

Approved: _____
Date 2/21/95

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Chairperson Al Ramirez at 1:30 p.m. on February 15, 1995 in Room 531-N of the Capitol.

All members were present except: Senator Lee - Absent

Committee staff present: Julian Efird, Legislative Research Department
Fred Carman, Revisor of Statutes
Jacqueline Breymeyer, Committee Secretary

Conferees appearing before the committee: Michael Pickering, Past President, Kansas Bed and Breakfast Association
T.C. Anderson, Executive Director, Kansas Society of Certified Public Accountants

Others attending: See attached list

Chairman Ramirez called the meeting to order at 1:33 p.m.

SB 195--travel and tourism commission; membership

The Chairman called on Michael Pickering, owner and host of Woody House Bed and Breakfast, Lincoln, Kansas, to the committee. Mr. Pickering is also Past President of the Kansas Bed and Breakfast Association. Copies of Mr. Pickering's testimony were distributed. (Attachment 1) Mr. Pickering was present to testify in favor of the bill which would give the Kansas Bed and Breakfast Association representation on the State Travel and Tourism Commission. The Association was started in 1987 and today there are 75 houses that are active members. Mr. Pickering gave several reasons why KBBA houses are necessary and stated that, "Informed and enthusiastic hosts are able to personally share the attractions of their region with visitors." Mr. Pickering feels the KBBA should be represented on the Commission because they have actively promoted statewide travel and tourism; KBBA membership will provide support that will benefit several programs and organizations.

Senator Vidricksen commented that the Commission had been put together in 1986 or 1987. It has been a very good group of volunteers. It is one of the few commissions that do not receive any funding. The organization has worked diligently and has put a Tourism 2000 publication out. One of the contents is the promotion of the bed and breakfast business in Kansas; it has been growing rapidly.

Mr. Pickering was asked how many bed and breakfast houses there were in Kansas. He replied that there were between 150 and 200 statewide.

There are people who plan their vacations to use the bed and breakfasts. They are a very viable group in the state. Tourism and the Department of Commerce will be discussing the part that the bed and breakfast group will play in the promotion of tourism in Kansas; it is a growing industry.

One of the committee commented that they are very popular and wanted to know if they come under any kind of inspection.

Mr. Pickering told of the standards that have to be met to be accepted into the Association and told of the guest card that is mailed twice a year. There is a followup on every negative report. There are in-house inspections and standards. These standards have been copied by other associations throughout the country.

A committee member clarified that there is no overall inspection like in the hotel/motel industry.

Mr. Pickering replied that was correct; he is referring to only those who are members of KBBA. They want to ensure that the house will be clean, the host friendly, and the breakfast nutritious.

Mr. Pickering was asked if KBBA had the courage to pull a designation. He responded in the affirmative. When he was President of the Association, two designations were pulled. He added that some of the members are on the AAA list also.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON GOVERNMENTAL ORGANIZATION Statehouse, at 1:30 p.m. on February 15, 1995.

It was clarified that the membership of the Travel and Tourism Commission would be modified to include one member from the KBBA.

The Chairman thanked Mr. Pickering and concluded the hearing on **SB 195**.

SB 188--concerning certified public accountants

T. C. Anderson, Executive Director, Kansas Society of Certified Public Accountants, presented his testimony in support of the bill. (Attachment 2) The bill, if enacted, would change the practical experience requirement to qualify for a permit to practice as a certified public accountant. The bill would also allow non-Kansas residents to obtain a Kansas CPA certificate which will make possible the elimination of the temporary permit to practice now required for out-of-state practitioners; raise statutory fee limits; update the Accountancy Act to include the new forms of business organization approved by the Legislature over the past few years; permit the registration of foreign accountants provided they meet certain requirements; and authorize the Board of Accountancy to assess up to \$1,000 in administrative fines against licensees.

Mr. Anderson related the experience requirements set by the 1981 Legislature and stated that since that time, several things have evolved that warrant review by the profession of the experience requirement. Mr. Anderson then went through the changes in the bill. He had given the Revisor a balloon of which the last page became detached. Language was attached to clarify the matter.

