) Except as otherwise provided in subdivision (b),
24 a regulation or an order of repeal required to be filed with the
25 Secretary of State shall become effective on a quarterly basis as
26 follows:

27 (1) January 1 if the regulation or order of repeal is filed on
28 September 1 to November 30, inclusive.

29 (2) April 1 if the regulation or order of repeal is filed on
30 December 1 to February 29, inclusive.

31 (3) July 1 if the regulation or order of repeal is filed on March
32 1 to May 31, inclusive.

33 (4) October 1 if the regulation or order of repeal is filed on June
34 1 to August 31, inclusive.

35 (b) The effective dates in subdivision (a) shall not apply in all
36 of the following:

37 (1) The effective date is specifically provided by the statute
38 pursuant to which the regulation or order of repeal was adopted,
39 in which event it becomes effective on the day prescribed by the
40 statute.

1 (2) A later date is prescribed by the state agency in a written
2 instrument filed with, or as part of, the regulation or order of repeal.

3 (3) The agency makes a written request to the office
4 demonstrating good cause for an earlier effective date, in which
5 case the office may prescribe an earlier date.

6 ~~SEC. 2.~~

7 *SEC. 3.* Section 11344 of the Government Code is amended
8 to read:

9 11344. The office shall do all of the following:

10 (a) Provide for the official compilation, printing, and publication
11 of adoption, amendment, or repeal of regulations, which shall be
12 known as the California Code of Regulations. On and after July
13 1, 1998, the office shall make available on the Internet, free of
14 charge, the full text of the California Code of Regulations, and
15 may contract with another state agency or a private entity in order
16 to provide this service.

17 (b) Make available on its Internet Web site a list of, and a link
18 to the full text of, each regulation filed with the Secretary of State
19 that is pending effectiveness pursuant to Section 11343.4.

20 (c) Provide for the compilation, printing, and publication of
21 weekly updates of the California Code of Regulations. This
22 publication shall be known as the California Code of Regulations
23 Supplement and shall contain amendments to the code.

24 (d) Provide for the publication dates and manner and form in
25 which regulations shall be printed and distributed and ensure that
26 regulations are available in printed form at the earliest practicable
27 date after filing with the Secretary of State.

28 (e) Ensure that each regulation is printed together with a
29 reference to the statutory authority pursuant to which it was enacted
30 and the specific statute or other provision of law which the
31 regulation is implementing, interpreting, or making specific.

32 *SEC. 4. Section 116064 of the Health and Safety Code is*
33 *amended to read:*

34 116064. (a) As used in this section the following words have
35 the following meanings:

36 (1) (A) “Public wading pool” means a pool that meets all of
37 the following criteria:

38 (i) It has a maximum water depth not exceeding 18 inches.

1 (ii) It is a pool other than a pool that is located on the premises
2 of a one-unit or two-unit residence, intended solely for the use of
3 the residents or guests.

4 (B) “Public wading pool” includes, but is not limited to, a pool
5 owned or operated by private persons or agencies, or by state or
6 local governmental agencies.

7 (C) “Public wading pool” includes, but is not limited to, a pool
8 located in an apartment house, hotel, or similar setting, that is
9 intended for the use of residents or guests.

10 (2) “Alteration” means any of the following:

11 (A) To change, modify, or rearrange the structural parts or the
12 design.

13 (B) To enlarge.

14 (C) To move the location of.

15 (D) To install a new water circulation system.

16 (E) To make any repairs costing fifty dollars (\$50) or more to
17 an existing circulation system.

18 (b) A public wading pool shall have at least two circulation
19 drains per pump that are hydraulically balanced and symmetrically
20 plumbed through one or more “T” fittings, and are separated by a
21 distance of at least three feet in any dimension between the drains.

22 (c) All public wading pool main drain suction outlets that are
23 under 12 inches across shall be covered with antivortex grates or
24 similar protective devices. All main drain suction outlets shall be
25 covered with grates or antivortex plates that cannot be removed
26 except with the use of tools. Slots or openings in the grates or
27 similar protective devices shall be of a shape, area, and arrangement
28 that would prevent physical entrapment and would not pose any
29 suction hazard to bathers.

30 (d) (1) The State Department of Health Services may adopt
31 regulations pursuant to this section.

32 (2) The regulations may include, but not be limited to, standards
33 permitting the use of alternative devices or safeguards, or
34 incorporating new technologies, that produce, at a minimum,
35 equivalent protection against entrapment and suction hazard,
36 whenever these devices, safeguards, or technologies become
37 available to the public.

38 (3) Regulations adopted pursuant to this section constitute
39 building standards and shall be forwarded pursuant to ~~subdivision~~
40 ~~(e)~~ of Section 11343 of the Government Code to the California

- 1 Building Standards Commission for approval as set forth in Section
2 18907 of the Health and Safety Code.
- 3 (e) The California Building Standards Commission shall approve
4 the building standards as set forth in this section and publish them
5 in the California Building Standards Code by November 1, 1999.
6 The commission shall publish the text of this section in Title 24
7 of the California Code of Regulations, Part 2, Chapter 31B,
8 requirements for public swimming pools, with the following note:
9 “NOTE: These building standards are in statute but have not been
10 adopted through the regulatory process.” Enforcement of the
11 standards set forth in this section does not depend upon adoption
12 of regulations, therefore, enforcement agencies shall enforce the
13 standards pursuant to the timeline set forth in this section prior to
14 adoption of related regulations.
- 15 (f) The maximum velocity in the pump suction hydraulic system
16 shall not exceed six feet per second when 100 percent of the
17 pump’s flow comes from the main drain system and any main
18 drain suction fitting in the system is completely blocked.
- 19 (g) On and after January 1, 1998, all newly constructed public
20 wading pools shall be constructed in compliance with this section.
- 21 (h) Commencing January 1, 1998, whenever a construction
22 permit is issued for alteration of an existing public wading pool,
23 it shall be retrofitted so as to be in compliance with this section.
- 24 (i) By January 1, 2000, every public wading pool, regardless of
25 the date of original construction, shall be retrofitted to comply
26 with this section.

AMENDED IN SENATE APRIL 12, 2012

SENATE BILL

No. 1576

Introduced by Committee on Business, Professions and Economic Development (Senators Price (Chair), Corbett, Correa, Emmerson, Hernandez, Negrete McLeod, Strickland, Vargas, and Wyland)

March 12, 2012

An act to amend Sections 5070.1, 5072, 5076, 5093, 5094.6, 5107, 7011.8, ~~and~~ 7076, 8741, 8762, 8773, 12012, 12012.1, 12024.11, 12027, 12104, 12104.5, 12105, 12106.5, 12107, 12107.1, 12108, 12201, 12201.2, 12202, 12203, 12205, 12210.5, 12212, 12214, 12314, 12500.5, 12500.6, 12500.8, 12609, 12610, 12706, 12708, 12722, 12723, 12727, 12735, 13403, 13440, 13450, 13460, 13461, 13480, and 13710 of, to amend and renumber Section 12736 of, to repeal Section 13302 of, and to repeal and add Section 5019 of, the Business and Professions Code, relating to professions and vocations.

LEGISLATIVE COUNSEL'S DIGEST

SB 1576, as amended, Committee on Business, Professions and Economic Development. Professions and vocations.

Existing law provides for the licensure and regulation of professions and vocations by boards within the Department of Consumer Affairs.

(1) Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy. Under existing law, permits to engage in the practice of public accountancy are required to be issued by the board only to holders of the certificate of certified public accountant, and to those partnerships, corporations, and other persons who, upon application approved by the board, are registered with the board.

Under existing law, the rules of professional conduct adopted by the board are required to be printed as a part of the application blanks for both certificates and registration and every applicant for either a certificate or registration is required to subscribe thereto when making an application.

This bill would require such an applicant to acknowledge the fact that the applicant has read and understands the rules of professional conduct adopted by the board.

Existing law authorizes a partnership, except as specified, to be registered by the board to engage in the practice of public accountancy provided it meets certain requirements, including, but not limited to, that each partner personally engaged within this state in the practice of public accountancy has a valid permit or certificate to practice in this state and that, except as specified, each partner not personally engaged in the practice of public accountancy within this state is required to be a certified public accountant in good standing of some state.

This bill would modify those requirements to instead include that each partner engaged within this state in the practice of public accountancy has a valid permit or certificate to practice in this state and that, except as specified, each partner not engaged in the practice of public accountancy within this state is required to be a certified public accountant in good standing of some state.

Existing law requires a firm, in order to renew its registration, to have a specified peer review report accepted by a board-recognized peer review group. Existing law requires the board to adopt regulations and emergency regulations to implement, interpret, and make specific these peer review requirements.

This bill would delete that requirement to adopt emergency regulations.

Existing law requires an applicant for the certified public accountant license to comply with certain education, examination, and experience requirements under one of 2 provisions that set forth different standards, commonly referred to as the 2 “pathways.” Existing law, under the 2nd pathway, requires an applicant to present satisfactory evidence that the applicant has completed certain education, and after December 31, 2013, that education is required to include specified ethics study. Existing law authorizes the Advisory Committee on Accounting Ethics Curriculum to determine that a course satisfies the ethics study requirement. No later than June 1, 2012, existing law also requires the Advisory Committee on Accounting Ethics Curriculum to recommend

to the board ethics study guidelines, as defined, to be included as part of the educational requirements.

This bill would delete those provisions establishing the responsibilities of the committee.

Existing law authorizes the board to conditionally renew or reinstate for a maximum of one year the permit or certificate of a holder who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for those unpaid costs.

This bill would authorize the board to conditionally renew or reinstate for a maximum of 3 years a permit or certificate if the holder demonstrates financial hardship and enters into a formal agreement with the board to reimburse the board within that 3-year period for those unpaid costs.

Existing law provides that an accountant who is no longer actively engaged in practice may, upon application to the board and meeting specified requirements, have his or her license placed on retired status. Existing law prohibits the board, beginning on a specified date, from approving an application for a retired status license if the applicant's permit is delinquent.

This bill would remove the prohibition against granting retired status to an accountant's license which had become delinquent and would allow an accountant whose license was canceled for failure to renew to apply for his or her license to be placed in retired status.

This bill would also exempt holders of licenses placed in retired status during a specified period from complying with certain requirements.

(2) Existing law, the Contractors' State License Law, provides for the licensure and regulation of contractors by the Contractors' State License Board. Existing law requires the board to appoint a registrar to serve as the executive officer and secretary of the board to carry out the duties delegated by the board. Under existing law, any person who reports to or causes a complaint to be filed with the board that a licensee has engaged in professional misconduct, knowing that complaint to be false, is guilty of a crime. Existing law authorizes the board to notify the district attorney or city attorney that a person has made what the board believes is a false report or complaint.

This bill would limit application of those provisions to any person licensed by the board and would instead authorize the registrar to issue a citation to such a person.

(3) Existing law, the Professional Land Surveyors' Act, provides for licensing and regulation of land surveyors by the Board for Professional Engineers, Land Surveyors, and Geologists. Existing law specifies the examinations required to obtain a license, with certain exemptions for registered professional engineers and certain engineers-in-training.

This bill would limit that exemption to persons who were registered as professional engineers prior to January 1, 1982.

Existing law requires a licensed land surveyor to sign a corner record, other than lost corners, as defined.

This bill would revise the references in these provisions to a manual issued by the United States Bureau of Land Management.

Existing law requires a licensed land surveyor or licensed civil engineer, after making a field survey, to file with the county surveyor a record of the survey if, among other things, it discloses the establishment of one or more points or lines not shown on any subdivision map, official map, or record of survey, as specified.

This bill would also require the field survey to be filed with the county surveyor if it discloses the location, relocation, reestablishment, or retracement of one or more points or lines not shown on any subdivision map, official map, or record of survey.

(3)

(4) This bill would make other technical, nonsubstantive, and conforming changes.

Existing law vests the Secretary of Food and Agriculture with general supervision of weights and measures and weighing and measuring devices sold or used in the state, and authorizes the secretary to exercise any power conferred upon the department or upon the State Sealer, who is the chief of the division of the department charged with the enforcement of the provisions relating to weights and measures.

This bill would make various technical, nonsubstantive changes to these provisions, to, among other things, correct references to the secretary, the California Agricultural Commissioners and Sealers Association, ASTM International, and SAE International. The bill would delete a duplicate provision and renumber a provision.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5019 of the Business and Professions
2 Code is repealed.

3 SEC. 2. Section 5019 is added to the Business and Professions
4 Code, to read:

5 5019. Every applicant, when subscribing to an application for
6 certificate or registration, shall acknowledge the fact that the
7 applicant has read and understands the rules of professional conduct
8 adopted by the board.

9 SEC. 3. Section 5070.1 of the Business and Professions Code
10 is amended to read:

11 5070.1. (a) The board may establish, by regulation, a system
12 for the placement of a license on a retired status, upon application,
13 for certified public accountants and public accountants who are
14 not actively engaged in the practice of public accountancy or any
15 activity which requires them to be licensed by the board.

16 (b) No licensee with a license on a retired status shall engage
17 in any activity for which a permit is required.

18 (c) ~~The~~ *Except as provided in subdivision (d), the board shall*
19 *deny an applicant's application for a retired status license if the*
20 *permit is canceled or if the permit is suspended, revoked, or*
21 *otherwise punitively restricted by the board or subject to*
22 *disciplinary action under this chapter.*

23 ~~(d) Beginning one year from the effective date of the regulations~~
24 ~~adopted pursuant to subdivision (a), if an applicant's permit is~~
25 ~~delinquent, the board shall deny an applicant's application for a~~
26 ~~retired status license.~~

27 *(d) (1) Upon approval of an application for a retired status*
28 *license from the holder of a license canceled pursuant to Section*
29 *5070.7, the board shall reissue that license in a retired status.*

30 *(2) The holder of a canceled license that was placed in retired*
31 *status on or after January 1, 1994, and prior to January 1, 1999,*
32 *shall not be required to meet the qualifications established*
33 *pursuant to subdivision (e), but shall be subject to all other*
34 *requirements of this section.*

35 (e) The board shall establish minimum qualifications for a retired
36 status license.

37 (f) The board may exempt the holder of a retired status license
38 from the renewal requirements described in Section 5070.5.

1 (g) The board shall establish minimum qualifications for the
2 restoration of a license in a retired status to an active status. These
3 minimum qualifications shall include, but are not limited to,
4 continuing education and payment of a fee as provided in
5 subdivision (h) of Section 5134.

6 ~~SEC. 3.~~

7 *SEC. 4.* Section 5072 of the Business and Professions Code is
8 amended to read:

9 5072. (a) No persons shall engage in the practice of
10 accountancy as a partnership unless the partnership is registered
11 by the board.

12 (b) A partnership, other than a limited partnership, may be
13 registered by the board to engage in the practice of public
14 accountancy provided it meets the following requirements:

15 (1) At least one general partner shall hold a valid permit to
16 practice as a certified public accountant, public accountant, or
17 accountancy corporation, or shall be an applicant for a certificate
18 as a certified public accountant under Sections 5087 and 5088.

19 (2) Each partner engaged within this state in the practice of
20 public accountancy as defined by Section 5051 shall hold a valid
21 permit to practice in this state or shall have applied for a certificate
22 as a certified public accountant under Sections 5087 and 5088.

23 (3) Each partner not engaged in the practice of public
24 accountancy within this state shall be a certified public accountant
25 in good standing of some state, except as permitted by Section
26 5079.

27 (4) Each resident manager in charge of an office of the firm in
28 this state shall be a licensee in good standing of this state, or shall
29 have applied for a certificate as a certified public accountant under
30 Sections 5087 and 5088.

31 ~~SEC. 4.~~

32 *SEC. 5.* Section 5076 of the Business and Professions Code is
33 amended to read:

34 5076. (a) In order to renew its registration, a firm, as defined
35 in Section 5035.1, shall have a peer review report of its accounting
36 and auditing practice accepted by a board-recognized peer review
37 program no less frequently than every three years.

38 (b) For purposes of this article, the following definitions apply:

39 (1) "Peer review" means a study, appraisal, or review conducted
40 in accordance with professional standards of the professional work

1 of a firm, and may include an evaluation of other factors in
2 accordance with the requirements specified by the board in
3 regulations. The peer review report shall be issued by an individual
4 who has a valid and current license, certificate, or permit to practice
5 public accountancy from this state or another state and is
6 unaffiliated with the firm being reviewed.

7 (2) “Accounting and auditing practice” includes any services
8 that are performed using professional standards defined by the
9 board in regulations.

10 (c) The board shall adopt regulations as necessary to implement,
11 interpret, and make specific the peer review requirements in this
12 section, including, but not limited to, regulations specifying the
13 requirements for board recognition of a peer review program,
14 standards for administering a peer review, extensions of time for
15 fulfilling the peer review requirement, exclusions from the peer
16 review program, and document submission.

17 (d) Nothing in this section shall prohibit the board from initiating
18 an investigation and imposing discipline against a firm or licensee,
19 either as the result of a complaint that alleges violations of statutes,
20 rules, or regulations, or from information contained in a peer review
21 report received by the board.

22 (e) A firm issued a substandard peer review report, as defined
23 by the board in regulation, shall submit a copy of that report to the
24 board. The board shall establish in regulation the time period that
25 a firm must submit the report to the board. This period shall not
26 exceed 60 days from the time the report is accepted by a
27 board-recognized peer review program provider to the date the
28 report is submitted to the board.

29 (f) (1) A board-recognized peer review program provider shall
30 file a copy with the board of all substandard peer review reports
31 issued to California-licensed firms. The board shall establish in
32 regulation the time period that a board-recognized peer review
33 program provider shall file the report with the board. This period
34 shall not exceed 60 days from the time the report is accepted by a
35 board-recognized peer review program provider to the date the
36 report is filed with the board. These reports may be filed with the
37 board electronically.

38 (2) Nothing in this subdivision shall require a board-recognized
39 peer review program provider, when administering peer reviews
40 in another state, to violate the laws of that state.

- 1 (g) The board shall, by January 1, 2010, define a substandard
2 peer review report in regulation.
- 3 (h) Any requirements imposed by a board-recognized peer
4 review program on a firm in conjunction with the completion of
5 a peer review shall be separate from, and in addition to, any action
6 by the board pursuant to this section.
- 7 (i) Any report of a substandard peer review submitted to the
8 board in conjunction with this section shall be collected for
9 investigatory purposes.
- 10 (j) Nothing in this section affects the discovery or admissibility
11 of evidence in a civil or criminal action.
- 12 (k) Nothing in this section requires any firm to become a
13 member of any professional organization.
- 14 (l) A peer reviewer shall not disclose information concerning
15 licensees or their clients obtained during a peer review, unless
16 specifically authorized pursuant to this section, Section 5076.1, or
17 regulations prescribed by the board.
- 18 (m) (1) By January 1, 2015, the board shall provide the
19 Legislature and Governor with a report regarding the peer review
20 requirements of this section that includes, without limitation:
- 21 (A) The number of peer review reports completed to date and
22 the number of reports which were submitted to the board as
23 required in subdivision (e).
- 24 (B) The number of enforcement actions that were initiated as a
25 result of an investigation conducted pursuant to subdivision (i).
- 26 (C) The number of firms that were recommended to take
27 corrective actions to improve their practice through the mandatory
28 peer review process, and the number of firms that took corrective
29 actions to improve their practice following recommendations
30 resulting from the mandatory peer review process.
- 31 (D) The extent to which mandatory peer review of accounting
32 firms enhances consumer protection.
- 33 (E) The cost impact on firms undergoing mandatory peer review
34 and the cost impact of mandatory peer review on the firm's clients.
- 35 (F) A recommendation as to whether the mandatory peer review
36 program should continue.
- 37 (G) The extent to which mandatory peer review of small firms
38 or sole practitioners that prepare nondisclosure compiled financial
39 statements on an other comprehensive basis of accounting enhances
40 consumer protection.

1 (H) The impact of peer review required by this section on small
2 firms and sole practitioners that prepare nondisclosure compiled
3 financial statements on an other comprehensive basis of accounting.

4 (I) The impact of peer review required by this section on small
5 businesses, nonprofit corporations, and other entities that utilize
6 small firms or sole practitioners for the purposes of nondisclosure
7 compiled financial statements prepared on an other comprehensive
8 basis of accounting.

9 (J) A recommendation as to whether the preparation of
10 nondisclosure compiled financial statements on an other
11 comprehensive basis of accounting should continue to be a part
12 of the mandatory peer review program.

13 (2) A report to the Legislature pursuant to this section shall be
14 submitted in compliance with Section 9795 of the Government
15 Code.

16 ~~SEC. 5.~~

17 *SEC. 6.* Section 5093 of the Business and Professions Code is
18 amended to read:

19 5093. (a) To qualify for the certified public accountant license,
20 an applicant who is applying under this section shall meet the
21 education, examination, and experience requirements specified in
22 subdivisions (b), (c), and (d), or otherwise prescribed pursuant to
23 this article. The board may adopt regulations as necessary to
24 implement this section.

25 (b) (1) An applicant for admission to the certified public
26 accountant examination under the provisions of this section shall
27 present satisfactory evidence that the applicant has completed a
28 baccalaureate or higher degree conferred by a degree-granting
29 university, college, or other institution of learning accredited by
30 a regional or national accrediting agency included in a list of these
31 agencies published by the United States Secretary of Education
32 under the requirements of the Higher Education Act of 1965 as
33 amended (20 U.S.C. Sec. 1001 et seq.), or meeting, at a minimum,
34 the standards described in subdivision (c) of Section 5094. The
35 total educational program shall include a minimum of 24 semester
36 units in accounting subjects and 24 semester units in
37 business-related subjects. This evidence shall be provided at the
38 time of application for admission to the examination, except that
39 an applicant who applied, qualified, and sat for at least two subjects
40 of the examination for the certified public accountant license before

1 May 15, 2002, may provide this evidence at the time of application
2 for licensure.

3 (2) An applicant for issuance of the certified public accountant
4 license under the provisions of this section shall present satisfactory
5 evidence that the applicant has completed at least 150 semester
6 units of college education including a baccalaureate or higher
7 degree conferred by a college or university, meeting, at a minimum,
8 the standards described in Section 5094, the total educational
9 program to include a minimum of 24 semester units in accounting
10 subjects, 24 semester units in business-related subjects, and, after
11 December 31, 2013, shall also include a minimum of 10 units of
12 ethics study consistent with the requirements set forth in Section
13 5094.3 and 20 units of accounting study consistent with the
14 regulations promulgated under subdivision (c) of Section 5094.6.
15 This evidence shall be presented at the time of application for the
16 certified public accountant license. Nothing herein shall be deemed
17 inconsistent with Section 5094 or 5094.6. Nothing herein shall be
18 construed to be inconsistent with prevailing academic practice
19 regarding the completion of units.

20 (c) An applicant for the certified public accountant license shall
21 pass an examination prescribed by the board.

22 (d) The applicant shall show, to the satisfaction of the board,
23 that the applicant has had one year of qualifying experience. This
24 experience may include providing any type of service or advice
25 involving the use of accounting, attest, compilation, management
26 advisory, financial advisory, tax or consulting skills. To be
27 qualifying under this section, experience shall have been performed
28 in accordance with applicable professional standards. Experience
29 in public accounting shall be completed under the supervision or
30 in the employ of a person licensed or otherwise having comparable
31 authority under the laws of any state or country to engage in the
32 practice of public accountancy. Experience in private or
33 governmental accounting or auditing shall be completed under the
34 supervision of an individual licensed by a state to engage in the
35 practice of public accountancy.

36 (e) Applicants completing education at a college or university
37 located outside of this state, meeting, at a minimum, the standards
38 described in Section 5094, shall be deemed to meet the educational
39 requirements of this section if the board determines that the

1 education is substantially equivalent to the standards of education
2 specified under this chapter.

3 ~~SEC. 6.~~

4 *SEC. 7.* Section 5094.6 of the Business and Professions Code
5 is amended to read:

6 5094.6. (a) The board shall, by regulation, adopt guidelines
7 for accounting study to be included as part of the education
8 required under Section 5093.

9 (b) For purposes of this section, “accounting study” means
10 independent study or other academic work in accounting, business,
11 ethics, business law, or other academic work relevant to accounting
12 and business, so as to enhance the competency of students as
13 practitioners.

14 ~~SEC. 7.~~

15 *SEC. 8.* Section 5107 of the Business and Professions Code is
16 amended to read:

17 5107. (a) The executive officer of the board may request the
18 administrative law judge, as part of the proposed decision in a
19 disciplinary proceeding, to direct any holder of a permit or
20 certificate found to have committed a violation or violations of
21 this chapter to pay to the board all reasonable costs of investigation
22 and prosecution of the case, including, but not limited to, attorneys’
23 fees. The board shall not recover costs incurred at the
24 administrative hearing.

25 (b) A certified copy of the actual costs, or a good faith estimate
26 of costs where actual costs are not available, signed by the
27 executive officer, shall be prima facie evidence of reasonable costs
28 of investigation and prosecution of the case.

29 (c) The administrative law judge shall make a proposed finding
30 of the amount of reasonable costs of investigation and prosecution
31 of the case when requested to do so by the executive officer
32 pursuant to subdivision (a). Costs are payable 120 days after the
33 board’s decision is final, unless otherwise provided for by the
34 administrative law judge or if the time for payment is extended by
35 the board.

36 (d) The finding of the administrative law judge with regard to
37 cost shall not be reviewable by the board to increase the cost award.
38 The board may reduce or eliminate the cost award, or remand to
39 the administrative law judge where the proposed decision fails to

1 make a finding on costs requested by the executive officer pursuant
2 to subdivision (a).

3 (e) The administrative law judge may make a further finding
4 that the amount of reasonable costs awarded shall be reduced or
5 eliminated upon a finding that respondent has demonstrated that
6 he or she cannot pay all or a portion of the costs or that payment
7 of the costs would cause an unreasonable financial hardship which
8 cannot be remedied through a payment plan.

9 (f) When an administrative law judge makes a finding that costs
10 be waived or reduced, he or she shall set forth the factual basis for
11 his or her finding in the proposed decision.

12 (g) Where an order for recovery of costs is made and timely
13 payment is not made as directed by the board's decision, the board
14 may enforce the order for payment in any appropriate court. This
15 right of enforcement shall be in addition to any other rights the
16 board may have as to any holder of a permit or certificate directed
17 to pay costs.

18 (h) In a judicial action for the recovery of costs, proof of the
19 board's decision shall be conclusive proof of the validity of the
20 order of payment and the terms of payment.

21 (i) All costs recovered under this section shall be deposited in
22 the Accountancy Fund.

23 (j) (1) Except as provided in paragraph (2), the board shall not
24 renew or reinstate the permit or certificate of a holder who has
25 failed to pay all of the costs ordered under this section.

26 (2) Notwithstanding paragraph (1) or paragraph (2) of
27 subdivision (g) of Section 125.3, the board may, in its discretion,
28 conditionally renew or reinstate for a maximum of three years the
29 permit or certificate of a holder who demonstrates financial
30 hardship and who enters into a formal agreement with the board
31 to reimburse the board within that three-year period for those
32 unpaid costs.

33 (k) Nothing in this section shall preclude the board from seeking
34 recovery of costs in an order or decision made pursuant to an
35 agreement entered into between the board and the holder of a
36 permit or certificate.

37 (l) (1) Costs may not be recovered under this section as a result
38 of a citation issued pursuant to Section 125.9 and its implementing
39 language if the licensee complies with the citation.

1 (2) The Legislature hereby finds and declares that this
2 subdivision is declaratory of existing law.

3 ~~SEC. 8.~~

4 *SEC. 9.* Section 7011.8 of the Business and Professions Code
5 is amended to read:

6 7011.8. (a) Any person subject to licensure under this chapter
7 who reports to, or causes a complaint to be filed with, the
8 Contractors' State License Board that a person licensed by that
9 entity has engaged in professional misconduct, knowing the report
10 or complaint to be false, may be issued a citation by the registrar.

11 (b) The board may notify the appropriate district attorney or
12 city attorney that a person subject to licensure under this chapter
13 has made or filed what the entity believes to be a false report or
14 complaint against a licensee.

15 ~~SEC. 9.~~

16 *SEC. 10.* Section 7076 of the Business and Professions Code
17 is amended to read:

18 7076. (a) An individual license shall be canceled upon the
19 death of a person licensed as an individual. An immediate member
20 of the family of the deceased licensee may request a continuance
21 of the license to complete projects in progress and undertake new
22 work for a reasonable amount of time to be determined by rules
23 of the board. The request for a continuance must be made in writing
24 and received at the board's headquarters office within 90 days
25 after the death. Approval of the continuance of an individual license
26 may be contingent upon meeting the bond requirements of Sections
27 7071.5 and 7071.6 within 90 days of notification by the board of
28 that requirement. The immediate member of the family must apply
29 for and obtain his or her own license to continue contracting after
30 the continuance expires.

31 (b) A partnership license shall be canceled upon the death of a
32 general partner. The remaining partner or partners shall notify the
33 registrar in writing within 90 days of the death of a general partner.
34 Failure to notify the registrar within 90 days of the death is grounds
35 for disciplinary action.

36 The remaining general partner or partners may request a
37 continuance of the license to complete projects in progress and
38 undertake new work for a reasonable amount of time to be
39 determined by rules of the board. The request for a continuance
40 must be made in writing and received at the board's headquarters

1 office within 90 days after the death. The remaining general partner
2 or partners must apply for and obtain a new license to continue
3 contracting after the continuance expires.

4 (c) A partnership license shall be canceled upon the
5 disassociation of a general partner or upon the dissolution of the
6 partnership. The disassociating partner or the remaining partner
7 or partners shall notify the registrar in writing within 90 days of
8 the disassociation of a general partner or dissolution of the
9 partnership. Failure to notify the registrar of the disassociation or
10 dissolution within 90 days shall cause the license to be canceled
11 effective the date the written notification is received at the board's
12 headquarters office. Failure to notify the registrar within 90 days
13 of the disassociation or dissolution is grounds for disciplinary
14 action. The remaining general partner or partners may request a
15 continuance of the license to complete projects contracted for or
16 in progress prior to the date of disassociation or dissolution for a
17 reasonable length of time to be determined by rules of the board.
18 The request for a continuance must be made in writing and received
19 at the board's headquarters office within 90 days after the
20 disassociation or dissolution. The remaining general partner or
21 partners must apply for and obtain a new license to undertake new
22 work and to continue contracting after the continuance expires.

23 (d) The general partner or partners shall notify the registrar in
24 writing within 90 days of the death of a limited partner. Failure to
25 notify the registrar within 90 days of the death is grounds for
26 disciplinary action.

27 The death of a limited partner will not affect the partnership
28 license unless the partnership license has only one limited partner.
29 In this case, the license will be canceled upon the death of the
30 limited partner unless a new limited partner is added to the license
31 within 90 days of the death.

32 If the license is canceled, the remaining general partner or
33 partners may request a continuance of the license to complete
34 projects in progress and to undertake new work for a reasonable
35 amount of time to be determined by rules of the board. The request
36 for a continuance must be made in writing and received at the
37 board's headquarters office within 90 days after the death. The
38 remaining general partner or partners must apply for and obtain a
39 new license to continue contracting after the continuance expires.

1 (e) The general partner or partners shall notify the registrar in
2 writing within 90 days of the disassociation of a limited partner.
3 Failure to notify the registrar of the disassociation, within 90 days,
4 shall cause the disassociation to be effective the date the written
5 notification is received at the board's headquarters office. Failure
6 to notify the registrar within 90 days of the disassociation is
7 grounds for disciplinary action.

8 The disassociation of a limited partner will not affect the
9 partnership license unless the partnership license has only one
10 limited partner. In this case, the license will be canceled upon the
11 disassociation of the limited partner unless a new limited partner
12 is added to the license within 90 days of the disassociation. If the
13 license is canceled, the remaining general partner or partners may
14 request a continuance of the license to complete projects contracted
15 for or in progress prior to the date of disassociation for a reasonable
16 amount of time to be determined by rules of the board. The request
17 for a continuance must be made in writing and received at the
18 board's headquarters office within 90 days after the disassociation.
19 The remaining general partner or partners must apply for and obtain
20 a new license to undertake new work and to continue contracting
21 after the continuance expires.

22 (f) A joint venture license shall be canceled upon the
23 cancellation, revocation, or disassociation of any of its entity
24 licenses or upon the dissolution of the joint venture. The registrar
25 shall be notified in writing within 90 days of the disassociation of
26 a joint venture entity or dissolution of the joint venture. Failure to
27 notify the registrar of the disassociation or dissolution within 90
28 days shall cause the license to be canceled effective the date the
29 written notification is received at the board's headquarters office.
30 Failure to notify the registrar within 90 days of the disassociation
31 or dissolution is grounds for disciplinary action.

32 Any remaining entity or entities may request a continuance of
33 the license to complete projects contracted for or in progress prior
34 to the date of disassociation or dissolution for a reasonable amount
35 of time to be determined by rules of the board. The request for a
36 continuance must be made in writing and received at the board's
37 headquarters office within 90 days of the disassociation or
38 dissolution. The remaining entity or entities must apply for and
39 obtain a new license to undertake new work and to continue
40 contracting after the continuance expires.

1 (g) Any individual, partnership, or joint venture license
2 continued in accordance with this section is subject to all other
3 provisions of this chapter.

4 (h) A corporation license shall be canceled upon the
5 corporation's dissolution, merger, or surrender of its right to do
6 business in this state. The corporation shall notify the registrar in
7 writing within 90 days of the dissolution, merger, or surrender.
8 Failure to notify the registrar of the dissolution, merger, or
9 surrender within 90 days shall cause the license to be canceled
10 effective the date written notification is received at the board's
11 headquarters office. If the corporation fails to notify the board of
12 the dissolution, merger, or surrender, the corporation license shall
13 be canceled 60 days after the board's discovery when researching
14 the corporate records of the Secretary of State. Failure to notify
15 the registrar within 90 days of the dissolution, merger, or surrender
16 is grounds for disciplinary action.

17 (i) A limited liability company license shall be canceled upon
18 the company's dissolution, merger, or surrender of its right to do
19 business in this state. The limited liability company shall notify
20 the registrar in writing within 90 days of the dissolution, merger,
21 or surrender. Failure to notify the registrar of the dissolution,
22 merger, or surrender within 90 days shall cause the license to be
23 canceled effective the date written notification is received at the
24 board's headquarters office. If the limited liability company fails
25 to notify the board of the dissolution, merger, or surrender, the
26 limited liability company license shall be canceled 60 days after
27 the board's discovery when researching the records of the Secretary
28 of State. Failure to notify the registrar within 90 days of the
29 dissolution, merger, or surrender is grounds for disciplinary action.

30 (j) The registrar shall review and accept the petition of a licensee
31 who disputes the date of cancellation upon a showing of good
32 cause. This petition shall be received within 90 days of the board's
33 official notice of cancellation.

34 *SEC. 11. Section 8741 of the Business and Professions Code*
35 *is amended to read:*

36 8741. (a) The first division of the examination shall test the
37 applicant's fundamental knowledge of surveying, mathematics,
38 and basic science. The board may prescribe by regulation
39 reasonable educational or experience requirements including two
40 years of postsecondary education in land surveying, two years of

1 experience in land surveying, or a combination of postsecondary
2 education and experience in land surveying totaling two years for
3 admission to the first division of the examination. ~~Applicants who~~
4 ~~have passed the engineer-in-training examination, or who hold~~
5 ~~professional engineer registration, are exempt from this division~~
6 ~~of the examination.~~ *Applicants registered by the board as a*
7 *California civil engineer prior to January 1, 1982, are exempt*
8 *from this division of the examination.*

9 The second division of the examination shall test the applicant's
10 ability to apply his or her knowledge and experience and to assume
11 responsible charge in the professional practice of land surveying.

12 (b) The applicant for the second division examination shall have
13 successfully passed the first division examination, or shall be
14 exempt therefrom. The applicant shall be thoroughly familiar with
15 (1) the procedure and rules governing the survey of public lands
16 as set forth in ~~“Manual of Surveying Instructions,” published by~~
17 ~~the Bureau of Land Management, Department of the Interior,~~
18 ~~Washington, D.C. Manual of Surveying Instructions (2009),~~
19 *published by the federal Bureau of Land Management* and (2) the
20 principles of real property relating to boundaries and conveyancing.

21 (c) The board may by rule provide for a waiver of the first
22 division of the examination for applicants whose education and
23 experience qualifications substantially exceed the requirements of
24 Section 8742.

25 (d) The board may by rule provide for a waiver of the second
26 division of the examination and the assignment to a special
27 examination for those applicants whose educational qualifications
28 are equal to, and whose experience qualifications substantially
29 exceed, those qualifications established under subdivision (c). The
30 special examination may be either written or oral, or a combination
31 of both.

32 *SEC. 12. Section 8762 of the Business and Professions Code*
33 *is amended to read:*

34 8762. (a) Except as provided in subdivision (b), after making
35 a field survey in conformity with the practice of land surveying,
36 the licensed surveyor or licensed civil engineer may file with the
37 county surveyor in the county in which the field survey was made,
38 a record of the survey.

39 (b) Notwithstanding subdivision (a), after making a field survey
40 in conformity with the practice of land surveying, the licensed land

1 surveyor or licensed civil engineer shall file with the county
2 surveyor in the county in which the field survey was made a record
3 of the survey relating to land boundaries or property lines, if the
4 field survey discloses any of the following:

5 (1) Material evidence or physical change, which in whole or in
6 part does not appear on any subdivision map, official map, or
7 record of survey previously recorded or properly filed in the office
8 of the county recorder or county surveying department, or map or
9 survey record maintained by the Bureau of Land Management of
10 the United States.

11 (2) A material discrepancy with the information contained in
12 any subdivision map, official map, or record of survey previously
13 recorded or filed in the office of the county recorder or the county
14 surveying department, or any map or survey record maintained by
15 the Bureau of Land Management of the United States. For purposes
16 of this subdivision, a “material discrepancy” is limited to a material
17 discrepancy in the position of points or lines, or in dimensions.

18 (3) Evidence that, by reasonable analysis, might result in
19 materially alternate positions of lines or points, shown on any
20 subdivision map, official map, or record of survey previously
21 recorded or filed in the office of the county recorder or the county
22 surveying department, or any map or survey record maintained by
23 the Bureau of Land Management of the United States.

24 (4) The *location, relocation, establishment, reestablishment, or*
25 *retracement* of one or more points or lines not shown on any
26 subdivision map, official map, or record of survey, the positions
27 of which are not ascertainable from an inspection of the subdivision
28 map, official map, or record of survey.

29 (5) The points or lines set during the performance of a field
30 survey of any parcel described in any deed or other instrument of
31 title recorded in the county recorder’s office are not shown on any
32 subdivision map, official map, or record of survey.

33 (c) The record of survey required to be filed pursuant to this
34 section shall be filed within 90 days after the setting of boundary
35 monuments during the performance of a field survey or within 90
36 days after completion of a field survey, whichever occurs first.

37 (d) (1) If the 90-day time limit contained in subdivision (c)
38 cannot be complied with for reasons beyond the control of the
39 licensed land surveyor or licensed civil engineer, the 90-day time
40 period shall be extended until the time at which the reasons for

1 delay are eliminated. If the licensed land surveyor or licensed civil
2 engineer cannot comply with the 90-day time limit, he or she shall,
3 prior to the expiration of the 90-day time limit, provide the county
4 surveyor with a letter stating that he or she is unable to comply.
5 The letter shall provide an estimate of the date for completion of
6 the record of survey, the reasons for the delay, and a general
7 statement as to the location of the survey, including the assessor's
8 parcel number or numbers.

9 (2) The licensed land surveyor or licensed civil engineer shall
10 not initially be required to provide specific details of the survey.
11 However, if other surveys at the same location are performed by
12 others which may affect or be affected by the survey, the licensed
13 land surveyor or licensed civil engineer shall then provide
14 information requested by the county surveyor without unreasonable
15 delay.

