

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 661
Version: First engrossment
Authors: Stang and others
Subject: Accountancy
Analyst: Linda A. Holmes, 651-296-5059

DATE: April 9, 2001

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Overview

This bill recodifies the statutes relating to the licensing of accountants. Though many provisions are similar to existing law, there are some differences. Notably, the ability of individuals located outside of Minnesota to practice in Minnesota is increased somewhat, the statutes change from a two-step process of a certificate followed by a license to a one-step certificate system, and references to licensed public accountants (a designation no longer available) are removed and existing LPA's grandfathered in as CPA's.

Article 1

Section

- 1 **Title.** Provides that the bill may be cited as the Accountancy Act of 2001.
- 2 **Purpose.** Explains the purpose of the accountant licensing provisions, which are generally to ensure the reliability and accuracy of information provided by accountants, and to ensure that the public has accurate information about the qualifications of practitioners.
- 3 **Definitions.** Defines terms used in the statute, including "attest," "board," "certificate," "client," "compilation," "CPA firm," "license," "licensee," "manager," "member," "peer review," "permit," "professional," "report," "state," and "substantial equivalency." Most of these definitions are either similar to definitions existing in current law, or are new definitions based on other changes made in other parts of the bill.
- 4 **State board of accountancy.** Sets general provisions governing the state board.
Subd. 1. Board. Provides for a board of nine members appointed by the governor, two of whom are public members and seven of whom are certified public accountants. The major changes from current law is that the section removes licensed public accountants, a title eliminated in the proposed law, from the board, replacing them with two additional certified public accountants. Under current law, the LPA board slots were scheduled to just be eliminated when the number

of LPA's in the state dropped low enough.

Subd. 2. Membership conditions. Provides that membership is generally subject to state laws about board membership, and that any member whose own certificate is suspended is automatically removed from the board.

Subd. 3. Officers; proceedings. Requires the board to elect officers, and lays out the general requirements for board meetings and proceedings.

Subd. 4. Powers. Provides that the board can issue subpoenas and receive evidence. Provides immunity for board members in the exercise of their duties.

Subd. 5. Rules. Permits the board to adopt rules in order to carry out its duties.

Subd. 6. Complaint committee. Requires the board to set up a complaint committee, consisting of three board members, to investigate complaints and work to resolve disputes.

5 **Qualifications for a certificate as a certified public accountant.**

Subd. 1. Qualifications. States generally that the requirements for a certificate are education, experience, examination, and good moral character. Defines "good moral character."

Subd. 2. Educational and experience requirements to take examination before July 1, 2006. Provides that prior to July 1, 2006, the examination may only be administered to candidates meeting particular education and experience requirements, which are the same requirements in place under current law.

Subd. 3. Educational requirements to take examination after July 1, 2006. Same as current law, sets educational requirements for examination beginning in July of 2006.

Subd. 4. Examination requirements. This new subdivision states that the examination administered by the board must meet certain standards. It permits, but does not require, the board to use the test created by the American Institute of Certified Public Accountants. Current law has a much less detailed description of the requirements for the board's exam.

Subd. 5. Experience requirements for certificate before July 1, 2006. Provides that a person who has passed the exam must have stated levels of experience before receiving a certificate. These experience levels are either one year or two years, depending on the education the individual has. Again, this is the same as current law.

Subd. 6. Experience and educational requirements for certificate on or after July 1, 2006. Provides that a person who has passed the exam must show both one year of experience and a total of 150 semester hours or 225 quarter hours of instruction in college in order to receive a certificate. These requirements are similar to current law, except that current law provides for a certificate at the time the exam is passed, followed by a full license when the experience requirements are met, whereas this bill provides for practice privileges upon passing the exam, and then the certificate is given as the final step when the experience requirement has been met.

Subd. 7. Equivalent education criteria. Requires the board to consult with the university of Minnesota, MnSCU, private colleges, and private career schools to develop educational standards.

Subd. 8. Qualifying experience until July 1, 2006. Same as current law; defines what experience qualifies a person between passage of the bill and July 1, 2006.

6 **Issuance and renewal of certificates, and maintenance of competency.**

Subd. 1. Eligibility. Explains who is eligible for a certificate. Generally, eligibility relies on meeting the educational, examination, and experience requirements explained above, or that they are eligible under substantial equivalency standards developed to allow individuals licensed in other states or countries to become licensed in certain cases.

Subd. 2. Timing. Provides that certificates cannot be issued for more than one year, and must

always expire at least on December 31 of every year. Current law does not specify the duration of certificates and licenses.