After further comments, Mr. Anderson stood for questions.

Mr. Anderson was asked if this is a new way of putting CPAs into different categories. His response was that he did not think so.

Another question asked of Mr. Anderson was if his membership is aware of the requests that are being made in the Legislature. He replied in the affirmative. The membership is informed through newsletters. This particular issue has been discussed for two years.

Several comments were made about how the bill would impact on those persons employing CPAs; how would they know which way a particular person was qualified.

The example was used of a young CPA accepting or rejecting an audit. The person who would employ him would not know he has a pre-issuance review, but that person being hired would not be a second class individual because he could do the work if he has the pre-issuance review. The person employed must have the knowledge to do the work or he cannot accept the work; if he has no audit training, he should not accept the engagement.

Randy Tongier, Legislative Post Audit, was given the scenario of hiring persons for audits. Some persons might put themselves out to be CPAs, but might not have the qualifications to do a complete audit. What kind of dilemma would that put him in. Mr. Tongier replied they would have to interview that person, contact former employers to look for that type of experience.

Mr. Anderson stated that trust and expertise will not be diminished because of legislation that has been enacted that requires candidates to sit for the exam to have an extra year of education, and a peer review once every three years. Since 1981, Kansas has had the most stringent requirements in the nation-bar none. Times have changed, one cannot get that kind of audit experience today because there are fewer firms doing audit work. Young people need a push, or some flexibility. The intent of the bill is to give them that flexibility and yet not diminish the anticipated result of the work. If the person is not qualified to do the work, it should not be undertaken.

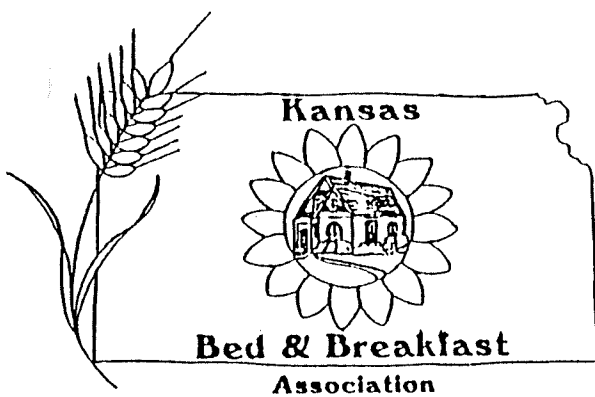
Several other comments were put forth. The Chairman concluded the hearing on **SB 188**.

The committee turned to **SB 123--concerning real estate**.

Jean Duncan, Real Estate Commission, was present to answer any questions.

Senator Papay moved to pass **SB 123** out favorably. Senator Feleciano seconded the motion. The motion carried. Senator Feleciano will carry the bill.

The Chairman went over next week's agenda and adjourned the meeting at 2:15 p.m. The next meeting is scheduled for February 16, 1995.



PRESENTER: MICHAEL PICKERING,
OWNER AND HOST OF WOODY HOUSE
BED AND BREAKFAST, LINCOLN. PAST
PRESIDENT OF KANSAS BED AND BREAKFAST
ASSOCIATION: ACTIVELY INVOLVED IN
LOCAL AND STATEWIDE TOURISM EFFORTS:
MEMBER NORTH CENTRAL KANSAS
TOURISM REGION

As the representative of Kansas Bed and Breakfast Association, I am in favor of SB 195 which gives KBBA representation on the State Travel and Tourism Commission.

In 1987, 13 bed and breakfast houses across the state joined together under the direction of Fred Rice to form an association. The mission, as stated in the bylaws is to promote the concept of Bed and Breakfasts in Kansas through Education, Publications Legislative contacts, Quality and Safety Standards, and Cooperation with other organizations to Promote Tourism in the State. Twice yearly state meetings have grown to be instructional and informative and to create an atmosphere of friendship and networking. Eight years later, 75 houses are active KBBA members.

Why are Kansas Bed and Breakfast houses necessary? Rural communities need overnight accommodations for business people, State Government workers, out of state travelers and in-state visitors. This unique niche market provides owner income and residual financial gain within the community. Bed and breakfasts connect with the tourism industry. Informed and enthusiastic hosts are able to personally share the attractions of their region with visitors.