16 (e) Any record of survey filed with the county surveyor shall,
17 after being examined by him or her, be filed with the county
18 recorder.

19 (f) If the preparer of the record of survey provides a
20 postage-paid, self-addressed envelope or postcard with the filing
21 of the record of survey, the county recorder shall return the
22 postage-paid, self-addressed envelope or postcard to the preparer
23 of the record of survey with the filing data within 10 days of final
24 filing. For the purposes of this subdivision, "filing data" includes
25 the date, the book or volume, and the page at which the record of
26 survey is filed with the county recorder.

27 *SEC. 13. Section 8773 of the Business and Professions Code*
28 *is amended to read:*

29 8773. (a) Except as provided in subdivision (b) of Section
30 8773.4, a person authorized to practice land surveying in this state
31 shall complete, sign, stamp with his or her seal, and file with the
32 county surveyor or engineer of the county where the corners are
33 situated, a written record of corner establishment or restoration to
34 be known as a "corner record" for every corner established by the
35 Survey of the Public Lands of the United States, except "lost
36 corners," as defined by the ~~Manual of Instructions for the Survey~~
37 ~~of the Public Lands of the United States~~, *Manual of Surveying*
38 *Instructions (2009)*, published by the federal Bureau of Land
39 *Management* and every accessory to such corner which is found,

1 set, reset, or used as control in any survey by such authorized
2 person.

3 (b) After the establishment of a lost corner, as defined by the
4 ~~Manual of Instructions for the Survey of the Public Lands of the~~
5 ~~United States; *Manual of Surveying Instructions (2009)*, published~~
6 ~~by the federal Bureau of Land Management~~ a record of survey
7 shall be filed as set forth in Section 8764.

8 (c) Any person authorized to practice land surveying in this
9 state may file such corner record for any property corners, property
10 controlling corners, reference monuments, or accessories to a
11 property corner.

12 *SEC. 14. Section 12012 of the Business and Professions Code*
13 *is amended to read:*

14 12012. The ~~director~~ *secretary* may exercise any power
15 conferred upon the department or upon the State Sealer by this
16 division through the State Sealer or otherwise.

17 *SEC. 15. Section 12012.1 of the Business and Professions Code*
18 *is amended to read:*

19 12012.1. The ~~director~~ *secretary* may bring an action to enjoin
20 the violation, or the threatened violation, of any provision of this
21 division, or of any regulation adopted pursuant thereto, in the
22 superior court in the county in which ~~such~~ *the* violation occurs or
23 is about to occur. There may be joined in one proceeding any
24 number of defendants alleged to be violating the same provisions
25 or regulations, although their properties, interests, residence, or
26 place of business, may be in several counties and the violations
27 separate and distinct. Any proceeding ~~which~~ *that* is brought
28 pursuant to this section shall be governed in all other respects by
29 the provisions of Chapter 3 (commencing with Section 525), Title
30 7, Part 2 of the Code of Civil Procedure. The county sealer of any
31 county acting through the district attorney or county counsel of
32 that county may bring an action to enjoin the violation in ~~such~~ *the*
33 county or the threatened violation in ~~such~~ *the* county of any
34 provision of this division or of any regulation adopted pursuant
35 thereto in the same manner as may the ~~director~~ *secretary*, and if
36 the ~~director~~ *secretary* joins as a party plaintiff, ~~such~~ *those* actions
37 shall not be limited to violations occurring within the county.

38 *SEC. 16. Section 12024.11 of the Business and Professions*
39 *Code is amended to read:*

1 12024.11. The ~~director~~ *secretary* shall adopt necessary rules
2 and regulations pertaining to the sale or advertisement of wood
3 for fuel purposes in order to standardize quantities of measurement
4 and to protect against deceptive marketing practices.

5 *SEC. 17. Section 12027 of the Business and Professions Code*
6 *is amended to read:*

7 12027. The ~~director~~ *secretary* may make ~~such~~ rules and
8 regulations as are reasonably necessary for the purpose of carrying
9 out the provisions of this division.

10 *SEC. 18. Section 12104 of the Business and Professions Code*
11 *is amended to read:*

12 12104. (a) The department shall issue instructions and make
13 recommendations to the county sealers, and the instructions and
14 recommendations shall govern the procedure to be followed by
15 these officers in the discharge of their duties.

16 (b) Instructions and recommendations ~~which~~ *that* are made to
17 insure statewide weights and measures protection shall include a
18 local administration cost analysis utilizing data provided by the
19 county sealer. The cost analysis shall identify the joint programs
20 or activities for which funds necessary to maintain adequate county
21 administration and enforcement have not been provided. The
22 ~~director~~ *secretary* shall develop, jointly with the county sealers,
23 county priorities for the enforcement programs and activities of
24 the ~~director~~ *secretary*.

25 (c) The ~~director~~ *secretary* shall, upon request, report to the
26 Legislature his or her findings concerning the cost analysis with
27 specific regard to programs where funds are inadequate for an
28 efficient enforcement program, together with a listing of the
29 priorities jointly established by the ~~director~~ *secretary* and the
30 county sealers that are contained in the formal instructions and
31 recommendations.

32 *SEC. 19. Section 12104.5 of the Business and Professions Code*
33 *is amended to read:*

34 12104.5. The ~~director~~ *secretary* may allocate annually to each
35 county an amount determined by the ~~director~~ *secretary* not to
36 exceed one-third of the amount expended by the county pursuant
37 to this division during the previous fiscal year for weights and
38 measures programs. The allocation shall be made from funds
39 appropriated to the ~~director~~ *secretary* for the administration and
40 enforcement of this division at the local level.

1 *SEC. 20. Section 12105 of the Business and Professions Code*
2 *is amended to read:*

3 12105. The department shall, at a frequency determined by the
4 ~~director~~ *secretary*, inspect the work of the local sealers and may
5 inspect the weights, measures, balances or any other weighing or
6 measuring devices of any person.

7 *SEC. 21. Section 12106.5 of the Business and Professions Code*
8 *is amended to read:*

9 12106.5. The ~~director~~ *secretary* may accept the testing and
10 sealing of weighing and measuring devices by another state upon
11 a finding that the requirements of California for testing and sealing
12 such devices have been met.

13 *SEC. 22. Section 12107 of the Business and Professions Code*
14 *is amended to read:*

15 12107. The ~~director~~ *secretary* shall establish tolerances and
16 specifications and other technical requirements for commercial
17 weighing and measuring. In doing so, the ~~director~~ *secretary* shall
18 adopt, by reference, the latest standards as recommended by the
19 National Conference on Weights and Measures and published in
20 the National Institute of Standards and Technology Handbook 44
21 “Specifications and Tolerances, and other Technical Requirements
22 for Weighing and Measuring Devices,” except as specifically
23 modified, amended, or rejected by regulation adopted by the
24 ~~director~~ *secretary*.

25 The ~~director~~ *secretary* may, by regulation, establish tolerances
26 and specifications for commercial weighing and measuring devices
27 not included in Handbook 44.

28 Any regulation shall be adopted, amended, or repealed in
29 conformity with Chapter 3.5 (commencing with Section 11340)
30 of Part 1 of Division 3 of Title 2 of the Government Code.

31 It shall be unlawful for any person to violate any of the rules,
32 regulations, tolerances, specifications, or standards established
33 under this section.

34 *SEC. 23. Section 12107.1 of the Business and Professions Code*
35 *is amended to read:*

36 12107.1. The ~~director~~ *secretary*, by regulation, may establish
37 a standard or standards of net weight or net measure, or net count
38 of any commodity, except any manufactured commodity consisting
39 of four or more staple ingredients. These standards, whenever
40 applicable, shall be based upon published, official federal or state

1 specifications and requirements or, in the absence of any—such
2 published official specifications, upon established and accepted
3 common usage. Any regulation shall be adopted, amended, or
4 repealed in conformity with the provisions of Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code.

7 Whenever a standard, net weight, net measure, or net count has
8 been established for any commodity, it is unlawful to sell the
9 commodity by, at, or for a quantity greater or less than the standard.

10 *SEC. 24. Section 12108 of the Business and Professions Code*
11 *is amended to read:*

12 12108. The ~~director~~ *secretary* may arrange for the services of
13 a sealer employed in a county on a collaborative basis and allow
14 reasonable compensation and expenses for the purpose of
15 performing services not already within his *or her* duties and ~~which~~
16 *that* are subject to administration or enforcement by the department
17 under the provisions of this code or of the *Food and Agricultural*
18 *Code*.

19 *SEC. 25. Section 12201 of the Business and Professions Code*
20 *is amended to read:*

21 12201. If from any cause a vacancy occurs in the office of
22 county sealer, the ~~director~~ *secretary* upon learning of the vacancy
23 shall immediately transmit to the board of supervisors or other
24 appointing power a list of persons licensed by him or her for the
25 position. If the appointing power fails to appoint a county sealer
26 within 60 days after the receipt of the list, the ~~director~~ *secretary*
27 shall appoint a county sealer from that list. A person holding the
28 position of Deputy State Sealer shall be appointed the county sealer
29 of weights and measures for, and an employee of, the county to
30 which he or she is assigned. The ~~director~~ *secretary* shall issue to
31 him or her a license ~~which~~ *that* is valid only for the county he or
32 she is serving. He or she shall become subject to this code.

33 *SEC. 26. Section 12201.2 of the Business and Professions Code*
34 *is amended to read:*

35 12201.2. If the position of sealer cannot be filled by the board
36 of supervisors or other appointing power or by the ~~director~~
37 *secretary* as provided in Section 12201, then it shall be the duty
38 of the ~~director~~ *secretary* to perform the duties of sealer in the same
39 manner, to the same extent, and with the same authority as if he
40 *or she* had been the duly appointed sealer therein. The board of

1 supervisors of ~~such~~ *the* county shall reimburse the department for
2 all expenses incurred by the ~~director~~ *secretary* in fulfilling his *or*
3 *her* responsibilities under the provisions of this section.

4 *SEC. 27. Section 12202 of the Business and Professions Code*
5 *is amended to read:*

6 12202. (a) The ~~director~~ *secretary* shall cause to be examined
7 persons desiring to become county sealers, deputy county sealers,
8 or inspectors and shall adopt rules and regulations governing these
9 examinations given for the purpose of determining the fitness,
10 experience, and qualifications of candidates for these positions.
11 The ~~director~~ *secretary* may provide for inspectors qualified to be
12 employed in designated categories. Successful candidates shall be
13 given a license ~~which~~ *that* shall be good for five years unless
14 revoked. Licenses of incumbent county sealers, deputy county
15 sealers, or inspectors shall be renewed upon expiration without
16 further examination.

17 (b) The ~~director~~ *secretary* may charge each candidate a fee to
18 cover the actual cost of providing the license examination.

19 *SEC. 28. Section 12203 of the Business and Professions Code*
20 *is amended to read:*

21 12203. Except as provided in this section, no person shall
22 hereafter be appointed to the office of county sealer, deputy county
23 sealer or inspector unless he or she has a license issued by the
24 ~~director~~ *secretary* as provided in Section 12202. If there is no
25 person available for the position of county sealer who holds a
26 license, the appointing power may make a temporary appointment
27 of a person recommended in writing by the ~~director~~ *secretary*. If
28 the appointing power does not make a temporary appointment and
29 no person can be appointed from the eligible list by the ~~director~~
30 *secretary*, then the ~~director~~ *secretary* may make a temporary
31 appointment of a person competent to carry on the duties of the
32 office. Any ~~such~~ temporary appointment shall be for a period not
33 exceeding six months or until the next license examination is held.
34 If the position of deputy county sealer or inspector cannot be filled
35 from the lists, a temporary appointment may be made, upon the
36 written recommendation of the ~~director~~ *secretary* for a period not
37 exceeding six months.

38 *SEC. 29. Section 12205 of the Business and Professions Code*
39 *is amended to read:*

1 12205. For the purpose of ~~advising himself~~ *receiving advice*
2 on the best and most efficacious methods of performing his *or her*
3 duties and conducting his *or her* office, every county sealer serving
4 in a county shall attend the annual meeting of the California
5 *Agricultural Commissioners and Sealers Association of Weights*
6 ~~and Measures Officials~~ and ~~such~~ other meetings as the department
7 or the board of supervisors requires.

8 The county sealer shall be allowed all actual and necessary
9 traveling expenses incurred while on any service that requires him
10 *or her* to go outside the county. Those expenses shall be a charge
11 against the county in which the county sealer is employed.

12 *SEC. 30. Section 12210.5 of the Business and Professions Code*
13 *is amended to read:*

14 12210.5. Any county ~~which~~ *that* inspects or tests any weighing
15 or measuring device or instrument used commercially, at the
16 request of the owner or user of ~~such~~ *the* device, when ~~such~~ *that*
17 inspection or testing of the device could legally be performed by
18 a registered repairman, may, if authorized by the county board of
19 supervisors, collect from the requesting owner or user thereof a
20 fee.

21 ~~Such~~

22 *The* fee shall be based upon a uniform schedule of fees, ~~which~~
23 *that* shall be prescribed by the ~~director~~ *secretary* for use by the
24 counties. The ~~director~~ *secretary* shall prepare the schedule of fees
25 to be comparable with the rates charged by the industry's registered
26 repairmen. All fees collected shall be credited to the general fund
27 of the county in which collected and used only for the
28 administration and enforcement of laws pertaining to weights and
29 measures.

30 *SEC. 31. Section 12212 of the Business and Professions Code*
31 *is amended to read:*

32 12212. (a) The secretary shall adopt necessary regulations
33 governing the inspection frequency of all commercially used
34 weights, measures and weighing and measuring apparatus in the
35 state.

36 (b) The sealer of each county shall perform such inspections as
37 may be required by the secretary. Nothing in this section shall be
38 construed to prohibit the sealer from inspecting a device more
39 frequently than required if he or she deems those tests to be
40 necessary.

1 (c) Any ~~such~~ regulation shall be adopted by the ~~director~~
2 *secretary* in conformity with the provisions of Chapter 4.5
3 (commencing with Section 11371) of Part 1 of Division 3 of Title
4 2 of the Government Code.

5 (d) In counties where the secretary finds that the sealer, because
6 of lack of equipment, is unable or fails to perform the tests as
7 required herein, the secretary may enter into a contract with the
8 board of supervisors of each of those counties to perform the tests.
9 Those contracts shall provide that the county shall pay the cost of
10 those services based upon a uniform schedule of fees developed
11 by the secretary. The fee schedule shall be based on the
12 approximate cost of performing those services. The contracts shall
13 also provide that the secretary shall periodically render a bill to
14 each county so served for the cost of services rendered, and the
15 auditor of the county so billed shall pay the charge in the same
16 manner in which other claims against the county are paid.

17 (e) All fees collected under the provisions of this section shall
18 be credited to the Department of Food and Agriculture Fund.

19 *SEC. 32. Section 12214 of the Business and Professions Code*
20 *is amended to read:*

21 12214. (a) Upon satisfactory evidence presented to the ~~director~~
22 *secretary* that the county sealer of any county is guilty of neglect
23 of duty, incompetence, or misconduct in office, the trial board
24 hereinafter provided for shall hold a hearing or hearings at times
25 and places that it shall provide.

26 (b) The ~~director~~ *secretary* and the president of the voluntary
27 association of the sealers of the state shall select an impartial third
28 person who, with them, shall compose a county sealer's trial board
29 to determine whether the sealer is guilty of the charges presented.

30 (c) At least 10 days prior to the date of hearing, the ~~director~~
31 *secretary* shall give notice in writing to the sealer of the time and
32 place of hearing and any information as to the nature of the charges
33 that will enable the sealer to make a defense thereto.

34 (d) At the hearing or hearings, the trial board shall hear evidence
35 that is offered and thereafter, within 30 days, make an order
36 dismissing the charges or an order disqualifying the sealer.

37 (e) In case the order disqualifies the sealer, the ~~director~~ *secretary*
38 shall forthwith revoke the sealer's license and declare the office
39 vacant and a copy of the order shall be immediately transmitted

1 by the ~~director~~ *secretary* to the board of supervisors and the auditor
2 of the county in which the sealer held office.

3 (f) The license of a deputy sealer or inspector may be revoked
4 in the same manner and for the same causes that a license of a
5 sealer may be revoked.

6 *SEC. 33. Section 12314 of the Business and Professions Code*
7 *is amended to read:*

8 12314. The department, by regulation, may establish criteria
9 and procedures for certification of laboratories to perform
10 measurement services ~~which~~ *that* are determined by the ~~director~~
11 *secretary* to be beyond the existing equipment capabilities of the
12 department, or when warranted by financial or workload
13 considerations.

14 The department shall recover actual costs for the certification
15 of any laboratory from that laboratory.

16 The ~~director~~ *secretary* may revoke or suspend any certification
17 issued pursuant to this section for good cause. The ~~director~~
18 *secretary* shall establish by regulation criteria to be used when
19 revoking or suspending any certification on the basis of good cause.
20 Any proceeding to revoke or suspend any certification shall be
21 conducted pursuant to Chapter 5 (commencing with Section 11500)
22 of Part 1 of Division 3 of Title 2 of the Government Code, and the
23 ~~director~~ *secretary* shall have all the powers granted therein.

24 Measurements performed and standards certified by laboratories
25 certified under the provisions of this section shall qualify as prima
26 facie evidence.

27 *SEC. 34. Section 12500.5 of the Business and Professions Code*
28 *is amended to read:*

29 12500.5. The ~~director~~ *secretary* by rules and regulations shall
30 provide for submission for approval of types or designs of weights,
31 measures, or weighing, measuring, or counting instruments or
32 devices, used for commercial purposes, and shall issue certificates
33 of approval of such types or designs as he *or she* shall find to meet
34 the requirements of this code and the tolerances and specifications
35 thereunder.

36 It shall be unlawful to sell or use for commercial purposes any
37 weight or measure, or any weighing, measuring, or counting
38 instrument or device, of a type or design ~~which~~ *that* has not first
39 been so approved by the department; provided, however, that any
40 such weight, measure, instrument, or device in use for commercial

1 purposes prior to the effective date of this act may be continued
2 in use unless and until condemned under the provisions of this
3 code.

4 *SEC. 35. Section 12500.6 of the Business and Professions Code*
5 *is amended to read:*

6 12500.6. Notwithstanding Section 12500.5, the ~~director~~
7 *secretary* may prohibit the sale or installation of any previously
8 approved type or design of weight or measure or weighing,
9 measuring, or counting instrument if the ~~director~~ *secretary*
10 determines the weight, measure, or instrument does not fulfill the
11 purpose for which it was approved or that the weight, measure, or
12 instrument is not identical to the approved type or design.

13 The ~~director~~ *secretary* may initiate proceedings pursuant to
14 Chapter 5 (commencing with Section 11500) of Part 1 of Division
15 3 of Title 2 of the Government Code to determine whether the
16 approval should be revoked or modified, and to determine the
17 period of time that the owner or user of any accurate device for
18 which type approval has been revoked or modified may continue
19 to use that device for commercial purposes, pending the
20 replacement or modification of the device.

21 *SEC. 36. Section 12500.8 of the Business and Professions Code*
22 *is amended to read:*

23 12500.8. The ~~director~~ *secretary* may enter into an agreement
24 with the Office of Weights and Measures of the National Bureau
25 of Standards of the Department of Commerce, and other weights
26 and measures jurisdictions, to accept the certifications of each
27 other for prototype examination purposes.

28 *SEC. 37. Section 12609 of the Business and Professions Code*
29 *is amended to read:*

30 12609. The ~~director~~ *secretary* shall adopt necessary regulations
31 to carry out the purpose of this division and for the testing of
32 packages to verify the net quantity statements. In adopting these
33 regulations, the ~~director~~ *secretary* shall adopt by reference the
34 packaging and labeling requirements recommended by the National
35 Conference on Weights and Measures and published in the current
36 edition of the National Institute of Standards and Technology
37 Handbook 130, Uniform Packaging and Labeling Regulation,
38 except insofar as those requirements are specifically modified,
39 amended, or rejected by regulation by the ~~director~~ *secretary*. The
40 regulations shall include exemptions from full compliance with

1 this chapter for good and sufficient reasons. Any exemptions
2 affecting consumer commodities shall be in conformance with
3 exemptions permitted by federal regulations. Any regulation, or
4 amendment thereof, shall be adopted by the ~~director~~ *secretary* in
5 conformity with Chapter 3.5 (commencing with Section 11340)
6 of Part 1 of Division 3 of Title 2 of the Government Code.

7 ~~This section shall become operative on February 14, 1994.~~

8 *SEC. 38. Section 12610 of the Business and Professions Code*
9 *is amended to read:*

10 12610. The ~~director~~ *secretary* may promulgate regulations
11 similar to those promulgated by the Secretary of Health, Education,
12 and Welfare or the Federal Trade Commission pursuant to the Fair
13 Packaging and Labeling Act (P.L. 89-755; 80 Stat. 1296; 15U.S.C.
14 1451-1461) effective ~~to~~ *to the following:*

15 1.

16 (a) Establish and define standards for characterization of the
17 size of a package enclosing any commodity, ~~which~~ *that* may be
18 used to supplement the label statement of net quantity of contents
19 of packages containing such commodity, but this ~~paragraph~~
20 *subdivision* shall not be construed as authorizing any limitation
21 on the size, shape, weight, dimensions, or number of packages
22 which may be used to enclose any commodity;

23 2.

24 (b) Require that the label on each package of a commodity (other
25 than one ~~which~~ *that* is a food within the meaning of Section 201(f)
26 of the Federal Food, Drug, and Cosmetic Act) bear the common
27 or usual name of ~~such~~ *the* consumer commodity, if any.

28 *SEC. 39. Section 12706 of the Business and Professions Code*
29 *is amended to read:*

30 12706. (a) The ~~director~~ *secretary* may assign or reassign dates
31 for the expiration of licenses for any weighmaster.

32 (b) The ~~director~~ *secretary* may establish a license year for any
33 weighmaster consisting of any period from one month to 11
34 months, inclusive, with subsequent renewals being required at
35 yearly intervals thereafter.

36 (c) Whenever the license year is less than 12 months by reason
37 of the assignment or reassignment of the expiration date by the
38 ~~director~~ *secretary*, the license fee as designated in Section 12704
39 shall be decreased by one-twelfth of the annual fee for each month
40 of the period less than 12 months.

1 *SEC. 40. Section 12708 of the Business and Professions Code*
2 *is amended to read:*

3 12708. The ~~director~~ *secretary* may refuse to grant any license
4 provided for by this chapter, or may refuse to renew any license,
5 and may revoke or suspend any license when, after a hearing
6 conducted pursuant to Chapter 5 (commencing with Section 11500)
7 of Part 1 of Division 3 of Title 2 of the Government Code, the
8 ~~director~~ *secretary* is satisfied that the applicant or licensee is not
9 qualified to capably or reliably perform the duties of a weighmaster
10 or has otherwise been found guilty of a misdemeanor as provided
11 in this chapter.

12 *SEC. 41. Section 12722 of the Business and Professions Code*
13 *is amended to read:*

14 12722. (a) In accordance with this chapter and regulations
15 adopted by the ~~director~~ *secretary*, any weighmaster may use a tare
16 weight for a vehicle, container, or pallet ~~which~~ *that* has been
17 previously determined by a weighmaster. It is the responsibility
18 of the party for whom the tare weight was established to maintain
19 the tare weight within the variations prescribed by the ~~director~~
20 *secretary*.

21 (b) Any weighmaster weighing any vehicle moving earth, stone,
22 rock, sand, gravel, or asphalt paving material may use a
23 predetermined tare weight. The issuance of predetermined tare
24 weights are exempt from the provisions of Subchapter 9
25 (commencing with Section 4400) of Chapter 9 of Title 4 of the
26 California Administrative Code. It is the responsibility of the party
27 for whom the tare weight was established to maintain the actual
28 weight so that the actual tare weight of the vehicle shall at no time
29 exceed the recorded tare weight.

30 *SEC. 42. Section 12723 of the Business and Professions Code*
31 *is amended to read:*

32 12723. The ~~director~~ *secretary* shall adopt regulations for the
33 establishment of vehicle, container, and pallet tares, including, but
34 not limited to, the adoption of conditions of use, certificate
35 requirements, sample size, allowable variations, and procedure to
36 be used to verify common tares.

37 *SEC. 43. Section 12727 of the Business and Professions Code*
38 *is amended to read:*

1 12727. The ~~director~~ *secretary* may, at any time, require a
2 vehicle to proceed to the nearest vehicle scale for the purpose of
3 weight verification.

4 *SEC. 44. Section 12735 of the Business and Professions Code*
5 *is amended to read:*

6 12735. The ~~director~~ *secretary* may adopt any rules and
7 regulations that are reasonably necessary for the purpose of
8 carrying out this chapter. Adoption of these rules and regulations
9 shall be in accordance with Chapter 3.5 (commencing with Section
10 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

11 *SEC. 45. Section 12736 of the Business and Professions Code*
12 *is amended and renumbered to read:*

13 ~~12736.~~

14 13303. The ~~director~~ *secretary* may adopt necessary rules and
15 regulations regarding the accuracy of automated systems for retail
16 commodity price charging referred to as “scanners.”

17 *SEC. 46. Section 13302 of the Business and Professions Code*
18 *is repealed.*

19 ~~13302. (a) The sealer may levy a civil penalty against a person~~
20 ~~violating any provision of this chapter or a regulation adopted~~
21 ~~pursuant to any of these provisions, of not more than one thousand~~
22 ~~dollars (\$1,000) for each violation. It is a complete defense to a~~
23 ~~criminal prosecution for a violation of any provision of this division~~
24 ~~or a regulation adopted pursuant to any provision of this division~~
25 ~~that the defendant has been assessed and has paid a civil penalty~~
26 ~~under this section for the same act or acts constituting the violation.~~
27 ~~Any civil penalty under this section shall be cumulative to civil~~
28 ~~remedies or penalties imposed under any other law.~~

29 ~~(b) Before a civil penalty is levied, the person charged with the~~
30 ~~violation shall be given a written notice of the proposed action~~
31 ~~including the nature of the violation and the amount of the proposed~~
32 ~~penalty, and shall have the right to request a hearing. The request~~
33 ~~shall be made within 20 days after receiving notice of the proposed~~
34 ~~action. A notice of the proposed action that is sent by certified~~
35 ~~mail to the last known address of the person charged shall be~~
36 ~~considered received even if delivery is refused or the notice is not~~
37 ~~accepted at that address. If a hearing is requested, notice of the~~
38 ~~time and place of the hearing shall be given at least 10 days before~~
39 ~~the date set for the hearing. At the hearing, the person shall be~~

1 given an opportunity to review the sealer's evidence and to present
2 evidence on his or her own behalf.

3 If a hearing is not timely requested, the sealer may take the action
4 proposed without a hearing.

5 (e) If the person upon whom the sealer levied a civil penalty
6 requested and appeared at a hearing, the person may appeal the
7 sealer's decision to the secretary within 30 days of the date of
8 receiving a copy of the sealer's decision. The following procedures
9 apply to the appeal:

10 (1) The appeal shall be in writing and signed by the appellant
11 or his or her authorized agent, state the grounds for the appeal, and
12 include a copy of the sealer's decision. The appellant shall file a
13 copy of the appeal with the sealer at the same time it is filed with
14 the secretary.

15 (2) The appellant and the sealer may, at the time of filing the
16 appeal or within 10 days thereafter or at a later time prescribed by
17 the secretary, present the record of the hearing including written
18 evidence that was submitted at the hearing and a written argument
19 to the secretary stating grounds for affirming, modifying, or
20 reversing the sealer's decision.

21 (3) The secretary may grant oral arguments upon application
22 made at the time written arguments are filed.

23 (4) If an application to present an oral argument is granted,
24 written notice of the time and place for the oral argument shall be
25 given at least 10 days before the date set therefor. The times may
26 be altered by mutual agreement of the appellant, the sealer, and
27 the secretary.

28 (5) The secretary shall decide the appeal on the record of the
29 hearing, including the written evidence and the written argument
30 described in paragraph (2), that he or she has received. If the
31 secretary finds substantial evidence in the record to support the
32 sealer's decision, the secretary shall affirm the decision.

33 (6) The secretary shall render a written decision within 45 days
34 of the date of appeal or within 15 days of the date of oral arguments
35 or as soon thereafter as practical.

36 (7) On an appeal pursuant to this section, the secretary may
37 affirm the sealer's decision, modify the sealer's decision by
38 reducing or increasing the amount of the penalty levied so that it
39 is within the secretary's guidelines for imposing civil penalties,
40 or reverse the sealer's decision. Any civil penalty increased by the

1 secretary shall not be higher than that proposed in the sealer's
2 notice of proposed action given pursuant to subdivision (b). A
3 copy of the secretary's decision shall be delivered or mailed to the
4 appellant and the sealer.

5 (8) Any person who does not request a hearing pursuant to
6 subdivision (b) may not file an appeal pursuant to this subdivision.

7 (9) Review of a decision of the secretary may be sought by the
8 appellant within 30 days of the date of the decision pursuant to
9 Section 1094.5 of the Code of Civil Procedure.

10 (d) After the exhaustion of the appeal and review procedures
11 provided in this section, the sealer, or his or her representative,
12 may file a certified copy of a final decision of the sealer that directs
13 the payment of a civil penalty and, if applicable, a copy of any
14 decision of the secretary or his or her authorized representative
15 rendered on an appeal from the sealer's decision and a copy of any
16 order that denies a petition for a writ of administrative mandamus,
17 with the clerk of the superior court of any county. Judgment shall
18 be entered immediately by the clerk in conformity with the decision
19 or order. No fees shall be charged by the clerk of the superior court
20 for the performance of any official service required in connection
21 with the entry of judgment pursuant to this section.

22 (e) If the civil penalty is levied by the State Sealer, the revenues
23 derived therefrom shall be deposited in the Department of Food
24 and Agriculture Fund and, upon appropriation, shall be used by
25 the State Sealer to carry out his or her responsibilities under this
26 division. If the civil penalty is levied by the county sealer, the
27 revenues shall be deposited in the general fund of the county and,
28 upon appropriation by the board of supervisors, shall be used by
29 the county sealer to carry out his or her responsibilities under this
30 chapter.

31 *SEC. 47. Section 13403 of the Business and Professions Code*
32 *is amended to read:*

33 13403. "Octane number" or "antiknock index number," when
34 used in this chapter, means that number assigned to a spark ignition
35 engine fuel which that designates the antiknock quality. The
36 "octane number" or "antiknock index number" shall be determined
37 according to the American Society for Testing and Materials *ASTM*
38 *International* method or methods designated in the latest American
39 Society for Testing and Materials (*ASTM*) *ASTM International*
40 Standard Specification D-4814.

1 *SEC. 48. Section 13440 of the Business and Professions Code*
2 *is amended to read:*

3 13440. (a) The department shall establish specifications for
4 automotive spark-ignition engine fuels. The department shall adopt
5 by reference the latest standards established by a recognized
6 consensus organization or standards writing organization such as
7 ~~the American Society for Testing and Materials (ASTM) ASTM~~
8 ~~International~~ or the ~~Society of Automotive Engineers (SAE) SAE~~
9 ~~International~~, for automotive spark-ignition engine fuel, except
10 that no specification shall be less stringent than required by any
11 California state law.

12 (b) Any gasoline-oxygenate blend containing methanol shall
13 also contain an alcohol cosolvent (butanol or higher molecular
14 weight alcohol) in an amount equal to or greater than the volume
15 percentage of methanol except those blends previously granted a
16 waiver by the Environmental Protection Agency.

17 (c) Any gasoline-oxygenate blend containing ethanol that
18 complies with Section 2258 of Title 13 of the California Code of
19 Regulations, as it reads on the effective date of the act amending
20 this section during the 1993–94 Regular Session, or as amended,
21 may exceed the Reid vapor pressure limits of ASTM D 4814 for
22 the area and season in which the blend is sold at retail by not more
23 than 6.9 kilopascals (1.0 pounds per square inch), except the total
24 Reid vapor pressure shall not exceed 103 kilopascals (15 pounds
25 per square inch).

26 (d) The antiknock index as defined in Section 13403 for gasoline
27 and gasoline-oxygenate blends shall not be less than 87.

28 (e) Gasoline and gasoline-oxygenate blends shall meet the latest
29 specifications set forth in ASTM D 4814, except that no
30 specification shall be less stringent than required by any California
31 state law.

32 (f) Notwithstanding any other provision of this section, gasoline
33 sold for use in Inyo or Mono County, or the portion of Kern County
34 lying east of the Los Angeles County Aqueduct, shall comply with
35 the latest specification set forth in ASTM D 4814 relating to
36 volatility class standards for the season during which the gasoline
37 is sold for either the interior region or the southeast region of
38 California, except that no specification shall be less stringent than
39 is required by any California state law.

1 SEC. 49. Section 13450 of the Business and Professions Code
2 is amended to read:

3 13450. The department shall establish specifications for
4 compression-ignition engine fuel, kerosene, and fuel oil. The
5 department shall adopt by reference the latest standards established
6 by a recognized consensus organization or standards writing
7 organization such as the ~~American Society for Testing and~~
8 ~~Materials (ASTM) ASTM International~~ or the ~~Society of~~
9 ~~Automotive Engineers (SAE) SAE International~~, for
10 compression-ignition engine fuels, kerosene, and fuel oil, except
11 that no specification shall be less stringent than required by any
12 California state law.

13 (a) Diesel fuel shall meet the specifications set forth in ASTM
14 D-975, except that sulfur specifications shall not exceed the
15 maximum specified by any California state law.

16 (b) Kerosene shall meet the specifications set forth in ASTM
17 D-3699.

18 (c) Fuel oil shall meet the specifications set forth in ASTM
19 D-396, except that sulfur specifications shall not exceed the
20 maximum specified by any California state law.

21 SEC. 50. Section 13460 of the Business and Professions Code
22 is amended to read:

23 13460. Engine oil shall not be sold or distributed for use in an
24 internal combustion engine unless the product conforms to the
25 following specifications:

26 (a) It shall meet the engine oil requirements established by the
27 latest revision of the ~~Society of Automotive Engineers SAE~~
28 ~~International~~ Standard SAE J183 for engine oil performance and
29 engine service classification.

30 (b) The flashpoints for the various ~~Society of Automotive~~
31 ~~Engineers (SAE) SAE International~~ classifications shall not be
32 less than the following when tested in accordance with the latest
33 ASTM International standard method of test for flash and fire
34 points by means of the Cleveland open cup (ASTM D-92):

35			
36		Kinematic	
37		Viscosity (centistoke)	Minimum
38	Viscosity	by ASTM D445	Flash Degrees
39	Classification	at 100° C	Fahrenheit
40	SAE 5W		305

1	SAE 10W		335
2	SAE 20W		345
3	SAE 20		345
4	SAE 30		355
5	SAE 40		375
6	SAE 50		400
7	SAE 60		435
8	Grade 70	26.1 to less than 31.7	470
9			

10 (c) It shall be free from water and suspended matter when tested
 11 by means of centrifuge, in accordance with the standard test ASTM
 12 D-2273.

13 (d) Any engine oil that is represented to meet SAE *International*
 14 engine oil performance and engine service classification SA must
 15 have a neutralization number as measured by ASTM *International*
 16 method D-974 of 0.20 maximum.

17 (e) Any engine oil represented as “energy conserving” shall
 18 meet the requirements established by the latest revision of the
 19 ~~Society of Automotive Engineers~~ SAE *International* Recommended
 20 Practice SAE J-1423.

21 *SEC. 51. Section 13461 of the Business and Professions Code*
 22 *is amended to read:*

23 13461. Lubricating oil shall not be sold or distributed for use
 24 in lubricating manual transmissions, gears, or axles unless the
 25 product conforms to the following specifications:

26 (a) It meets the service requirements contained in the latest
 27 revision of the SAE Information Report on axle and manual
 28 transmission lubricants SAE J308.

29 (b) The viscosity grade classification number shall be the same
 30 as the latest published ~~Society of Automotive Engineers~~ SAE
 31 *International* Standard SAE J306 when tested in accordance with
 32 the latest method published by the ~~American Society for Testing~~
 33 ~~and Materials (ASTM)~~ ASTM *International*.

34 (c) It shall be free from water and suspended matter when tested
 35 by means of centrifuge, in accordance with the standard test ASTM
 36 D-2273.

37 *SEC. 52. Section 13480 of the Business and Professions Code*
 38 *is amended to read:*

39 13480. (a) It is unlawful for any person to sell any petroleum
 40 product referred to in this chapter at any place where petroleum

1 products are kept or stored for sale, unless there is affixed to each
2 container, receptacle, pump, dispenser, and inlet end of the fill
3 pipe of each underground storage tank, from which or into which
4 that product is drawn or poured out for sale or delivery, a sign or
5 label plainly visible consisting of the name of the product, the
6 brand, trademark, or trade name of the product, and, in the case
7 of engine fuel and kerosene, the grade or brand name designation.

8 (b) When the product is oil, as defined by Section 13401, each
9 sign or label shall also have in letters or numerals, plainly visible,
10 the viscosity grade classification as determined in accordance with
11 ~~the Society of Automotive Engineers (SAE)~~ *SAE International*
12 latest standard for engine oil viscosity classification SAE J300 or
13 manual transmission and axle lubricants viscosity classification
14 SAE J306, as applicable, and shall be preceded by the letters
15 “SAE.”

16 (c) When the product is automotive spark-ignition engine fuel,
17 except M-85 and M-100 methanol fuel, there shall be
18 conspicuously displayed on the dispensing device at least one sign
19 or label showing the minimum octane number or antiknock index,
20 as defined in Section 13403, of the product sold therefrom.

21 (d) When the product is a motor fuel consisting of a mixture or
22 premixture of gasoline and oil or gasoline-oxygenate blend and
23 motor oil, there shall be conspicuously displayed on the dispensing
24 device at least one sign or label stating the ratio of gasoline to
25 motor oil or gasoline-oxygenate blend to motor oil.

26 (e) All signs or labels required by this section for retail motor
27 fuel dispensers and containers of more than one gallon capacity
28 shall be in letters and numerals not less than one-half inch (12.70
29 mm) in height. On containers of one gallon or less, the signs or
30 labels shall be in letters and numerals not less than one-fourth inch
31 (6.35 mm) in height and one-sixteenth inch (1.59 mm) in width.

32 (f) The provisions of this section pertaining to octane numbers
33 or antiknock index and motor oil *SAE International* viscosity
34 number grade shall not apply to products sold for aviation purposes.

35 (g) This section shall apply, with respect to thinners or solvents,
36 only to the sale, delivery, or offer for sale of the products through
37 service stations, garages, and other retail outlets.

38 *SEC. 53. Section 13710 of the Business and Professions Code*
39 *is amended to read:*

1 13710. (a) (1) The department shall establish specifications
2 for engine coolants and antifreeze, and prediluted engine coolants
3 and prediluted antifreeze that promote the public safety in the
4 operation of motor vehicles.

5 (2) In addition to paragraph (1), if the ~~American Society for~~
6 ~~Testing and Materials~~ *ASTM International* adopts standards for
7 recycled engine coolants and antifreeze, the department, on or
8 before January 1, 2002, shall establish specifications for recycled
9 engine coolants and antifreeze, and recycled prediluted engine
10 coolants and antifreeze that promote the public safety in the
11 operation of motor vehicles.

12 (3) The chemical, physical, and performance specifications for
13 engine coolants and antifreeze and prediluted engine coolants and
14 prediluted antifreeze under paragraphs (1) and (2) shall not fall
15 below the minimum specifications, if any, established by the
16 ~~American Society for Testing and Materials~~ *ASTM International*.
17 Engine coolant and antifreeze shall not contain, after dilution with
18 30 percent water and subsequent mixing, visually identifiable
19 suspended matter or sediment. Prediluted engine coolant and
20 prediluted antifreeze shall not contain, after mixing, visually
21 identifiable suspended matter or sediment.

