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COMMITTEE REPORT

February 7, 2013

**H. 3459**

Introduced by Rep. Sandifer

S. Printed 2/7/13--H.

Read the first time January 30, 2013.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 3459) to amend Section 40‑2‑10, Code of Laws of South Carolina, 1976, relating to the South Carolina Board of Accountancy, so as to provide the Department of Labor, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by deleting all after the enacting words and inserting:

/ SECTION 1. Section 40‑2‑10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) The director, with the advice and consent of the board, shall designate for the exclusive use of the board:

(a) one full‑time administrator who is a certified public accountant licensed in this State; and

(b) one full‑time inspector‑investigator who is a certified public accountant licensed in this State who has at least five years experience as a licensed certified public accountant in this State.

(2) The department may not assign work that is not exclusively related to carrying out the purposes of this chapter to a person assigned for the exclusive use of the board under item (1) of this subsection without approval of the board.

(3) A person employed by the board under this section may be terminated by the director.”

SECTION 2. Section 40‑2‑30 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title.”

SECTION 3. Section 40‑2‑70 of the 1976 Code is amended to read:

“Section 40‑2‑70. In addition to the powers and duties provided in Section 40‑1‑70, the board may:

(1) determine the eligibility of applicants for examination and licensure;

(2) examine applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination;

(c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an adequate amount to cover examination costs;

(3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

(4) adopt a code of professional ethics appropriate to the profession;

(5) evaluate and approve continuing education course hours and programs;

(6) conduct periodic inspections of licensees or firms;

(~~6~~7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

(~~7~~8) participate in national efforts to regulate the accounting profession;

(~~8~~9) discipline licensees or registrants in a manner provided for in this chapter;

(~~9~~10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

(~~10~~11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS);

(~~11~~12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1‑23‑30, including, but not limited to, a schedule of fees for examination, licensure, and regulation; and

(~~12~~13) promulgate standards for peer review.”

SECTION 4. Section 40‑2‑80(A) of the 1976 Code is amended to read:

“(A) The department, upon receipt of a complaint or other information suggesting violation of this chapter or of regulations promulgated pursuant to this chapter, shall direct the investigator assigned to the board for its exclusive use under Section 40‑2‑10(A) to conduct an appropriate investigation to determine whether ~~there is~~ probable cause exists to institute proceedings. An investigation under this section is not a prerequisite to conducting proceedings if a determination of probable cause can be made without investigation. In aid of investigations, the administrator of the board may issue subpoenas to compel witnesses to testify or to produce evidence, or both.”

SECTION 5. Section 40‑2‑250(F) of the 1976 Code is amended to read:

“(F) A certified public accountant, accounting practitioner, or public accountant whose license has lapsed or has been inactive for:

(1) fewer than three years, the license may be reinstated by applying to the board, submitting proof of completing forty continuing education units for each year the license has lapsed or has been inactive, and paying the reinstatement fee;

(2) three or more years, the license may be reinstated upon completion of six months of additional experience, and one hundred and twenty hours of continuing education;

(3) an indefinite period and has active status outside of this State may reinstate the license by submitting an application under Section 40‑2‑240.”