Why should the KBBA be represented on the Kansas Travel and Tourism commission? KBBA members have always actively promoted statewide travel and tourism. The KBBA members participate in the Kansas Secrets Coleman cooler promotional program, the Kansas Sampler Foundation of Inman, and the professional organizations of TIAK and PAII. KBBA membership on the commission will result in cooperation, idea and resource exchange and support that will benefit all.

*Senate Governmental Organization
Attachment 1*

2-15-95



**Kansas Society of
Certified Public Accountants**

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Testimony on SB 188

Presented to the

Senate Committee on Governmental Organization

by

T.C. Anderson
Executive Director

February 15, 1995

*Senate Governmental Organization
Attachment 2*

2 - 15 - 95

Chair Ramirez and Members of the Committee:

I am T.C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants. I appear before you today to urge your favorable consideration of SB 188 which, if enacted, would change the practical experience requirement to qualify for a permit to practice as a certified public accountant. The bill would also allow non- Kansas residents to obtain a Kansas CPA certificate, thus making it possible to eliminate the temporary permit to practice now required for out-of-state practitioners; raise statutory fee limits; update the Accountancy Act to include the new forms of business organization approved by the Legislature over the past few years; permit the registration of foreign accountants provided they meet certain requirements; and authorize the Board of Accountancy to assess up to \$1,000 in administrative fines against licensees.

Glenda Moore, Executive Director of the State Board of Accountancy, is unable to be here today. Her father passed away early this morning.

It has been 14 years since the Legislature last addressed the experience requirement for the permit to practice as a CPA in Kansas. In 1981 legislation was passed that set the following requirements:

1. With a baccalaureate degree-- two years' experience, including six-months' audit training, under the direct supervision of a permit holding CPA in public practice; or 18 months' work in the Legislative Division of Post Audit and six months' audit training under a permit holding CPA in public practice.
2. With a master's or higher degree-- six months' audit training under the direct supervision of a permit holding CPA in public practice or one-years' experience with the Legislative Division of Post Audit.

Several things have evolved since 1981 that warranted a review by the profession of the experience requirement. First, many Kansas firms are performing fewer audits than they did a decade ago. This is due in part to an explosion of professional standards and federal regulations, and increased liability exposure. As a result it has become next to impossible for new accountants joining small Kansas CPA firms to obtain the six-month auditing requirement within a reasonable period of time. Second, many new entrants into the profession have no desire to do attest function engagements. These individuals want to specialize in tax or management consulting services.

In addition, the Legislature has enacted laws in the last few years designed to enhance the qualifications of candidates who sit for the CPA examination and to enhance the quality of the profession's work product.

With these developments in mind, Task Forces of both the State Board and Kansas Society have been meeting for the past two years on the experience question. Their combined studies have resulted in recommended changes to the experience requirement that appear in Section 2 of SB 188 beginning on page 2, line 26:

1. A Kansas permit to practice would be issued to a certificate holder who completes one year of accounting experience that is satisfactory to the Board and obtained under the direct supervision of a certified public accountant who holds a valid permit to practice. Thus for those individuals who do not wish to pursue a career in auditing, the experience requirement would be reduced from two years to one, and the need for six month's audit training would be eliminated. In addition the experience could be obtained under permit holding CPAs in industry and government service, as well as those in public practice.
2. For those who wish to perform and sign audits, reviews, projections and forecasts an additional year of experience would be needed. This experience would be obtained under a CPA in public practice and would include the six month audit training.
3. As a substitute for this additional year of experience, SB 188 would allow a permit holder with one year's experience to perform and sign an audit, review, projection and forecast, provided a preissuance review of the final product was conducted by a permit holder qualified to do such work. A preissuance review of the first 1,000 hours of audit or review work would equal the additional year of experience.

This provision has been included to assist candidates who are unable to obtain the audit training in their local communities, but who do desire to perform attest engagements.