22 (4) For purposes of this subdivision, the department shall adopt
23 testing procedures and shall specify a virgin reference coolant that
24 it finds is recognized as standard in the industry. Alcohol-based
25 coolants and antifreeze, excluding glycols, are not suitable for use
26 in automotive engines and shall not be sold or distributed for
27 automotive use.

28 (b) Any automatic transmission fluid sold without limitation as
29 to type of transmission for which it is intended, shall meet all
30 automotive manufacturers' recommended requirements for
31 transmissions in general use in the state. Automatic transmission
32 fluids that are intended for use only in certain transmissions, as
33 disclosed on the label of its container, shall meet the latest
34 automotive manufacturers' recommended requirements for those
35 transmissions.

36 (c) The department shall establish specifications for brake fluid
37 that promote the public safety in the operation of automotive
38 vehicles. The specifications for brake fluid shall not fall below the
39 minimum specifications established by the National Highway

1 Traffic Safety Administration of the United States Department of
2 Transportation.
3 (d) Any manufacturer or packager of any product regulated by
4 this chapter and sold in the state shall provide, upon request to
5 duly authorized representatives of the department, documentation
6 of any claim made upon their products' label.

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**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
AB 1345**

Subject: Local government: audits
Version: 4/24/12

Author: Lara
Sponsor: State Controller

Summary

Current Law:

Existing law requires any non-federal entity, defined as a state, local government, or nonprofit organization, that expends \$300,000 or more in federal money to prepare an annual audit that meets certain specifications and transmit that audit to specified federal agencies. Existing law requires the Controller to receive every audit report prepared by any local public agency, pursuant to the federal Single Audit Act of 1984, and review those reports for compliance with federal law before forwarding them to the designated state agency.

Additionally, existing law requires certain audits to be performed by specified accountants and accounting firms.

Proposed Law:

AB 1345 (**Attachment 1**) would require the annual audit reports made pursuant to the federal Single Audit Act of 1984 to be submitted to the Controller within nine months after the end of the period audited or pursuant to applicable federal or state law. This bill would authorize the Controller to appoint a qualified Certified Public Accountant (CPA) or public accountant to complete an audit report if a local agency fails to submit the audit report to the Controller by the specified date. The bill would require the Controller to first notify a local agency of its failure to submit the audit report and give the local agency a reasonable amount of time to submit the report before appointing a CPA or public accountant. The bill would require the Controller to report certain misconduct and nondisclosures to the California Board of Accountancy (CBA).

This bill would require that a local agency not employ an accounting firm if the lead audit partner or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that local agency for each of the six previous fiscal years. The Controller can waive this requirement if it's found that another eligible public accounting firm is not available to perform the audit.

Analysis

At its March 22-23, 2012 meeting, staff presented this bill with no recommendation as to a position. Due to the mandatory audit partner rotation portion of the bill, the CBA adopted a position of Oppose on AB 1345 which was sent to the author on April 3, 2012.

On April 24, the bill was amended to its current form. The recent amendments state that before the Controller appoints a CPA to complete an audit report that an agency failed to submit on time, the Controller shall first notify the local agency and give them time to respond.

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AB 1345 contains provisions that are similar to provisions that were also included in the much broader AB 229 of 2011 (see Related Legislation below).

Additionally on April 24, a member of the author's staff called to schedule a meeting to discuss the CBA's opposition to audit partner rotation as the CBA had not expressed concern with this provision in AB 229 the previous year. Additionally, she provided staff with the author's fact sheet on the bill (**Attachment 2**). The meeting was held on May 1, 2012 with Ms. Anderson and Ms. Bowers representing the CBA.

Representatives of the author and sponsor provided input as to why they believe AB 1345 is good for consumer protection. Specifically, that audit partner rotation assists in maintaining independence which helps to ensure consumers are protected. It was very clear that both the author and sponsor are deeply committed to protecting the consumers of California. In addition, they indicated that AB 1345 is consistent with current law regarding school district audits.

In response, Ms. Anderson stated that the technical aspects of an audit are such that it can take several years to gain enough familiarity to ensure the consumer is getting the best possible service. Requiring that the partner rotate shortly after gaining this familiarity may lead to a decrease in the quality of service to the consumer. The author and sponsor reiterated, and were very clear, that they see partner rotation as the key consumer protection part of this bill.

Ms. Anderson is preparing a letter to the author and sponsor recapping the meeting and it will be provided to members prior to the CBA meeting.

Fiscal Estimate

According to the Assembly Appropriations Committee, this bill will result in minor costs that are absorbable by the Controller.

Support/Opposition

Support

State Controller

Opposition

California Board of Accountancy

Effective/Operative Date

This bill would become effective on January 1, 2013. However, the audit partner rotation portion would become effective beginning with the 2013/2014 fiscal year. Local agencies that have engaged the same audit partner since the 2007/2008 fiscal year would need to switch audit partners at that time.

Related Bills

AB 229 (Lara) of 2011(**Attachment 3**) - Amended to no longer be relevant.

This bill would have required the audit reports prepared by any local agency to comply with the federal Single Audit Act of 1984 to be submitted to the Controller within nine months of the end of the period audited. It would have authorized the Controller to appoint a qualified CPA to complete an audit report if it is not submitted by the local

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agency within the required timeframe. It would have prohibited a local agency from engaging an accounting firm if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, had performed audit services for that local agency in each of the six previous fiscal years. It would have required the audits to be made by a CPA licensed by the CBA and selected from a directory of accountants to be published by the Controller by December 31 of each year.

At its March 24-25, 2011 meeting, the CBA took an Oppose position on the bill. At the time, AB 229 mostly concerned a process by which the Controller would regulate audits of local governments. However, there were three provisions that were of concern to the CBA. On March 29, 2011, the CBA sent a letter communicating the following to the author as its reasons for opposing the bill:

- It required the Controller to create a directory of CPAs who are qualified to conduct audits of local agencies.
- It allowed the Controller to suspend a CPA from performing any local agency audit before the CBA held any kind of administrative hearing.
- It allowed the Controller to impose an additional three year suspension on a CPA who has already been disciplined by the CBA.

During this time, the California Society of CPAs (CalCPA) was engaged in negotiations to remove firm rotation from AB 229. As a result of these discussions, the author amended the bill to change the firm rotation requirement to an audit partner rotation requirement. CalCPA did not take a position on AB 229, nor does it have a position on AB 1345.

Although firm rotation, and later audit partner rotation, was a part of AB 229, it was only briefly mentioned by two CBA members at the March 2011 meeting and was not discussed or included as a part of the CBA's list of objections that were to be conveyed to the author.

A representative of the Controller's office contacted staff after receiving the CBA's opposition. She was very helpful and willing to work with staff to resolve the CBA's concerns. She emphasized the author and sponsor's commitment to consumer protection. Amendments were crafted that were meant to address the CBA's concerns.

The amendments to AB 229 (**Attachment 4**) clarified that the directory of CPAs is the same as a similar list of CPAs maintained by the Controller who may perform school district audits. This list is not exclusive; the Controller puts anyone who requests it on the list, provided they are in good standing with the CBA. In fact, the original language of AB 229 was modeled on this section of law (Education Code Sections 14500-14508).

Additionally, the amendments withdrew all references to "suspension" of a CPA and indicated that the CPA is simply removed from the list for a period of time based on the CBA's discipline of the licensee, which was consistent with a CPA needing to be in good standing to be on the list.

The amendments did not, however, address the issue of removal from the list prior to the CBA imposing discipline. The Controller would still be able to remove a CPA from

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the list when a case is referred to the CBA. However, the Controller's office indicated that this was a key consumer protection component of the bill. They also clarified that it was not the firm that would be removed from the list, but only the individual who signed the audit.

At its May 19-20, 2011 meeting, the CBA, while acknowledging the good faith efforts of the sponsor, adopted a Neutral if Amended position. This position was sent to the author's office on June 6, 2011. On June 21, AB 229 was amended again, but did not address the CBA's remaining concern, nor did the audit-partner rotation portion of the bill change. Finally, on July 1, 2011, the bill was gutted and amended and was no longer relevant to the CBA.

Recommendation

Based on information from the May 1 meeting, the author and sponsor remain willing to engage in dialog regarding the CBA's concerns. If the CBA has remaining concerns with the current version of the bill, staff recommend that the CBA consider suggesting an amendment that would remove its opposition to AB 1345 and that specific direction be provided as to the desired amendment.

Attachments

- 1 – AB 1345
- 2 – AB 1345 Fact Sheet
- 3 – AB 229 (Introduced)
- 4 – AB 229 (April 13, 2011 version)

AMENDED IN SENATE APRIL 24, 2012

AMENDED IN ASSEMBLY JANUARY 12, 2012

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1345

Introduced by Assembly Member Lara

February 18, 2011

An act to amend Section 12410.5 of, and to add Section 12410.6 to, the Government Code, relating to audits.

LEGISLATIVE COUNSEL'S DIGEST

AB 1345, as amended, Lara. Local government: audits.

(1) The federal Single Audit Act of 1984 requires any nonfederal entity, defined as a state, local government, or nonprofit organization, that expends \$300,000 or more in federal money to prepare an annual audit that meets certain specifications and transmit that audit to specified federal agencies. Existing law requires the Controller to receive every audit report prepared by any local public agency, pursuant to the federal Single Audit Act of 1984, and review those reports for compliance with federal law before forwarding them to the designated state agency.

This bill would require the annual audit reports made pursuant to the federal Single Audit Act of 1984 to be submitted to the Controller within 9 months after the end of the period audited or pursuant to applicable federal or state law. This bill would authorize the Controller to appoint a qualified certified public accountant or public accountant to complete an audit report if a local agency, as defined, fails to submit the audit

report to the Controller by the specified date. *The bill would require the Controller to first notify a local agency of its failure to submit the audit report and give the local agency a reasonable amount of time to submit the report before appointing a certified public accountant or public accountant.* The bill would require the Controller to report certain misconduct and nondisclosures to the California Board of Accountancy.

(2) Existing law requires certain audits to be performed by specified accountants and accounting firms.

This bill would require any audit for any local agency to be performed by a certified public accountant or public accountant, as specified. The bill would prohibit a local agency from employing certain public accounting firms to perform an audit, as specified, unless the Controller finds that another eligible public accounting firm is not available to perform the audit.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12410.5 of the Government Code is
2 amended to read:

3 12410.5. (a) The Controller shall receive every audit report
4 prepared for any local agency, as defined in Section 53890, in
5 compliance with the federal Single Audit Act of 1984 (31 U.S.C.
6 Sec. 7501 et seq.) and required under any law to be submitted to
7 any state agency, and shall, after ascertaining its compliance with
8 that federal act, transmit the report to the designated state agency.

9 (b) The audit report shall be submitted to the Controller within
10 nine months after the end of the period audited or pursuant to
11 applicable federal or state law.

12 (c) An audit report for any local agency submitted to the
13 Controller pursuant to this section shall comply with the
14 Government Auditing Standards issued by the Comptroller General
15 of the United States.

16 (d) If a local agency does not submit the audit report required
17 by this section to the Controller by the due date established in
18 subdivision (b) of this section, the Controller may appoint a
19 qualified certified public accountant or public accountant to
20 complete the report and to obtain the information required. Any
21 cost incurred by the Controller pursuant to this subdivision,

1 including a contract with, or the employment of, the certified public
2 accountant or public accountant, in completing the audit shall be
3 borne by the local agency and shall be a charge against any
4 unencumbered funds of the local agency.

5 ~~(e) If the Controller finds through a quality control review of~~
6 ~~the audit working papers of the audit report made pursuant to this~~
7 ~~section that the audit was conducted in a manner that constitutes~~
8 ~~unprofessional conduct, as defined pursuant to Section 5100 of~~
9 ~~the Business and Professions Code, or that there were multiple~~
10 ~~and repeated failures to disclose noncompliant acts, the Controller~~
11 ~~shall refer the case to the California Board of Accountancy.~~

12 *(e) Before appointing a certified public accountant or public*
13 *accountant pursuant to subdivision (d), the Controller shall first*
14 *notify a local agency of its failure to submit the audit report and*
15 *give the local agency a reasonable amount of time to submit the*
16 *report.*

17 *(f) The Controller shall refer any matters of unprofessional*
18 *conduct, as defined in Section 5100 of the Business and Professions*
19 *Code, and multiple and repeated failures to disclose noncompliant*
20 *acts to the California Board of Accountancy.*

21 SEC. 2. Section 12410.6 is added to the Government Code, to
22 read:

23 12410.6. (a) An audit for any local agency, including those
24 submitted to the Controller pursuant to subdivision (a) of Section
25 12410.5, shall be made by a certified public accountant or public
26 accountant, licensed by, and in good standing with, the California
27 Board of Accountancy.

28 (b) Commencing with the 2013–14 fiscal year, a local agency
29 shall not employ a public accounting firm to provide audit services
30 to a local agency if the lead audit partner or coordinating audit
31 partner having primary responsibility for the audit, or the audit
32 partner responsible for reviewing the audit, has performed audit
33 services for that local agency for each of the six previous fiscal
34 years. The Controller may waive this requirement if he or she finds
35 that another eligible public accounting firm is not available to
36 perform the audit.



Fact Sheet
Assembly Member Ricardo Lara
AB 1345 – Independent Audit Oversight

Summary:

AB 1345 strengthens the independent audit process and provides safeguards to protect taxpayers from waste, fraud, and abuse.

Background:

The current statutory approach to protect taxpayers from waste, fraud and abusive practices by local governments is not working as illustrated by the Controller's Office audit findings in the City of Bell, County of Modoc, and City of Montebello where millions of state, federal, and local dollars were misspent over several years. These examples are echoed by numerous complaints from individuals and local groups as well as stories in the media exposing conflicts of interest and illegal actions by local governments.

The misuse and abuse of funds may be attributed to a lack of proper checks and balances. For example, in the City of Bell, the lack of internal controls were overlooked by the city's auditors and year after year the independent auditors gave the city a "clean bill of health" despite record salaries, illegal taxes, and arbitrary fees.

Problem:

The Cities of Bell and Montebello and County of Modoc have shown that a failure to conduct the public's business with honesty and efficiency leads to financial mismanagement affecting the expenditure of state and federal funds provided to local governments.

Unfortunately, these trends are only discovered when the local government is in danger of defaulting on private debt: an outcome that can have a catastrophic impact on local services and negatively affect the state's own credit rating.

One safeguard to identify and timely correct problems is in the annual audit conducted by independent audit firms. Such audits are performed to ensure that information in the

financial statements is accurate. In addition, a single audit is required of all local governments that expend more than \$500,000 in federal funds to ensure that proper internal controls are in place. However, in the case of Bell and Modoc, both of which required a financial and single audit, the SCO uncovered that this safeguard can fail if the audit is inadequate. The Controller's review of the work papers for these two audit firms found significant lapses in performance that led to a failure to identify the problems.

Solution:

AB 1345 strengthens the independent audit process and provides a safeguard to protect taxpayers from waste, fraud, and abuse. Specifically, AB 1345 would:

- Require that independent audits be performed in accordance with recognized government auditing procedures and standards.
- Require audit reports be submitted to the State Controller's Office (SCO) within 9 months of the end of the period audited. If the local agency does not meet this requirement, then the SCO may appoint a qualified CPA to perform and complete the audit.
- Require local governments to rotate audit partners after six years to ensure that independent auditors maintain their independence.
- Require that any cases relating to unprofessional conduct uncovered in a quality control review by the SCO be referred to the CBA.

Sponsor: State Controller, John Chiang

Staff Contact: Catalina Hayes-Bautista, 319-2050

ASSEMBLY BILL**No. 229**

Introduced by Assembly Member LaraFebruary 2, 2011

An act to amend Section 12410.5 of, to add Sections 12410.6, 12410.7, and 12410.9 to, and to add and repeal Section 12410.8 of, the Government Code, relating to audits.

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as introduced, Lara. The Controller: audits.

Existing law requires the Controller to superintend the fiscal concerns of the state. Existing law requires the Controller to receive every audit report prepared by any local public agency.

This bill would require the Controller to receive every annual financial audit report prepared by any local government within 9 months of the audit period or within a longer timeframe authorized by the Controller. This bill would require an audit conducted pursuant to this provision to fully comply with the Government Auditing Standards issued by the Comptroller General of the United States. This bill would require the audits to be made by a certified public accountant that is licensed by the California Board of Accountancy and selected by a local government. The Controller would be required to use specified criteria to determine those certified public accountants that are to be included in the directory.

This bill would require the Controller to develop a plan to review and report the financial and compliance audits of cities, counties, and special districts. This bill would also require the Controller to report to the Legislature by January 31 of each year the results of its oversight

activity. The requirement that the Controller report to the Legislature would be repealed on December 31, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12410.5 of the Government Code is
 2 amended to read:
 3 12410.5. (a) The Controller shall receive every *annual*
 4 *financial* audit report prepared for any local ~~public agency~~
 5 *government including those reports prepared* in compliance with
 6 the federal Single Audit Act of 1984 (P.L. 98-502; 31 U.S.C. Sec.
 7 7501 et seq.) and required under any law to be submitted to any
 8 state agency, and shall, after ascertaining its compliance with that
 9 federal act, transmit the report to the designated state agency.
 10 (b) *It is the intent of the Legislature to promote accountability*
 11 *over local government funding by establishing a new program to*
 12 *review and report on financial and compliance audits of cities,*
 13 *counties, and special districts. It is further the intent of the*
 14 *Legislature that the Controller shall have the primary responsibility*
 15 *for implementing and overseeing the program. Financial audits*
 16 *provide an independent assessment of, and reasonable assurance*
 17 *about, whether an entity’s reported financial condition, results,*
 18 *and use of resources are presented fairly in accordance with*
 19 *recognized criteria. Reporting on financial audits that are*
 20 *performed in accordance with government auditing standards also*
 21 *includes reports on internal control, compliance with laws and*
 22 *regulations, and provisions of contracts and grant agreements as*
 23 *they relate to financial transactions, systems, and processes.*
 24 *Compliance audits shall be defined in generally accepted auditing*
 25 *standards as a program-specific audit or an organization-wide*
 26 *audit or an entity’s compliance with applicable compliance*
 27 *requirements. Financial and compliance audits conducted under*
 28 *this chapter shall fulfill federal single audit requirements.*
 29 (c) *An audit conducted pursuant to this section shall comply*
 30 *fully with the Government Auditing Standards issued by the*
 31 *Comptroller General of the United States.*
 32 (d) *The audits shall be made by a certified public accountant,*
 33 *licensed by the California Board of Accountancy, and selected by*

1 *the local government, as applicable, from a directory of certified*
2 *public accountants deemed by the Controller as qualified to*
3 *conduct audits of local governments which shall be published by*
4 *the Controller not later than December 31 of each year. The*
5 *certified public accountant shall possess individual education,*
6 *examination, and experience qualifications that have been*
7 *determined by the board to be substantially equivalent to the*
8 *qualifications under Section 5093 of the Business and Professions*
9 *Code, and that are in accordance with subdivision (b) of Section*
10 *27 of Article 4 of Division 1 of Title 16 of the California Code of*
11 *Regulations necessary to perform the full range of accounting*
12 *services, including signing attest reports on attest engagements.*

13 *(1) In determining that certified public accountants shall be*
14 *included in the directory, the Controller shall use the following*
15 *criteria:*

16 *(A) The certified public accountants or public accountants, as*
17 *a result of a quality control review conducted by the Controller*
18 *pursuant to Section 12410.9, shall not have been found to have*
19 *conducted an audit in a manner constituting noncompliance with*
20 *subdivision (c).*

21 *(B) The certified public accountants or public accountants shall*
22 *be in good standing as certified by the Board of Accountancy.*

23 *(2) It is the intent of the Legislature to ensure that auditors and*
24 *audit organizations maintain their independence in appearance*
25 *and in fact by rotation of public accounting firms. Beginning with*
26 *the 2011–12 fiscal year, a local government shall be prohibited*
27 *from using the same public accounting firm to perform an annual*
28 *financial and compliance audit for more than five consecutive*
29 *years. The Controller may waive this requirement if he or she finds*
30 *that no qualified auditor is otherwise available to perform the*
31 *audit.*

32 *(e) The governing board of each city, county, and special district*
33 *shall include all of the following in their contracts for audits:*

34 *(1) A provision to withhold 10 percent of the audit fee until the*
35 *Controller certifies that the audit report conforms to the reporting*
36 *provisions of subdivision (a) of Section 12410.7.*

37 *(2) A provision to withhold 50 percent of the audit fee for any*
38 *subsequent year of a multiyear contract if the prior year's audit*
39 *report was not certified as conforming to the reporting provisions*
40 *of subdivision (a) of Section 12410.7. This provision shall include*

1 *a statement that a multiyear contract shall be null and void if a*
2 *public accounting firm or independent auditor is declared ineligible*
3 *pursuant to subdivision (d) of Section 12410.9. The amount*
4 *withheld shall not be payable unless payment is ordered by the*
5 *board or the audit report for that subsequent year is certified by*
6 *the Controller as conforming to the reporting provisions of*
7 *subdivision (a) of Section 12410.7.*

8 *(3) A provision that will provide the Controller access to audit*
9 *working papers.*

10 SEC. 2. Section 12410.6 is added to the Government Code, to
11 read:

12 12410.6. (a) The Controller shall develop a plan to review and
13 report on financial and compliance audits of cities, counties, and
14 special districts. The Controller, in consultation with the
15 Department of Finance, the Legislative Analyst's Office, state
16 agencies, and representatives of the League of California Cities,
17 the California State Association of County Auditors, and the
18 California Society of Certified Public Accountants, shall propose
19 the content of an audit guide.

20 (b) The audit reports shall be submitted to the Controller in
21 accordance with Public Law 104-156 within nine months after the
22 end of the period audited, or within a longer timeframe authorized
23 by the Controller.

24 (c) If the audit reports required by subdivision (b) of Section
25 12410.5 have not been filed by a local government with the
26 Controller's office on or before the due date established under
27 subdivision (b), the Controller's office shall determine the most
28 advantageous method of obtaining the required audited financial
29 statements.

30 SEC. 3. Section 12410.7 is added to the Government Code, to
31 read:

32 12410.7. (a) To determine the practicability and effectiveness
33 of the audits and audit guide, the Controller on an annual basis
34 shall review and monitor the audit reports performed by
35 independent auditors. The Controller shall determine whether the
36 audit reports conform with the reporting provisions of subdivision
37 (b) of Section 12410.9 and shall notify each local government, and
38 the auditor of each local government regarding each determination.

39 (b) The independent auditor shall correct his or her audit report
40 within 30 days of notification of any deficiency. The Controller

1 may suspend the independent auditor from performing any local
2 government audits if the auditor does not correct his or her audit
3 report within 30 days of the Controller’s notification.

4 SEC. 4. Section 12410.8 is added to the Government Code, to
5 read:

6 12410.8. (a) The Controller shall report to the Legislature by
7 January 31 of each year the results of its oversight activity,
8 including the results of its quality control reviews.

9 (b) A report submitted pursuant to subdivision (a) shall be
10 submitted in compliance with Section 9795.

11 (c) Pursuant to Section 10231.5, this section is repealed on
12 December 31, 2015.

13 SEC. 5. Section 12410.9 is added to the Government Code, to
14 read:

15 12410.9. (a) The Controller may perform quality control
16 reviews of audit working papers to determine whether audits are
17 performed in conformity with government audit standards and the
18 local government audit guide. The Controller shall communicate
19 the results of his or her reviews to the Department of Finance, the
20 independent auditor, and the local government for which the audit
21 was performed, and shall review his or her findings with the
22 independent auditor.

23 (b) Prior to the performance of any quality control reviews, the
24 Controller shall develop and publish guidelines and standards for
25 those reviews. Pursuant to the development of those guidelines
26 and standards for those reviews, the Controller shall provide an
27 opportunity for public comment. The Controller shall update the
28 guidelines and standards for any changes in audit standards.

29 (c) The Controller is responsible for selecting audits for review
30 based on criteria including, but not limited to, disciplinary actions
31 by the California Board of Accountancy, results of the Controller’s
32 review and monitoring of the audit reports, the extent of findings
33 in the audit reports issued by the independent auditor, the number
34 of audits of local government performed annually by the
35 independent auditor, the independent auditor’s experience in
36 performing audits of local governments, the complexity of state
37 and federal programs administered by the local government, and
38 requests or leads from other sources.

39 (d) If the quality control review of the Controller indicates that
40 the audit was conducted in a manner that may constitute

1 unprofessional conduct as defined pursuant to Section 5100 of the
2 Business and Professions Code, including, but not limited to,
3 breach of fiduciary responsibility of any kind, gross negligence,
4 repeated negligent acts resulting in a material misstatement in the
5 audit or failure to disclose noncompliant acts, the Controller shall
6 refer the case to the California Board of Accountancy. If the
7 California Board of Accountancy finds that the independent auditor
8 conducted an audit in an unprofessional manner, the Controller
9 may prohibit the independent auditor from performing any audit
10 of a local government for a period of three years, in addition to
11 any other penalties that the California Board of Accountancy may
12 impose. In any matter that is referred to the California Board of
13 Accountancy, the Controller may suspend the independent auditor
14 from performing any local government audit pending final
15 disposition of the matter by notice and an opportunity to respond
16 to that suspension. The independent auditor shall be given credit
17 for any period of suspension if the California Board of
18 Accountancy prohibits the independent auditor from performing
19 audits of the local education agency under subdivision (c). In any
20 event, the Controller shall not suspend an independent auditor
21 under this subdivision for a period of more than three years.

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AMENDED IN ASSEMBLY APRIL 13, 2011

AMENDED IN ASSEMBLY MARCH 30, 2011

AMENDED IN ASSEMBLY MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 229

Introduced by Assembly Member Lara

February 2, 2011

An act to amend Section 12410.5 of, to add Sections 12410.6, 12410.7, and 12410.9 to, and to add and repeal Section 12410.8 of, the Government Code, relating to audits.

LEGISLATIVE COUNSEL'S DIGEST

AB 229, as amended, Lara. Controller: audits.

Existing law requires the Controller to superintend the fiscal concerns of the state. Existing law requires the Controller to receive every audit report prepared by any local agency to comply with the federal Single Audit Act of 1984.

This bill would require the audit reports prepared in this regard to be submitted to the Controller within 9 months of the end of the period audited or in accordance with applicable federal law. This bill would authorize the Controller to appoint a qualified certified public accountant to complete an audit report if it is not submitted by the local agency within the required timeframe, with associated costs to be borne by the local agency, as specified. This bill would require the audit to comply with the Government Auditing Standards issued by the Comptroller General of the United States. This bill would require the audits to be made by a certified public accountant that is licensed by the California Board of Accountancy and selected by a local agency from a directory

of accountants to be published by the Controller by December 31 of each year. The Controller would be required to use specified criteria to determine those certified public accountants that are to be included in the directory.

This bill would require the Controller to develop a plan to review and report the financial and compliance audits of local agencies, and to review and monitor the audit reports performed by independent auditors, according to specified criteria. This bill would require the Controller, in consultation with specified entities, to propose and adopt the content of an audit guide. This bill would also require the Controller to report to the Legislature by January 31 of each year the results of the Controller’s oversight activity. The requirement that the Controller report to the Legislature would be repealed on December 31, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds that financial audits provide
 2 an independent assessment of, and reasonable assurance about,
 3 whether local agencies’ reported financial condition, results, and
 4 use of resources are presented fairly in accordance with recognized
 5 standards. Accordingly, it is the intent of the Legislature to promote
 6 accountability over local government funding by establishing a
 7 process for reviewing and reporting on financial and compliance
 8 audits conducted of local agencies. It is further the intent of the
 9 Legislature that the Controller shall have oversight responsibilities
 10 for implementing and ensuring compliance with this act.

11 SEC. 2. Section 12410.5 of the Government Code is amended
 12 to read:

13 12410.5. (a) The Controller shall receive every annual financial
 14 audit report prepared for any local agency, as defined in Section
 15 53890, including those reports prepared in compliance with the
 16 federal Single Audit Act of 1984 (P.L. 98-502; 31 U.S.C. Sec.
 17 7501 et seq.) and required under any law to be submitted to any
 18 state agency, and shall, after ascertaining its compliance with that
 19 federal act, transmit the report to the designated state agency.

20 (b) An audit for any local agency submitted to the Controller
 21 pursuant to this section shall comply with the Government Auditing
 22 Standards issued by the Comptroller General of the United States.

1 (c) An audit for any local agency submitted to the Controller
2 pursuant to this section shall be made by a certified public
3 accountant, licensed by the California Board of Accountancy, and
4 selected by the local agency, as applicable, from a directory of
5 certified public accountants ~~deemed~~ *maintained* by the Controller
6 ~~as qualified to conduct audits of local agencies~~ which shall be
7 published by the Controller not later than December 31 of each
8 year.

9 (1) In determining which certified public accountants shall be
10 included in the directory, the Controller shall use the following
11 criteria:

12 (A) The certified public accountants or public accountants shall
13 be in good standing as certified by the California Board of
14 Accountancy.

15 (B) The certified public accountants or public accountants, as
16 a result of a quality control review conducted by the Controller
17 pursuant to Section 12410.9, shall not have been found to have
18 conducted an audit in a manner constituting noncompliance with
19 subdivision (b) of this section and subdivision (a) of Section
20 ~~12410.7. The Controller shall establish an appeals process for~~
21 ~~certified public accountants or public accountants who are removed~~
22 ~~from the directory but not referred to the California Board of~~
23 ~~Accountancy pursuant to subdivision (b) of Section 12410.7 or~~
24 ~~subdivision (d) of Section 12410.9. 12410.7, and the Controller~~
25 ~~referred the matter to the California Board of Accountancy for~~
26 ~~consideration of disciplinary action pursuant to subdivision (d)~~
27 ~~of Section 12410.9. In that instance, if the certified public~~
28 ~~accountant or public accountant had been included in the directory,~~
29 ~~the certified public accountant's or public accountant shall be~~
30 ~~removed from the directory until such time as the board makes a~~
31 ~~determination on the matter. If the board suspends, or revokes,~~
32 ~~the certified public accountant or public accountant's license, or~~
33 ~~prohibits the licensee from performing audits of local agencies,~~
34 ~~the certified public accountant or public accountant shall be~~
35 ~~excluded from the directory until such time as he or she is in good~~
36 ~~standing with the board.~~

37 (2) Commencing with the 2011–12 fiscal year, it shall be
38 unlawful for a public accounting firm to provide audit services to
39 a local agency if the lead audit partner, or coordinating audit
40 partner, having primary responsibility for the audit, or the audit

1 partner responsible for reviewing the audit, has performed audit
2 services for that local agency in each of the six previous fiscal
3 years. The Controller may waive this requirement if he or she finds
4 that no otherwise eligible auditor is available to perform the audit.

5 (d) The governing board of each local agency shall include all
6 of the following in its contracts for audits:

7 (1) A provision to withhold 10 percent of the audit fee until the
8 Controller certifies that the audit report conforms to the reporting
9 provisions of subdivision (a) of Section 12410.7.

10 (2) A provision to withhold 50 percent of the audit fee for any
11 subsequent year of a multiyear contract if the prior year's audit
12 report was not certified as conforming to the reporting provisions
13 of subdivision (a) of Section 12410.7. This provision shall include
14 a statement that a multiyear contract shall be null and void if a
15 public accounting firm or independent auditor is declared ineligible
16 pursuant to subdivision (d) of Section 12410.9. The amount
17 withheld shall not be payable unless payment is ordered by the
18 board or the audit report for that subsequent year is certified by
19 the Controller as conforming to the reporting provisions of
20 subdivision (a) of Section 12410.7.

21 (3) A provision that will provide the Controller access to audit
22 working papers.

23 SEC. 3. Section 12410.6 is added to the Government Code, to
24 read:

25 12410.6. (a) The Controller shall develop a plan to review and
26 report on financial and compliance audits of local agencies. The
27 Controller, in consultation with the Department of Finance, and
28 representatives of the League of California Cities, the California
29 State Association of County Auditors, and the California Society
30 of Certified Public Accountants, shall propose the content of, and
31 adopt, an audit guide.

32 (b) The audit reports shall be submitted to the Controller within
33 nine months after the end of the period audited, or in accordance
34 with applicable federal law.

35 (c) If the audit reports required by Section 12410.5 have not
36 been submitted by a local agency to the Controller on or before
37 the due date established by this section, the Controller may appoint
38 a qualified certified public accountant to complete the report and
39 to obtain the information required. Any cost incurred by the
40 Controller pursuant to this subdivision, including contracts with,

1 or the employment of, the certified public accountants in
2 completing the audit shall be borne by the local agency and shall
3 be a charge against any unencumbered funds of the local agency.

4 SEC. 4. Section 12410.7 is added to the Government Code, to
5 read:

6 12410.7. (a) The Controller on an annual basis shall review
7 and monitor the audit reports performed by independent auditors.
8 The Controller shall determine whether the audit reports conform
9 with the reporting provisions of government auditing standards
10 and the audit guide and shall notify each local agency, and the
11 auditor of each local agency regarding each determination.

12 (b) The independent auditor shall correct his or her audit report
13 within 30 days of notification of any deficiency. The Controller
14 may suspend the independent auditor from performing any local
15 agency audits if the auditor does not correct his or her audit report
16 within 30 days of the Controller's notification.

17 (c) (1) Within 30 days from the date of receipt of written
18 notification that the Controller refuses to certify an audit report as
19 conforming to the reporting provisions described in subdivision
20 (a), an independent auditor or audit firm having a portion of an
21 audit fee withheld pursuant to paragraph (1) or (2) of subdivision
22 (d) of Section 12410.5 may file an appeal in writing with the
23 California Board of Accountancy.

24 (2) The board shall complete an investigation of the appeal
25 within 90 days of the filing of the appeal and, on the basis of the
26 investigation, do one of the following:

27 (A) (i) Order the Controller to provide notification that the audit
28 report conforms to the reporting provisions described in subdivision
29 (a).

30 (ii) If the board orders the Controller to provide notification that
31 the audit report conforms to the reporting provisions described in
32 subdivision (a), the Controller shall notify the contracting local
33 agency, which shall then release the portion of the audit fee being
34 withheld in accordance with paragraph (1) or (2) of subdivision
35 (d) of Section 12410.5.

36 (B) Schedule the appeal for a hearing, in which case the final
37 action on the appeal shall be completed by the board within one
38 year from the date of the filing of the appeal.

39 SEC. 5. Section 12410.8 is added to the Government Code, to
40 read:

1 12410.8. (a) The Controller shall report to the Legislature by
 2 January 31 of each year the results of the Controller’s oversight
 3 activity, including the results of the Controller’s quality control
 4 reviews.

5 (b) A report submitted pursuant to subdivision (a) shall be
 6 submitted in compliance with Section 9795.

7 (c) Pursuant to Section 10231.5, this section is repealed on
 8 December 31, 2015.

9 SEC. 6. Section 12410.9 is added to the Government Code, to
 10 read:

11 12410.9. (a) The Controller may perform quality control
 12 reviews of audit working papers to determine whether audits are
 13 performed in conformity with government audit standards and the
 14 local agency audit guide. The Controller shall communicate the
 15 results of his or her reviews to the Department of Finance, the
 16 independent auditor, and the local agency for which the audit was
 17 performed, and shall review his or her findings with the
 18 independent auditor.

19 (b) Prior to the performance of any quality control reviews, the
 20 Controller shall develop and publish guidelines and standards for
 21 those reviews. Pursuant to the development of those guidelines
 22 and standards for those reviews, the Controller shall provide an
 23 opportunity for public comment. The Controller shall update the
 24 guidelines and standards for any changes in audit standards.

25 (c) The Controller is responsible for selecting audits for review
 26 based on criteria, including, but not limited to, disciplinary actions
 27 by the California Board of Accountancy, results of the Controller’s
 28 review and monitoring of the audit reports, the extent of findings
 29 in the audit reports issued by the independent auditor, the number
 30 of audits of local agencies performed annually by the independent
 31 auditor, the independent auditor’s experience in performing audits
 32 of local agencies, the complexity of state and federal programs
 33 administered by the local agencies, and requests or leads from
 34 other sources.

35 (d) ~~If the quality control review of the Controller indicates finds~~
 36 ~~that the audit was conducted in a manner that may constitute~~
 37 ~~constitutes~~ unprofessional conduct as defined pursuant to Section
 38 5100 of the Business and Professions Code, ~~or repeated failure~~
 39 ~~that there were multiple and repeated failures~~ to disclose
 40 noncompliant acts, the Controller shall refer the case to the

1 California Board of Accountancy. *In that instance, the independent*
2 *auditor shall be prohibited from performing an audit until such*
3 *time as the board resolves the matter.* If the California Board of
4 Accountancy finds that the independent auditor conducted an audit
5 in an unprofessional manner, the Controller may prohibit the
6 independent auditor from performing any audit of a local agency
7 ~~for a period of three years for the period during which the~~
8 ~~independent auditor is not in good standing with the board,~~ in
9 addition to any other penalties that the California Board of
10 Accountancy may impose. ~~In any matter that is referred to the~~
11 ~~California Board of Accountancy, the Controller may suspend the~~
12 ~~independent auditor from performing any local agency audit~~
13 ~~pending final disposition of the matter by notice and an opportunity~~
14 ~~to respond to that suspension. The independent auditor shall be~~
15 ~~given credit for any period of suspension if the California Board~~
16 ~~of Accountancy prohibits the independent auditor from performing~~
17 ~~audits of local agencies. In any event, the Controller shall not~~
18 ~~suspend an independent auditor under this subdivision for a period~~
19 ~~of more than three years.~~

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**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
AB 1409**

Subject: Regulations: small businesses

Author: V. Perez

Version: 3/22/2012

Sponsor: Assembly Committee on
Jobs, Economic Development and
the Economy

Summary

Current Law:

Existing law requires every state agency proposing regulations to submit an initial statement of reasons (ISR) for proposing the regulation, which is required to include, among other things, a description of any reasonable alternatives that would lessen any adverse impact on small business and the agency's reasons for rejecting those reasonable alternatives.

Proposed Law:

This bill would among other things, clarify the type of reasonable alternatives an agency must include in its ISR which is used to justify proposed regulations. It would require the inclusion of any reasonable alternative submitted by the public or the Office of the Small Business Advocate.

In addition, this bill would require the ISR to include an assessment of whether there are similar or related regulations in another state entity and determine if opportunities are available to coordinate with that entity to reduce regulatory burdens.

Analysis

The CBA seldom receives any public comments recommending alternatives when it is proposing a regulation. If it were to receive such a comment, staff would incorporate the information into the ISR.

The second proposal in the bill requiring an assessment of other state regulatory entities is unclear as to whether that means in California or other states. If it were other states, the impact on staff time to prepare a rulemaking file would be significant. However, the author's office indicates that it is meant to be other entities in California. As no other entity regulates the licensing or discipline of Certified Public Accountants, the impact should be minimal. The author's office indicated that this would be clarified in a future amendment.

Fiscal Estimate

Staff time required to comply with the provisions of this bill should be minimal.

Support/Opposition

There is currently no registered support or opposition.

Effective/Operative Date

This bill would become effective on January 1, 2013.

AB 1409

Page 2 of 2

Related Bills

None.

Recommendation

Due to the fact that this bill has minimal impact on the CBA, staff recommends that the CBA take a position of Watch on AB 1409.

Attachment

AB 1409

AMENDED IN SENATE MARCH 22, 2012

AMENDED IN SENATE MARCH 21, 2012

AMENDED IN ASSEMBLY APRIL 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1409

Introduced by ~~Committee on Jobs, Economic Development, and the Economy (V. Manuel Pérez (Chair), Beall, Block, Grove, Hueso, and Morrell)~~ Assembly Member V. Manuel Pérez

March 10, 2011

An act to amend Sections 11346.2 and 12098.3 of, and to add Section 11346.23 to, the Government Code, relating to regulations.