SECTION 6. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

WILLAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND SECTION 40‑2‑10, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE SOUTH CAROLINA BOARD OF ACCOUNTANCY, SO AS TO PROVIDE THE DEPARTMENT OF LABOR, LICENSING AND REGULATION SHALL DESIGNATE CERTAIN PERSONNEL FOR THE EXCLUSIVE USE OF THE BOARD, TO PROHIBIT THE DEPARTMENT FROM ASSIGNING OTHER WORK TO THESE PERSONNEL WITHOUT APPROVAL OF THE BOARD, AND TO PROVIDE THESE PERSONNEL MAY BE TERMINATED BY THE DIRECTOR OF A MAJORITY OF THE BOARD; TO AMEND SECTION 40‑2‑30, RELATING TO THE PRACTICE OF ACCOUNTANCY, SO AS TO PROVIDE A CERTIFIED PUBLIC ACCOUNTANT LICENSED BY THE BOARD IS EXEMPT FROM LICENSURE REQUIREMENTS OF PRIVATE SECURITY AND INVESTIGATION AGENCIES; AND TO AMEND SECTION 40‑2‑70, RELATING TO POWERS AND DUTIES OF THE BOARD, SO AS TO PROVIDE THE BOARD MAY CONDUCT PERIODIC INSPECTIONS OF LICENSEES OR FIRMS; AND TO AMEND SECTION 40‑2‑80, RELATING TO INVESTIGATIONS OF ALLEGED VIOLATIONS, SO AS TO PROVIDE THE DEPARTMENT SHALL DIRECT THE INVESTIGATOR ASSIGNED TO THE BOARD TO INVESTIGATE AN ALLEGED VIOLATION TO DETERMINE THE EXISTENCE OF PROBABLE CAUSE MERITING FURTHER PROCEEDINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑2‑10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( )(1) The director, with the advice and consent of the board, shall designate for the exclusive use of the board:

(a) one full‑time administrator who is a certified public accountant licensed in this State;

(b) one full‑time investigator who is a certified public accountant licensed in this State who has at least five years experience as a licensed certified public accountant in this State; and

(c) one full‑time attorney licensed in this State.

(2) The department may not assign work that is not exclusively related to carrying out the purposes of this chapter to a person assigned for the exclusive use of the board under item (1) of this subsection without approval of the board.

(3) A person employed by the board under this section may be terminated by the director or a majority of the board present and voting.”

SECTION 2. Section 40‑2‑30 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“( ) Notwithstanding another provision of law, a licensed certified public accountant while in the performance of his duties is exempt from the licensing requirements of Chapter 18 of this title.”

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(2) examine applicants for licensure including, but not limited to:

(a) prescribing the subjects, character, and manner of licensing examinations;

(b) preparing, administering, and grading the examination or assisting in the selection of a contractor to prepare, administer, or grade the examination;

(c) charging, or authorizing a third party administering the examination to charge, each applicant a fee in an adequate amount to cover examination costs;

(3) establish criteria for issuing, renewing, and reactivating authorizations for qualified applicants to practice, including issuing active or permanent, temporary, limited, and inactive licenses or other categories as may be created;

(4) adopt a code of professional ethics appropriate to the profession;

(5) evaluate and approve continuing education course hours and programs;

(6) conduct periodic inspections of licensees or firms;

(~~6~~7) conduct hearings on alleged violations of this chapter and regulations promulgated under this chapter;

(~~7~~8) participate in national efforts to regulate the accounting profession;

(~~8~~9) discipline licensees or registrants in a manner provided for in this chapter;

(~~9~~10) project future activity of the program based on historical trends and program requirements, including the cost of licensure and renewal, conducting investigations and proceedings, participating in national efforts to regulate the accounting profession, and providing educational programs for the benefit of the public and licensees and their employees;

(~~10~~11) issue safe harbor language nonlicensees may use in connection with financial statements, transmittals, or financial information which does not purport to be in compliance with the Statements on Standards for Accounting and Review Services (SSARS);

(~~11~~12) promulgate regulations that have been submitted to the director at least thirty days in advance of filing with the Legislative Council as required by Section 1‑23‑30, including, but not limited to, a schedule of fees for examination, licensure, and regulation; and

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SECTION 4. Section 40‑2‑80(A) of the 1976 Code is amended to read:

“(A) The department, upon receipt of a complaint or other information suggesting violation of this chapter or of regulations promulgated pursuant to this chapter, shall direct the investigation assigned to the board for its exclusive use under Section 40‑2‑10(A) to conduct an appropriate investigation to determine whether ~~there is~~ probable cause exists to institute proceedings. An investigation under this section is not a prerequisite to conducting proceedings if a determination of probable cause can be made without investigation. In aid of investigations, the administrator of the board may issue subpoenas to compel witnesses to testify or to produce evidence, or both.”

SECTION 5. This act takes effect upon approval by the Governor.

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