Other changes to the accountancy law contained in SB 188 are as follows:

Section 1, beginning on page 1 provides for increases in the statutory fee limits the Board may charge candidates for the CPA exam, certificate and permit to practice. Statutory fee language for the positive report review program would be repealed since the program has been replaced with Peer Review. In addition, the temporary permit to practice fee is abolished since this type permit is repealed later in the bill. An additional fee category is added for proctoring the CPA examination for a candidate from another state.

Section 3, beginning on page 3, line 37 contains the removal of the residency requirement for the issuance of a Kansas certificate. This will offer the Board a means of providing for reciprocal recognition of licensees of other states and remove the need for temporary permits to practice found in K.S.A. 1-320. The criteria for reciprocity begins on page 4, line 9. It requires a determination that the certificate of the other state has been issued on the basis of education and examination requirements comparable to those of this state, but

makes allowance for an experience requirement--five years in practice during the past 10--as a substitute for these.

Language granting a reciprocal certificate to foreign accountants who meet standards equivalent to those in this state begins on line 19. The requirements of this section are based on professional competence, education and experience. In addition, passage of a uniform qualifying examination in national standards and an examination on the laws, regulations and code of conduct in effect in this state are also required of the foreign applicant.

All but one of the balance of the amendments contained in SB 188 deal with updating the statutes to include the new types of business entities that may register with the Board. Limited liability partnerships, limited liability companies and general corporations have been added. These forms of business entity for CPA practice have been approved by the Legislature over the past few years.

The last change in SB 188 occurs on page 6, line 28. It would grant the authority to the Board to limit the scope of practice of any permit holder and to impose an administrative fine not exceeding \$1,000 on any licensee.

Finally, I want you to know I gave the reviser a balloon for this bill which contained many arrows and lines, and I'm afraid the last page of it became detached. Thus, I have attached language to clarify the matter.

The first change occurs on page 3, line 16, by adding the word "their" and removing the phrase "of a valid permit." This would make (B) read, "prior to their issuance, a review by a qualified permit holder of the first 1,000 hours of audits, reviews," etc.

The second change occurs on page 6, following line 21. We are suggesting the addition of subsection (g) which is merely a definition of a registered firm.

The final changes occur in K.S.A. 1-402 where we add the term "registered firm" in two places to replace the laundry list of what type of entities are registered with the Board.

Thank you for allowing me the opportunity to appear before you today in support of SB 188. I'll be happy to stand for questions.

years' experience required by this section must include: (1) One year of practical public accounting experience which shall consist of include at least 1,000 hours of extensive participation in the examination of financial statements in accordance with generally accepted auditing standards for third party reliance and which shall be acquired under the direct supervision of a person who holds a permit to practice as a certified public accountant in Kansas or in another state and who is practicing as a sole proprietor or with a partnership, including a limited liability partnership, or professional corporation or association, limited liability company or general corporation which is comprised of practicing certified public accountants; or (2) one year of service as an employee of the legislative division of post audit under the direct supervision of another employee of such division who holds a permit to practice as a certified public accountant in Kansas (A) one year of accounting experience satisfactory to the board obtained under the direct supervision of a certified public accountant holding a valid permit to practice, and (B) prior to issuance of ~~a valid permit~~ their a review by a qualified permit holder of the first 1,000 hours of audits, reviews and examination of projections or forecasts performed and signed by the certified public accountant.

(c) The practical public accounting experience required under this act shall be defined by rules and regulations of the board of accountancy; but any such experience shall include, except as otherwise provided by this section, at least six months of extensive participation in the examination of financial statements in accordance with generally accepted auditing standards for third party reliance and shall be acquired under the direct supervision of a person who holds a permit to practice as a certified public accountant in Kansas or in another state and who is practicing as a sole proprietor or with a partnership or professional corporation or association which is comprised of practicing certified public accountants, except that $1\frac{1}{2}$ years of the practical public accounting experience required by subsection (a); other than the required six months of practical public accounting experience consisting of extensive participation in the examination of financial statements, may be satisfied by service as an employee of the legislative division of post audit under the direct supervision of another employee of such division who holds a permit to practice as a certified public accountant in Kansas.