LEGISLATIVE COUNSEL'S DIGEST

AB 1409, as amended, ~~Committee on Jobs, Economic Development, and the Economy V. Manuel Pérez~~. Regulations: small businesses.

(1) Existing law creates the Milton Marks “Little Hoover” Commission on California State Government Organization and Economy to assist the Legislature and the Governor in promoting economy, efficiency, and improved service in the transaction of public business in state government.

This bill would make legislative findings and declarations relating to regulatory policy based upon a study by the commission.

(2) The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The act requires every state agency subject to the act to submit, with the notice of the proposed adoption, amendment, or repeal of a regulation, an initial statement of reasons for proposing the adoption, amendment, or repeal of a regulation, which

is required to include, among other things, a description of any reasonable alternatives that would lessen any adverse impact on small business and the agency’s reasons for rejecting those reasonable alternatives.

This bill would clarify the nature of the reasonable alternatives an agency is required to include in its initial statement and would require an agency to include any reasonable alternative submitted by the public or the Office of the Small Business Advocate in the statement. This bill would require the initial statement to include an assessment of whether there are similar or related regulations adopted by another state regulatory entity and require the agency to coordinate with that entity to reduce regulatory burdens, as provided.

(3) Existing law requires various topics to be listed in the State Administrative Manual.

This bill would require the Department of General Services to provide in the State Administrative Manual guidance on procedures that facilitate the review of existing regulations and the implementation of new and modified regulations, as specified.

(4) Existing law creates the Office of Small Business Advocate to represent the views and interests of small businesses before state agencies.

This bill would clarify the nature of this function by requiring the advocate to comment on, and gather input from small businesses on, reasonable alternatives to proposed and existing regulations.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:
3 (1) Historically, California’s regulatory process has produced
4 meaningful benefits for Californians in consumer safety, food
5 security, worker protection, energy efficiency, and air and water
6 quality. Unfortunately, over time, California’s approach to
7 developing regulations has, according to the Milton Marks “Little
8 Hoover” Commission on California State Government Organization
9 and Economy, resulted in an uneven regulatory environment for
10 businesses that lacks coordination and the kind of thorough
11 oversight that ensures efficiency and accountability.

1 (2) The commission found, in October 2011, that the process
2 the state uses to develop regulations varies widely, particularly in
3 the use of economic analysis to determine what burden a proposed
4 regulation will have on an affected person or business. Further,
5 the commission found that the state has been reluctant to adopt
6 and use analytical tools employed in other states and at the federal
7 level. The state's current process has produced a regulatory
8 approach that can focus intensely on solving problems in a single
9 arena without taking into consideration the broader context or
10 consequences of the solution.

11 (3) The commission reported that it found, *among other things*,
12 examples of where regulatory procedural shortcomings resulted
13 in failed rulemaking efforts, the potential imposition of costly
14 conditions that could force painful tradeoffs, or regulations
15 undermined by an economic analysis that did not account for
16 real-time changes in the economy. The commission further found
17 that the current system, intended to ensure that regulating agencies
18 choose the least burdensome alternative, failed to meet that
19 objective.

20 (4) The commission recommended, among other things, that
21 the state establish an Office of Economic and Regulatory Analysis
22 that would reestablish the regulatory analysis function which once
23 existed in the now-defunct Trade and Commerce Agency. In
24 reestablishing this function, the state can learn from the example
25 of the United States Office of Information and Regulatory Affairs,
26 located in the White House's Office of Management and Budget.
27 The small cost associated with reestablishing this function would
28 be more than offset by reducing the costs of failed regulatory
29 processes, reducing lengthy methodological challenges, and
30 potentially improving confidence in the rulemaking process.

31 (b) The Legislature further finds and declares that having a
32 well-functioning economy that encourages innovation and new
33 business development is highly dependent on an effective and
34 efficient regulatory environment that addresses key public health,
35 safety, and environmental conditions. Wasteful government
36 practices that increase costs and result in project delays can threaten
37 the state's long-term economic growth.

38 SEC. 2. Section 11346.2 of the Government Code, as amended
39 by Section 2 of Chapter 496 of the Statutes of 2011, is amended
40 to read:

1 11346.2. Every agency subject to this chapter shall prepare,
2 submit to the office with the notice of the proposed action as
3 described in Section 11346.5, and make available to the public
4 upon request, all of the following:

5 (a) A copy of the express terms of the proposed regulation.

6 (1) The agency shall draft the regulation in plain, straightforward
7 language, avoiding technical terms as much as possible, and using
8 a coherent and easily readable style. The agency shall draft the
9 regulation in plain English.

10 (2) The agency shall include a notation following the express
11 terms of each California Code of Regulations section, listing the
12 specific statutes or other provisions of law authorizing the adoption
13 of the regulation and listing the specific statutes or other provisions
14 of law being implemented, interpreted, or made specific by that
15 section in the California Code of Regulations.

16 (3) The agency shall use underline or italics to indicate additions
17 to, and strikeout to indicate deletions from, the California Code
18 of Regulations.

19 (b) An initial statement of reasons for proposing the adoption,
20 amendment, or repeal of a regulation. This statement of reasons
21 shall include, but not be limited to, all of the following:

22 (1) A statement of the specific purpose of each adoption,
23 amendment, or repeal, the problem the agency intends to address,
24 and the rationale for the determination by the agency that each
25 adoption, amendment, or repeal is reasonably necessary to carry
26 out the purpose and address the problem for which it is proposed.
27 The statement shall enumerate the benefits anticipated from the
28 regulatory action, including the benefits or goals provided in the
29 authorizing statute. The benefits may include, to the extent
30 applicable, nonmonetary benefits such as the protection of public
31 health and safety, worker safety, or the environment, the prevention
32 of discrimination, the promotion of fairness or social equity, and
33 the increase in openness and transparency in business and
34 government, among other things.

35 (2) For a major regulation proposed on or after January 1, 2013,
36 the standardized regulatory impact analysis required by Section
37 11346.3.

38 (3) An identification of each technical, theoretical, and empirical
39 study, report, or similar document, if any, upon which the agency

1 relies in proposing the adoption, amendment, or repeal of a
2 regulation.

3 (4) Where the adoption or amendment of a regulation would
4 mandate the use of specific technologies or equipment, a statement
5 of the reasons why the agency believes these mandates or
6 prescriptive standards are required.

7 (5) (A) A description of reasonable alternatives to the regulation
8 and the agency's reasons for rejecting those alternatives.
9 Reasonable alternatives to be considered include, but are not
10 limited to, alternatives that are proposed as less burdensome and
11 equally effective in achieving the purposes of the regulation in a
12 manner that ensures full compliance with the authorizing statute
13 or other law being implemented or made specific by the proposed
14 regulation. In the case of a regulation that would mandate the use
15 of specific technologies or equipment or prescribe specific actions
16 or procedures, the imposition of performance standards shall be
17 considered as an alternative.

18 (B) A description of reasonable alternatives to the regulation
19 that would lessen any adverse impact on small business and the
20 agency's reasons for rejecting those alternatives. Alternatives
21 include, but are not limited to, phasing of implementation to take
22 into account the compliance capacity and resources of small
23 business, performance standards to provide compliance flexibility
24 for small business, simplification of reporting and compliance
25 standards, differing requirements for small and large businesses,
26 and partial or total exemptions based on the firm's actual degree
27 of activity within the regulated activity.

28 (C) Notwithstanding subparagraph (A) or (B), an agency is not
29 required to artificially construct alternatives. The agency shall list
30 any alternative that was submitted to the agency by the public and
31 the Office of the Small Business Advocate and determined to be
32 unreasonable.

33 (6) Facts, evidence, documents, testimony, or other evidence
34 on which the agency relies to support an initial determination that
35 the action will not have a significant adverse economic impact on
36 business.

37 (7) A department, board, or commission within the
38 Environmental Protection Agency, the Natural Resources Agency,
39 or the Office of the State Fire Marshal shall describe its efforts, in
40 connection with a proposed rulemaking action, to avoid

1 unnecessary duplication or conflicts with federal regulations
2 contained in the Code of Federal Regulations addressing the same
3 issues. These agencies may adopt regulations different from federal
4 regulations contained in the Code of Federal Regulations
5 addressing the same issues upon a finding of one or more of the
6 following justifications:

7 (A) The differing state regulations are authorized by law.

8 (B) The cost of differing state regulations is justified by the
9 benefit to human health, public safety, public welfare, or the
10 environment.

11 (8) Each state agency shall assess whether there is a similar or
12 related regulation that has been adopted by another state regulatory
13 entity and determine whether there are opportunities to coordinate
14 and harmonize compliance activities in order to reduce the cost
15 and regulatory burden on firms and individuals.

16 (c) A state agency that adopts or amends a regulation mandated
17 by federal law or regulations, the provisions of which are identical
18 to a previously adopted or amended federal regulation, shall be
19 deemed to have complied with subdivision (b) if a statement to
20 the effect that a federally mandated regulation or amendment to a
21 regulation is being proposed, together with a citation to where an
22 explanation of the provisions of the regulation can be found, is
23 included in the notice of proposed adoption or amendment prepared
24 pursuant to Section 11346.5. However, the agency shall comply
25 fully with this chapter with respect to any provisions in the
26 regulation that the agency proposes to adopt or amend that are
27 different from the corresponding provisions of the federal
28 regulation.

29 (d) This section shall become operative on January 1, 2012.

30 (e) This section shall remain in effect only until January 1, 2014,
31 and as of that date is repealed, unless a later enacted statute, that
32 is enacted before January 1, 2014, deletes or extends that date.

33 SEC. 3. Section 11346.2 of the Government Code, as amended
34 by Section 3 of Chapter 496 of the Statutes of 2011, is amended
35 to read:

36 11346.2. Every agency subject to this chapter shall prepare,
37 submit to the office with the notice of the proposed action as
38 described in Section 11346.5, and make available to the public
39 upon request, all of the following:

40 (a) A copy of the express terms of the proposed regulation.

1 (1) The agency shall draft the regulation in plain, straightforward
2 language, avoiding technical terms as much as possible, and using
3 a coherent and easily readable style. The agency shall draft the
4 regulation in plain English.

5 (2) The agency shall include a notation following the express
6 terms of each California Code of Regulations section, listing the
7 specific statutes or other provisions of law authorizing the adoption
8 of the regulation and listing the specific statutes or other provisions
9 of law being implemented, interpreted, or made specific by that
10 section in the California Code of Regulations.

11 (3) The agency shall use underline or italics to indicate additions
12 to, and strikeout to indicate deletions from, the California Code
13 of Regulations.

14 (b) An initial statement of reasons for proposing the adoption,
15 amendment, or repeal of a regulation. This statement of reasons
16 shall include, but not be limited to, all of the following:

17 (1) A statement of the specific purpose of each adoption,
18 amendment, or repeal, the problem the agency intends to address,
19 and the rationale for the determination by the agency that each
20 adoption, amendment, or repeal is reasonably necessary to carry
21 out the purpose and address the problem for which it is proposed.
22 The statement shall enumerate the benefits anticipated from the
23 regulatory action, including the benefits or goals provided in the
24 authorizing statute. These benefits may include, to the extent
25 applicable, nonmonetary benefits such as the protection of public
26 health and safety, worker safety, or the environment, the prevention
27 of discrimination, the promotion of fairness or social equity, and
28 the increase in openness and transparency in business and
29 government, among other things. Where the adoption or
30 amendment of a regulation would mandate the use of specific
31 technologies or equipment, a statement of the reasons why the
32 agency believes these mandates or prescriptive standards are
33 required.

34 (2) For a major regulation proposed on or after November 1,
35 2013, the standardized regulatory impact analysis required by
36 Section 11346.3.

37 (3) An identification of each technical, theoretical, and empirical
38 study, report, or similar document, if any, upon which the agency
39 relies in proposing the adoption, amendment, or repeal of a
40 regulation.

1 (4) (A) A description of reasonable alternatives to the regulation
2 and the agency’s reasons for rejecting those alternatives.
3 Reasonable alternatives to be considered include, but are not
4 limited to, alternatives that are proposed as less burdensome and
5 equally effective in achieving the purposes of the regulation in a
6 manner that ensures full compliance with the authorizing statute
7 or other law being implemented or made specific by the proposed
8 regulation. In the case of a regulation that would mandate the use
9 of specific technologies or equipment or prescribe specific actions
10 or procedures, the imposition of performance standards shall be
11 considered as an alternative.

12 (B) A description of reasonable alternatives to the regulation
13 that would lessen any adverse impact on small business and the
14 agency’s reasons for rejecting those alternatives. Alternatives
15 include, but are not limited to, phasing of implementation to take
16 into account the compliance capacity and resources of small
17 business, performance standards to provide compliance flexibility
18 for small business, simplification of reporting and compliance
19 standards, differing requirements for small and large businesses,
20 and partial or total exemptions based on the firm’s actual degree
21 of activity within the regulated activity.

22 (C) Notwithstanding subparagraph (A) or (B), an agency is not
23 required to artificially construct alternatives. The agency shall list
24 any alternative that was submitted to the agency by the public and
25 the Office of the Small Business Advocate and determined to be
26 unreasonable.

27 (5) Facts, evidence, documents, testimony, or other evidence
28 on which the agency relies to support an initial determination that
29 the action will not have a significant adverse economic impact on
30 business.

31 (6) A department, board, or commission within the
32 Environmental Protection Agency, the Natural Resources Agency,
33 or the Office of the State Fire Marshal shall describe its efforts, in
34 connection with a proposed rulemaking action, to avoid
35 unnecessary duplication or conflicts with federal regulations
36 contained in the Code of Federal Regulations addressing the same
37 issues. These agencies may adopt regulations different from federal
38 regulations contained in the Code of Federal Regulations
39 addressing the same issues upon a finding of one or more of the
40 following justifications:

1 (A) The differing state regulations are authorized by law.

2 (B) The cost of differing state regulations is justified by the
3 benefit to human health, public safety, public welfare, or the
4 environment.

5 (7) Each state agency shall assess whether there is a similar or
6 related regulation that has been adopted by another state regulatory
7 entity and determine whether there are opportunities to coordinate
8 and harmonize compliance activities in order to reduce the cost
9 and regulatory burden on firms and individuals.

10 (c) A state agency that adopts or amends a regulation mandated
11 by federal law or regulations, the provisions of which are identical
12 to a previously adopted or amended federal regulation, shall be
13 deemed to have complied with subdivision (b) if a statement to
14 the effect that a federally mandated regulation or amendment to a
15 regulation is being proposed, together with a citation to where an
16 explanation of the provisions of the regulation can be found, is
17 included in the notice of proposed adoption or amendment prepared
18 pursuant to Section 11346.5. However, the agency shall comply
19 fully with this chapter with respect to any provisions in the
20 regulation that the agency proposes to adopt or amend that are
21 different from the corresponding provisions of the federal
22 regulation.

23 (d) This section shall be inoperative from January 1, 2012, until
24 January 1, 2014.

25 SEC. 4. Section 11346.23 is added to the Government Code,
26 to read:

27 11346.23. The Department of General Services shall provide
28 in the State Administrative Manual guidance on procedures that
29 do both of the following:

30 (a) Facilitate the periodic review of existing significant
31 regulations to determine whether a regulation has become, or parts
32 of the regulation have become, outmoded, ineffective, insufficient,
33 or excessively burdensome, and to modify, streamline, expand, or
34 repeal them in accordance with what has been learned. The intent
35 of providing guidance on such retrospective analyses is to ensure
36 that a regulation has not resulted in unintended consequences that
37 could create unexpected harm, that a new technology has emerged
38 making the existing regulation obsolete, or that a fundamental
39 change in the economy creates an unforeseen regulatory burden.

1 (b) Facilitate the orderly implementation of new and modified
 2 regulations, including, but not limited to, limiting the
 3 implementation date of new and modified regulations that require
 4 compliance by private firms to two standardized dates, except in
 5 circumstances where there is evidence that delaying
 6 implementation could result in significant harm to the public.

7 SEC. 5. Section 12098.3 of the Government Code is amended
 8 to read:

9 12098.3. (a) The Director of the Office of Small Business
 10 Advocate shall be appointed by, and shall serve at the pleasure of,
 11 the Governor.

12 (b) The Governor shall appoint the employees who are needed
 13 to accomplish the purposes of this article.

14 (c) The duties and functions of the advocate shall include all of
 15 the following:

16 (1) Serve as the principal advocate in the state on behalf of small
 17 businesses, including, but not limited to, advisory participation in
 18 the consideration of all legislation and administrative regulations
 19 that affect small businesses, and advocacy on state policy and
 20 programs related to small businesses on disaster preparedness and
 21 recovery including providing technical assistance.

22 (2) Represent the views and interests of small businesses before
 23 other state agencies whose policies and activities may affect small
 24 business, including, but not limited to, commenting on and
 25 gathering input from small businesses, and making suggestions
 26 on reasonable alternatives to proposed and existing regulations.

27 (3) Enlist the cooperation and assistance of public and private
 28 agencies, businesses, and other organizations in disseminating
 29 information about the programs and services provided by state
 30 government that are of benefit to small businesses, and information
 31 on how small businesses can participate in, or make use of, those
 32 programs and services.

33 (4) Consult with experts and authorities in the fields of small
 34 business investment, venture capital investment, and commercial
 35 banking and other comparable financial institutions involved in
 36 the financing of business, and with individuals with regulatory,
 37 legal, economic, or financial expertise, including members of the
 38 academic community, and individuals who generally represent the
 39 public interest.

1 (5) Seek the assistance and cooperation of all state agencies and
2 departments providing services to, or affecting, small business,
3 including the small business liaison designated pursuant to Section
4 14846, to ensure coordination of state efforts.

5 (6) Receive and respond to complaints from small businesses
6 concerning the actions of state agencies and the operative effects
7 of state laws and regulations adversely affecting those businesses.

8 (7) Counsel small businesses on how to resolve questions and
9 problems concerning the relationship of small business to state
10 government.

11 (8) Maintain, publicize, and distribute an annual list of persons
12 serving as small business ombudsmen throughout state government.

13 (9) Consult with the Department of Transportation in the
14 development and administration of the Small and Emerging
15 Contractor Technical Assistance Program established pursuant to
16 Article 2.6 (commencing with Section 14137) of Chapter 2 of Part
17 5.

O

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
SB 1327**

Subject: State government: business information:
Internet Web site

Author: Cannella

Version: Introduced

Sponsor: Author

Summary

Current Law:

Existing law requires a business to obtain various licenses from regulatory agencies.

Proposed Law:

This bill requires the Governor to establish a website to assist individuals with the licensing requirements necessary to start a business. It requires state agencies that have licensing authority to provide accurate updated information about their licensing requirements. It also authorizes a reasonable fee to be charged for using the site.

Analysis

SB 1327 is currently on the Senate Appropriations Committee's (Committee) suspense file. The suspense file (Suspense) is where bills that have a fiscal impact exceeding a certain threshold, currently \$50,000, are placed to await a final Committee vote. The purpose is to allow the Committee to consider all significant cost bills at the same time to properly judge the fiscal impact to the state.

This bill is very similar to AB 991 of 2011 which also required a centralized licensing website to be created. While SB 1327 will be paid for by the users of the site, AB 991 would have been funded by the various state agencies, including the CBA. The CBA took an oppose position on AB 991 at its March 2011 meeting.

Staff were informed by the author's office that this bill is intended for business licensing information and not occupational licensing. Staff suggested that this was unclear in the language of the bill. The author's office indicated that if the bill were to move off of Suspense, they would make a clarifying amendment.

Fiscal Estimate

As this bill is not intended to apply to occupational licenses, it will have no fiscal impact on the CBA.

Support/Opposition

There is currently no registered support or opposition.

Effective/Operative Date

This bill would become effective on January 1, 2013. However, as the website would need to be setup, it is not clear when an agency would need to provide the required licensing information.

Related Bills

AB 991 (Olsen) of 2011- Failed to pass out of Assembly Appropriations Suspense File

SB 1327

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This bill would have created the California Licensing and Permit Center as a website to assist the public with licensing, permitting and registration requirements. It would have required state agencies to provide current information for the website and required them to pay a proportional share of the costs of the website. The CBA took an oppose position on AB 991 at its March 2011 meeting.

Recommendation

Although the cost to the CBA is no longer in this bill, in order to be consistent with its position on AB 991 from last year, the CBA may wish to take an Oppose position on SB 1327. However, as staff has been informed that this bill, if it continues, will be amended to exclude occupational licenses, the CBA may wish to take a position of Watch on SB 1327 that would change to an Oppose if the bill passes the Senate Appropriations Committee without that amendment.

Attachment

SB 1327

Introduced by Senator Cannella

(Coauthors: Senators Berryhill, Dutton, Harman, and La Malfa)

(Coauthors: Assembly Members Alejo, Jeffries, Portantino, and Silva)

February 23, 2012

An act to add Section 12019.5 to the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1327, as introduced, Cannella. State government: business information: Internet Web site.

Existing law requires a business to obtain various licenses from regulatory agencies. Existing law requires state agencies to take specified actions, including, but not limited to, designating a small business liaison, to assist small businesses to achieve compliance with statutory and regulatory requirements.

This bill would require the Governor to establish an Internet Web site to assist an individual with the licensing, permitting, and registration requirements necessary to start a business. The bill would require a state agency that the Governor determines has licensing authority to provide accurate updated information about its licensing requirements, and would prohibit a state agency from using this Internet Web site as the exclusive source of licensing information for the public. The bill would also authorize the Governor to impose a reasonable fee upon users of the Internet Web site.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 12019.5 is added to the Government
2 Code, to read:

3 12019.5. (a) The Governor, or his or her designee, shall
4 establish an Internet Web site to provide an individual with all of
5 the necessary information on how to start a business in this state.
6 The Internet Web site shall contain information on the licensing,
7 permitting, and registration requirements of state agencies, and
8 shall include, but not be limited to, information that does all of the
9 following:

10 (1) Assists individuals with identifying the type of applications,
11 forms, or other similar documents an applicant may need.

12 (2) Provides a digital copy of all state applications, forms, or
13 other similar documents available for download.

14 (3) Instructs individuals on how and where to submit
15 applications, forms, or other similar documents.

16 (b) The Governor shall ensure that the Internet Web site is user
17 friendly and provides accurate, updated information.

18 (c) (1) Each state agency that the Governor determines has
19 licensing authority shall provide accurate updated information
20 about its licensing requirements.

21 (2) A state agency shall not use the Internet Web site established
22 under this section as the exclusive source of information for the
23 public to access licensing requirements for that agency.

24 (d) The Governor, or his or her designee, may impose a
25 reasonable fee as a condition of accessing information on the
26 Internet Web site established under subdivision (a).

O

**CALIFORNIA BOARD OF ACCOUNTANCY
LEGISLATIVE ANALYSIS
SB 1405**

Subject: Accountancy: military service: inactive status

Author: De León

Version: 4/10/12

Sponsor: CalCPA & Accountants' Coalition

Summary

Current Law:

Existing law authorizes any Board or bureau within the Department of Consumer Affairs to establish, by regulation, a system for an inactive license category for persons not actively engaged in practice.

Existing law establishes renewal fees and other renewal requirements including continuing education and peer review requirements.

Proposed Law:

This bill, beginning January 1, 2014, would authorize a licensee to apply for a license in a military inactive status while he or she is engaged in active duty as a member of the California National Guard or the United States Armed Forces. It would exempt a licensee with that status from paying the biennial renewal fee or being subject to continuing education (CE) and peer review requirements. The bill would prohibit the holder of a license in a military inactive status from engaging in the practice of public accountancy. The bill would require the holder of a license in a military inactive status to pay the biennial renewal fee and meet CE and peer review requirements within a year after his or her discharge from active duty. It would also provide for conversion to active status prior to discharge from active duty.

Analysis

SB 1405 is authored by Senator Kevin De León and is currently on the Senate Floor for a vote of the full Senate. Staff originally brought this bill to the CBA's March 2012 meeting. The CBA did not take action at that time as the sponsors indicated that it was a spot bill. The CBA directed staff to work with the sponsors on amendments. On April 10, SB 1405 was amended to remove its existing language and replace it with the current language creating the military inactive status. This language was developed between staff and the sponsors.

This bill is similar in many ways to the newly created retired status. It creates a new inactive status for those serving in the military. It also provides relief from administrative requirements while the licensee is engaged in active military service and not engaged in the practice of public accountancy. As with retired status, regulations will need to be adopted to fully implement the program. It is because of the need for regulations that the implementation date is set for January 1, 2014.

Fiscal Estimate

Staff estimate that the number of individuals who would qualify for military inactive status would be less than 150 licensees. Each individual who applies for and is granted

SB 1405

Page 2 of 2

military inactive status would be exempt from paying the biennial renewal fee of \$120 which may increase to \$200 on July 1, 2015.

Support/Opposition

There is currently no registered support or opposition other than the sponsors.

Effective/Operative Date

By its own provisions, this bill would become effective on January 1, 2014.

Related Bills

AB 1588 (Atkins) of 2012- Requires all boards to waive renewal fees and continuing education (CE) for active duty California National Guard and military reservists. The licensee must have a license in good standing at the time they are called to active duty, and the reservist or spouse must provide satisfactory evidence of active duty service. The waiver only applies to the period of active duty service. At its March 2012 meeting, the CBA took a position of Support if Amended to remove the reference to CE.

While this bill is similar to SB 1405, AB 1588 only applies to active duty California National Guard and military reservists. Additionally, it does not create an inactive status, possibly making it more difficult to track who is exempt and making the information provided on the website less accurate. AB 1588 also allows the continuation of practice even though licensees may not be current on their CE.

Recommendation

Staff recommends that the CBA take a position of Support on SB 1405.

Attachment

SB 1405

AMENDED IN SENATE APRIL 10, 2012

SENATE BILL

No. 1405

Introduced by Senator De León

February 24, 2012

An act to add ~~Section 5135~~ *Sections 5058.4 and 5070.2* to the Business and Professions Code, relating to accountancy.

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, as amended, De León. Accountancy: ~~renewal exemption: military service: service: inactive status.~~

Existing law provides for the regulation of various professions and vocations by boards within the Department of Consumer Affairs and for the licensure of individuals in that regard. Existing law authorizes any licensee whose license expired while he or she was on active duty as a member of the California National Guard or the United States Armed Forces to reinstate his or her license without examination or penalty if certain requirements are met. Existing law provides for the licensure and regulation of the practice of accountancy by the California Board of Accountancy. A permit issued to a certified public accountant or a public accountant is subject to a biennial renewal fee. *Existing law also imposes certain continuing education and peer review requirements on persons licensed by the board. Existing law makes violation of certain provisions governing accountants a crime.*

This bill, *beginning January 1, 2014*, would ~~instead provide a specific exemption from the biennial renewal fee for~~ *authorize* a certified public accountant or a public accountant *to apply to the board to have his or her permit placed in a military inactive status* while he or she is engaged in ~~full-time training or active military service~~ *active duty as a member of the California National Guard or the United States Armed Forces,*

and would exempt a person granted that status from paying the biennial renewal fee or participating in continuing education and peer review activities. The bill would prohibit the holder of an exempt permit a person in military exempt status from engaging in the practice of public accountancy and would impose various other requirements. The bill would thereby change the definition of a crime and impose a state-mandated local program. The bill would make the holder of an exempt permit liable for payment of require a person in military exempt status to pay the biennial renewal fee and to meet continuing education and peer review requirements within a specified period after his or her discharge from full-time training or active military service active duty.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 5135 is added to the Business and~~
- 2 ~~Professions Code, to read:~~
- 3 ~~5135. (a) Notwithstanding Section 114 or any other provision~~
- 4 ~~of law, the holder of a permit issued to a certified public accountant~~
- 5 ~~or a public accountant shall be exempt from the biennial renewal~~
- 6 ~~fee described in Section 5134 while the permitholder is engaged~~
- 7 ~~in full-time training or active service in the United States Army,~~
- 8 ~~Navy, Air Force, or Marine Corps.~~
- 9 ~~(b) The holder of a permit exempt from the biennial renewal~~
- 10 ~~fee pursuant to subdivision (a) shall not engage in the practice of~~
- 11 ~~public accountancy.~~
- 12 ~~(c) An exempt permitholder shall become liable for payment~~
- 13 ~~of the biennial renewal fee upon his or her discharge from full-time~~
- 14 ~~training or active service and shall have 60 days after his or her~~
- 15 ~~discharge date to pay the biennial renewal fee before the~~
- 16 ~~delinquency fee is required. Any person who is discharged from~~
- 17 ~~full-time training or active service within 60 days of the end of a~~

1 renewal period is exempt from the payment of the renewal fee for
2 that period.

3 ~~(d) The time spent in full-time training or active service shall~~
4 ~~not be included in the computation of the five-year period for~~
5 ~~renewal or reinstatement of licensure as provided in Sections~~
6 ~~5070.6 and 5070.7.~~

7 *SECTION 1. Section 5058.4 is added to the Business and*
8 *Professions Code, to read:*

9 *5058.4. The holder of a permit in a military inactive status*
10 *issued by the board pursuant to Section 5070.2, when lawfully*
11 *using the title “certified public accountant,” the CPA designation,*
12 *or any other reference that would suggest that the person is*
13 *licensed by the board, on materials such as correspondence,*
14 *Internet Web sites, business cards, nameplates, or name plaques,*
15 *shall place the term “military inactive” immediately after that*
16 *title, designation, or reference.*

17 *SEC. 2. Section 5070.2 is added to the Business and Professions*
18 *Code, to read:*

19 *5070.2. (a) (1) Beginning January 1, 2014, a holder of a*
20 *permit may apply to have his or her permit placed in a military*
21 *inactive status if the holder of a permit is engaged in, and provides*
22 *sufficient evidence of, active duty as a member of the California*
23 *National Guard or the United States Armed Forces.*

24 *(2) The board shall deny an applicant’s application for a*
25 *military inactive status permit if the permit issued pursuant to*
26 *Section 5070 is canceled or if it is suspended, revoked, or otherwise*
27 *punitively restricted by the board or subject to disciplinary action*
28 *under this chapter.*

29 *(b) No holder of a permit in a military inactive status shall*
30 *engage in any activity for which a permit is required.*

31 *(c) The holder of a permit in a military inactive status shall be*
32 *exempt from all of the following:*

33 *(1) Payment of the biennial renewal fee described in subdivision*
34 *(f) of Section 5134.*

35 *(2) The continuing education requirements of Section 5027.*

36 *(3) The peer review requirements of Section 5076.*

37 *(d) In order to convert a permit status from military inactive*
38 *status prior to discharge from active duty as a member of the*
39 *California National Guard or the United States Armed Forces,*

1 *the holder of a permit in a military inactive status shall comply*
2 *with all of the following requirements:*

3 *(1) Pay the current biennial renewal fee described in subdivision*
4 *(f) of Section 5134.*

5 *(2) Meet continuing education requirements as prescribed by*
6 *the board.*

7 *(3) Meet the peer review requirements as prescribed by the*
8 *board.*

9 *(e) The holder of a permit in a military inactive status shall,*
10 *within one year from his or her discharge from active duty as a*
11 *member of the California National Guard or the United States*
12 *Armed Forces, comply with all of the following requirements:*

13 *(1) Provide evidence to the board of the discharge date.*

14 *(2) Pay the current biennial renewal fee described in subdivision*
15 *(f) of Section 5134.*

16 *(3) Meet continuing education requirements as prescribed by*
17 *the board.*

18 *(4) Meet the peer review requirements as prescribed by the*
19 *board.*

20 *(f) The board may adopt regulations as necessary to administer*
21 *this section.*

22 *SEC. 3. No reimbursement is required by this act pursuant to*
23 *Section 6 of Article XIII B of the California Constitution because*
24 *the only costs that may be incurred by a local agency or school*
25 *district will be incurred because this act creates a new crime or*
26 *infraction, eliminates a crime or infraction, or changes the penalty*
27 *for a crime or infraction, within the meaning of Section 17556 of*
28 *the Government Code, or changes the definition of a crime within*
29 *the meaning of Section 6 of Article XIII B of the California*
30 *Constitution.*

**DEPARTMENT OF CONSUMER AFFAIRS**

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CPC Item II
May 24, 2012

CBA Item VIII.C.2
May 24-25, 2012

Discussion on Initiating a Rulemaking to Amend Title 16, California Code of Regulations sections 80, 80.1, 80.2, 81, 87, 87.1, 87.8, 87.9, 88, 88.1, 88.2, and 89

Presented by: Dominic Franzella, Licensing Division Chief

Date: May 1, 2012

Purpose of the Item

The purpose of this agenda item is to provide the California Board of Accountancy (CBA) with proposed regulatory language to modify the requirements for continuing education (CE).

Action(s) Needed

The CBA is being asked to consider a series of proposed changes to the CBA Regulations regarding CE and determine whether to direct staff to initiate the rulemaking process.

Background

The American Institute of Certified Public Accountants (AICPA) and National Association of State Boards of Accountancy (NASBA) issue a joint *Statement on Standards for Continuing Professional Education (CPE) Programs (Standards)* (**Attachment 1**), which is a national benchmark for the development of all accounting-related CE programs. The *Standards* were last revised in 2002. At the September 2011 CBA meeting, staff provided a summary of key changes to the *Standards* as proposed in an exposure draft released in August 2011. The revised *Standards* were published in January 2012 with an effective date of July 1, 2012 for CE programs under development and March 1, 2012 for CE programs in existence as of December 31, 2011.

California is unique from most other states in that, rather than pre-approve CE providers or programs, the CBA requires licensees to select appropriate programs from CE providers that conform to the minimum program requirements outlined in Article 12 of the CBA Regulations. The only exception is the two-hour Board-approved Regulatory Review course that licensees are required to complete once every six years. Although many of the CE program requirements outlined in Article 12 of the CBA Regulations mirror the *Standards*, the CBA maintains independence in the establishment of minimum program requirements for acceptable CE in California.

Comments

Staff reviewed the *Standards* in comparison to the present CE program requirements outlined in Sections 88, 88.1, and 88.2 of the CBA Regulations, paying particular attention to the areas highlighted at the September 2011 CBA meeting, as minimal changes were made from the exposure draft to the final *Standards*. Staff also took this opportunity to review all of Article 12 to assess whether additional changes should be made, especially those toward improving the clarity of the regulations. Staff are proposing regulatory amendments (**Attachment 2**) that would achieve the following three objectives:

- Align the CBA Regulations with some of the new national standards
- Specify the CE requirements for CPAs renewing an expired license
- Improve the overall clarity of Article 12

Upon review of the final *Standards*, staff identified five standards that, while having a comparable requirement in CBA Regulations, do not appear to warrant a regulatory amendment. Of the several standards brought to the September 2011 CBA meeting, staff identified seven as warranting an amendment to the CBA Regulations. The rationale for each proposed amendment is detailed in the attached draft regulatory language. The relevant standards and corresponding page number in the *Standards* are outlined below.

Amendment Proposed

- Standard No. 5 on page 5
- Standard No. 7 (S7-01) on page 6
- Standard No. 8 (S8-04) on page 6
- Standard No. 8 (S8-06) on page 7
- Standard No. 13 (S13-04) on page 9
- Standard No. 13 (S13-03) on page 9
- Standard No. 14 on pages 10-11

No Amendment Proposed

- Standard No. 8 (S8-03) on page 6
- Standard No. 13 on page 9
- Standard No. 15 (S15-01) on page 11
- Standard No. 16 (S16-01) on page 12
- Standard No. 19 on page 13

While reviewing Article 12, one area of the regulations staff identified as needing increased clarity was the expired license renewal requirements for new licensees and licensees who underwent a license status conversion during the renewal period. On January 1, 2010, the CBA implemented a requirement that licensees renewing an expired license complete CE within the two-year period immediately preceding the date on which the licensee applies for license renewal. One purpose of this requirement was to ensure a licensee's currency of knowledge at the time of license renewal as previously there was no legal prohibition against a licensee claiming credit for coursework completed up to five years prior to license renewal. Staff have discovered that this requirement as presently written is not applied equally across all expired license situations.

Discussion on Initiating a Rulemaking to Amend Title 16, California Code of Regulations sections 80, 80.1, 80.2, 81, 87, 87.1, 87.8, 87.9, 88, 88.1, 88.2, and 89
Page 3 of 3

In addition to the proposed amendments resulting from the revised *Standards* and the need to specify the CE requirements for renewing an expired license, staff are proposing several amendments that will improve the overall clarity of Article 12. The attached draft regulatory language is presented in strikeout and underline format with commentary explaining the catalyst and staff's rationale for recommending each amendment. A matrix of the affected regulatory sections is provided in **Attachment 3**.

Recommendation

Staff recommend that the CBA approve the draft regulations, including any necessary revisions, and direct staff to initiate the rulemaking process.

Attachments

1. *Statement on Standards for Continuing Professional Education (CPE) Programs*
2. Draft of proposed changes to Article 12 of the CBA Regulations.
3. Matrix of affected regulatory sections.

**DEPARTMENT OF CONSUMER AFFAIRS**

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**Attachment 1****CBA Regulations****§ 75.8. Security for Claims Against an Accountancy Corporation.**

- a) An accountancy corporation shall provide and maintain adequate security for claims against it by its clients arising out of the rendering of or failure to render professional services. Security for such claims shall consist of either of the following:
- (1) Insurance for each claim in an amount equal to at least \$100,000 per licensee, provided that the maximum amount for each claim shall not be required to exceed \$1,000,000, and that the minimum amount guaranteed for all claims during any one calendar year shall be at least an amount equal to \$250,000 per licensee, provided that the maximum amount shall not be required to exceed \$3,000,000; or
 - (2) A written agreement of the shareholders that they shall jointly and severally guarantee payment by the corporation of liabilities to its clients arising out of the rendering of a failure to render professional services.
- (b) In the event of failure to comply with the requirements of this section, each and every shareholder of the corporation shall be deemed to have agreed to be jointly and severally liable for claims against the corporation by its clients arising out of the rendering of, or failure to render, professional services.

NOTE: Authority cited: Sections 5010 and 5157, Business and Professions Code.
Reference: Section 5157, Business and Professions Code.



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Attachment 2

CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocational Regulations
DIVISION 1. Board of Accountancy Regulations

ARTICLE 12- CONTINUING EDUCATION RULES

§ 80. Inactive License Status.

(a) Upon application, a licensee may have his/her license placed in an inactive status.

(b) The holder of a license in an inactive status shall not engage in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code. This section does not prohibit a holder of a license in an inactive status from receiving a share of the net profits from a public accounting firm or other compensation from a public accounting firm, provided that the licensee does not otherwise engage in the practice of public accountancy.

(c) A license in an inactive status shall be renewed during the same time period in which a license in an active status is renewed. The renewal fee for a license in an inactive status shall be the same as the renewal fee for a license in an active status.

(d) The continuing education requirements described in Section 87 are not applicable at the time of renewal for a licensee renewing a license in an inactive status.

(e) At the time of renewal, the holder of a license in an inactive status may convert his/her license to an active status by paying the renewal fee and complying with the continuing education requirements as described in Section 87, with the exception of Section 87(a)(1). A minimum of 20 hours of continuing education shall be completed in the one-year period immediately preceding the time of renewal, 12 hours of which must be in technical subject areas described in ~~Section 88(a)(1)~~ 87(a)(2).

(f) The holder of a license in an inactive status may convert to an active status prior to the next renewal by meeting the continuing education requirements as described in Section ~~87.1~~ 80.1.

NOTE: Authority cited: Sections 462 and 5010, Business and Professions Code.

Reference: Section 462, Business and Professions Code.

Commentary

The amendments to this section would; clarify that the requirement outlined in Section 87(a)(1), the minimum yearly continuing education (CE) requirement, does not apply to licensees renewing a license from an inactive to an active status; correct paragraph numbering errors; and adjust section references due to other proposed amendments. The purpose for not requiring a licensee in this situation to meet Section 87(a)(1) is to allow licensees the flexibility to return to the practice of public accountancy at any time they so choose. By virtue of the pre-planning that is necessary to meet the requirement in Section 87(a)(1) this flexibility would be lost.