Subd. 3. Residents of other states. Where individuals licensed in other states do not qualify for reciprocity under the new substantial equivalency provisions, this subdivision allows them to receive certificates if they meet requirements related to their education and they have four years of experience. The subdivision also gives the board some latitude in granting certificates to people who have been licensed elsewhere, based on the particular history of the person.

Subd. 4. Program of learning. Places in statute the continuing education requirements for licensees.

Subd. 5. Fee. Provides for the board to charge a fee for renewal of certificates.

Subd. 6. Other state licenses. Requires certificate holders to keep the board informed of other states in which they are licensed to practice, and to inform the board if their licenses in those states are disciplined.

Subd. 7. Certificates issued by foreign countries. Allows the board to issue certificates to applicants who have been licensed in foreign countries, provided conditions regarding education and experience are met, as well as requirements regarding the licensing process in the other country.

Subd. 8. Other jurisdictions in which foreign applicant is licensed. Similar to what is required of certificate holders in other states, requires those who have licenses in foreign jurisdictions to inform the board in Minnesota of the status of their licenses in other countries.

Subd. 9. Application by foreign certificate holder. Gives the board discretion to interpret subdivisions 7 and 8.

Subd. 10. Peer review. Requires all certificate holders to undergo peer review once every three years.

Subd. 11. Automatic revocation. This language is the same as in current law, and provides for automatic revocation of certificates that go unrenewed for two years.

7 **CPA firm permits to practice, attest and compilation competency, and peer review.** The major change in this section is that under current law, all owners and partners of CPA firms have to be CPA's. Under the bill, only a simple majority of the owners and partners would have to be CPA's. If ownership changed and the firm became noncompliant, it would be required to put itself back in compliance as quickly as possible. Other than this change, most of this section provides for firm licensing similar to what is in current law.

8 **Licensed public accountants and registered accounting practitioners.** This section describes the treatment of two classes of individuals that are different from CPA's. LPA's, which are no longer being created and therefore are decreasing in number, are grandfathered in as CPA's under the bill. The other special category is registered accounting practitioners, a classification newly authorized in legislation passed in 2000, and scheduled to be implemented by July of 2004. Registration as a registered accounting practitioner (or RAP) is voluntary, and the scope of activities that these individuals will be allowed to perform is to be determined by the board between now and 2004, when the system of registration is to become available.

9 **Appointment of secretary of state as agent.** Provides that any person or firm from outside the state who applies for a license effectively allows the secretary of state to receive service of process on the applicant's behalf. This provision addresses potential jurisdictional issues with actions taken against people or businesses located in other states or countries.

10 **Enforcement.** Very similar to what is in current law, in terms of the board's ability to discipline licenses and enforce statutes and rules. Requires the board to inform other states where it is aware a person is licensed if that person is disciplined.

- 11 **Reinstatement.** Provisions relating to reinstatement of disciplined licenses are similar to current law.
- 12 **Unlawful acts.** Prohibits anyone other than licensees from performing a broad range of services, particularly attest services. Prohibits anyone other than licensees and RAP's from performing compilation services. Contains language excluding acts of public employees in performance of their duties, as well as some financial services (such as the preparation of tax returns) from coverage as prohibited acts by nonlicensees. Prohibits the use of titles like "CPA" or anything similar by any person who is not an actual certified public accountant. Also limits use of the designation "RAP" to people who are registered under the system being developed to register this class. Requires the board to develop "safe harbor" language that nonlicensees can use to ensure that when performing services they are permitted to perform, they do not present the impression that they are CPA's, which would be a violation. Requires both licensees and others who provide reports to comply with certain requirements for the labeling and signature of those reports.
- 13 **Single act evidence of practice.** A shorter, but effectively similar, version of language in existing law.
- 14 **Confidential communications.** This new section requires licensees to observe confidentiality with respect to communications with clients.
- 15 **Working papers; clients' records.** This new section regulates licensees' handling of clients' papers as well as the licensees' own files on a particular client. Specifically, provides that the working papers on a case are the licensee's property unless there is a different agreement with the client. Copies of these working papers, however, are made available from the licensee on request.
- 16 **Substantial equivalency.** Provides practitioners with certificates or licenses from outside the state who do not have their primary place of business in Minnesota with the right to practice in Minnesota if their states meet "substantial equivalency" requirements relating to the process and criteria under which they were licensed. The board can discipline these individuals and enforce Minnesota statutes with respect to them.
- 17 **Transitional provisions for board members.** Provides for existing board members to serve out their terms.
- 18 **Repealer.** Repeals existing accountancy statutes.
- 19 **Effective date.** This article is effective January 1, 2003.

Article 2

- 1-10 **Conforming changes.** Makes changes to other statutory sections to reflect the changes made by article 1.