Sec. 3. K.S.A. 1-307 is hereby amended to read as follows: 1-307. (a) The board, in its discretion, may waive the examination of and may issue a Kansas certificate to any person who is a Kansas resident, who is the holder of a certificate as "certified public accountant" issued under the laws of any state, and who is a person that the board deems qualified for a Kansas certificate.

(b) Any person who applies for a Kansas certificate under this section;

1 on its behalf shall be executed by the president or secretary of such cor-
 2 poration. The board shall in each case determine whether the applicant
 3 is eligible for registration. No fee shall be charged for the registration of
 4 a partnership.

5 (e) A partnership which is so registered in accordance with this sec-
 6 tion may use the words "certified public accountants" or the abbreviation
 7 "C.P.A." in connection with its partnership name. Notification shall be
 8 given the board, within one month, after the admission or withdrawal of
 9 a partner from any partnership so registered.

10 (f) A professional corporation, *limited liability company or general*
 11 *corporation* which was organized for the practice of certified public ac-
 12 countancy and which maintains an office in this state, may engage in the
 13 practice in this state if it registers annually with the board and if it is in
 14 compliance with requirements established by rules and regulations
 15 adopted by the board for such registration, which requirements shall be
 16 similar to the requirements prescribed by this section for the registration
 17 of partnerships. A professional corporation, *limited liability company or*
 18 *general corporation* which is so registered may use the words "certified
 19 public accountants" or the abbreviation "C.P.A." in connection with its
 20 name. No fee shall be charged for the registration of a professional cor-
 21 ~~poration these firms.~~

22 Sec. 5. K.S.A. 1994 Supp. 1-311 is hereby amended to read as fol-
 23 lows: 1-311. (a) The board may revoke or suspend any certificate issued
 24 under the laws of this state including a Kansas certificate, or any regis-
 25 tration granted under K.S.A. 1-308, and amendments thereto, or may
 26 revoke, suspend or refuse to renew any permit issued under K.S.A. 1-310
 27 ~~or 1-320~~, and amendments thereto, ~~or~~ may censure the holder of any
 28 such permit, *limit the scope of practice of any permit holder, and may*
 29 *impose an administrative fine not exceeding \$1,000*, for any one or any
 30 combination of the following causes:

31 (1) Fraud or deceit in obtaining a Kansas certificate, in obtaining
 32 registration with the board under any law of this state, or in obtaining a
 33 permit to practice as a certified public accountant, or renewal thereof,
 34 under K.S.A. 1-310 ~~or 1-320~~, and amendments thereto;

35 (2) dishonesty, fraud or gross negligence in practice as a public ac-
 36 countant;

37 (3) violation of any of the provisions of K.S.A. 1-316 ~~or 1-320~~, and
 38 amendments thereto;

39 (4) willful violation of a rule of professional conduct promulgated by
 40 the board under the authority granted by K.S.A. 1-202, and amendments
 41 thereto;

42 (5) conviction of a felony under the laws of any state or of the United
 43 States;

(g) For the purposes of this Chapter registered firm means any entity registered in accordance with K.S.A. 1-308, and amendments thereto.

Liability for professional negligence; restrictions.

No person, proprietorship, ~~partnership, professional corporation~~ or registered firm or association authorized to practice as a certified public accountant pursuant to article 3 of chapter 1 of the Kansas Statutes Annotated, or any employee, agent, partner, officer, shareholder or member thereof, shall be liable to any person or entity for civil damages resulting from acts, omissions, decisions or other conduct amounting to negligence in the rendition of professional accounting services unless:

(a) The plaintiff directly engaged such person, proprietorship, ~~partnership, corporation or association~~ or registered firm to perform the professional accounting services; or

(b) (1) the defendant knew at the time of the engagement or the defendant and the client mutually agreed after the time of the engagement that the professional accounting services rendered the client would be made available to the plaintiff, who was identified in writing to the defendant; and (2) the defendant knew that the plaintiff intended to rely upon the professional accounting services rendered the client in connection with specified transactions described in writing.

1-403. Same; effect on common law. The provisions of this act are not intended to alter or modify existing common law rules of liability except as otherwise stated herein.