§80.1 Conversion to Active Status Prior to Renewal.

(a) A licensee who has renewed his/her license in an inactive status may convert the license to an active status prior to the next license expiration date by performing the following:

(1) Within the 24-month period prior to converting to an active status, complete 80 hours of continuing education credit as described in Section 88 87(a)(2) and (a)(3), including the Ethics Continuing Education Requirement described in Section 87(b). A minimum of 20 hours shall be completed in the one-year period immediately preceding conversion to an active status, with a minimum of 12 hours of the 20 required hours in technical subject areas described in Section 87(a)(2);

(2) complete the regulatory review course described in Section 87.8 if more than six years have elapsed since the licensee last completed the course;

(3) apply to the Board in writing requesting to convert the license to an active status; and

(4) complete any continuing education that is required pursuant to subsection (k) of Section 89.

(b) A licensee with a license in an inactive status may not practice public accountancy until the Board approves the application for conversion of the license to an active status.

(c) A licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code during the 24 months prior to converting his/her license to an active status, planned, directed, or conducted substantial portions of field work, or reported on financial or compliance audits of a governmental agency shall complete 24 hours of continuing education in governmental auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

(d) A licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code during the 24 months prior to converting his/her license to an active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(d) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a).

(e) A licensee who must complete continuing education pursuant to subsections (c) and/or (d) shall also complete an additional four hours of continuing education specifically related to the detection and/or reporting of fraud in financial statements as described in Section 87(e). This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c) or (d).

NOTE: Authority cited: Sections 462, 5010, and 5027 Business and Professions Code. Reference: Section 462, 5027, and 5028, Business and Professions Code.

Commentary

This amendment will renumber Section 87.1 to 80.1, placing the requirements for converting a license from an inactive to an active status prior to the license expiration date in a more logical location within Article 12.

§ 80.2. Continuing Education Requirements Following Conversion to Active Status During the Renewal Period.

(a) All continuing education required by this section must be completed on or after the date of conversion to active status.

(b) Once a license is converted to an active status, the licensee must complete 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license status conversion to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of license status conversion and the next license expiration date is less than six full months, no continuing education is required for license renewal.

(c) Once a license is converted to an active status, a licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in financial or compliance auditing of a governmental agency at any time between the date of license status conversion and the next license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

(d) Once a license is converted to an active status, a licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in audit, review, compilation, or attestation services at any time between the date the initial license was issued and the first license expiration date shall complete six hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(d).

(e) If a license expires as defined in Section 81(b)(2) after the expiration date immediately following conversion to active status, the licensee must complete an additional 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours of continuing education in order to renew. If the time period between the date the license expired and the date on which the licensee applies for license renewal is less than six full months, no additional continuing education is required for license renewal.

(1) All continuing education required by this section shall be completed in the two-year period immediately preceding the date on which the licensee applies for license renewal. If the date the licensee applies for license renewal is less than two years from

the date of license status conversion, all continuing education must be completed on or after the date of license status conversion.

(2) A licensee who is required to complete a total of 80 hours of continuing education pursuant this subsection shall also complete, as a part of the 80 hours, the following:

(A) Four hours of ethics education pursuant to Section 87(b).

(B) If the licensee is subject to the continuing education requirements of subsection (c) or (d), four hours of continuing education specifically related to the detection and/or reporting of fraud in financial statements. This continuing education shall not be part of the continuing education required by subsection (c) or (d).

(f) Failure to Comply.

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

NOTE: Authority cited: Sections 462, 5010, and 5027, Business and Professions Code. Reference: Sections 462, 5027, and 5028, Business and Professions Code.

Commentary

This new section would outline the CE requirements for renewing a license in an active status following a license status conversion (previously located in Section 87.1) and address the CE requirements for renewing an expired license following a license status conversion.

Section 81 of the CBA Regulations (renewing an expired license) requires a licensee renewing an expired license to adhere to the basic requirements described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for license renewal. As noted in the attached memorandum, one purpose of this requirement was to ensure a licensee's currency of knowledge at the time of renewal as previously there was no legal prohibition against a licensee claiming credit for coursework completed up to five years prior to license renewal. Since the implementation of this requirement, staff have discovered what appears to be an unintended consequence of Section 81.

The CE requirement for renewing a license in an active status following a license status conversion is based on the number of months between the date of license status conversion and the date the license expires – 20 hours for each full six-month period. Therefore, the CE requirement, if the license renewal application is submitted timely, could range anywhere from 0 to 60 hours. As the regulation stands, a licensee renewing even one day after the license expiration date can go from having a 0, 20, 40, or 60-hour CE requirement to having a full 80-hour CE requirement. This seems to be an overly punitive consequence for renewing after the license expiration date, rather than a consumer protection measure to ensure the currency of the licensee's knowledge.

Staff propose that for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, the licensee should be required to complete an additional 20 hours of continuing education, up to a total of

80 hours. This would remedy the punitive nature of the existing requirement while also ensuring the licensee's currency of knowledge.

Example of Existing Requirements:

A licensee completes 80 hours of CE and undergoes a license status conversion on January 1, 2012. The license expires on February 28, 2012. If the license renewal application is submitted on or before the license expiration date the licensee is not required to complete any CE. If the license renewal application is submitted on August 31, 2012, the licensee is now required to complete 80 hours of CE because the license renewal application was submitted six months after the license expiration date.

Example of Proposed Requirements:

A licensee completes 80 hours of CE and undergoes a license status conversion on January 1, 2012. The license expires on February 28, 2012. If the license renewal application is submitted on or before the license expiration date the licensee is not required to complete any CE. If the license renewal application is submitted on August 31, 2012, the licensee is now required to complete 20 hours of CE because the license renewal application was submitted six months after the license expiration date.

§ 81. Continuing Education Requirements for Renewing an Expired License.

(a) As a condition for renewing a license in an active status, a licensee renewing an expired license shall adhere to the basic requirements described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for license renewal. No carryover of continuing education is permitted from one license renewal period to another.

(b) For the purpose of this section, the following definitions shall apply:

(1) "~~Date of~~ on which the licensee applies for license renewal" shall mean the date the license application, including the applicable renewal and delinquency fee, is postmarked on the envelope.

(2) "Expired" license shall mean delinquent, lapsed, or a late renewal that is postmarked after the licensee's last or most recent license expiration date, up to five years.

NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.

Reference: Sections 5026, 5027, 5028 and 5051, Business and Professions Code.

Commentary

The amendments to the text of this section would improve clarity.

§ 87. Basic Requirements.

(a) 80 Hours. As a condition for renewing a license in an active status, a licensee shall complete at least 80 hours of ~~qualifying~~ continuing education ~~as described in Section 88~~ in the two-year period immediately preceding license expiration, and meet the reporting requirements described in Section 89(a). A licensee engaged in the practice of public

accountancy as defined in Section 5051 of the Business and Professions Code is required to hold a license in an active status. No carryover of continuing education is permitted from one license renewal period to another.

(1) A licensee renewing a license in an active status ~~after December 31, 2014~~, shall complete a minimum of 20 hours in each year of the two-year license renewal period, with a minimum of 12 hours of the required 20 hours in technical subject areas as described in ~~Section 88(a)(1)~~ subsection (a)(2).

(2) Licensees shall complete a minimum of 50 percent of the required continuing education hours in the following technical subject areas: accounting, auditing, fraud, taxation, consulting, financial planning, ethics as defined in subsection (b), regulatory review as defined in Section 87.8, computer and information technology (except for word processing), and specialized industry or government practices that focus primarily upon the maintenance and/or enhancement of the public accounting skills and knowledge needed to competently practice public accounting.

(3) Licensees may claim no more than 50 percent of the required number of continuing education hours in the following non-technical subject areas: communication skills, word processing, sales, marketing, motivational techniques, negotiation skills, office management, practice management, and personnel management.

(4) Programs in the following subject areas are not acceptable continuing education: personal growth, self-realization, spirituality, personal health and/or fitness, sports and recreation, foreign languages and cultures and other subjects which will not contribute directly to the professional competence of the licensee.

(b) Ethics Continuing Education Requirement

A licensee renewing a license in an active status ~~after December 31, 2009~~ shall complete four hours of the 80 hours of continuing education required pursuant to subsection (a) in an ethics course. The course subject matter specified pertaining to shall consist of one or more of the following areas: a review of nationally recognized codes of conduct emphasizing how the codes relate to professional responsibilities; case-based instruction focusing on real-life situational learning; ethical dilemmas facing the accounting profession; or business ethics, ethical sensitivity, and consumer expectations. Programs in the following subject areas are not acceptable toward meeting this requirement: sexual harassment, workplace harassment, or workplace violence. Courses must be a minimum of one hour as described in Section 88.2.

(c) Government Auditing Continuing Education Requirement.

A licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in planning, directing, conducting substantial portions of field work, or reporting on financial or compliance audits of a governmental agency shall complete 24 hours of the 80 hours required pursuant to subsection (a) in the areas of governmental accounting, auditing or related subjects. This continuing education shall be completed in the same two-year license renewal period as the report is issued. A governmental agency is defined as any department, office, commission, authority, board, government-owned corporation, or other independent establishment of any branch of federal, state or local government. Related subjects are those which maintain or enhance the licensee's knowledge of governmental operations, laws, regulations or reports; any special requirements of

governmental agencies; subjects related to the specific or unique environment in which the audited entity operates; and other auditing subjects which may be appropriate to government auditing engagements. A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (d).

(d) Accounting and Auditing Continuing Education Requirement.

A licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in planning, directing, performing substantial portions of the work, or reporting on an audit, review, compilation, or attestation service, shall complete 24 hours of the 80 hours of continuing education required pursuant to subsection (a) in the course subject matter pertaining to financial statement preparation and/or reporting (whether such statements are prepared on the basis of generally accepted accounting principles or other comprehensive bases of accounting), auditing, reviews, compilations, industry accounting, attestation services, or assurance services. This continuing education shall be completed in the same two-year license renewal period as the report is issued. If no report is issued because the financial statements are not intended for use by third parties, the continuing education shall be completed in the same two-year license renewal period as the financial statements are submitted to the client.

(e) A licensee who must complete continuing education pursuant to subsections (c) and/or (d) of this section shall also complete an additional ~~eight~~ four hours of continuing education specifically related to the detection and/or reporting of fraud in financial statements. This continuing education shall be part of the 80 hours of continuing education required by subsection (a), but shall not be part of the continuing education required by subsections (c) or (d).

~~(f) New Licensees.~~

~~(1) A licensee receiving an initial license shall be required to complete 20 hours of continuing education as described in Section 88, for each full six month interval in the initial license period as a condition of renewing a license in an active status.~~

~~(2) A licensee engaged in governmental auditing, as described in subsection (c), at any time during the initial license period shall complete six hours of governmental continuing education, as described in subsection (c), as part of each 20 hours of continuing education required for renewing the license in an active status. A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (f)(3).~~

~~(3) A licensee who provides audit, review, compilation, or attestation services, as described in subsection (d), at any time during the initial license period shall complete six hours of accounting and auditing continuing education, as described in subsection (d), as part of each 20 hours of continuing education required for renewing the license in an active status.~~

~~(4) If the initial license period is less than six full months, there is no continuing education required for renewing the license in an active status.~~

~~(g)~~(f) Failure to Comply.

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

NOTE: Authority cited: Sections 5010 and 5027, Business and Professions Code.
Reference: Sections 5026, 5027, 5028 and 5051, Business and Professions Code.

Commentary

Licensees renewing a license in an active status are required to complete a minimum of 50 percent of CE hours in technical subject matter and a maximum of 50 percent of CE hours in non-technical subject matter (50/50 requirement). This amendment would move the 50/50 requirement from Section 88 to a more logical location in Section 87, where all other basic CE requirements are outlined, and formally name the two subject area groups technical and non-technical.

Section 87(b) requires licensees complete four hours of ethics education to renew a license in an active status. Staff have found that many licensees are claiming ethics education credit for general workplace conduct courses. These courses are typically coded as behavioral ethics under the NASBA designated field of study. In addition to the workplace conduct courses, licensees are also claiming credit for state-specific ethics education courses. Staff have contacted other states to inquire about the content of these courses and often times a portion of these courses is dedicated to state-specific laws and rules similar to the CBA's Regulatory Review course. Staff do not believe these are the type of courses intended by Section 87(b) as they do not directly relate to the practice of public accountancy in California and do not enhance a licensee's knowledge of ethical accounting practices. This amendment would clearly exclude these types of courses from meeting the ethics education requirement.

The remaining amendments would remove the requirements for renewing a license following the initial licensing period (which are being proposed in a separate section), improve overall clarity, and adjust section references due to other proposed amendments.

~~§87.1 Conversion to Active Status Prior to Renewal.~~

~~(a) A licensee who has renewed his/her license in an inactive status may convert the license to an active status prior to the next license expiration date by (1) completing 80 hours of continuing education credit as described in Section 88, to include the Ethics Continuing Education Requirement described in Section 87(b), within the 24 month period prior to converting to active status, of which a minimum of 20 hours shall be completed in the one-year period immediately preceding conversion to an active status, with a minimum of 12 hours in subject areas described in subsection (a)(1) of Section 88; (2) completing the regulatory review course described in Section 87.8 if more than six years have elapsed since the licensee last completed the course; (3) applying to the Board in writing requesting to convert the license to an active status; and (4) completing any continuing education that is required pursuant to subsection (j) of Section 89. The licensee may not practice public accounting until the application for conversion of the license to an active status has been approved.~~

~~(b) A licensee who, during the 24 months prior to converting his/her license to an active status, planned, directed, or conducted substantial portions of field work, or reported on financial or compliance audits of a governmental agency shall complete 24 hours of continuing education in governmental accounting and auditing as described in Section 87(c) as part of the 80 hours of continuing education required to convert his/her license to an active status under subsection (a). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (c).~~

~~(c) A licensee who, during the 24 months prior to converting his/her license to an active status, planned, directed, or performed substantial portions of the work or reported on an audit, review, compilation, or attestation service shall complete 24 hours of continuing education in accounting and auditing as described in Section 87(d) as part of the 80 hours of continuing education required to his/her license to an active status under subsection (a).~~

~~(d) A licensee who must complete continuing education pursuant to subsections (b) and/or (c) of this section shall also complete an additional eight hours of continuing education specifically related to the detection and/or reporting of fraud in financial statements as described in Section 87(e). This continuing education shall be part of the 80 hours of continuing education required by subsection (a)(1), but shall not be part of the continuing education required by subsections (b) or (c).~~

~~(e) Once a license is converted to an active status, the licensee must complete 20 hours of continuing education as described in Section 88 for each full six month period from the date of license conversion to an active status to the next license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date of change to an active status and the next license expiration date is less than six full months, no additional continuing education is required for license renewal. All continuing education must be completed on or after the date of license status conversion.~~

~~(f) Once a license is converted to an active status, a licensee who engages in financial or compliance auditing of a governmental agency at any time between the date of license conversion to an active status and the next license expiration date shall complete six hours of governmental continuing education as part of each 20 hours of continuing education required under subsection (e). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (g). All continuing education must be completed on or after the date of license status conversion.~~

~~(g) Once a license is converted to an active status, a licensee who engages in audit, review, compilation, or attestation services at any time between the date of license conversion to an active status and the next license expiration date shall complete six hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (e). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(d). All continuing education must be completed on or after the date of license status conversion.~~

~~NOTE: Authority cited: Sections 5010 and 5027, Business and Professions Code.
Reference: Section 5028, Business and Professions Code.~~

Commentary

This amendment would repeal Section 87.1 and move the language regarding the requirements to convert a license from an inactive to an active status prior to the license expiration date, into a new section (Section 80.1) immediately following Section 80 regarding inactive license status. Additionally, the requirements for renewing a license in an active status following a license status conversion would be placed in a new section (Section 80.2) dedicated to those specific license renewal requirements. These amendments would increase the overall clarity of Article 12 by placing the requirements in a more logical location.

§ 87.1. Continuing Education Requirements for New Licensees.

(a) All continuing education must be completed on or after the date the initial license was issued.

(b) Once a license is issued, the licensee must complete 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date the initial license was issued to the first license expiration date in order to fulfill the continuing education requirement for license renewal. If the time period between the date the initial license was issued and the first license expiration date is less than six full months, no continuing education is required for license renewal.

(c) A licensee who is required to complete a total of 80 hours of continuing education pursuant to subsection (b) shall also complete four hours of ethics education pursuant to Section 87(b).

(d) Once a license is issued, a licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in financial or compliance auditing of a governmental agency at any time between the date the initial license was issued and the first license expiration date shall complete six hours of governmental auditing continuing education as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of governmental accounting and auditing shall meet the requirements of Section 87(c). A licensee who meets the requirements of this subsection shall be deemed to have met the requirements of subsection (e).

(e) Once a license is issued, a licensee who, while engaged in the practice of public accountancy as defined in Section 5051 of the Business and Professions Code, engages in audit, review, compilation, or attestation services at any time between the date the initial license was issued and the first license expiration date shall complete six hours of continuing education in accounting and auditing as part of each 20 hours of continuing education required under subsection (b). Continuing education in the areas of accounting and auditing shall meet the requirements of Section 87(d).

(f) A licensee who is required to complete a total of 80 hours of continuing education pursuant to this section and must complete continuing education pursuant to subsection (d) or (e) shall also complete an additional four hours of continuing education specifically related to the detection and/or reporting of fraud in financial statements. This continuing education shall be part of the total hours of continuing education required by

this section, but shall not be part of the continuing education required by subsection (d) or (e).

(g) If an initial license expires as defined in Section 81(b)(2), the licensee must complete an additional 20 hours of continuing education as described in Section 87(a)(2) and (a)(3) for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, up to a total of 80 hours of continuing education. If the time period between the date the license expired and the date on which the licensee applies for license renewal is less than six full months, no additional continuing education is required for license renewal.

(h) All continuing education required by this section shall be completed in the two-year period immediately preceding the date on which the licensee applies for license renewal. If the date on which the licensee applies for license renewal is less than two years from the date the initial license was issued, all continuing education must be completed on or after the date the initial license was issued.

(i) Failure to Comply.

A licensee's willful failure to comply with the requirements of this section shall constitute cause for disciplinary action pursuant to Section 5100(g) of the Accountancy Act.

NOTE: Authority cited: Section 5010 and 5027, Business and Professions Code.

Reference: Section 5028, Business and Professions Code.

Commentary

This new section would outline the CE requirements for renewing a license following the initial licensing period, previously located in Section 87(f). This new section would also address the CE requirements for renewing a license after the first license expiration date.

The CE requirement for renewing a license in an active status following the initial licensing period is based on the number of months between the date of license issuance and the date the license expires – 20 hours for each full six-month period. Therefore, the CE requirement, if the license renewal application is submitted timely, could range anywhere from 0 to 80 hours.

Section 81 of the CBA Regulations (renewing an expired license) requires a licensee renewing an expired license to adhere to the basic requirements described in Section 87 in the two-year period immediately preceding the date on which the licensee applies for license renewal. The key wording in Section 81 is “requirements described in Section 87.”

As the regulation stands, a licensee renewing a license after the first license expiration date maintains the prorated CE requirement regardless of the amount of time that has lapsed since the license expired. The reason the licensee maintains the prorated CE requirement is because the prorated method for calculating the total hours of CE required is presently described in a subsection of Section 87, Section 87(f). Since the licensee has up to five years from the date of license expiration to renew the license, allowing the licensee to maintain a prorated CE requirement does

not seem to be in keeping with the Board's statutory requirement to assure reasonable currency of knowledge.

To remedy the situation, staff propose that for each full six month period from the date of license expiration to the date on which the licensee applies for license renewal, the licensee should be required to complete an additional 20 hours of continuing education, up to a total of 80 hours.

Example of Existing Requirements:

The initial license is issued on January 1, 2012 with a May 31, 2012 license expiration date. If the license renewal application is submitted on or before the license expiration date, the licensee is not required to complete any CE to renew in an active status. If the license renewal application is submitted on August 31, 2013, the licensee is not required to complete any CE even though the license renewal application was submitted 15 months after the license expiration date.

Example of Proposed Requirements:

The initial license is issued on January 1, 2012 with a May 31, 2012 license expiration date. If the license renewal application is submitted on or before the license expiration date, the licensee is not required to complete any CE to renew in an active status. If the license renewal application is submitted on August 31, 2013, the licensee is now required to complete 40 hours of CE because the license renewal application was submitted 15 months after the license expiration date. If the licensee submits the license renewal application at any time after May 31, 2014 (the next license expiration) a total of 80 hours of CE would be required.

~~§ 87.7. Continuing Education in the Accountancy Act, Board Regulations, and Other Rules of Professional Conduct.~~

~~(a) In order to renew a license in an active status a licensee shall, within the six years preceding the license expiration date, complete a continuing education course on the provisions of the Accountancy Act and the Board of Accountancy Regulations, application to current practice, and other rules of professional conduct. Such course shall be approved by the Board prior to the licensee receiving continuing education credit for the course and shall be a minimum of 8 hours. The eight hours shall be counted towards the 80 hours required pursuant to Section 87.~~

~~(b) The operative date for this regulation is based on the last two digits of the license number according to the following schedule: for license numbers ending with 01-33 the operative date is January 1, 1998, for license numbers ending with 34-66 the operative date is January 1, 2000, for license numbers ending with 67-00 the operative date is January 1, 2002.~~

~~(c) Course providers shall apply to the Board for approval of the course specified in Subsection (a), on Form CE-PCE-1 (9/96), Professional Conduct and Ethics Application for Course Approval. The term of approval shall be for a two (2) year period. The Board may cancel its approval during this two year period if the Board determines that the~~

course fails to meet the criteria specified in this Subsection. Approval shall be based on the following criteria:

- (1) The course shall be a formal educational program that meets the requirements set forth in Sections 88, 88.1, and 88.2. 58
- (2) The course shall have written educational goals and specific learning objectives, as well as a syllabus which provides a general outline, instructional objectives and a summary of topics for the course. A copy of the educational goals, learning objectives and course syllabus shall be submitted by the provider with the approval application.
- (3) The course shall provide participants with the current California Accountancy Act and California Board of Accountancy Regulations (or summary thereof).
- (4) Any self-study course shall require a 90 percent passing score on a test given at the conclusion of the course. The test shall be submitted along with the course materials for approval.
- (5) A certificate of completion which includes the provider approval number shall be issued to each licensee who has satisfactorily completed the course.
- (6) The course content shall include the following:
 - (A) A review and update of the current California Accountancy Act and the Board of Accountancy Regulations.
 - (B) Information which will provide an understanding of how the Statutes, Regulations and cases relate to current practice situations.
 - (C) A review of nationally recognized Codes of Professional Conduct as they relate to professional responsibility.
 - (D) A discussion of recent relevant cases on ethics and professional responsibilities for the accounting profession.
 - (E) A bibliography of recent publications and cases on professional conduct and ethics for the accounting profession.
- (d) Upon receiving approval from the Board, the provider of the Professional Conduct and Ethics course required in Subsection (a) may represent the course in promotional materials as being approved by the Board during the term of approval.
- (e) On a random basis established by the Board or at the Board's request or in response to complaints about a particular course, the Board may review the records of a provider to ensure compliance with the criteria specified in this Section. Within 15 days of receipt of written notification, the provider shall submit or make available to the Board all material deemed necessary by the Board to determine whether the course complies. The Board may cancel its approval for a course found not to be in compliance.
- (f) Approved course providers may allow a secondary provider to present their course through a site license, contractual arrangement, or other type of agreement.
- (g) For every course presentation, including any made by a secondary provider, organization or party, the original approved provider (primary provider) who entered into the approval agreement with the California Board of Accountancy shall:
 - (1) Retain a written outline of the course and completion records to reflect the actual participant attendance, or in the case of self-study courses, passing test scores of 90 percent or higher. The retention period shall be eight years.
 - (2) Ensure that all participants who complete the course receive a certificate of completion, including all information specified in Section 89(b). If a secondary provider

~~presented the course, the certificate shall identify both the primary and secondary providers.~~

~~(3) Be responsible for the quality and content of the course by requiring and ensuring that the course be presented only by qualified instructors and/or discussion leaders, and that presentations always include all components and content areas represented in the approval application.~~

~~(4) Periodically update course content to reflect current laws, regulations, case law decisions and standards of practice.~~

~~(h) Licensees may claim continuing education credit earned from completing a Board-approved course designed in fulfillment of this section for the Ethics Continuing Education Requirement described in Section 87(b) and/or for the Regulatory Review Requirement described in Section 87.8 provided the course is completed prior to January 1, 2011 and reported to the Board prior to January 1, 2012.~~

~~(i) Board approved course providers may continue to offer the course, described in section 87.7(a) until December 31, 2010 for licensees to receive continuing education credit in fulfillment of the Ethics Continuing Education Requirement described in Section 87(b) and/or for the Regulatory Review Requirement described in Section 87.8.~~

~~(j) After January 1, 2010, the Board will no longer approve courses specific to this requirement.~~

~~NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.
Reference: Section 5027, Business and Professions Code.~~

Commentary

This amendment would remove Section 87.7. This section is no longer necessary as the CBA no longer approves Professional Conduct and Ethics (PC&E) courses and licensee's ability to claim credit for completing such a course expired on January 1, 2012.

§ 87.8. Regulatory Review Course.

(a) In order to renew a license in an active status ~~after December 31, 2009~~, a licensee shall, within the six years preceding the license expiration date, complete a continuing education course on the provisions of the California Accountancy Act and the California Board of Accountancy Regulations specific to the practice of public accountancy in California emphasizing the provisions applicable to current practice situations. The course also will include an overview of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined. The course shall be a minimum of two hours, and a licensee shall select from a list of Board-approved courses. The two hours can be counted towards the 80 hours required pursuant to Section 87.

(b) A licensee shall report completion of the Regulatory Review course at the time of renewal. ~~A licensee, licensed prior to the implementation of Section 87.8, shall maintain their existing reporting date used for the professional conduct and ethics requirement to report the completion of the Regulatory Review course.~~

~~NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.
Reference: Section 5027, Business and Professions Code.~~

Commentary

This amendment would remove a past implementation date and reference to the previously required PC&E course.

§ 87.9. Offering a Regulatory Review Course.

(a) Prior to offering a regulatory review course which can be claimed by a licensee to fulfill Section 87.8, course providers shall apply to the Board for approval of the course by completing Initial Application Package CE-RR-1 (07/09), Regulatory Review Application for Course Approval, which is hereby incorporated by reference. Approval shall be based on the following criteria:

(1) The course shall be a formal educational program that meets the requirements described in Sections 88, 88.1, and 88.2, excluding Section 88.2(c)(1)(A) and (c)(1)(B).

(2) The course shall provide participants with the current California Accountancy Act and California Board of Accountancy Regulations.

(3) A self-study course shall require a 90 percent passing score on a test given at the conclusion of the course. The test shall not include true/false type questions. The test shall be submitted along with the course materials for approval.

(4) A self-study course is required to demonstrate an average completion time of two 50-minute continuing education hours by pre-testing the documentation from a minimum of four current and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course.

(5) If the course is a component of a larger program, the two hours devoted to the regulatory review course must be continuous and uninterrupted.

(6) The course content shall include the following:

(A) A review of the current California Accountancy Act, specific to the practice of public accountancy in California, and shall include a review of the following California Accountancy Act Articles: Articles 1.5, 3, 3.5, 4, 5.5, 6, 6.5 and 7.

(B) A review of the current California Board of Accountancy Regulations, specific to the practice of public accountancy in California, and shall include a review of the following Accountancy Regulations Articles: Articles 1, 6, 9, 12, 12.5, and 13.

(C) The review of the California Accountancy Act and California Board of Accountancy Regulations must include a discussion on how the specified articles relate to the practice of public accountancy in California, including a review of historic and recent disciplinary actions taken by the Board, highlighting the misconduct which led to licensees being disciplined.

(b) The term of the approval shall be for a two-year period. In order to maintain Board approval, providers shall submit Renewal Application Package CE-RR-2 (07/09), Regulatory Review Approval Continuance Application, which is hereby incorporated by reference, prior to the end of the two-year period.

(c) Upon receiving approval from the Board, the provider of the Regulatory Review course required under Section 87.8 may represent the course in promotional materials during the term of approval, as being approved by the Board.

(d) The Board may review the records of a provider to ensure compliance with the criteria specified in this Section. Within 15 days of receipt of written notification, the provider shall submit or make available all material requested by the Board. The Board may cancel its approval for a course found not to be in compliance.

(e) For every course presentation, the provider that enters into the approval agreement with the Board shall:

(1) Retain completion records to reflect the actual participant attendance, or in the case of a self-study course, passing test scores of 90 percent or higher. The retention period shall be eight years.

(2) Be responsible for the quality and content of the course by requiring and ensuring that the course include all components and content areas represented in the approval application.

(3) Update course content to reflect current laws, regulations, and enforcement violations.

(f) A provider whose course is denied approval or when a previous approval is canceled by Board staff may appeal such action to the Board. The appeal shall be filed within six months of the action being appealed or the mailing of written notification, whichever is later. The appeal shall contain the following information:

(1) The name and business address of the provider making the appeal.

(2) The action being appealed and the date of any written notification from the Board.

(3) A summary of the basis for the appeal, including any information which the provider believes was not given adequate consideration by staff.

(g) The Board will consider only appeals based on information previously considered by staff. If the provider wishes to submit for consideration additional evidence or information not previously submitted to staff, such additional information should be submitted directly to staff with the request that its previous action be reconsidered. An appeal based on evidence or information not previously submitted to staff will be referred by the Board to staff for further consideration.

NOTE: Authority Cited: Sections 5010 and 5027 Business and Professions Code.

Reference: Section 5027, Business and Professions Code.

Commentary

Standard No. 8 (S8-04) on page 6 of the *Standards* prohibits the use of true/false type questions on the final examination for self-study courses. Staff surmise that the reasoning behind such a prohibition may be due to an assumption that a true/false question is a less reliable assessment of knowledge than a multiple choice question since the participant has a 50 percent chance of obtaining the correct answer simply by guessing. This amendment to Section 87.9(a)(3) would keep the CBA's final examination requirements aligned with the new national standard.

An additional amendment would clarify that the portion of Section 88.2 that describes how self-study CE credit is calculated does not apply to Regulatory Review courses as the method for calculating this type of credit is outlined in Section 87.9(a)(4).

§ 88. Programs Which Qualify.

(a) (1) The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the professional competence of a licensee in public practice. It is the obligation of each licensee to select a course of study, consistent with the requirements of this section and Sections 88.1 and 88.2, which will contribute directly to his/her professional competence.

~~(1) Licensees shall complete a minimum of 50 percent of the required continuing education hours in the following subject areas: accounting, auditing, fraud, taxation, consulting, financial planning, ethics as defined in Section 87(b), regulatory review as defined in Section 87.8, computer and information technology (except for word processing), and specialized industry or government practices that focus primarily upon the maintenance and/or enhancement of the public accounting skills and knowledge needed to competently practice public accounting.~~

~~(2) Licensees may claim no more than 50 percent of the required number of continuing education hours in the following subject areas: communication skills, word processing, sales, marketing, motivational techniques, negotiation skills, office management, practice management, and personnel management.~~

~~(3) Programs in the following subject areas are not acceptable continuing education: personal growth, self realization, spirituality, personal health and/or fitness, sports and recreation, foreign languages and cultures and other subjects which will not contribute directly to the professional competence of the licensee.~~

~~(4-2)~~ A formal program of learning is an instructional activity that meets the requirements of this section and Sections 88.1 and 88.2 or a course for which academic credit is granted by a university, college, or other institution of learning accredited by a regional or national accrediting agency.

(b) The following types of live presentation programs are deemed to qualify as acceptable continuing education provided the standards outlined in Section 88(a), Section 88.1, and Section 88.2 are maintained.

(1) Professional development programs of national and state accounting organizations.

(2) Technical session at meetings of national and state accounting organizations and their chapters which are designed as formal educational programs.

(3) University or college courses:

(i) Credit courses -each semester hour credit shall equal 15 hours toward the requirement. Each quarter hour credit shall equal 10 hours.

(ii) Non credit courses -each classroom hour will equal one qualifying hour.

(4) Other formal educational programs provided the program meets the required standards.

(c) Group Internet-Based Programs (Webcast): Programs that enable a licensee to participate from a computer in an interactive course presented by a live instructor at a distant location are qualifying, provided the program is based upon materials specifically developed for instructional use and meets the requirements of Section 88(a), Section 88.1 and Section 88.2. Group viewing of a webcast program is permissible only where a live facilitator logs into the program to ask questions on behalf of the group. The live facilitator shall document and verify group participation and attendance in accordance with the requirements of Section 88.1 and 88.2.

(d) Formal correspondence or other individual study programs are qualifying provided:
(1) the program is based upon materials specifically developed for instructional use, and
(2) the program meets the requirements of Section 88(a)(1), Section 88.1, and Section 88.2,

(3) the program is completed within one year from the date of purchase or enrollment,
and

(4) the licensee receives a passing score.

(e) Self-study modules for national examinations that contribute to the professional competency of a licensee in public practice, such as the Certified Financial Planner™ Certification Examination or the Certified Management Accountant examination qualify as acceptable continuing education if the modules meet the above requirements of subsection (d).

~~(e)(f)~~ Credit as an instructor, discussion leader, or speaker ~~will~~ shall be allowed for any meeting or program provided that the session is one which ~~would meet~~ meets the continuing education requirements set forth in ~~Section 88(a)~~ subsection (a)(1), Section 88.1, and Section 88.2. The credit allowed an instructor, discussion leader, or a speaker ~~will~~ shall be on the basis of actual presentation hours, plus up to two additional hours for actual preparation time for each hour taught. The maximum credit for such preparation and teaching ~~will~~ shall not exceed 50 percent of the renewal period requirement. For repeat presentations, an instructor shall receive no credit unless the instructor can demonstrate that the program content was substantially changed and that such change required significant additional study or research. Credit for licensees attending, not as instructors, discussion leader, or speakers, is limited to the actual meeting time.

~~(f)(g)~~ Credit may be allowed by the Board on an hour-for-hour basis for the following activities:

(1) Writing published articles and books provided the publisher is not under the control of the licensee, and the article and/or book would contribute to his/her professional competence.

(2) Writing instructional materials for any continuing education program which meets the requirements of ~~Section 88(a)~~ subsection (a)(1), Section 88.1, and Section 88.2,

(3) Writing questions for the Uniform Certified Public Accountant Examination. ~~The maximum credit allowed under this subsection (subsection f) shall not exceed 25 percent of the renewal period requirement.~~

(4) Performing a technical review of instructional materials for any continuing education program which meets the requirements of subsection (a)(1), Section 88.1, and Section

88.2. For the purposes of this section a technical review shall mean reviewing for technical accuracy, currency of the information, and attainment of stated learning objectives.

(h) The maximum credit allowed under subsection (g) shall not exceed 25 percent of the renewal period requirement.

(i) In order for any continuing education hours to be acceptable to the Board under this article, the hours shall be completed in a program which qualifies under this section or Section 87.9.

NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.
Reference: Section 5027, Business and Professions Code.

Commentary

The amendments to this section are largely due to three new standards addressing webcast programs, course expiration dates, and technical reviews.

Standard No. 13 (S13-04) on page 9 of the *Standards* allows for group viewing of a webcast program provided one person is designated to ask questions on behalf of the group and a group facilitator documents and verifies attendance for the duration of the program. Staff routinely receive questions regarding the ability to claim CE credit and the proper procedure for group viewing of webcast programs as the CBA Regulations are silent on this topic. This amendment to Section 88(c) would align the CBA Regulations with the national standard.

Standard No. 8 (S8-06) on page 7 of the *Standards* requires providers of self-study courses to include an expiration date no longer than one year from the date of purchase or enrollment. The CBA does not regulate CE providers other than for the Board-approved Regulatory Review course. This amendment to add Section 88(d)(3) would align the CBA Regulations with the national standard by requiring that licensees complete courses within one year from the date of purchase or enrollment.

Standard No. 5 on page 5 of the *Standards* imposes a new requirement on CE providers to have all CE programs reviewed by a CPA for technical accuracy and to ensure the stated learning objectives are met prior to the program being offered for CE credit. Staff are not recommending that the CBA adopt this standard as the CBA does not regulate CE providers other than for the Board-approved Regulatory Review course; however, staff have received inquiries about the ability to claim CE credit for performing this type of review.

Although the standard does not state that these technical reviews should qualify as CE, the guiding principle in determining the acceptability of CE is whether the program contributes to the professional competence of a licensee in public practice. As the review required under this standard is intended to ensure the technical accuracy of a program, the reviewer would be performing research to verify the information contained in the program. The CBA Regulations presently allow credit to be claimed for writing instructional materials but not for reviewing instructional

materials created by another person. Therefore, this amendment to add Section 88(g)(4) would allow licensees to claim CE credit on an hour for hour basis, up to 25 percent of the required CE hours, for performing this type of review.

The remaining amendments would move the 50/50 requirement from Section 88 to a more logical location in Section 87, clarify the amount of credit allowed for the activities presently listed under Section 88(f), improve overall clarity, and adjust section references due to other proposed amendments to this section.

§ 88.1. Provider Requirements.

(a) Live Presentation

In order to qualify as acceptable continuing education under Section 88(b) the provider of ~~the~~ a live presentation program must:

- (1) Require attendance and retain for a period of six years a record of attendance that accurately assigns the appropriate number of contact hours for participants including those who arrive late or leave early.
- (2) Retain for a period of six years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.
- (3) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of six years. The amount of credit reflected on the certificate of completion shall be calculated in accordance with Section 88.2(a). The certificate of completion must delineate the subject areas, as described in ~~Section 88(a)(1) and (2)~~ 87(a)(2) and (3), for which the licensee may claim credit.

(b) Group Internet-Based Programs (Webcast)

In order to qualify as acceptable continuing education under Section 88(c), the provider of ~~the~~ a Group Internet-Based Program (Webcast) must ~~be in compliance with requirements below:~~

- (1) Require and monitor attendance throughout the program by using attendance monitoring devices such as polling, questions, or surveys. The program shall include a minimum of ~~two~~ three monitoring events each ~~half~~ hour, at ~~last~~ least one of which occurs at an irregular interval.
- (2) Have a live instructor while the program is being presented and a feature allowing participants to send questions/comments directly to the instructor and receive answers during the program.
- (3) If recorded or archived, have a live subject matter expert facilitate the program (webcast) to answer questions. A recorded or archived program that does not have a live subject matter expert must meet the self-study requirements of subsection (c), Section 88, and Section 88.2(c).

~~(3)~~(4) Retain for a period of six years a record of attendance that accurately assigns the appropriate number of participation hours for participants.

(4)(5) Retain for a period of six years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

~~(5)~~(6) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course. Satisfactory completion shall at a minimum require responding to at least 75 percent of the monitoring events described in ~~Section subsection~~ 88.4(b)(1) during the period for which continuing education credit is being granted. Retain records of licensees receiving certificates of completion for a period of six years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(b). The certificate of completion must delineate the subject areas, as described in Section ~~88(a)(1) and (2)~~ 87(a)(2) and (3), for which the licensee may claim credit.

~~(6)~~(7) Have a written policy to address rescheduling and the granting of partial credit in the event of a technology failure, and make that policy available to the Board upon request.

(c) Self-Study

In order to qualify as acceptable continuing education under Section 88~~(e)~~(d) the ~~sponsor~~ provider of the a self-study course must:

(1) Retain for a period of six years written educational goals and specific learning objectives, as well as a syllabus, which provides a general outline, instructional objectives, and a summary of topics for the course. A copy of the educational goals, learning objectives, and course syllabus shall be made available to the California Board of Accountancy upon request.

(2) Issue a certificate of completion, with verification certified by a program provider representative such as a signature or seal, to each licensee upon satisfactory completion of the course and retain records of licensees receiving certificates of completion for a period of six years. The amount of credit shall be displayed on the certificate of completion and shall be calculated in accordance with Section 88.2(c). The certificate of completion must delineate the subject areas, as described in Section ~~88(a)(1) and (2)~~ 87(a)(2) and (3), for which the licensee may claim credit.

NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.

Reference: Sections 5026 and 5027, Business and Professions Code.

Commentary

Standard No. 13 (S13-03) on page 9 of the *Standards* establishes the minimum number of webcast monitoring events at three questions per hour, one less than the present requirement in CBA Regulations. At the time the CBA developed regulations regarding webcast programs, a national standard did not exist. In this age of constant technological advances, webcast programs are becoming an increasingly popular method of obtaining CE. Maintaining a monitoring requirement

out of line with the recently established national standard could result in limiting California licensees' access to this convenient method of fulfilling the CE requirements. The reduction of one monitoring event will not compromise the integrity of attendance monitoring as the requirement to respond to a minimum of 75 percent of monitoring events, Section 88.1(b)(5), will remain unchanged. This amendment to Section 88.1(b)(1) would align the CBA Regulations with the national standard.

Standard No. 7 (S7-01) on page 6 of the *Standards* requires the presence of a live instructor to facilitate an archived webcast in order to receive credit as a group internet based program. The standard also states that absent a live facilitator the archived webcast is considered a self-study course and must meet all self-study requirements. Staff routinely receive questions regarding the ability to claim CE credit for viewing an archived webcast program. Presently, staff advise licensees that credit may only be claimed if the program meets the requirements of 88, 88.1, and 88.2 of the CBA Regulations. This amendment to add Section 88.1(b)(3) would align the CBA Regulations with the national standard and provide clear direction regarding the ability to claim this type of CE credit.

The remaining amendments would improve the overall clarity of the section and adjust section references due to other proposed amendments.

§ 88.2. Program Measurements.

(a) Live Presentation

In order to qualify as acceptable continuing education under Section 88(b) a live presentation program must:

(1) Be measured in 50-minute class hours. A program must be at least one 50- minute class hour in length to be acceptable continuing education. For a program composed of several segments in which individual segments are less than 50 minutes, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a course be comprised of multiple subject areas as described in Section ~~88(a)(1)~~ 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for live presentation under Section 88.1(a).

(b) Group Internet-Based Program (Webcast)

In order to qualify as acceptable continuing education under Section 88(c), a Group Internet-Based Program (Webcast) must:

(1) Be measured by actual program length in 50-minute class hours. A program must be a minimum of one 50-minute class hour in length to be acceptable continuing education.

For a program composed of several segments, the sum of the segments, in increments not less than 25 minutes, may be added together to equal a full 50-minute class hour. For a program that is longer than one 50-minute class hour, credit shall be granted for additional 25-minute segments (one-half of a 50-minute class hour). Only class hours or the equivalent (and not participant hours devoted to preparation or study time) will be used to measure the hours of continuing education.

(2) Any program designed pursuant to Section 87(b) must be a minimum of one 50-minute class hour. Should a program be comprised of multiple subject areas as described in Section ~~88(a)(1)~~ 87(a)(2), those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

(3) Meet the provider requirements for Group Internet-Based Program (Webcast) under Section 88.1(b).

(c) Self-Study

In order to qualify as acceptable continuing education under Section 88(d), any a self-study course, whether in electronic or paper text format, must:

(1) ~~Grant continuing education credit equal to the average completion time if the self-study course is designed to use learning methodologies that simulate a classroom learning process by employing significant ongoing interactive feedback to the participant regarding his/her learning progress. These courses clearly define lesson objectives and manage the participant through the learning process by (A) requiring frequent participant response to questions that test for understanding of the material presented, (B) provide evaluated feedback to incorrectly answered questions, and (C) reinforcement feedback to correctly answered questions. Evaluated feedback means a response specific to each incorrect answer to the study questions that explains why the particular answer is wrong, as each one is likely to be wrong for a different reason. Reinforcement feedback means a response to the correct answer of the study questions that restates and explains why the answer selected was correct. calculated using one of the following methods:~~

(A) Demonstrating an average completion time of two 50-minute continuing education hours by pre-testing the documentation from a minimum of three current and active certified public accountants simulating the manner in which the course will be completed and showing the length of time spent by each participant to complete the course. Pre-testing participants are required to be independent of the group that developed and/or are offering the course and provide feedback on the level of difficulty of the course.

(B) Demonstrating an average completion time of two 50-minute continuing education hours by dividing the number of words contained in the text of the required reading (excluding any material not critical to the achievement of the stated learning objectives such as the course introduction, author biography, instructions, table of contents, and supplementary reference materials) by 180, adding the actual length of time in minutes of any audio or video segments, adding the number of review questions multiplied by 1.85, and dividing the total by 50. The continuing education credit shall be rounded down to the nearest one-half hour credit when the total minutes of the program are not equally divisible by 50.

(2) Clearly define lesson objectives and manage the participant through the learning process by requiring frequent participant response to questions that test for

understanding of the material presented, providing evaluated feedback to incorrectly answered questions and reinforcement feedback to correctly answered questions. For purposes of this section, evaluated feedback means a response specific to each incorrect answer to the study questions that explains why the particular answer is wrong, as each one is likely to be wrong for a different reason. For purposes of this section, reinforcement feedback means a response to the correct answer of the study questions that restates and explains why the answer selected was correct.

~~(2)~~(3) Any program designed pursuant to Section 87(b) must be a minimum of one class hour. Should a program be comprised of multiple subject areas as described in Section 88(a)(1) ~~87(a)(2)~~, those components specific to Section 87(b) must be a minimum of one 50-minute class hour.

~~(3)~~(4) Require a passing score on a test given at the conclusion of the course. The test shall not include true/false type questions.

~~(4)~~(5) Any self-study program or component designed pursuant to Section 87(b) shall require a 90 percent passing score on a test given at the conclusion of the course. Should a program be comprised of multiple subject areas as described in Section 88(a)(1) ~~87(a)(2)~~, those components specific to Section 87(b) shall require a 90 percent passing score on a test given at the conclusion of the component specific to Section 87(b) or at the conclusion of the course.

~~(5)~~(6) Meet the provider requirements for self-study under Section 88.1(c).

NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.

References: Sections 5026 and 5027, Business and Professions Code.

Commentary

Standard No. 14 on pages 10-11 of the *Standards* creates two new methods for calculating how CE providers determine the amount of credit awarded for self-study courses, which are no longer consistent with the CBA Regulations. The first method in this standard requires the use of three pilot testers to obtain the representative completion time. The second method in this standard is based on a specific word count formula. If the CBA were to maintain the present method for calculating self-study credit, providers wanting to offer courses to California licensees would have to weigh the cost of having to consider a third method for calculating allowable credit. This could potentially result in fewer providers offering CE to California licensees. This amendment to add Sections 88.2(c)(1)(A) and (c)(1)(B) would align the CBA Regulations with the national standard.

As noted in the commentary under Section 87.9, standard No. 8 (S8-04) on page 6 of the *Standards* prohibits the use of true/false type questions on the final examination for self-study courses. This amendment to Section 88.2(c)(4) would keep the CBA's final examination requirements in alignment with the national standard.

The remaining amendments to this section would adjust section references due to other proposed amendments.

§ 89. Control and Reporting.

(a) Upon renewal, a licensee who is required, pursuant to Section 80.2, 81, 87, or 87.1, to obtain continuing education must provide a written statement, signed under penalty of perjury, certifying that the requisite number of continuing education hours has been obtained. The licensee shall disclose the following information concerning courses or programs claimed as qualifying continuing education:

- (1) Course title or description
- (2) Date of completion
- (3) Name of school, firm or organization providing the course or program
- (4) Method of study, i.e., whether course or program is self-study, live presentation or Group Internet-Based Program (Webcast)
- (5) Number of hours earned.
- (6) Subject areas as described in Section 87(a)(2) and (3).

(b) If credit is claimed for completing the two hour regulatory review course specified in Section 87.8, a licensee shall obtain and retain for six years after renewal of his/her license, a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee
- (2) Course title
- (3) Board-issued approval number for the ~~professional conduct and ethics~~ regulatory review course completed by the licensee
- (4) School, firm or organization providing the course
- (5) Date of completion
- (6) Verification by a program provider representative, such as a signature or seal.

(c) If continuing education credit for attending a continuing education course is claimed, the licensee shall obtain and retain for four years after renewal a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee in attendance
- (2) School, firm or organization conducting course
- (3) Location of course attended
- (4) Title of course or description of content
- (5) Dates of attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.
- (6) Number of hours of actual attendance except when the licensee attended a course for academic credit given by a college, university, or other institution of higher learning accredited by an association recognized by the Secretary of the United States Department of Education, in which case the applicant may provide evidence of a grade of pass or "credit" to satisfy this requirement.
- (7) Verification by a program provider representative, such as a signature or seal.

(8) Subject areas as described in Section 87(a)(2) and (3).

(d) If continuing education credit is claimed for completing a self-study course, the licensee shall obtain and retain for four years after renewal a receipt or its equivalent documenting the date of purchase or enrollment and a certificate of completion or its equivalent disclosing the following information:

- (1) Name of licensee taking the course
- (2) School, firm, or organization providing the course
- (3) Title of course or description of contents
- (4) Date of completion
- (5) Number of hours of continued education credit granted for completing the course.

(6) Subject areas as described in Section 87(a)(2) and (3).

(e) If credit as an instructor, discussion leader, or speaker is claimed, the licensee shall retain for four years after renewal the following information:

- (1) School, firm or organization providing course
- (2) Location of course presented
- (3) Title of the course or description of content
- (4) Course outline
- (5) Dates and evidence of presentation
- (6) Number of hours of actual preparation time and presentation time.

(f) If credit is claimed for writing continuing education instructional materials, the following information shall be maintained for four years after renewal:

- (1) Name of the course provider or publisher
- (2) Title of the course and a description of the instructional materials
- (3) Date of completion of the instructional materials or publication date
- (4) A copy of the instructional materials
- (5) Hours claimed.

(g) If credit for published articles and books is claimed, the following information shall be maintained for four years after renewal:

- (1) Name and address of publisher
- (2) Title of publication
- (3) Brief description
- (4) Date(s) of publication
- (5) Copy of publication
- (6) Hours claimed

(h) If credit for writing questions for the Uniform CPA Examination is claimed, the licensee shall obtain and retain for four years after renewal a letter or other statement from the American Institute of Certified Public Accountants documenting the licensee's participation and the number of hours of continuing education credit the licensee has received.

(i) If credit is claimed for performing a technical review of continuing education instructional materials, the following information shall be maintained for four years after renewal:

(1) Name of the course provider or publisher,

(2) Title of the course and a description of the instructional materials,

(3) Date the review was completed,

(4) A copy of the instructional materials, and

(5) Hours claimed.

~~(j)(i)~~ The Board ~~will~~ may solicit and verify such information ~~on a test basis~~. If a licensee is found to have a deficiency, the licensee shall be so notified and shall be required to provide copies of the documentation required by this section. ~~Upon request, the licensee may be granted a reasonable period of time in which to correct the deficiency.~~

~~(j)(k)~~ A licensee who is determined by the Board at renewal not to have completed the required number of hours of qualifying continuing education shall be required to make up any deficiency. A licensee who is required to make up a deficiency shall be ineligible for active status license renewal or conversion to active status pursuant to Section ~~87.1~~ 80.1 until such time as documentation to support the required hours of continuing education for license renewal has been submitted and approved by the Board.

~~(k)(l)~~ A licensee's willful making of any false or misleading statement, in writing, regarding his/her continuing education shall constitute cause for disciplinary action pursuant to section 5100(g) of the Accountancy Act.

NOTE: Authority Cited: Sections 5010 and 5027, Business and Professions Code.
References: Section 5027, Business and Professions Code.

Commentary

As noted in the commentary under Section 88, standard No. 8 (S8-06) on page 7 of the *Standards* requires providers of self-study courses to include an expiration date no later than one year from the date of purchase or enrollment. As the CBA does not regulate CE providers, the onus for documenting completion of a course within one year from the date of purchase or enrollment must be placed upon the licensee. This amendment to Section 89(d) would require the licensee retain such information for the same length of time as is required for retaining documentation of course completion for audit purposes.

Also noted in the commentary under Section 88, standard No. 5 on page 5 of the *Standards* imposes a new requirement on CE providers to have all CE programs reviewed by a CPA for technical accuracy and to ensure the stated learning objectives are met prior to the program being offered for CE credit. As the proposed amendment to Section 88 would allow a licensee to claim credit for performing a technical review of a CE program, this amendment to Section 89(i) outlines the document retention requirements for claiming this type of CE credit.

The remaining amendments would improve the overall clarity of the section and adjust section references due to other proposed amendments.

CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocation Regulations
DIVISION 1. Board of Accountancy

ARTICLE 12 - CONTINUING EDUCATION RULES

Section Affected	New Section?	Old Section	Subject Matter	Basis for Proposed Action
80	No	N/A	Inactive License Status	Correct paragraph number errors and increase clarity.
80.1	Yes	87.1	Conversion to Active Status Prior to Renewal	Renumbering of existing section within Article 12.
80.2	Yes	87.1	CE Requirements Following Conversion to Active Status During the Renewal Period	Move a portion of the requirements presently located in Section 87.1 into a new section. Define CE requirements for renewing after the license expiration date.
81	No	N/A	CE Requirements for Renewing an Expired License	Improve clarity.
87	No	88	Basic Requirements	Move the 50/50 requirement from Section 88 to Section 87 and other amendments to improve clarity.
87.1	Yes	87	CE Requirements for New Licensees	Move the CE requirements for new licensees into a new section. Define CE requirements for renewing after the license expiration date.
87.7	No	N/A	CE in the Accountancy Act, Board Regulations, and Other Rules of Professional Conduct	Remove an outdated section.
87.8	No	N/A	Regulatory Review Course	Improve clarity.
87.9	No	N/A	Offering a Regulatory Review Course	Standard No. 8 (S8-04) - true/false questions.
88	No	N/A	Programs Which Qualify	Remove the 50/50 requirement. Standard No. 5 - technical reviews. Standard No. 8 (S8-06) course expiration date. Standard No. 13 (S13-04) group viewing of webcast programs.

**CALIFORNIA CODE OF REGULATIONS
TITLE 16. Professional and Vocation Regulations
DIVISION 1. Board of Accountancy**

ARTICLE 12 - CONTINUING EDUCATION RULES

Section Affected	New Section?	Old Section	Subject Matter	Basis for Proposed Action
88.1	No	N/A	Provider Requirements	Standard No. 7 (S7-01) - archived webcast programs. Standard No. 13 (S13-03) - webcast monitoring events.
88.2	No	N/A	Program Measurements	Standard No. 8 (S8-04) - true/false questions. Standard No. 14 - calculation of self-study credit.
89	No	N/A	Control and Reporting	Standard No. 5 - technical reviews. Standard No. 8 (S8-06) - course expiration date.



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CPC Item III.
May 24, 20112

CBA Item VIII.C.3.
May 24-25, 2012

Discussion Regarding the CBA's Requirements for Maintaining Adequate Security for Claims Against an Accountancy Corporation (CBA Regulation 75.8)

Presented by: Matthew Stanley, Legislation/Regulation Analyst

Date: May 6, 2012

Purpose of the Item

The purpose of this agenda item is to report information obtained from CAMICO Mutual Insurance Company (CAMICO) regarding security for claims against an accountancy corporation.

Action(s) Needed

The CBA will be asked to decide whether the current limits in CBA Regulation Section 75.8 regarding security for claims against an accountancy corporation are adequate or need to be increased.

Background

At its January 2012 meeting, the California Board of Accountancy (CBA) heard an educational presentation on license renewal. Following the presentation, there was a question raised regarding the insurance limits imposed by Section 75.8 (**Attachment 1**) and how long it had been since that section was implemented. Staff was directed to research the issue and present its findings to the CPC.

Prior to 1994, Section 75.8 required an accountancy corporation to submit written evidence that its shareholders had agreed to guarantee payment of liabilities imposed upon it for damages from claims against it by its clients.

In 1994, Section 75.8 was amended to allow either this written agreement method of security or allow the corporation to provide proof of insurance of at least \$100,000 per licensee per claim to a maximum payout of \$1,000,000 per claim and at least \$250,000 per licensee per year to a maximum payout of \$3,000,000 per year. In the absence of any proof of security, the shareholders are deemed to have agreed to be liable.

Comments

When the CBA established the insurance limits in 1994, it appears that it relied on information provided by CAMICO (**Attachment 2**) which stated that, over a five year period, the total incurred for each claim exceeded the proposed limits of Section 75.8 only 6.2% of the time. The CBA moved forward with the proposed limits resulting in the limits that are still imposed today.

Discussion Regarding the CBA's Requirements for Maintaining Adequate Security for Claims Against an Accountancy Corporation (CBA Regulation 75.8)

Page 2 of 2

In order to ascertain how much the industry has changed over the last 18 years, staff sent a letter to CAMICO (**Attachment 3**) inquiring if it could provide more recent numbers. CAMICO replied (**Attachment 4**) that, over the last five years, the total incurred for each claim exceeded the current limits of Section 75.8 16.33% of the time. And, in 2011 alone, it exceeded the limits 29% of the time. CAMICO also states that, due to the rising cost of defense, often times the cost of defense alone exceeds \$100,000 resulting in attempts to settle without a defense. Finally, CAMICO states that the current policy limits are insufficient. Although CAMICO mentions a representative may be at the meeting, it is not yet known if this will be the case.

In follow-up communication with CAMICO, staff inquired as to what the limits would need to be in order to reflect a coverage rate similar to the 6.2% that existed in 1994. CAMICO's reply was as follows:

“Within loss years 2007 to 2011, CAMICO and LIU (Liberty International Underwriters) have recorded 1,543 claims, of which 120 have a total paid across indemnity and claim expenses equally or exceeding \$250,000, being 7.8% of all claims. This suggests that a \$250,000 limit would reduce the percentage back down to closer to the 6% figure of 1989-1993.”

Recommendation

If the CBA would like to explore raising the limits of Section 75.8 to be more in line with the percentages established in 1994, staff could continue to work with CAMICO and bring regulatory language for the CBA's consideration at its July 2012 meeting.

Attachments

1. CBA Regulation §75.8
2. CAMICO Letter – 1993
3. CBA Letter to CAMICO – 2012
4. CAMICO Letter – 2012

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**Attachment 1****CBA Regulations****§ 75.8. Security for Claims Against an Accountancy Corporation.**

- a) An accountancy corporation shall provide and maintain adequate security for claims against it by its clients arising out of the rendering of or failure to render professional services. Security for such claims shall consist of either of the following:
- (1) Insurance for each claim in an amount equal to at least \$100,000 per licensee, provided that the maximum amount for each claim shall not be required to exceed \$1,000,000, and that the minimum amount guaranteed for all claims during any one calendar year shall be at least an amount equal to \$250,000 per licensee, provided that the maximum amount shall not be required to exceed \$3,000,000; or
 - (2) A written agreement of the shareholders that they shall jointly and severally guarantee payment by the corporation of liabilities to its clients arising out of the rendering of a failure to render professional services.
- (b) In the event of failure to comply with the requirements of this section, each and every shareholder of the corporation shall be deemed to have agreed to be jointly and severally liable for claims against the corporation by its clients arising out of the rendering of, or failure to render, professional services.

NOTE: Authority cited: Sections 5010 and 5157, Business and Professions Code.
Reference: Section 5157, Business and Professions Code.

October 4, 1993

State Board of Accountancy
2135 Butano Drive, Suite 200
Sacramento, CA 95825

Attn: Aronna Granick



Cal
Accountants
Mutual

Insurance
Company

Dear Ms. Granick:

You have asked CAMICO to provide you with information as to the percentage of claims that have exceeded the insurance limits described in section (a)(1) of the proposed amendment to Rule 75.8.

I have surveyed all CAMICO claims from 1989 to the present and have concluded that the total incurred for each claim exceeds the insurance limits in section (a)(1) of the proposed amendment in 33 of 530 claims, or 6.2% of the time.

I hope this information is sufficient for you needs. Please give me a call should you require any further information.

Sincerely,

Ronald B. Klein
Vice President - Claims and Loss Prevention

RBK/ma

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**Attachment 3**

April 9, 2012

Ms. Hilary J. Bates, Vice President of Claims
CAMICO Mutual Insurance Company
1800 Gateway Drive, Suite 300
San Mateo, CA 94404

Dear Ms. Bates:

At its May 2012 meeting, the California Board of Accountancy (CBA) will be considering whether to amend CBA Regulations Section 75.8 regarding security for claims against an accountancy corporation. Specifically, it will be discussing whether the monetary amounts should be raised and by what amount.

In 1993, the CBA adopted amendments to CBA Regulations Section 75.8; specifically, the CBA adopted language in Section 75.8(a)(1) that required, "Insurance for each claim in an amount equal to at least \$100,000 per licensee, provided that the maximum amount for each claim shall not be required to exceed \$1,000,000, and that the minimum amount guaranteed for all claims during any one calendar year shall be at least an amount equal to \$250,000 per licensee, provided that the maximum amount shall not be required to exceed \$3,000,000." At that time, it considered the data provided by your office on October 4, 1993 (**Enclosed**), which stated that, since 1989, the total incurred for each claim exceeded the insurance limits of Section 75.8(a)(1) in 33 of 530 claims, or 6.2% of the time.

The CBA has directed staff to provide a brief history of Section 75.8, and the data from 1993 will be included. However, I am writing to inquire if more recent data can be provided covering the past five years. Current data will provide the CBA with information it may need as it discusses the security for claims against accountancy corporations requirement.

In addition, if the data is significantly different from that which was provided in 1993, I would like to request that you provide approximate monetary amounts that, if placed in Section 75.8, would put the current data roughly back into line with the 6.2% figure provided in 1993.

Finally, I would like you to express your organization's perspective on the idea of increasing the amounts expressed in Section 75.8. CAMICO's views would be presented for the CBA's consideration.

Ms. Hilary J. Bates, Vice President of Claims

Page 2 of 2

The CBA will be discussing this topic at its May 24-25, 2012 meeting. In order to include your information, I would like to request a response by April 27. You may respond to our regulation analyst, Matthew Stanley, at mstanley@cba.ca.gov or by postal service at the address above. Thank you for your time and consideration of this request.

Sincerely,

Patti Bowers
Executive Officer

Enclosures



CAMICO Mutual Insurance Company

1800 Gateway Dr., Ste. 300, San Mateo, CA 94404
Tel: 800.652.1772 • Fax: 800.227.2090
www.camico.com

Atlanta Claims Office

570 W. Crossville Rd., Ste. 104, Roswell, GA 30075
Tel: 800.652.1772 • Fax: 770.552.0968
claims@camico.com

May 1, 2012

Matthew Stanley
Regulation Analyst
California Board of Accountancy
2000 Evergreen Street, Suite 200
Sacramento, CA 95815-3832

By Email Only: mstanley@cba.ca.gov

Re: Review of CBA Regulations Section 75.8

Dear Mr. Stanley,

I refer to the letter from Patti Bowers, Executive Officer of California Board of Accountancy ("CBA"), dated April 9, 2012 which requests recent data as to the total incurred for each claim that exceeded the monetary threshold contained in Section 75.8 of the CBA Regulations.

Within loss years 2007 through 2011, CAMICO Mutual Insurance Company ("CAMICO") and CAMICO Insurance Services ("CIS") on behalf of Liberty International Underwriters ("LIU") have recorded 1,543 claims, of which 252 have had a total incurred across indemnity and claim expenses equaling or exceeding \$100,000, being 16.33% of all claims. This is an increase in percentage from the 6.2% recorded for claims between 1989 and 1993.

Thank you for seeking CAMICO's perspective on the idea of increasing the amounts referenced in Section 75.8. With respect to the \$100,000 minimum per claim limit, CAMICO can advise as follows:

- **Increase in Total Payments Above \$100,000:** As noted above, we have seen an increase in claims where the total paid on indemnity and claim expense equals or exceeds \$100,000, from 6.2% in 1993 over a five year look back period, to 16.33% in 2011 over a five year look back period. However, by far the majority of claims resolve for a total incurred on both indemnity and claim expense between \$0 and \$99,999.



Matthew Stanley
May 1, 2012
Page 2

- Higher Dollar Resolutions: We have seen an increase in resolution values over the past three years. Of all indemnity payments made:
 - 12% were above \$100,000 in 2009 (from a total of 115 indemnity payments);
 - 23% were above \$100,000 in 2010 (from a total of 214 indemnity payments); and
 - 29% were above \$100,000 in 2011 (from a total of 237 indemnity payments).
- Defense Costs Erode Policy Limits: We find \$100,000 provides limited coverage for the legal fees and expenses associated with defending active litigation (versus a claim that can be resolved before litigation). If motion practice, reasonable discovery and/or experts are anticipated and needed in order to progress the matter towards settlement, the litigation budget from defense counsel will likely be in excess of \$50,000 and can even be in excess of \$100,000.
- Higher Defense Costs: The last six years have seen an increase in expenses paid litigating claims:
 - In 2011, CAMICO (not including CIS on behalf of LIU) had 390 open claims and paid \$21.2M in Claim Expenses, compared to 2006 when CAMICO had 435 open claims and paid \$11.6M in Claim Expenses.

We see more complex and significant litigation, financial crisis related claims continue to arise, regulators appear less inclined to waive penalties and interest, plaintiffs' counsel tend to be more aggressive in terms of expectations and tactics, and there are delays in matters progressing through the courts due to budget cuts. The rates we pay our counsel have remained relatively flat over the past few years with either no increases or very minimal increases, so we believe the higher defense costs are related to the current litigation environment rather than internal influences.

- Insufficient Policy Limits: Although we do not have hard data on this, the feedback from our Claim Specialists is that CAMICO is more frequently put in a position than it was in the past of tendering the \$100,000 per claim limits when the plaintiff and/or policyholder makes a policy limit demand, given the anticipated erosion of the limits on defense costs would limit the availability of coverage for indemnity payments on settlement or judgment. CAMICO is committed to defending its policyholders, but in such instances we must also protect the policyholder from realistic exposures excess of the policy limits.

one case proceed with an investigative hearing, four cases be closed, and two continue to be investigated by CBA staff.

Ms. Gerhardt stated that two investigative hearings were conducted, one resulted in the case being closed, and one resulted in referring the case to the Attorney General.

2. Discussion on the Role of the EAC.

Ms. Gerhardt provided an overview of this item.

Ms. Berhow inquired why the experience required to serve on the EAC is only two years.

Ms. Bowers commented that the low threshold of experience required is to allow flexibility and leave it to the discretion of the interviewer, in consultation with the CBA Vice President, in selecting who would be assigned to the committee.

Mr. Ramirez inquired if a higher bar should be considered for EAC applicants.

Ms. LaManna stated that all members of the EAC are experienced and superior candidates.

Mr. Oldman commented that the recruiting process should not be over controlled.

F. Qualifications Committee (QC)

There was no report for this item.

G. Peer Review Oversight Committee (PROC)

1. Report of the February 10, 2012 PROC Meeting.

Ms. Corrigan stated that the PROC met on February 10, 2012 and discussed its participation in several oversight activities. Ms. Corrigan further stated that the PROC worked on finishing the 2011 PROC Annual Report and discussed articles that will appear in the UPDATE regarding peer review tips and recruitment of peer reviewers.

Ms. Corrigan reported that the PROC has identified ways to promote peer review such as webcasts and links to CalCPA and AICPA websites, with information about the quality control centers for certain areas of practice that can be helpful to firms.

Ms. Corrigan noted that the next PROC meeting is scheduled for April 20, 2012.

2. 2011 PROC Annual Report.

Ms. Corrigan reported that the first year of the PROC was successful. Ms. Corrigan stated that the PROC is well on its way to becoming a regularly functioning committee. Ms. Corrigan noted that some of the accomplishments and achievements of the PROC include:

- Conducting seven committee meetings
- Creating a procedures manual
- Creating some oversight checklists for our process
- Attending four AICPA Peer Review Board meetings
- Providing input to the CBA on 3 AICPA Exposure Drafts
- Attending two CalCPA Peer Review Committee meetings
- Participating in nine Report Acceptance Body meetings
- Holding a preliminary oversight visit to CalCPA
- Attending a two-day peer reviewer training course

Ms. Corrigan further stated that a voluntary survey to gather information about peer review has been online since December 2010. The survey results show that:

- A majority (70 percent) of firms believe that undergoing a peer review helped improved their service.
- Half of firms intend to notify clients that they have undergone a peer review.
- A third of firms will use peer review as a marketing tool.
- Less than 10 percent plan to increase their fees due to peer review.
- Approximately 8 percent will cease providing accounting and auditing services.

Ms. Corrigan stated that the PROC found that the AICPA and CalCPA are functioning effectively and in accordance with objectives. The PROC recommends that the CBA continue to recognize the AICPA as a peer review program provider. Ms. Corrigan stated that the PROC recommends the CBA continue to promote and encourage CPAs to become qualified peer reviewers, and the CBA review its record retention policy to determine if it would be appropriate to apply a 120-day record retention policy for CalCPA Report Acceptance Body documents. Ms. Corrigan thanked the PROC members for their dedication.

XI. Acceptance of Minutes.

A. Draft Minutes of the January 26-27, 2012 CBA Meeting.

- B. Minutes of the January 25, 2012 CBA Open House.
- C. Minutes of the January 26, 2012 CPC Meeting.
- D. Minutes of the January 26, 2012 LC Meeting.
- E. Minutes of the November 3, 2011 EAC Meeting.
- F. Minutes of the December 9, 2011 PROC Meeting.

It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present to accept agenda items XI.A-F.

XII. Other Business.

- A. American Institute of Certified Public Accountants (AICPA).

There was no report for this item.

- B. National Association of State Boards of Accountancy (NASBA).

- 1. Update on NASBA Committees.

- a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated that the task force is continuing to work on the ALD and the public access portions of CPAVerify. Ms. Bowers further stated that she will keep the CBA informed of the committee's activities.

- b. Board Relevance & Effectiveness Committee.

Mr. Oldman stated that this committee will be meeting in May in Dallas, TX.

- c. Education Committee.

Mr. Driftmier stated that the committee was seeking insight regarding the new ethics requirement. Mr. Driftmier also reported that several committee members suggested the college accreditation process is not enough and that boards should consider rating the colleges on how successful their students are on passing the CPA exam the first time.

- d. Uniform Accountancy Act Committee (UAA).

Ms. Anderson stated that she was appointed to a subcommittee to

define the term “discreditable acts” of a CPA. Ms. Anderson will update the CBA after the subcommittee holds its first meeting.

2. Proposed Responses to NASBA Focus Questions

Ms. O’Connor provided an overview of this item (See Attachment ___).

It was moved by Mr. Elkins, seconded by Mr. Ramirez and unanimously carried by those present to accept the proposed responses to the NASBA Focus Questions.

C. Participation on National Committees.

Ms. Pearce provided an overview of this item (Attachment ___).

XIII. Closing Business.

Ms. Bowers provided members with an update on the current travel restrictions in place.

A. Public Comments.*

No public comments were received.

B. Agenda Items for Future CBA Meetings.

No items were received.

C. Press Release Focus

Ms. Pearce stated the topic of focus for a post-meeting press release is information on the Peer Review program.

Recent Press Releases.

Ms. Pearce stated that the most recent Press Release topic was for this CBA meeting.

Adjournment.

President Oldman adjourned the meeting at 12:24 p.m. on Friday, March 23, 2012.

Marshal A. Oldman, Esq., President

Michael M. Savoy, CPA, Secretary-Treasurer

Kari O'Connor, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



Matthew Stanley
May 1, 2012
Page 3

I trust this information is of assistance with your review.

Further to our discussion on Friday, April 27, 2012, thank you for the invitation to attend the CBA's meeting on this topic on May 24-25, 2012. I will discuss with Ronald Parisi, the Executive Vice President of Risk Management, and respond to you shortly in this regard.

Should you have any questions or would like to discuss, please do not hesitate to contact me on my direct line (650-378-6811) or by email (hbates@camico.com).

Sincerely,

A handwritten signature in black ink, appearing to read "H. Bates", with a horizontal line underneath.

Hilary J. Bates
Vice President of Claims
CAMICO Mutual Insurance Company



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CBA Item IX.A.
 May 24-25, 2012

DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

DRAFT

**MINUTES OF THE
 MARCH 22-23, 2012
 CBA MEETING**

Hyatt Regency San Francisco Airport
 1333 Bayshore Highway
 Burlingame, CA 94010
 Telephone: (650) 347-1234
 Fax: (650) 696-2669

Roll Call and Call to Order.

CBA President Marshal Oldman called the meeting to order at 12:31 p.m. on Thursday, March 22, 2012 at the Hyatt Regency Hotel in Burlingame. The meeting recessed at 4:30 p.m. President Oldman reconvened the meeting at 9:01 a.m. on Friday, March 23, 2012, and the meeting adjourned at 12:24 p.m.

CBA Members

March 22, 2012

Marshal Oldman, President	12:31 p.m. to 4:30 p.m.
Leslie LaManna, Vice President	12:31 p.m. to 4:30 p.m.
Michael Savoy, Secretary-Treasurer	12:31 p.m. to 4:30 p.m.
Sarah (Sally) Anderson	12:35 p.m. to 4:30 p.m.
Diana Bell	12:33 p.m. to 4:30 p.m.
Alicia Berhow	12:31 p.m. to 4:30 p.m.
Michelle Brough	12:31 p.m. to 4:30 p.m.
Donald Driftmier	12:31 p.m. to 4:30 p.m.
Herschel Elkins	12:31 p.m. to 4:30 p.m.
Laurence (Larry) Kaplan	12:31 p.m. to 4:30 p.m.
Louise Kirkbride	12:31 p.m. to 4:30 p.m.
Kitak (K.T.) Leung	Absent
Manuel Ramirez	12:31 p.m. to 4:30 p.m.
David Swartz	12:31 p.m. to 4:30 p.m.

CBA Members

March 23, 2012

Marshal Oldman, President	9:01 a.m. to 12:24 p.m.
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Leslie LaManna, Vice President	9:01 a.m. to 12:24 p.m.
Michael Savoy, Secretary-Treasurer	9:01 a.m. to 12:24 p.m.
Sarah (Sally) Anderson	9:01 a.m. to 12:24 p.m.
Diana Bell	9:01 a.m. to 12:24 p.m.
Alicia Berhow	9:01 a.m. to 11:09 a.m.
Michelle Brough	9:01 a.m. to 12:24 p.m.
Donald Driftmier	9:01 a.m. to 12:24 p.m.
Herschel Elkins	9:01 a.m. to 12:24 p.m.
Laurence (Larry) Kaplan	9:01 a.m. to 12:24 p.m.
Louise Kirkbride	9:01 a.m. to 12:24 p.m.
Kitak (K.T.) Leung	Absent
Manuel Ramirez	9:01 a.m. to 12:24 p.m.
David Swartz	9:01 a.m. to 12:24 p.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer
Rich Andres, Information Technology Staff
Veronica Daniel, Licensing Manager
Paul Fisher, Supervising Investigative CPA
Dominic Franzella, Chief, Licensing Division
April Freeman, Enforcement Analyst
Rafael Ixta, Chief, Enforcement Division
Nick Ng, Administration Manager
Kari O'Connor, Board Relations Analyst
Deanne Pearce, Assistant Executive Officer
Michele Santaga, Enforcement Analyst
Kristy Shellans, Legal Counsel, Department of Consumer Affairs (DCA)
Carl Sonne, Deputy Attorney General, Department of Justice (DOJ)
Matthew Stanley, Legislation/Regulation Analyst

Committee Chairs and Members

Nancy Corrigan, Chair, Peer Review Oversight Committee (PROC)
Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

John Ams, Executive Vice President, National Society of Accountants (NSA)
Michael Cohn, Administrative Law Judge (ALJ), Office of Administrative Hearings
Jason Fox, California Society of Certified Public Accountants (CalCPA)
Karen Kreuzkamp, Securities and Exchange Commission (SEC)
Samuel Lemon, Center for Public Interest Law (CPIL)
Morris Miyabara, California Society of Accounting and Tax Professionals (CSATP), NSA
Jean Nelson, California Society of Enrolled Agents (CSEA)

Pilar Onate-Quintana, KP Public Affairs
Art Ramudo, Advocate for Petitioner Censoprano
Jonathan Ross, KP Public Affairs
Jeannie Tindel, CalCPA
Cynthia Wallis, Court Reporter

I. Report of the President

A. Proposed 2013 CBA Meeting Dates.

It was moved by Ms. Berhow, seconded by Mr. Ramirez and carried by those present to adopt the 2013 CBA meeting dates. Ms. Anderson and Ms. Bell abstained.

B. Resolution for Retiring Ethics Curriculum Committee (ECC) Member Dave Cornejo.

It was moved by Mr. Driftmier, seconded by Mr. Swartz and unanimously carried by those present to adopt the resolution for retiring ECC Member Dave Cornejo.

II. Report of the Vice President.

A. Recommendations for Appointment(s) to the Enforcement Advisory Committee (EAC).

There was no report for this item.

B. Recommendations for Appointment(s) to the Qualifications Committee (QC).

It was moved by Ms. LaManna, seconded by Ms. Bell and unanimously carried by those present to appoint Lewis R. Fisher to the QC.

III. Report of the Secretary/Treasurer

A. Discussion of Governor's Budget.

B. Fiscal Year 2011-2012 Mid-Year Financial Statement.

Mr. Savoy provided an overview of this item (see Attachment ___)

Mr. Savoy noted that the results of the reduced license renewal fees are reflected in the projected revenue for Fiscal Year 2011-12. Mr. Savoy also reported that CBA staff found an error within the Department of Justice billing system, which resulted in the CBA being erroneously

charged over several years. This error has since been corrected.

Mr. Driftmier commended staff for finding the DOJ billing error.

Mr. Ramirez inquired as to when the CBA may petition the State of California to repay the CBA for loans to the General Fund. Mr. Ramirez requested that this be addressed at the next CBA meeting.

IV. Report of the Executive Officer (EO)

A. Update on Staffing.

Ms. Bowers stated that Mr. Franzella was recently promoted to Chief of the Licensing Division and Ms. Daniel was promoted to Manager of the Initial Licensing Unit.

B. Update on CBA 2010-2012 Communications and Outreach Plan (Written Report Only).

No comments were received on this item.

C. Discussion and Possible Action to Amend Business and Professions Code Sections 5063(b)(2) and 5063.2 – Civil Action Settlements or Arbitration Awards

Mr. Stanley provided an overview of this item (See Attachment ___).

Mr. Ramirez commented that a \$100,000 threshold for civil action settlements or arbitration awards would seem sufficient, rather than the current \$30,000 threshold.

Mr. Elkins stated that the threshold should remain at \$30,000, so that the CBA remains informed of these occurrences and can decide on further actions as needed.

Mr. Swartz concurred with Mr. Elkins and suggested no action on this item.

Mr. Ramirez suggested staff inquire with parties to determine a reasonable threshold.

V. Open Session. Petitions for Reinstatement.

A. Colina, Jose M. – Petition for Reinstatement of Revoked CPA Certificate.

Mr. Colina appeared before the CBA members to petition for the reinstatement of his revoked certificate.

ALJ Michael Cohn and the CBA members heard the petition and later convened into executive closed session to deliberate the matter. ALJ Cohn will prepare the decision.

B. Censoprano, Salvatore – Petition for Reinstatement of Revoked CPA Certificate.

Mr. Censoprano appeared before CBA members to petition for the reinstatement of his revoked certificate.

ALJ Michael Cohn and the CBA members heard the petition and convened into executive closed session to deliberate the matter. ALJ Cohn will prepare the decision.

C. Shattuck, Allan D. – Petition for Reinstatement of Revoked CPA Certificate.

Mr. Shattuck appeared before the CBA members to petition for reinstatement of his revoked certificate.

ALJ Michael Cohn and the CBA members heard to petition and convened into executive closed session to deliberate the matter. ALJ Cohn will prepare the decision.

VI. Closed Session. Pursuant to Government Code Section 11126(c)(3), the CBA Will Convene Into Closed Session to Deliberate on Disciplinary Matters (Stipulations, Default Decisions, Proposed Decisions, and Petitions for Reinstatement).

CBA members convened into closed session at 3:23 p.m., and the meeting recessed at 4:30 p.m.

At this time, CBA members heard Agenda Item IX.

VII. Report of the Licensing Chief.

A. Report on Licensing Division Activity.

Ms. Pearce provided an overview of this item. (See Attachment ___).

B. Discussion and Possible Action on the International Delivery of the Uniform CPA Examination (iExam).

Mr. Franzella provided an overview of this item (See Attachment ___).

Mr. Driftmier inquired regarding how the CBA could opt out of

participating in the iExam, since the iExam is the same examination accepted by the CBA and the only difference is it is administered out of the country.

Ms. Shellans commented that concerns with the security of the iExam may be a basis for the CBA selecting to opt out.

Ms. Brough expressed concern with the level of security precautions taken during the screening process of foreign examination candidates.

Mr. Swartz commented that he sees no benefit to the CBA in licensing international candidates that have no intention of living or working in California.

Ms. Anderson agreed with Mr. Swartz. Ms Anderson commented that the CBA should also decide if it will license a candidate that has passed the iExam through another U.S. jurisdiction.

It was moved by Mr. Swartz, seconded by Mr. Ramirez and unanimously carried by those present to opt out of participating in the iExam on the basis that participating in the exam is of no benefit to California.

VIII. Report of the Enforcement Chief.

A. Enforcement Case Activity and Aging Report.

Mr. Ixta provided an overview of this item (See Attachment__).

Mr. Ixta stated that staff recently issued 872 citations to licensees for failing to respond to CBA requests related to peer review reporting. To date, about 30 percent of the citations have been appealed.

Mr. Swartz inquired if the appeals were because the licensees believed that the Peer Review requirement did not apply to them.

Mr. Ixta stated that licenses have appealed for various reasons.

B. Reportable Events Report.

Ms. Anderson inquired if each restatement is reviewed to determine if an investigation is required.

Mr. Fisher stated that each restatement is reviewed, however, very few investigations result from the reviews.

C. Update on Peer Review Implementation.

Ms. Anderson inquired the method used by enforcement staff to contact a licensee to clear up possible misunderstandings regarding peer review reporting requirements.

Mr. Ixta stated that Enforcement staff have dialogue with the licensee, to determine if a licensee is performing services which require a peer review.

Mr. Elkins inquired if citations were sent to inactive licensees.

Mr. Ixta stated that due to limited resources and workload constraints, active status licenses are the priority at this time.

D. Results of 2nd Quarter Performance Report Measures to DCA,

Mr. Ixta reported that with the exception of one area, the CBA is meeting all performance measures within the timeframe identified by DCA.

Mr. Ramirez inquired if the DCA target date is attainable for the one objective that the CBA is not meeting.

Ms. Kirkbride suggested the median be used for this statistic.

Ms. Bowers stated that the CBA is now fully staffed for the first time in 10 years, and the processing timeframes will improve significantly in the future. If over time, however, this timeframe still does not seem achievable, the CBA may work with DCA to set a more reasonable timeframe.

E. Educational Presentation on the Securities and Exchange Commission (SEC) Investigations process.

Ms. Karen Kreuzkamp from the SEC presented information on the SEC Investigation Process.

Mr. Ramirez suggested that the Committee on Professional Conduct (CPC) review the reporting requirements regarding actions taken by the SEC.

Mr. Swartz commented that the CBA should receive copies of Wells Notices from the SEC.

Mr. Ixta stated that the exchange agreement with the SEC may be revisited to determine what information can be disclosed to the CBA.

IX. Regulations

Discussion and Possible Action to Adopt or Amend Proposed Text at Title 16, California Code of Regulations (CCR) Section 4 – Safe Harbor.

Ms. O'Connor provided modified draft regulatory language for the Safe Harbor Language. Ms. O'Connor further explained that members may adopt the modified draft regulatory language (Option 1) or adopt the regulatory language that was proposed at the January CBA meeting (Option 2).

Mr. Ramirez inquired regarding the purpose of the Safe Harbor language, and if there is any other legislative body that has the authority to draft the language. Ms. Pearce clarified that this language is in the CBA Regulations. Therefore, only the CBA has the authority to draft the language.

Ms. Jean Nelsen from the California Society of Enrolled Agents (CSEA) and Mr. John Ams from the National Society of Accountants (NSA) both commented that they support the modifications to the Safe Harbor language.

It was moved by Mr. Elkins, seconded by Mr. Swartz and carried by those present to adopt the modified draft regulatory language provided in Option 1 and direct staff to take the necessary steps to complete the rulemaking process. Mr. Driftmier opposed.

X. Committee and Task Force Reports.

A. Enforcement Program Oversight Committee (EPOC)

1. Report of the March 22, 2012 EPOC Meeting.

There were no comments on this item.

2. Overview of the Enforcement Process.

There were no comments on this item.

3. Discussion on the Role of the EPOC, Role of the EAC, and Review of the CBA Member Guidelines and Procedures Manual.

Ms. Anderson inquired regarding what the appropriate method is for a CBA member to express concerns with an investigation.

Ms. Shellans commented that either the EAC or a two person committee could be created to review closed cases and communicate any concerns with those cases to the Executive Officer.

Ms. LaManna commented that the EAC liaison could be the

appropriate person to undertake the role of policy review and communicate any issues to the EAC.

Mr. Ramirez commented that EPOC was created by the Legislature for a specific purpose – to provide oversight and draft regulations and policies of the enforcement process. Mr. Ramirez further commented that the Legislature intended that CBA members be present on EPOC, like the CPC.

Mr. Oldman stated that EPOC has an important role that it will continue to play, and that CBA staff will bring back proposed new roles for EPOC at a future CBA meeting.

B. Legislative Committee (LC).

1. Report of the March 22, 2012 LC Meeting.

There were no comments received on this item.

2. Update on Bills on Which the CBA Has Taken a Position (AB 675, AB 958, AB 991, AB 1193, SB 103, SB 366).

There were no comments received on this item.

3. Consideration of Positions on Legislation.

a. AB 1345 – Local Government Audits.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt an Oppose position on AB 1345. Mr. Elkins opposed.

b. AB 1504 – Administrative Regulations.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt an Oppose position on AB 1504.

c. AB 1537 – Regulations: Sunset Date.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt an Oppose position on AB 1537.

d. AB 1588 – Reservist Licensees: Fees and Continuing Education.

It was moved by Ms. Anderson, seconded by Ms. Bell and

unanimously carried by those present to adopt a Support if Amended position on AB 1588.

- e. AB 1810 – Professions and Vocations: Occupational Regulations.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt a Watch position on AB 1810. The CBA will take an Oppose position if it is not amended.

- f. AB 1904 – Military Spouses: Temporary Licenses.

It was moved by Ms. Anderson, seconded by Mr. Elkins and unanimously carried by those present to adopt a Support if Amended position on AB 1904.

- g. AB 1914 – Agency Reports.

It was moved by Ms. Anderson, seconded by Mr. Swartz and unanimously carried by those present to adopt an Oppose position on AB 1914.

- h. AB 1982 – Regulations: Effective Date: Legislative Review.

It was moved by Ms. Anderson, seconded by Ms. Bell and unanimously carried by those present to adopt an Oppose position on AB 1982.

- i. AB 2022 – Controller: Financial Information Request.

It was moved by Ms. Anderson, seconded by Mr. Berhow and unanimously carried by those present to adopt a Watch position on AB 2022.

- j. AB 2041 – Regulations: Adoption: Disability Access.

It was moved by Ms. Anderson, seconded by Ms. Bell and unanimously carried by those present to adopt a Support if Amended position on AB 2041.

- k. AB 2570 – Licensees: Settlement Agreements.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt an Oppose position on AB 2570.

- I. SB 975 – Regulatory Authority.

It was moved by Ms. Anderson, seconded by Mr. Elkins and unanimously carried by those present to adopt a Watch position on SB 975.

- m. SB 1099 – Regulations: Effective Date.

It was moved by Ms. Anderson, seconded by Ms. Bell and unanimously carried by those present to adopt an Oppose position on SB 1099.

- n. SB 1165 – Denial of License.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and unanimously carried by those present to adopt a Watch position on SB 1165.

- o. SB 1405 – Accountancy: Renewal Exemption: Military Service.

The CBA directed staff to work with the author and sponsors on amendments to the bill and bring back the results to the May CBA Meeting.

- p. Omnibus Legislation.

It was moved by Ms. Anderson, seconded by Mr. Ramirez and carried unanimously by those present to adopt a Support position on the Omnibus Legislation.

- 4. Discussion and Possible Action to Seek Legislation to Amend Business and Professions Code Section 5008 – Email Address Requirement.

The CBA took no action on this item.

C. Committee on Professional Conduct (CPC)

- 1. Report of the March 23, 2012 CPC Meeting.

There were no comments received on this item.

- 2. Discussion on Initiating a Rulemaking to Amend Title 16, CCR Sections 12, 12.5, and 37 – Continuing Education Requirements for Applicants with Experience Obtained Five Years Prior to Application and Reissuance.

It was moved by Mr. Savoy, seconded by Mr. Ramirez and unanimously carried by those present to approve the draft regulatory language and initiate the rulemaking process.

D. Strategic Plan Committee (SPC)

1. Report of the March 23, 2012 SPC Meeting.

There were no comments received on this item.

2. Discussion on the Role of the SPC and Review of the CBA Member Guidelines and Procedures Manual.

It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present that the CBA approve the proposed language to include the SPC in the CBA Guidelines and Procedures Manual.

3. Discussion on Methodology to be used to Develop the 2013-2015 CBA Strategic Plan.

It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present that the CBA develop the 2013-2015 Strategic Plan using the approach recommended by staff, which involves CBA members voluntarily participating to draft the Strategic Plan in collaboration with CBA staff.

4. Discussion on Future Meeting Dates for the SPC and Plan Development.

Mr. Ramirez commented that CBA staff will be in contact with members to determine future planning dates.

5. Update on 2010-2012 CBA Strategic Plan.

There were no comments received on this item.

E. Enforcement Advisory Committee (EAC)

1. Report of the February 2, 2012 EAC Meeting.

Ms. Gerhardt stated that the EAC met on February 2, 2012, and the EAC reviewed 19 closed cases. The EAC agreed with staff's conclusion on all of the 19 cases.

CBA staff referred seven open investigation cases to the EAC for technical expertise. Of these seven cases, it was recommended that

one case proceed with an investigative hearing, four cases be closed, and two continue to be investigated by CBA staff.

Ms. Gerhardt stated that two investigative hearings were conducted, one resulted in the case being closed, and one resulted in referring the case to the Attorney General.

2. Discussion on the Role of the EAC.

Ms. Gerhardt provided an overview of this item.

Ms. Berhow inquired why the experience required to serve on the EAC is only two years.

Ms. Bowers commented that the low threshold of experience required is to allow flexibility and leave it to the discretion of the interviewer, in consultation with the CBA Vice President, in selecting who would be assigned to the committee.

Mr. Ramirez inquired if a higher bar should be considered for EAC applicants.

Ms. LaManna stated that all members of the EAC are experienced and superior candidates.

Mr. Oldman commented that the recruiting process should not be over controlled.

F. Qualifications Committee (QC)

There was no report for this item.

G. Peer Review Oversight Committee (PROC)

1. Report of the February 10, 2012 PROC Meeting.

Ms. Corrigan stated that the PROC met on February 10, 2012 and discussed its participation in several oversight activities. Ms. Corrigan further stated that the PROC worked on finishing the 2011 PROC Annual Report and discussed articles that will appear in the UPDATE regarding peer review tips and recruitment of peer reviewers.

Ms. Corrigan reported that the PROC has identified ways to promote peer review such as webcasts and links to CalCPA and AICPA websites, with information about the quality control centers for certain areas of practice that can be helpful to firms.

Ms. Corrigan noted that the next PROC meeting is scheduled for April 20, 2012.

2. 2011 PROC Annual Report.

Ms. Corrigan reported that the first year of the PROC was successful. Ms. Corrigan stated that the PROC is well on its way to becoming a regularly functioning committee. Ms. Corrigan noted that some of the accomplishments and achievements of the PROC include:

- Conducting seven committee meetings
- Creating a procedures manual
- Creating some oversight checklists for our process
- Attending four AICPA Peer Review Board meetings
- Providing input to the CBA on 3 AICPA Exposure Drafts
- Attending two CalCPA Peer Review Committee meetings
- Participating in nine Report Acceptance Body meetings
- Holding a preliminary oversight visit to CalCPA
- Attending a two-day peer reviewer training course

Ms. Corrigan further stated that a voluntary survey to gather information about peer review has been online since December 2010. The survey results show that:

- A majority (70 percent) of firms believe that undergoing a peer review helped improved their service.
- Half of firms intend to notify clients that they have undergone a peer review.
- A third of firms will use peer review as a marketing tool.
- Less than 10 percent plan to increase their fees due to peer review.
- Approximately 8 percent will cease providing accounting and auditing services.

Ms. Corrigan stated that the PROC found that the AICPA and CalCPA are functioning effectively and in accordance with objectives. The PROC recommends that the CBA continue to recognize the AICPA as a peer review program provider. Ms. Corrigan stated that the PROC recommends the CBA continue to promote and encourage CPAs to become qualified peer reviewers, and the CBA review its record retention policy to determine if it would be appropriate to apply a 120-day record retention policy for CalCPA Report Acceptance Body documents. Ms. Corrigan thanked the PROC members for their dedication.

XI. Acceptance of Minutes.

A. Draft Minutes of the January 26-27, 2012 CBA Meeting.

- B. Minutes of the January 25, 2012 CBA Open House.
- C. Minutes of the January 26, 2012 CPC Meeting.
- D. Minutes of the January 26, 2012 LC Meeting.
- E. Minutes of the November 3, 2011 EAC Meeting.
- F. Minutes of the December 9, 2011 PROC Meeting.

It was moved by Mr. Ramirez, seconded by Ms. Anderson and unanimously carried by those present to accept agenda items XI.A-F.

XII. Other Business.

- A. American Institute of Certified Public Accountants (AICPA).

There was no report for this item.

- B. National Association of State Boards of Accountancy (NASBA).

- 1. Update on NASBA Committees.

- a. Accountancy Licensee Database (ALD) Task Force.

Ms. Bowers stated that the task force is continuing to work on the ALD and the public access portions of CPAVerify. Ms. Bowers further stated that she will keep the CBA informed of the committee's activities.

- b. Board Relevance & Effectiveness Committee.

Mr. Oldman stated that this committee will be meeting in May in Dallas, TX.

- c. Education Committee.

Mr. Driftmier stated that the committee was seeking insight regarding the new ethics requirement. Mr. Driftmier also reported that several committee members suggested the college accreditation process is not enough and that boards should consider rating the colleges on how successful their students are on passing the CPA exam the first time.

- d. Uniform Accountancy Act Committee (UAA).

Ms. Anderson stated that she was appointed to a subcommittee to

define the term “discreditable acts” of a CPA. Ms. Anderson will update the CBA after the subcommittee holds its first meeting.

2. Proposed Responses to NASBA Focus Questions

Ms. O’Connor provided an overview of this item (See Attachment ___).

It was moved by Mr. Elkins, seconded by Mr. Ramirez and unanimously carried by those present to accept the proposed responses to the NASBA Focus Questions.

C. Participation on National Committees.

Ms. Pearce provided an overview of this item (Attachment ___).

XIII. Closing Business.

Ms. Bowers provided members with an update on the current travel restrictions in place.

A. Public Comments.*

No public comments were received.

B. Agenda Items for Future CBA Meetings.

No items were received.

C. Press Release Focus

Ms. Pearce stated the topic of focus for a post-meeting press release is information on the Peer Review program.

Recent Press Releases.

Ms. Pearce stated that the most recent Press Release topic was for this CBA meeting.

Adjournment.

President Oldman adjourned the meeting at 12:24 p.m. on Friday, March 23, 2012.

Marshal A. Oldman, Esq., President

Michael M. Savoy, CPA, Secretary-Treasurer

Kari O'Connor, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA, prepared the CBA meeting minutes. If you have any questions, please call (916) 561-1718.



DEPARTMENT OF CONSUMER AFFAIRS
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CBA Item IX.B.
May 24-25, 2012

DEPARTMENT OF CONSUMER AFFAIRS
CALIFORNIA BOARD OF ACCOUNTANCY (CBA)

DRAFT

MINUTES OF THE
MARCH 22, 2012
CBA OPEN HOUSE

Hyatt Regency San Francisco Airport
1333 Bayshore Highway
Burlingame, CA 94010
Telephone: (650) 347-1234
Facsimile: (650) 696-2669

Roll Call and Call to Order.

A quorum of the CBA was not present.

Assistant Executive Officer Deanne Pearce began the CBA Open House at 7:01 p.m. on Thursday, March 22, 2012 at the Hyatt Regency San Francisco Airport in Burlingame, California. The Open House ended at 8:19 p.m.

CBA Members

Donald Driftmier, CPA

Staff and Legal Counsel

Rich Andres, Information Technology Staff
Patti Bowers, Executive Officer
Veronica Daniel, Licensing Manager
Dominic Franzella, Chief, Licensing Division
Kari O'Connor, Executive Analyst
Deanne Pearce, Assistant Executive Officer

Other Participants

Tingyin Fi, San Francisco State University (SFSU)
Jason Fox, California Society of Certified Public Accountants (CalCPA)
Jiunn Huang, SFSU
Jimmy Lan, University of San Francisco

Samuel Lemon, CPIL
David Lindsay, CSU, Stanislaus
Harry Lorsbach, University of California, Santa Cruz (UCSC) – Extension
John O’Shaughnessy, SFSU
Chris Paisley, Santa Clara University
Susan Parker, Santa Clara University
Jeannie Tindel, CalCPA
Sayuri Tschetter, SFSU
Lorelei Vowinkel, UCSC – Extension
Janis Zaima, San Jose State University

I. Welcome and Introductions.

Assistant Executive Officer Deanne Pearce welcomed attendees and introduced CBA and staff members who were present.

II. Opening remarks

Ms. Pearce provided introductory remarks and introduced CBA member Don Driftmier.

Mr. Driftmier presented the background and history of how the new educational requirements for CPA licensure were developed.

III. Presentation on the New Educational Requirements for CPA Licensure Set to Take Effect January 1, 2014.

Mr. Franzella provided an overview of this item (**Attachment 1**).

IV. Question and Answer Session.

Mr. Franzella responded to various questions and comments from the audience.

V. Public Comments for Items Not on the Agenda.

No public comments were received.

VI. Closing Remarks.

Assistant Executive Officer Deanne Pearce provided closing remarks.

Assistant Executive Officer Deanne Pearce ended the CBA Open House at 8:19 p.m.

Marshal A. Oldman, Esq., President

Michael M. Savoy, CPA, Secretary/Treasurer

Kari O'Connor, Board Relations Analyst, and Deanne Pearce, Assistant Executive Officer, prepared the CBA Open House minutes. If you have any questions, please call (916) 561-1718.



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EPOC Item I.
 May 24, 2012

CBA Item IX.C.
 May 24-25, 2012

**ENFORCEMENT PROGRAM OVERSIGHT COMMITTEE
 MINUTES OF MEETING**

Thursday, March 22, 2012

HYATT REGENCY SAN FRANCISCO AIRPORT
 1333 Bayshore Highway
 Burlingame, CA 94010

DRAFT

Call to Order and Roll Call

Diana Bell, Committee Chair, called the meeting of the California Board of Accountancy's (CBA) Enforcement Program Oversight Committee (EPOC) to order at 9:00 a.m. Ms. Bell requested that the role be called.

EPOC Members in Attendance

Diana Bell
 Alicia Berchow
 Michelle Brough
 Herschel Elkins
 Donald Driftmier
 David Swartz

CBA Members Observing

Sarah (Sally) Anderson
 Laurence (Larry) Kaplan
 Louise Kirkbride
 Leslie LaManna
 Manual Ramirez
 Michael Savoy

CBA Staff and Legal Counsel in Attendance

Rich Andres, Information Technology Staff
 Patti Bowers, Executive Officer
 Veronica Daniel, Manager, Licensing Division
 Paul Fisher, Supervising Investigative CPA
 Dominic Franzella, Chief, Licensing Division
 Rafael Ixta, Chief, Enforcement Division
 Kari O'Connor, Executive Analyst
 Deanne Pearce, Assistant Executive Officer

Michele Santaga, Enforcement Analyst
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs
Matthew Stanley, Legislation/Regulation Analyst

Committee Chairs and Members

Cheryl Gerhardt, Chair, Enforcement Advisory Committee (EAC)

Other Participants

Jason Fox, California Society of Certified Public Accountants (CalCPA)
Samuel Lemon, Center for Public Interest Law (CPIL)
Pilar Onate-Quintana
Jonathon Ross, KP Public Affairs
Jeannie Tindel, CalCPA

I. Overview of the Enforcement Process.

Mr. Ixta presented an overview of the enforcement process. Mr. Ixta's presentation included three flowcharts. The first outlined the investigative process from receipt of complaint to closure, assignment of continuing education, preparation of a citation, or referral to the Attorney General's Office. The second outlined case prosecution from referral of the case to the Attorney General's Office through a disciplinary order issued by the CBA. The third outlined the process for implementing and monitoring the disciplinary order.

II. Discussion on the Role of the EPOC, Role of the Enforcement Advisory Committee (EAC), and Review of the CBA Member Guidelines and Procedures Manual.

Ms. Pearce presented a discussion paper (**Attachment 1**) on the role of the EPOC and the role of the EAC. Included in the discussion paper was an excerpt from the CBA Member Guidelines and Procedures Manual (G&P Manual). The G&P Manual currently shows the role of the EPOC as:

To assist the CBA in the consideration of issues related to professional conduct by

- Review policy issues related to the Enforcement Program.
- Oversee the Enforcement Program's compliance with CBA policies by way of performing periodic internal audits.

The G & P Manual shows the EAC's role as:

To assist the CBA in an advisory nature with its enforcement activities by

- Serving in a technical advisory capacity to the Executive Officer and the Enforcement Program. The EAC members may participate in investigative hearings along with staff investigators; counsel from the Attorney General's Office; and where appropriate, outside counsel.

- In an appropriate manner, consistent with the Administrative Procedure Act, reporting its findings from any investigation or hearing to the CBA, or upon direction of the CBA, to the Executive Officer.
- Considering, formulating, and proposing policies and procedures related to the CBA's Enforcement Program.
- Making recommendations and forwarding reports to the CBA for action on any matter on which it is authorized by the CBA to consider.

Ms. Pearce stated that in preparing material for the EPOC meeting, Ms. Shellans, Legal Counsel, identified potential issues regarding the roles of the EPOC and EAC as reflected in the G & P Manual in regard to duplication of responsibilities between the two committees and a potential conflict with the law regarding separation of duties for EPOC Members.

Ms. Pearce stated CBA staff researched other Department of Consumer Affairs (DCA) Boards to find out if Enforcement Committees existed elsewhere. Staff found that other DCA Boards have Enforcement Committees; however, their role was generally limited to non-policy related tasks.

Ms. Pearce stated that CBA staff did not have any recommendations on this discussion topic; however, if the CBA Members determined that changes in the roles of the EPOC and EAC were necessary, staff had prepared proposed changes to the G&P Manual for consideration (**Attachment 1, Page 3**).

Ms. Bell requested Ms. Shellans to provide her comments.

Ms. Shellans explained that each member of an agency has a specific function to perform. The Executive Officer is responsible for the prosecution portion of enforcement which is performed by the investigative staff, the EAC, and the Attorney General's Office. The CBA Members, advised by DCA Legal Counsel, and the Administrative Law Judge are the decision makers.

Under the Administrative Procedure Act (APA), there should be no communication between the prosecution and the decision makers to ensure fairness and objectivity.

Ms. Shellans noted that if the CBA Members provide guidance on the investigative process, the Executive Officer would be hindered from making objective and independent decisions in case prosecution. In addition, it would appear that the CBA Members are committed to achieving a specific result in its enforcement process.

Ms. Shellans also noted that, in regard to internal audits, because the CBA meetings are held in open session, the confidentiality of the CBA's investigative process would be compromised.

Mr. Swartz expressed concern regarding how the CBA Members could communicate to the Executive Officer if they believed not enough had been done in an investigation.

Ms. Shellans responded that by statute, the EAC is authorized to investigate complaints. If the CBA members have a concern on investigative procedures, they can direct the EAC, which has the authority to meet in closed session, to review investigations. The EAC can provide advice to the Executive Officer on investigative procedures.

Further, if the CBA Members raise specific concerns on a case during closed-session deliberations, two CBA members may perform an internal audit on the case after it is closed and all appeals have been finalized. The two CBA Members would not vote on any future action regarding that licensee.

Mr. Swartz commented that under the G&P Manual, the EPOC and the Committee on Professional Conduct (CPC) shared the same duties with some narrowly defined minor distinctions. He stated that because the EPOC had so few duties and they had not met in 18 months, the CBA Members may wish to consider moving the EPOC duties to the CPC.

Mr. Elkins noted that the issue would still be the same – Can the CBA Members, under any circumstances, determine how the CBA operates its investigations?

Ms. Bell suggested that that CBA staff present suggestions for the future role of the EPOC at the May 24, 2012 EPOC meeting.

Mr. Swartz stated that it was acceptable with him to go that direction; however, he had wanted to make **a motion to eliminate the EPOC and let the CPC evaluate the duties proposed by CBA staff and assume any of those additional duties approved by the CBA. Mr. Swartz also moved that a process be set up where if there is a concern by the CBA Members about procedural issues in enforcement actions, that a two-person committee meet with the Executive Officer to present those issues.**

Ms. Bell suggested that the EPOC members get input from the full CBA before taking that step.

Mr. Elkins suggested that the EPOC first define if there is a role for the EPOC before making a decision.

Mr. Swartz withdrew his motion.

III. Public Comments.

No public comments were received.

IV. Agenda Items for Next Meeting.

1. Proposed Role of the EPOC.

Adjournment.

There being no further business to conduct, the EPOC meeting adjourned at 10:00 a.m.



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LC Item I.
May 24, 2012

CBA Item IX.D.
May 24-25, 2012

LEGISLATIVE COMMITTEE
MINUTES OF THE MEETING

March 22, 2012

DRAFT

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CALL TO ORDER

Sally Anderson, Chair, called the meeting of the Legislative Committee (LC) to order at 10:02 a.m. Ms. Anderson requested that the roll be called.

Present

- Sally Anderson, Chair
- Diana Bell
- Herschel Elkins
- Larry Kaplan
- Louise Kirkbride
- Manuel Ramirez
- Michael Savoy

CBA Members Observing

- Alicia Berhow
- Michelle Brough
- Donald Driftmier
- Leslie LaManna
- Marshal Oldman

CBA Staff and Legal Counsel

- Patti Bowers, Executive Officer
- Deanne Pearce, Assistant Executive Officer
- Rich Andres, Information Technology Staff
- Veronica Daniel, Licensing Manager
- Paul Fisher, Supervising Investigative CPA

Dominic Franzella, Chief, Licensing Division
Rafael Ixta, Chief, Enforcement Division
Kari O'Connor, Executive Analyst
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs
Matthew Stanley, Legislation/Regulation Analyst

Other Participants

Jason Fox, CalCPA
Cheryl Gerhardt, EAC Chair
Samuel Lemon, CPIL
Pilar Onate-Quintana, KP Public Affairs
Jon Ross, KP Public Affairs
Jeannie Tindel, CalCPA

- I. Approve Minutes of the January 26, 2012 LC Meeting

It was moved by Mr. Ramirez, seconded by Mr. Savoy and unanimously carried by those present to approve the minutes of the January 26, 2012 LC Meeting.

- II. Update on Bills on Which the CBA Has Taken a Position (AB 675, AB 958, AB 991, AB 1193, SB 103, SB 366)

Mr. Stanley presented an update on bills on which the CBA had already taken position in 2011. With a deadline that passed in January, AB 675, AB 958, AB 991, AB 1193 and SB 366 failed to pass and are now dead. SB 103 is technically still alive, but it is unlikely to continue in its current form.

The LC took no action on this item.

- III. Consideration of Positions on Legislation

- A. AB 1345 – Local government: audits

Mr. Stanley stated AB 1345 was held over from 2011 and had no affect on the CBA. However, it was amended in January 2012 and took on a whole new topic which now applies to the CBA. Mr. Stanley further stated that this bill, among other things, would require that local agencies engage in mandatory audit partner rotation every seventh year unless the Controller waives this requirement due to lack of an eligible firm.

It was moved by Mr. Ramirez, seconded by Ms. Anderson, and carried by those present to recommend the CBA adopt an Oppose position on AB 1345. Mr. Elkins opposed.

- B. AB 1504 – administrative regulations

Ms. O'Connor stated that AB 1504 would require agencies to do an economic assessment 90 days before beginning the rulemaking process. This bill would

extend the rulemaking timeline by three months. CBA staff recommended an Oppose position on this bill.

It was moved by Mr. Elkins, seconded by Mr. Ramirez, and unanimously carried by those present to recommend the CBA adopt an Oppose position on AB 1504.

C. AB 1537 Regulations: sunset date

Ms. O'Connor stated that this bill was amended on March 19, 2012. It would require that any regulation with an economic impact over \$50 million per year must include a two year sunset date within the regulation. Due to this threshold, which would impact very few, if any, of the CBA regulations, CBA staff recommend a Watch position on AB 1537.

Ms. Anderson inquired why the original recommendation was changed from Oppose to Watch.

Mr. Stanley stated the recommendation was changed because the threshold was increased from \$1 million to \$50 million and at that threshold it would be very unlikely to have an impact on the CBA.

It was moved by Mr. Elkins, seconded by Mr. Ramirez, and unanimously carried by those present to recommend the CBA adopt an Oppose position on AB 1537.

D. AB 1588 - Reservist Licensees: fees and continuing education

Ms. O'Connor gave an overview of the proposed bill indicating that the bill would require DCA boards to waive renewal fees and continuing education (CE) for active duty National Guard and military reservists. The CBA already has provisions to exempt active duty military from CE requirements. Staff recommend a Support if Amended or Oppose Unless Amended position.

Ms. Anderson stated that this bill is for all agencies and there might be other agencies that haven't already addressed the continuing education issue, if the waiver of CE remains in the language it would have to be broad enough that each individual board has the ability to make their own decisions.

Mr. Ramirez indicated that he would support if amended to state only that the bill exempts payment of fees, but not CE.

It was moved by Mr. Ramirez, and seconded by Ms. Bell, and unanimously carried by those present to recommend that the CBA adopt a Support if Amended position on AB 1588 to remove reference to waiving CE.

E. AB 1810 – Professions and Vocations: occupational regulations

Mr. Stanley reported that the effect of AB 1810 would essentially be deregulation of every licensed profession and vocation in California. However, the author's office has indicated that the CBA along with several other boards will be excluded from the bill in a later amendment. The Department of Consumer Affairs (DCA) indicated that this bill will be amended to deal with a different topic. Staff recommend a Watch position on AB 1810, which would change to an Oppose position if the bill is not amended by the first hearing.

It was moved by Mr. Savoy, and seconded by Mr. Elkins, and unanimously carried by those present to recommend the CBA adopt a Watch position on AB 1810, which shall become an Oppose position if the bill is not amended by the first hearing.

F. AB 1904 – Military Spouses: temporary licenses.

Mr. Stanley stated this bill authorizes boards to issue a 180 day temporary license to the spouse or domestic partner of an active duty member of the armed forces who holds a current license in another jurisdiction. It allows the board to adopt regulations to implement or administer the program.

Mr. Stanley further stated that CBA staff identified four potential concerns presently in the bill and have discussed them with the author's office. First, the permissive nature of the bill needs to be firmly established as this law would be a barrier to entry to California if mobility legislation were to be passed. Second, the bill should indicate that the person holds an active license rather than a current license to ensure that their CE is up to date. Third, the bill needs to clarify what happens to the 180 day license should the individual obtain a California CPA license before the 180 days are over; and finally, the bill should make it clear that the boards have disciplinary authority over the 180 day temporary licensee. The author's office has indicated a willingness to address all four of these issues. Staff recommend to adopt a Support if Amended position.

It was moved by Mr. Elkins, seconded by Ms. Anderson, and unanimously carried by those present to recommend the CBA adopt a Support if Amended position on AB 1904.

G. AB 1914 – Agency Reports

Mr. Stanley stated that this bill would require a state agency to annually report to the Legislature its progress on its required reports to the Legislature and explain any overdue reports. In addition, the bill states Legislative intent to withhold appropriations from an agency that fails to submit a timely report. Staff recommend an Oppose position.

It was moved by Mr. Ramirez, seconded by Mr. Elkins, and unanimously carried by those present to recommend the CBA adopt an Oppose position on AB 1914.

H. AB 1982 – Regulations: effective date: legislative review

Ms. O'Connor gave a brief overview of this item (**see attachment 1**). Ms. O'Connor stated that this bill would lengthen the timeframe for the rulemaking process by sixty days, as well as give the Legislature the authority to pass a statute to override a regulation that has been approved by the Office of Administrative Law (OAL). Due to the increase in time for a regulation to take effect, staff recommend an Oppose position on AB 1982.

It was moved by Mr. Elkins, seconded by Ms. Bell, and unanimously carried by those present to recommend the CBA adopt an Oppose position on AB 1982.

I. AB 2022 – Controller: financial information request

Ms. O'Connor gave a brief overview of this item (**see attachment 2**). Ms. O'Connor stated that this bill would not greatly affect or change any current processes at the CBA because the CBA already responds to budget and salary information requests in a timely manner. It is possible more provisions may be added to this bill. At this time staff recommend a Watch position on AB 2022.

It was moved by Mr. Elkins, seconded by Mr. Ramirez, and unanimously carried by those present to recommend the CBA adopt a Watch position on AB 2022.

J. AB 2041 – Regulations: adoption: disability access

Mr. Stanley explained this bill would require a statement to be placed in a regulatory Notice of Proposed Action to indicate that a narrative description of the proposed changes will be provided on request to visually impaired individuals. Those individuals would receive 45 days to comment from the date upon which the information was provided to the requestor.

In order to not add extra time to the rulemaking process, staff recommend a Support if Amended to remove reference to the additional 45 day comment period.

It was moved by Mr. Ramirez, seconded by Ms. Kirkbride, and unanimously carried by those present to recommend the CBA adopt a Support if Amended position on AB 2041.

K. AB 2570 – Licensees: settlement agreements

Mr. Stanley stated that this bill contains two parts. The first prohibits a licensee from including in a civil suit settlement agreement that prohibits the other party from contacting, filing a complaint or cooperating with the board. The second prohibits a board from requiring, in a disciplinary action related to a civil suit, additional restitution to any plaintiff in a civil suit that is already settled.

It was moved by Mr. Elkins, seconded by Mr. Savoy to recommend the CBA adopt an Oppose Unless Amended position on AB 2570.

The Motion was subsequently withdrawn.

It was moved by Mr. Ramirez, seconded by Mr. Elkins, and unanimously carried by those present to recommend the CBA adopt an Oppose position on AB 2570.

L. SB 975 – Regulatory authority

Mr. Stanley explained that this bill states that boards, bureaus and commissions of DCA have exclusive authority to license and regulate their professions. No additional licensure requirements can be imposed other than what is in the Business and Professions Code or in regulations. After discussing this bill with DCA, they indicated that the bill appears to be a direct response to the attempts during the last few years by other state agencies such as the Controller, Franchise Tax Board and the Board of Equalization to play a part in disciplining or putting additional requirements on licensees. The Governor has already authorized DCA to take an Oppose position on SB 975. The Professional Engineers Board have not had a meeting yet, but they are likely to take a watch position on this bill, therefore, staff recommend a Watch position at this time.

It was moved by Mr. Elkins, seconded by Ms. Bell, and unanimously carried by those present to recommend the CBA adopt a Watch position on SB 975.

M. SB 1099 – Regulations: effective date

Ms. O'Connor stated that this bill would require regulations to become effective on either January 1 or July 1. Currently regulations are effective 30 days after being approved by the OAL. This bill could potentially add several months to the rulemaking process. Because of this staff recommend an Oppose position on SB 1099.

It was moved by Mr. Ramirez, seconded by Ms. Bell, and unanimously carried by those present to recommend the CBA adopt an Oppose position on SB 1099.

N. SB 1165 – Denial of license.

Mr. Stanley informed the LC that this bill is going to be amended to an unrelated topic dealing with the Public Utilities Commission. Staff recommend a Watch position on SB 1165.

It was moved by Mr. Elkins, seconded by Mr. Ramirez, and unanimously carried by those present to recommend the CBA adopt a Watch position on SB 1165.

O. SB 1405 – Accountancy: renewal exemption: military service

Mr. Stanley indicated that this bill is sponsored by CalCPA and the Accountants Coalition and both sponsors have expressed their desire to work with staff on amendments to improve the bill. Mr. Stanley stated currently the bill would exempt a licensee from paying a renewal fee if he/she is engaged in full time training or active military service with the Army, Navy, Air Force or Marines. It would also prohibit them from practicing public accountancy during that time of exemption and would make them liable for payment of the renewal fee after 60 days after their discharge from service. Staff laid out several issues regarding this bill (**see attachment 3**).

Ms. Shellans expressed her concerns with creating a new exempt category. She further stated that the only items that would be exempt are CE and renewal requirements. She further stated that by giving a licensee an exempt status it implies that they are no longer subject to the CBA's jurisdiction and exempt from the Accountancy Act. However, since they are active licensees, they should still fall under the CBA's jurisdiction.

Mr. Stanley indicated that they are not active because they are prohibited from practicing as stated by the bill. Mr. Stanley further suggested calling it "Military Inactive Status."

The LC directed staff to work with the author and sponsors on amendments to the bill and bring back the results to the May CBA Meeting.

P. SB 1576 - Omnibus Legislation

Mr. Stanley reported that SB 1576 contains various provisions affecting the CBA and other boards. Specifically, it would:

- change an out-of-date provision requiring the Rules of Professional Conduct to be printed on the licensing application;
- clarify that two public accounting corporations may form a public accounting partnership;
- delete obsolete language from the peer review code section;
- remove an obsolete provision regarding the Ethics Curriculum Committee;
- delete obsolete provisions regarding the adoption of the accounting study guidelines and the California Research Bureau report; and
- extend from one year to three years the length of time the CBA may grant to a licensee to repay investigation costs.

It was moved by Mr. Ramirez, seconded by Mr. Elkins and unanimously carried by those present to recommend the CBA adopt a Support position on SB 1576.

IV. Discussion and Possible Adoption of Language to Amend Business and Professions Code Section 5008 – Email Address Requirement

Staff presented legislative language that would require licensees to provide a valid email address and keep it current. It would give the CBA citation and fine authority for violations of its provisions and exempt the email address from the Public Records Act.

The LC discussed the matter with the majority believing that it was overly regulatory for something that would almost exclusively benefit the CBA. It was decided to allow the continued optional collection of email addresses and wait to see what impact the BreEZe licensing system would have.

The LC took no action on the proposal.

V. Comments from Member of the Public

No public comments were received

VI. Agenda Items for Next Meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 11:35 a.m.



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LC Item III.H. CBA Item X.B.3.h.
March 22, 2012 March 22-23, 2012

AB 1982 – Regulations: Effective Date: Legislative Review

Presented by: Kari O'Connor, Special Projects Analyst

Date: March 1, 2012

Attachment 1

Purpose of the Item

The purpose of this item is to present information that will allow the California Board of Accountancy (CBA) to take an informed position on the legislation.

Action(s) Needed

Staff will request that the CBA take a position on the legislation.

Background

AB 1982 (**Attachment 1**) was introduced on February 23, 2012. It is authored by Assembly Member Don Wagner. As of the date of this memo, it has not been assigned to a committee.

This bill would affect the regulatory process in the following ways:

- Make regulations effective 90 days after approval by the Office of Administrative Law (OAL).
- Require a major regulation (a regulation that has an expected economic impact exceeding \$50,000,000¹) to be submitted to the Legislature, which can override the regulation, via passage of a statute.

Comments

Presently, a regulation is typically effective 30 days after approval from the OAL. Because the rulemaking process can already take up to 18 months, this bill would lengthen the timeframe for regulations to take effect. Additionally, it gives authority to the Legislature to pass a statute to override the regulation, even if the regulation has met the requirement of the Administrative Procedures Act and been approved by the OAL.

¹ AB 1504 (see **Agenda Item X.B.3.b.**) proposes changing this amount to \$25,000,000.

AB 1982 – Regulations: Effective Date: Legislative Review

Page 2 of 2

Recommendation

CBA staff recommend an Oppose position on AB 1982.

Attachments

AB 1982



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LC Item III.I. CBA Item X.B.3.i.
March 22, 2012 March 22-23, 2012

AB 2022 – Controller: Financial Information Request

Presented by: Kari O'Connor, Special Projects Analyst

Date: March 1, 2012

Attachment 2

Purpose of the Item

The purpose of this item is to present information that will allow the California Board of Accountancy (CBA) to take an informed position on the legislation.

Action(s) Needed

Staff will request that the CBA take a position on the legislation.

Background

AB 2022 (**Attachment 1**) was introduced on February 23, 2012. It is authored by Assembly Member Don Wagner. As of the date of this memo, it has not been assigned to a committee.

This bill would require an agency to provide its budget and/or salary information to the State Controller, upon request.

Comments

This bill, as currently written, would not greatly affect or change any current processes at the CBA. The CBA would currently respond to any request for budget and or/salary information in a timely matter.

Recommendation

Due to the possibility that more provisions may be added to this bill, staff recommend a Watch position on AB 2022.

Attachments

AB 2022

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CPC Item I.
 May 24, 2012

CBA Item IX.E.
 May 24-25, 2012

**COMMITTEE ON PROFESSIONAL CONDUCT (CPC)
 MINUTES OF THE MEETING**

DRAFT

March 23, 2012

Hyatt Regency San Francisco Airport
 1333 Bayshore Highway
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CALL TO ORDER

Michael Savoy, Chair, called the meeting of the Committee on Professional Conduct (CPC) to order at 8:51 am. Mr. Savoy requested that the role be called.

Present

Michael M. Savoy, Chair
 Sarah (Sally) Anderson
 Donald Driftmier
 Herschel T. Elkins
 Louise Kirkbride
 Leslie LaManna
 David Swartz

CBA Members Observing

Diana Bell
 Laurence (Larry) Kaplan
 Marshal Oldman
 Manuel Ramirez

CBA Staff and Legal Counsel

Rich Andres, Information Technology Staff
 Patti Bowers, Executive Officer
 Veronica Daniel, Licensing Manager
 Dominic Franzella, Chief, Licensing Division
 Paul Fisher, Supervising Investigative CPA
 April Freeman, Enforcement Analyst
 Rafael Ixta, Chief, Enforcement Division
 Kari O'Connor, Executive Analyst

Deanne Pearce, Assistant Executive Officer
Michele Santaga, Enforcement Analyst
Kristy Shellans, Senior Staff Counsel, DCA Legal Affairs
Carl Sonne, Deputy Attorney General, Department of Justice
Matthew Stanley, Legislation/Regulation Analyst

Other Participants

Jon Ams, NSA
Nancy Corrigan, Chair, PROC
Jason Fox, CalCPA
Jon Ross
Jeannie Tindel, CalCPA

I. Approve Minutes of the January 26, 2012 CPC Meeting

It was moved by Ms. Anderson, seconded by Ms. Kirkbride and carried by those present to approve the minutes of the January 26, 2012 CPC meeting. Mr. Swartz abstained.

II. Discussion on Initiating a Rulemaking to Adopt Title 16, California Code of Regulations (CCR) Sections 12, 12.5 and 37 – Continuing Education Requirements for Applications with Experience Obtained Five Years Prior to Application and Reissuance.

Ms. O'Connor presented proposed draft regulatory language and recommended the California Board of Accountancy (CBA) approve the draft regulations and direct staff to initiate the rulemaking process.

It was moved by Mr. Elkins, seconded by Ms. Anderson and unanimously carried by those present to recommend that the CBA approve the proposed regulations and direct staff to initiate the rulemaking process.

III. Comments from Members of the Public.

No Comments were received.

IV. Agenda Items for Next Meeting

No agenda items were identified.

There being no further business, the meeting was adjourned at 8:57 am.



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CBA Item IX.F.
May 24-25, 2012

Department of Consumer Affairs
California Board of Accountancy

Minutes of Meeting
January 25, 2012
CPA Qualifications Committee

Crowne Plaza
17941 Von Karman
Irvine, CA 92614

The regularly scheduled meeting of the Certified Public Accountant Qualifications Committee (QC) of the California Board of Accountancy (CBA) was called to order at approximately 10:00 a.m. on January 25, 2012 by QC Chair, Fausto Hinojosa.

QC Members Present

Fausto Hinojosa, Chair
Jenny Bolsky
Brian Cates
Michael Haas
Charles Hester
Alan Lee
Kristina Mapes
Casandra Moore Hudnall
Robert Ruehl

Staff Present

Dominic Franzella, Licensing Manager
Stephanie Hoffman, Licensing Coordinator
Deanne Pearce, Assistant Executive Officer
Kris Rose, Licensing Manager
Vicky Thornton, Licensing Coordinator

QC Members Absent

Maurice Eckley, Jr., Vice-Chair
Carlos Aguila
Gary Bong
Ash Shenouda
Jeremy Smith
James Woyce

I. CHAIRPERSON'S REPORT

Fausto Hinojosa, introduced and welcomed new QC Member Jenny Bolsky.

- A. Approval of the October 19, 2011, QC Meeting Minutes.

It was moved by Kris Mapes, seconded by Charles Hester and unanimously carried by those present to adopt the minutes of the October 19, 2011 QC Meeting. (This item was taken out of order once a quorum was established)

- B. Minutes of the November 17 - 18, 2011 CBA Meeting.

Copies of the meeting minutes were provided to the QC members for reference purposes. The members discussed the CBA's request for an overview of the QC's activities. Deanne Pearce, Assistant Executive Officer (AEO), indicated that an educational presentation will be given to the CBA during the next year.

II. REPORT ON ACTIVITIES IN THE INITIAL LICENSING UNIT

Ms. Pearce discussed the CBA election of new officers and the appointment of a QC liaison in the North. A liaison will be appointed for the South at a later date. Ms. Pearce also discussed the management changes in the Initial Licensing Unit (ILU) with the departure of Liza Walker and the hiring of Veronica Daniel as the manager. In addition, Dan Rich, the previous CBA AEO has retired and Ms. Pearce has been promoted to the position of AEO.

Ms. Pearce updated the QC on the regulation changes regarding the supervision requirements. The new regulation is effective February 9, 2012. She also reported that the Committee on Professional Conduct will discuss potential changes to reissuance and stale dated experience requirements at the CBA meeting on January 26, 2012.

The QC was provided the ILU report, which included a breakdown of the number of applications received by license type, processing timeframes and the number of licenses issued under each pathway. The report also included the number of firm applications received and processing timeframes for those applications. The numbers reported were for the time period of October 2011-December 2011.

III. FURTHER DISCUSSION AND EDUCATIONAL PRESENTATION RELATED TO CBA REGULATION SECTION 69 AND PERSONAL APPEARANCES

Mr. Hinojosa provided background information and Ms. Pearce provided an overview of what the QC would be addressing at this meeting. The QC was provided copies of the letters currently sent to the applicant and/or their employer when an appearance before the QC is required. In addition, letters containing proposed changes resulting from discussions at the October 2011 QC meeting were provided for members review. The members requested that the documents contain specific and consistent information. Discussion included providing the applicant and/or employer information as to why they were requested to appear before the QC.

The QC was also provided draft opening and closing language to use as a guideline when performing a personal appearance review or Section 69 review.

The members discussed several changes to the letters and the opening and closing statements and requested staff to incorporate these edits and bring the letters and guideline back for review at the next meeting.

IV. PUBLIC COMMENT

None.

V. AGENDA ITEMS FOR FUTURE CPA QUALIFICATIONS COMMITTEE MEETINGS

- Approval of January 25, 2012 QC minutes.
- Revised Section 69 letters and opening and closing statements.
- Further discussion of Section 69 review and member training.
- Presentation regarding the 2014 licensing requirement changes.

VI. REVIEW FILES ON INDIVIDUAL APPLICANTS [Closed session to review and deliberate on applicant files as authorized by Government Code Section 11126(c)(2), and Business and Professions Code Sections 5022 and 5023.]

The QC conducted its annual internal audit of one percent of randomly selected staff approved applications for licensure. A total of 3,567 files were approved from July 1, 2010 through June 30, 2011. The QC reviewed 36 files and concurred with staff's approval of all applications. The QC requested clarification on documentation contained in one file.

VII. CONDUCT CLOSED HEARINGS [Closed session in accordance with Government Code Section 11126(c)(2) and (f)(3), and Business and Professions Code Section 5023 to conduct closed hearings to interview individual applicants for CPA licensure].

C10-034 Applicant and his employer appeared and presented workpapers for his public accounting experience. Applicant is currently licensed with general experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C12-001 Applicant appeared and presented workpapers for his government accounting experience. Applicant is currently licensed with general experience.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

C12-002 Applicant appeared and presented workpapers for his public accounting experience. He has 205 months of experience, with a 24-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve

C12-004 Applicant's employer appeared and presented workpapers for his public accounting experience. Applicant is currently licensed with general experience.

The material provided did not contain full sets of workpapers. The material did not reflect experience in the preparation of and reporting on full disclosure financial statements, nor experience and satisfactory understanding of the requirements of planning an audit consistent with current practice standards and pronouncements of the profession.

The employer's understanding of the Certificate of Attest Experience was inadequate. The documentation was inadequate and did not support the firm's certification that the work demonstrates satisfactory knowledge of current standards and pronouncements.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional experience in planning and conducting a financial statement audit resulting in an opinion on full disclosure financial statements. Any new experience must be obtained under the supervision of a licensee authorized to sign reports on attest engagements and an affirmative Certificate of Attest Experience must be submitted. A determination will then be made as to whether or not he will be required to reappear with work papers for the QC's review.

Firm has been placed on reappearance status.

C12-005 Applicant and his employer appeared and presented workpapers for his public accounting experience. Applicant is currently licensed with general experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve

C12-006 Applicant and his employer appeared and presented workpapers for his public accounting experience. Applicant is currently licensed with general experience.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve

The following Section 69 review took place on December 14, 2011, and is made a part of these minutes.

C11-039 Applicant and her employer appeared for a Section 69 review. The applicant has 23.25 months of experience, with a 12-month requirement.

The employer's understanding of the Certificate of Attest Experience was adequate. The work performed by the applicant was reviewed and no deficiencies were noted. However, the Certificate of Attest Experience was not affirmatively completed in its entirety and the workpapers presented did not reflect experience and satisfactory understanding of the requirements of planning an audit. It was determined that the applicant will need to obtain additional hours reflecting experience planning and conducting a financial statement audit resulting in an opinion on full disclosure financial statements consistent with current practice standards and pronouncements of the profession.

Recommendation: Defer. In order to satisfy the experience requirement for authorization to sign attest reports, the applicant must obtain additional experience in planning and conducting a financial statement audit resulting in an opinion on full disclosure financial statements. Any new experience must be obtained under the supervision of a licensee authorized to sign attest reports on attest engagements and an affirmative Certificate of Attest Experience must be submitted. A determination will then be made as to whether or not she will be required to reappear with workpapers for the QC's review.

The following Section 69 review took place on January 18, 2012, and is made a part of these minutes.

C12-003 Applicant and her employer appeared and presented workpapers for her public accounting experience. She has 62.5 months of experience, with a 12-month experience requirement.

The work reviewed was complete and no deficiencies were noted. The work was adequate to support licensure.

Recommendation: Approve.

ADJOURNMENT

There being no further business to be conducted, the meeting was adjourned at 4:00 P.M. on January 25, 2012. The next meeting of the CPA Qualifications Committee will be held on April 25, 2012.

Fausto Hinojosa, Chair

Prepared by Vicky Thornton, Licensing Coordinator



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ENFORCEMENT ADVISORY COMMITTEE MINUTES OF MEETING

February 2, 2012

CBA Item IX.G
 May 24-25, 2012

The Doubletree Berkeley Marina
 200 Marina Blvd.
 Berkeley, CA 94710

FINAL

I. CALL TO ORDER

Enforcement Advisory Committee Chair Cheryl Gerhardt called the regularly scheduled meeting of the Enforcement Advisory Committee (EAC) of the California Board of Accountancy (CBA) to order at 9:00 a.m. on February 2, 2012.

Enforcement Advisory Committee

Cheryl Gerhardt, Chair	9:00 a.m. – 5:00 p.m.
James Rider, Vice Chair	9:00 a.m. – 5:00 p.m.
Joseph Buniva, Committee Member	9:00 a.m. – 5:00 p.m.
Gary Caine, Committee Member	9:00 a.m. – 5:00 p.m.
Mary Rose Caras, Committee Member	9:00 a.m. – 5:00 p.m.
K. Jeffrey De Lyser, Committee Member	9:00 a.m. – 5:00 p.m.
Robert A. Lee, Committee Member	9:00 a.m. – 5:00 p.m.
Mervyn McCulloch, Committee Member	Absent
James Petray, Committee Member	9:00 a.m. – 5:00 p.m.
Seid Sadat, Committee Member	9:00 a.m. – 5:00 p.m.
Michael Schwarz, Committee Member	9:00 a.m. – 5:00 p.m.

Staff and Legal Counsel

Paul Fisher, Supervising Investigative CPA
 Rafael Ixta, Enforcement Chief
 Kay Lewis, Investigative CPA
 Marla Weitzman, Investigative CPA
 Allison Nightingale, Enforcement Secretary
 Carl Sonne, DAG

II. FILE REVIEW/APPROVAL OF FILES CLOSED BY STAFF

The EAC adjourned into closed session under provisions of Government Code Section 11126(c)(2) and Business and Professions Code Section 5020.

EAC members convened into closed session at 9:00 a.m. and reconvened into open session at 10:35 a.m.

III. REPORT OF COMMITTEE CHAIR

A. Approval of the Minutes of the November 3, 2011 EAC Meeting

Following review, it was moved by Mr. Schwarz, seconded by Mr. Rider, and unanimously carried to approve the minutes of the November 3, 2011 EAC meeting.

The minutes will be submitted to the CBA members for review at the next regular CBA meeting

B. Report of the November 17-18, 2011 CBA Meeting

Mr. Ixta attended the November 17-18, 2011 CBA meeting held in San Jose. Items discussed included an update on the AEC Committee. The AEC Committee dissolved following the submission of the Accounting Study Guidelines in July 2011.

Mr. Ixta also reported the CBA Board members re-appointed Mary Rose Caras to a second term with the EAC Committee.

Mr. Ixta also reported on the discussion on initiating a rulemaking to adopt new fingerprinting requirements.

C. Report of the January 26-27, 2012 CBA Meeting

Mr. Ixta attended the January 26-27, 2012 CBA meeting held in Irvine. Items discussed on the first day included an update on the Governor's Budget in which four positions at the CBA have been eliminated according to the Governor's Budget. Items discussed on the second day will be covered in agenda item IV and V.

IV. REPORT OF ENFORCEMENT CHIEF

Prior to presenting his report, Mr. Ixta reported that the three vacant ICPA positions have been filled. He also reported the three ICPA's will be working out of their homes but will be visiting the CBA office once or twice a month. He stated two out of the three positions are located in southern California and one of the positions is located in central California. Mr. Ixta also reported that there is a vacant OT position in the Peer Review Program and hopes to fill it shortly.

A. Enforcement Case Activity and Aging Report

The Enforcement Case Activity and Aging Report for the period January 1, 2011 to December 31, 2011 was provided in the agenda packets.

Mr. Ixta reported that there are 392 investigations pending. The average age of these pending cases is 253 days. He noted the investigators are currently working on the oldest cases and also commented that the number will go down with the recent hiring of the three ICPA's.

B. Cite and Fine Report

The Citation and Fine Activity Report for the period July 1, 2011 through December 28, 2011 was provided in the agenda packets.

C. Reportable Events

The Reportable Events Report was provided in the agenda packets. Mr. Ixta reported that legislation effective January 1, 2012, will eliminate the requirement for reporting restatements for publicly traded companies.

D. Annual Results from the DCA Performance Measures Report

The results from the DCA Performance Measures Report for the period July 1, 2011 through September 30, 2011 was provided in the agenda packets.

V. OTHER BUSINESS

A. Report of the January 26, 2012 Legislative Committee Meeting

Mr. Ixta reported that Assembly Member, Fiona Ma, is considering amending the retired status law. Assembly Member Ma wants to allow retired status to licensees who were granted retired status in the mid-1990s. Their license is now cancelled after repeal of that law in 1999. Currently a cancelled license is not eligible to apply for retired status.

B. Report of the January 26, 2012 Committee on Professional Conduct Meeting

Mr. Ixta reported that two rulemaking amendments were discussed. The first one is to reduce the fraud continuing education (CE) from eight to four hours. The second is to streamline the peer review reporting requirements-the peer review reporting would be done at the time of license renewal. The committee also discussed requiring 80 hours of CE for reissuance of a cancelled license and for applicants with experience obtained five years or more prior to applying for licensure.

VI. PUBLIC COMMENTS

There were no public comments offered during the meeting.

VII. CONSIDER DISCIPLINARY ACTION AGAINST INDIVIDUAL ACCOUNTANTS

[Closed session as authorized by Government Code Sections 11126(c)(2) and (f)(3) and Business and Professions Code Section 5020 conducted after the general meeting to interview individual accountants and to consider possible disciplinary action against accountants prior to the filing of an accusation.]

VIII. ADJOURNMENT

The next EAC Meeting is scheduled for May 3, 2012 at the Radisson Hotel LAX in southern California.

Having no further business to conduct, the EAC general meeting adjourned at approximately 11:30 a.m. to reconvene in closed session at 1:00 p.m.

Cheryl Gerhardt
Chair, Enforcement Advisory Committee

Prepared by: Allison Nightingale, Enforcement Secretary



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CBA Item IX.H.
May 24-25, 2012

**CALIFORNIA BOARD OF ACCOUNTANCY (CBA)
PEER REVIEW OVERSIGHT COMMITTEE (PROC)**

**MINUTES OF THE
February 10, 2012
PROC MEETING**

California Board of Accountancy
2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone: (916) 263-3680

PROC Members:

Nancy Corrigan, Chair
Katherine Allanson
Gary Bong - Absent
T. Ki Lam - Absent
Sherry McCoy
Robert Lee
Seid M. Sadat

Staff and Legal Counsel:

Rafael Ixta, Chief, Enforcement Division
Kathy Tejada, Manager, Enforcement Division
April Freeman, Peer Review Analyst
Deanne Pearce, Assistant Executive Officer

Other Participants:

Linda McCrone, California Society of Certified Public Accountants (CalCPA)
Jeannie Tindel, CalCPA
Jason Fox, CalCPA

I. Roll Call and Call to Order.

Nancy Corrigan, Chair, called the meeting of the Peer Review Oversight Committee (PROC) to order at 9:03 a.m.

II. Report of the Committee Chair.

A. Approval of December 9, 2011 Minutes.

Ms. Corrigan asked members if they had any changes or corrections to the minutes of the December 9, 2011 PROC meeting. No changes were made.

It was motioned by Robert Lee, seconded by Seid Sadat, and unanimously carried by those present to adopt the minutes of the December 9, 2011 PROC meeting.

B. Report on the January 26-27, 2012 CBA Meeting.

Ms. Corrigan stated that due to illness, she was unable to attend the CBA meeting. Rafael Ixta, Chief of Enforcement, reported to the CBA on her behalf.

Mr. Ixta stated that he reported on the PROC's recent activity and that the report was well-received by the CBA. He advised that CBA leadership has requested that the role of various committees be revisited. The CBA will discuss the role of the PROC at its July 2012 meeting.

Mr. Ixta stated that the CBA requested staff conduct outreach efforts concerning peer review pitfalls and recruitment of peer reviewers. Subsequently, articles on those issues will be published in the next issue of UPDATE. The CBA has also asked staff to verify the accuracy of information provided on peer review reporting forms and requested that licensees be made aware that there is no escape from peer review. This information will appear in a future UPDATE publication.

April Freeman discussed the proposed regulatory changes that were presented to the Committee on Professional Conduct (CPC). Ms. Freeman stated that the proposed regulations revise the peer review reporting requirements to align the reporting date with the license renewal period. The Peer Review Reporting Form is also being revised for clarity. These regulations would be effective January 1, 2014. The CBA approved the regulatory language and directed staff to begin the rulemaking process.

In response to questions, Mr. Ixta explained that the goal is to incorporate peer review reporting with the new automated renewal system. The CBA is scheduled to begin using the new automated system in 2014.

C. Report on Conflicts of Interest Involving Members of the PROC.

Mr. Ixta reported that the Department of Consumer Affairs has not yet prepared a response to the PROC's questions. He anticipates having a response by the April 2012 PROC meeting.

III. Report on PROC Activities.

A. Report on the January 20, 2012 American Institute of Certified Public Accountants' (AICPA) Peer Review Board Meeting.

Sherry McCoy reported that the AICPA Peer Review Board discussed the 2012 Annual Report on Oversight. The Board also discussed the peer reviews for SSAE 16 engagements and broker dealers.

B. Report on CalCPA Report Acceptance Body (RAB) Meetings.

Gary Bong attended the December 13, 2011 RAB meeting, but was not present to report.

Seid Sadat attended the January 5, 2012 RAB meeting. He was unable to go to the CalCPA office in Glendale, so he did not have meeting materials to reference. He stated the meeting went smoothly and that the Chair, Mike Hurley, was very professional. Mr. Sadat noticed that RAB members are very familiar with certain peer reviewers.

T. Ki Lam also attended the January 5, 2012 RAB, but was not present to report.

Robert Lee reported on the January 24, 2012 RAB meeting. He stated that the meeting was well run, effective and efficient.

IV. Reports and Status of Peer Review Initial Implementation.

A. Statistics of Licensees who have Reported their Peer Review Information to the CBA.

Kathy Tejada reported that as of January 13, 2012, 30,568 peer review reporting forms have been submitted to the CBA from licensees in the first two groups of the phase-in period. The reporting forms are categorized as follows:

Licenses Ending in 01-33

Peer Review Required	2,102
Peer Review Not Required (firms)	4,106
Peer Review Not Applicable (non-firms)	15,019

Licenses Ending in 34-66

Peer Review Required	597
Peer Review Not Required (firms)	1,861
Peer Review Not Applicable (non-firms)	6,883

B. Status of Correspondence to Licensees Regarding Peer Review Reporting and Updates to License Renewal Application.

Ms. Freeman advised members that on January 27, 2012, 10,545 reminder letters were mailed to licensees who are required to report peer review information by July 1, 2012.

C. Status of PROC Roles and Responsibilities Activity Tracking.

Ms. Corrigan explained that the purpose of the activity tracking chart was to make sure that the PROC met all of the expectations set by the CBA.

Ms. Freeman stated that the chart has been updated to capture 2012 activities. She stated that all activities were completed in 2011 with the exception of developing policies and procedures for evaluating applications of new program providers because none were received. Ms. Freeman went over the chart and highlighted upcoming activities.

In response to questions, members were reminded that PROC roles and responsibilities will be revisited at the July 2012 CBA meeting.

D. Discussion of UPDATE Articles Regarding Peer Review Tips and Recruitment of Peer Reviewers.

Ms. Freeman explained that two articles were written for the next edition of UPDATE. The first article encourages licensees to consider becoming peer reviewers and provides a link to the AICPA web page that outlines the requirements for becoming a peer reviewer. The second article covers peer review pitfalls and includes hyperlinks to articles on the CalCPA website. The next UPDATE will be available online on March 5, 2012.

E. Discussion Regarding Verification of Peer Review Reporting Forms.

Ms. Freeman advised that the CBA requested that staff verify the accuracy of information provided on peer review reporting forms. The first group of forms to be reviewed is those in which licensees indicate they are operating as a firm, but do not need a peer review. Staff will utilize several methods of verifying the information, with the chief method being review of their renewal form to determine if they indicated a need for accounting and auditing continuing education. Staff will also be reviewing information on the internet. The sample will include 5% of corporations and partnerships and 2% of Certified Public Accountants from the first phase of reporters.

Mr. Ixta added that the CBA will be issuing citations to licensees from the first phase that did not submit peer review information. On February 3, 2012, the first 100 citations were issued.

F. Discussion Regarding Consumer Feedback on Peer Review Program Provider.

Mr. Ixta advised members that the CBA has received feedback from consumers concerning the peer review program. Specifically, they feel it is a burden, especially to small firms and sole proprietors. Staff can explain how the program came about and listen to their grievances, but are unable to fully resolve the complaints. Mr. Ixta explained that he brought the issues to the PROC because they provide oversight to the program.

Mr. Ixta added that the CBA has recently received numerous calls from licensees concerned about CalCPA's \$150 annual registration fee, in addition to two complaints regarding CalCPA's response time. The latter two complaints were sent to Linda McCrone and resolved.

V. Discussion Regarding Peer Review Survey Results.

Ms. Freeman gave an overview of the preliminary results of the voluntary peer review survey which has been online since December 2010. The summary of the survey results were based on questions that were answered by approximately 1,000 licensees.

Members discussed the results and were pleased by the number of firms that believe that peer review is beneficial and will use their peer review report as a marketing tool.

VI. Discussion Regarding the PROC's Annual Report to the CBA.

Mr. Ixta reminded members that the Annual Report is in its final draft stage. He suggested members go through the report section by section to make final comments and edits.

Mr. Ixta stated that during review the issue was raised that the report includes more information than required by Title 16, California Code of Regulations (CCR), Section 47. Section 47 states the report regarding the results of the PROC's oversight shall include the scope of work, findings, and conclusions regarding its oversight. Consequently, it was suggested that the report only include items beginning with Section X. Mr. Ixta asked whether members believe the report should include only what is required in regulation. Members responded that the report should include all the sections currently in the final draft.

Mr. Ixta guided the members through each section and requested comments and edits. Ms. Corrigan requested that comments thanking CBA staff be returned to the Message from the Committee Chair. Members continued to discuss the report and made edits to clarify language.

During the course of the discussion, Katherine Allanson requested that the PROC further discuss their oversight role as it relates to enforcement actions taken on peer review issues.

It was motioned by Sherry McCoy, seconded by Seid Sadat, and unanimously carried by those present to adopt the 2011 Peer Review Oversight Committee Annual Report to the CBA as revised, and delegate Nancy Corrigan and Robert Lee to approve the final report for presentation to the CBA at its March 22-23, 2012 meeting.

VII. Discussion Regarding PROC Member Reappointment.

Mr. Ixta explained that a copy of the committee member reappointment form is available in the meeting packet and will also be mailed to members. This form captures members' interest in being reappointed to the PROC. He asked that all members complete the form and return to the CBA. Once the forms are completed, staff will prepare commitment documents for reappointments at a future CBA meeting.

VIII. Discussion Regarding PROC Assignments.

Ms. Corrigan made the following assignments:

March 6, 2012 RAB meeting – T. Ki Lam
April 26, 2012 CalCPA PRC meeting – Sherry McCoy & Nancy Corrigan
May 17, 2012 - 2 p.m. RAB meeting – Seid Sadat (Glendale)
May 23, 2012 Peer Reviewer Training – Katherine Allanson
June 27-28, 2012 Peer Reviewer Training – Seid Sadat
July 24, 2012 - 2 p.m. RAB meeting – Katherine Allanson (Glendale)

Ms. Corrigan reminded members to submit their completed checklists within 30 days after attending an oversight activity.

IX. Future Agenda Items.

Agenda items for future meetings:

- PROC's role in enforcement actions on peer review issues
- Oversight of the National Peer Review Committee
- Revisit PROC's roles and responsibilities
- Discussion regarding peer review due dates (18 month rule)
- Discussion regarding AICPA rules regarding change in firm structure

X. Public Comment for Items Not on the Agenda.

Linda McCrone highlighted the difference between the AICPA rules for dissolutions and incorporations of accounting firms versus the CBA's regulations concerning when a peer review is due. Ms. McCrone distributed copies of the AICPA rules and regulatory language utilized by other states that allow them to follow the AICPA rules. She requested that this issue be discussed at a future PROC meeting.

Ms. McCrone further inquired about the way the CBA calculates the 18-month period referenced in CCR Section 40.

Ms. McCrone distributed the latest RAB schedule and informed the PROC that, due to the volume of reports to be reviewed, the CalCPA is now holding two RAB sessions in one day.

XI. Adjournment.

There being no further business, the meeting was adjourned at 1:20 p.m.

Nancy J. Corrigan, Chair

April Freeman, Peer Review Analyst, prepared the PROC meeting minutes. If you have any questions, please call (916) 561-1720.



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CBA Item X.B.1.
May 24-25, 2012

Nominations for NASBA 2012 Awards

Presented by: Kari O'Connor, Board Relations Analyst

Date: May 1, 2012

Purpose of the Item

The purpose of this agenda item is to inform California Board of Accountancy (CBA) members that the National Association of State Boards of Accountancy (NASBA) is currently accepting nominations for several annual awards.

Action(s) Needed

No specific action is required on this agenda item.

Background

The NASBA Awards Committee is accepting nominations from all state boards for the William Van Rensselaer Public Service Award, the Distinguished Service Award and the Lorraine P. Sachs Standard of Excellence Award. A memorandum from NASBA, along with the 2012 Awards Criteria information is attached.

Comments

If the CBA would like to submit a nomination, staff may be directed to prepare a memo indicating such and the final language be delegated for approval to the CBA President prior to the nomination being forwarded to NASBA.

If you have any specific questions about the nomination process, you may contact the committee liaison and NASBA Communications Manager, Cassandra Gray, at (615) 564-2172 or via e-mail at cgray@nasba.org.

Recommendation

Staff have no recommendation on this item

Attachment

Memo from NASBA and Awards Criteria

Dear NASBA Members & Associates,

As a friendly reminder, the NASBA Awards Committee is currently accepting nominations for NASBA's 2012 Awards – the William Van Rensselaer Public Service Award, the Distinguished Service Award and the Lorraine P. Sachs Standard of Excellence Award. These awards will be presented during the 105th Annual Meeting, October 28-31, 2012, in Orlando, FL, to three deserving individuals who have made a notable impact on the accounting profession.

Specifically, the *William H. Van Rensselaer Award* was established in 1988, in memory of NASBA's first full-time executive director, William H. Van Rensselaer, and recognizes an individual who has contributed to the development of a new program, improvement of a current program for the boards of accountancy, or who has influenced passage of rules or statutes to strengthen accountancy regulations.

The *NASBA Distinguished Service Award* was established in 1999, to honor a volunteer for unswerving commitment and dedication to enhancing the mission of NASBA. Created in 2008, the *Lorraine P. Sachs Standard of Excellence Award* recognizes a current state board executive or administrator that has shown outstanding service to improving the effectiveness of accounting regulation-on local and national fronts.

The official call for nominations will run through June 15, 2012. All NASBA members and associates are strongly encouraged to nominate any outstanding persons who you believe possess a genuine passion towards enhancing the effectiveness of state boards and the accounting profession. The 2012 [awards criteria](#) and [nomination forms](#) are attached for your review by clicking the buttons below.

Should you have questions or need additional information, please contact our committee liaison and NASBA Communications Manager, Cassandra Gray, at [615-564-2172](tel:615-564-2172) or cgray@nasba.org.

Best Regards,
Billy M. Atkinson, CPA
Chair, NASBA Awards Committee



2012 Awards Criteria

WILLIAM H. VAN RENSSELAER PUBLIC SERVICE AWARD

Since 1988, candidates for this award are individuals who have earned recognition through their contributions in the development of a new program or improvement of a current program for boards of accountancy, or who influenced passage of rules or statutes to improve accountancy regulations and laws.

Criteria

Outstanding achievements in state regulation of the accounting profession, demonstrated excellence as a leader of a state board or NASBA, significant accomplishments that have enabled NASBA or state boards to meet their objectives, contributions that have enhanced the effectiveness of state boards, and contributions that have enhanced the image of state boards.

Restrictions

The following individuals are not eligible to receive the William H. Van Rensselaer Public Service Award:

- Individuals who have served on the NASBA Board of Directors in the last five years.
- Current members of the NASBA Awards Committee.
- Paid consultants or employees of NASBA.

DISTINGUISHED SERVICE AWARD

Since 1999, candidates for this award are individuals who have demonstrated unwavering commitment and dedication to enhancing the mission of NASBA.

Criteria

Demonstrated excellence as a participant in NASBA activities, facilitated significant accomplishments that have enabled NASBA to meet its stated goal, contributed to the enhanced

effectiveness of state boards, and promoted achievements in state regulation of the accounting profession.

Restrictions

The following individuals are not eligible to receive the NASBA Distinguished Service Award:

- Former NASBA Chairs or Presidents.
- Former Van Rensselaer Award winners.
- Current members of the NASBA Awards Committee.
- Paid consultants or employees of NASBA, NASBA-related agencies/organizations or state boards of accountancy.

LORRAINE P. SACHS STANDARD OF EXCELLENCE AWARD

Since 2008, candidates for this award are current executive directors (or similar title such as chief administrative officer) at the time of nomination that have shown exemplary, dedicated and outstanding service and commitment to improving the effectiveness of accounting regulation both locally and nationally.

Criteria

Demonstrated competence, diligence and outstanding service to his/her board of accountancy, earned the respect of accountancy regulators and the professional accountancy community, demonstrated excellence as a participant in NASBA activities, facilitated significant accomplishments that have enabled other boards of accountancy and NASBA to meet their goals, engaged in continuous development and progress to keep pace with the public's expectations of regulatory boards.

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CBA Item XI.C.
May 24-25, 2012

Press Release Focus

Presented by: Deanne Pearce, Assistant Executive Officer

Date: May 10, 2012

Purpose of the Item

The purpose of this agenda item is to provide suggestions for an appropriate focus for the press release to be issued following each CBA meeting. This is a dynamic analysis based on the activities of each CBA meeting.

Action(s) Needed

No specific action is required on this agenda item

Background

There have been six press releases since the March 2012 CBA meeting; one regarding peer review, one showcasing the Consumer Assistance Booklet and four enforcement actions. In addition, a press advisory notifying the media of the May meeting is scheduled to be sent out May 17, 2012.

Comments

None

Recommendation

Staff recommendation will be made at the time of this presentation.

Attachments

1. CBA's Peer Review Oversight Committee Earns Praise for Accomplishments
2. There are 359 Days Until Tax Day 2013 – Time to Choose a CPA?
3. Enforcement Actions News Releases



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NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789

CBA'S PEER REVIEW OVERSIGHT COMMITTEE EARNS PRAISE FOR ACCOMPLISHMENTS

Sacramento- Although less than two years old, the California Board of Accountancy's Peer Review Oversight Committee (PROC) is earning high marks for its accomplishments. The PROC, tasked with the oversight of the CBA's mandatory peer review program presented its annual report to the CBA at its March meeting in Burlingame, California.

"This committee has done an outstanding job," said CBA President Marshal Oldman. "With approximately 85,000 California licensees, the largest such group in the nation, the PROC's work could have a significant impact for both licensees and consumers."

Established in 2010, the PROC has been focused on overseeing California's mandatory peer review program. Mandatory peer review became law in California in 2010, and requires all California firms providing accounting and auditing services to undergo a review of their accounting and auditing practice as a condition of license renewal by a CBA recognized peer review program, using professional standards. Each peer review report of the firm's work must be issued by a licensed, certified public accountant unaffiliated with the firm being reviewed.

According to CBA Executive Officer Patti Bowers, the California Board of Accountancy sees peer review as a way to protect consumers in an ever-changing financial climate by keeping accounting firms knowledgeable of current professional standards.

"Peer review can be a helpful tool for consumers, and we encourage them to ask their CPA to see their peer review report," said Bowers.

For information on the work of the PROC and the Peer Review program, visit http://www.dca.ca.gov/cba/publications/proc_rpt_2011.pdf.

#

Created by statute in 1901, the CBA's mandate ensures protection of the public shall be the highest priority for the California Board of Accountancy in exercising its licensing, regulatory, and disciplinary functions. The CBA currently regulates more than 85, 000 licensees, the largest

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group of licensed accounting professionals in the nation, including individuals, partnerships, and corporations.

More information about the California Board of Accountancy is available at www.cba.ca.gov.

For news updates, subscribe to CBA's E-News at <https://www.cba.ca.gov/forms/enews>.

*Updates from the CBA are also available via Twitter @ <http://twitter.com/CBAnews>
and Face book @ <https://www.facebook.com/CBAnews>.*



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NEWS RELEASE

FOR IMMEDIATE RELEASE

Contact: Lauren Hersh
(916) 561-1789

THERE ARE 359 DAYS UNTIL TAX DAY 2013 TIME TO CHOOSE A CPA?

Consumer guide from the CBA offers help in choosing and working with CPAs

Sacramento- Whether a CPA will be preparing your taxes, helping you create a roadmap for your financial future, keeping your books or any other of the many services a CPA can offer, selecting the best person for your needs is a major decision. In order to help consumers make wise choices in selecting and working with a CPA, the California Board of Accountancy has published the new Consumer Assistance Booklet. Among the topics:

- What Services Are Provided by CPAs?
- What is a Peer Review?
- How to Select a CPA.
- What Is an Engagement Letter and Why Do I Need One?
- What if I Have a Complaint?

“Most of us will need the advice and services of a CPA at some time in our lives,” said Patti Bowers, Executive Officer of the CBA. “We believe this booklet can help consumers understand how to successfully select a CPA they can trust, what services are available to them and how to address problems if they arise.”

The Consumer Assistance Booklet is available for viewing and downloading online at <http://www.dca.ca.gov/cba/publications/pamphlet.pdf> and will also be made available at consumer outreach events.

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**California Board of Accountancy
Enforcement Action News Release**

Sent to business@latimes.com on April 30, 2012

Eric Rodney Lietzow, Valencia, CA (CPA 78207) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/decisions/index_l.shtml#820

Sent to diana.mccabe@utsandiego.com on April 30, 2012

Brian Timothy Agnor, Lemon Grove, CA (CPA 92485) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/decisions/index_a.shtml#688

Sent to strousdale@mercurynews.com on April 30, 2012

Andrew Keeduck Jean, San Jose, CA (CPA 41201) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/decisions/index_j.shtml#679

Sent to business@latimes.com on May 4, 2012

Gregg Wayne Ritchie, Beverly Hills, CA (CPA 31490) has been disciplined by the California Board of Accountancy. Please utilize the attached link to the California Board of Accountancy's Web page to access details of this enforcement action. Please contact Patti Bowers, Executive Officer, by telephone at (916) 561-1718 or by e-mail at pbowers@cba.ca.gov should you have any questions regarding this enforcement action.

http://www.dca.ca.gov/cba/discipline/decisions/index_r.shtml#529