

Approved: 3/5/98
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:06 a.m. on February 18, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Broderick Henderson - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Mary Feighny, Asst. Attorney General
Paul Allen, Board of Accountancy
T. C. Anderson, KS Society of CPA's
Susan Somers, Board of Accountancy

Others attending: See attached list

The minutes for February 17, 1998 were passed out. They will be approved at the next meeting.

Bob Nugent, Revisor, passed out to the committee a chart from the National Conference of State Legislatures which included the states of the United States and the provinces of Canada and their coverage of laws for Workers Compensation Insurance. For our use on HB 2591, the last two columns are the most informative. (See Attachment 1)

Hearing on: **HB 2766 - State board of accountancy; registration of business entities and imposition of civil fines.**

Mary Feighny, Assistant Attorney General and Legal Counsel for the Board of Accountancy, explained a large list of amendments to HB 2766 contained in a handout to the committee. When the bill was printed last month, they did not have input from the Kansas Society of Certified Public Accountants, and these amendments were written to accommodate the society. House Bill 2766 gives the Board of Accountancy authority to levy civil fines against those who do not have certificates or permits to practice as Certified Public Accountants (CPA's) and hold themselves out to be CPA's. It would also give the Board authority to deny the issuance of certificates or permits to practice if certain acts have occurred. Some other language was changed to update language in the statutes. (See Attachment 2) She ended her testimony by answering questions from the committee.

Paul Allen, CPA and Vice-Chair of the Board of Accountancy, appeared as a proponent of the bill. He believes that the Board needs additional enforcement tools to reach individuals who do not currently hold licenses, the ability to take enforcement actions in a non-criminal setting, and to have the enforcement authority held by similar boards. The bill would also increase criminal fines, bringing them more in line with other occupational and professional boards, and provides an important additional enforcement mechanism. It also includes an amendment that requires proprietorships to register on an annual basis, along with professional corporations, limited liability companies and general corporations. It would also allow the Board to charge a fee for registration. (See Attachment 3)

T. C. Anderson, Executive Director of the Kansas Society of Certified Public Accountants, appeared to support the Board of Accountancy's efforts to assess civil penalties against people who are not licensed to practice as CPA's, the requirement of an annual registration of CPA proprietorships, and to voice his organization's concern about Section 3 of the bill. The Society would like to further discuss the civil fine part of the bill with the Board of Accountancy and bring back a bill that is clearly drafted, easily understood and fair both to the Board and the licensee. He stated if HB 2766 is passed, several changes would need to be made before his organization could support it. Some of these are included in a balloon with his testimony. (See Attachment 4)

Chairman Lane closed the hearing on HB 2766. He asked the Board of Accountancy and the Kansas Society of Certified Public Accountants to get together and work out their differences and come back next year with a clean bill, without amendments, that could be easily understood and passed by the committee.

Hearing on: **HB 2765 - State board of accountancy; continuing education requirements.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR, Room 526-S
Statehouse, at 9:06 a.m. on February 18, 1998.

Susan Somers, Executive Director of the Board of Accountancy, appeared as a proponent of the bill which would require permit-holding CPA's to obtain 80 hours of continuing education in the biennial renewal period, with a mandatory 40 hours in each year. Other amendments include a terminology change, adding an exemption for the continuing education reporting requirements to a permit-holding CPA whose principal place of business is in another state, and a new amendment that changes the word "accounts" to "accountants" on page 1, line 9 of the title. (See Attachment 5)

No others were present to testify as a proponent or an opponent of the bill and Chairman Lane closed the hearing on **HB 2765**.

Action on: **HB 2765**

Rep. Geringer made a motion to pass out **HB 2765** favorably with the requested amendment, changing the word "accounts" to "accountants" on page 1, line 9 of the title. The motion was seconded by Rep. Storm. The motion carried and the bill was passed out as amended.

Chairman Lane adjourned the meeting at 9:55 a.m.

The next meeting is scheduled for February 19, 1998.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE: February 18, 1998

NAME	REPRESENTING
Paul Allen	Board of Accountancy
Susanne Sommers	Dir. of Accountancy
Adey F. Johnson	Board of Accountancy
T.C. Anderson	KSCPA
Pat Hubbert	PAAK

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
Alabama	Compulsory as to employers of 5 or more. Elective as to partners or sole proprietors. Corporate officers may reject.	Compulsory as to all public employments except municipalities of less than 2,000 population. Certain school systems and institutions covered. ⁴	Domestic servants and casual employees.	Voluntary for employers of less than 5, including farmers and volunteer fire departments. ⁵
Alaska	Compulsory as to all employments, including elected or appointed corporate executive officers. Officers of a for-profit corporation may elect to waive coverage. Elective as to sole proprietors or members of a partnership.	Compulsory as to state and political subdivisions, members of state boards and commissions, members of state-organized militia, and volunteer medical technicians. Includes regular fire fighters if not prohibited by local law. Voluntary as to executive officers of municipal corporations.	Part-time baby sitters, cleaning persons, harvest help, or similar transient help; entertainers and certain sports officials employed on contractual basis; and commercial fishers, and certain taxicab drivers.	Voluntary as to executive officers of a charitable, religious, educational, or other nonprofit corporation. Specialty contractors must maintain coverage in order to obtain or renew registration.
American Samoa	Compulsory as to employers of 3 or more; coverage may be required for all hazardous employments.	Compulsory as to all public employments.		Voluntary as to exempt employers.
Arizona	Compulsory as to all employments. Elective for working partners. Employee may reject.	Compulsory as to state, counties, cities, towns, municipal corporations, school districts, and volunteers enumerated by statute.	Domestic servants, casual employees and real estate licensees.	Voluntary as to sole proprietors and employers of domestic servants. Motion picture business employees and employees may be exempted from law provided equal benefits are provided by insurance in domicile state.
Arkansas	Compulsory as to employers of 3 or more. Elective as to partners or sole proprietors.	Compulsory as to state agencies, departments, institutions, counties, and cities and towns. Excludes workfare recipients.	Farm labor, domestic servants, casual workers, nonprofit religious, charitable or relief organizations, vendors or distributors of newspapers and other publications.	Voluntary as to excepted employments. Compulsory for employments in which 2 or more employees are engaged in building or building repair work; in which 1 or more employees of a contractor who subcontracts any part of a contract; and in which 1 or more employees is employed by a subcontractor.
California	Compulsory as to all employments. Elective for working members of a partnership and for working officers and directors of a private corporation who are sole shareholders.	Compulsory as to all public employments except clerks and deputies serving without remuneration, and to regional occupational centers, programs or school districts offering training to pupils outside attendance area as to enrolled pupils.	Charity workers and volunteer member workers at camps, etc., operated by nonprofit organizations; employer sponsored bowling teams; domestics who work less than 52 hours during preceding 90 days or earn less than \$100; students in sport events (excludes amateur athletic participants who are not employees).	Voluntary as to excepted employments and sponsoring agencies of Economic Opportunity Programs. Employer not liable for injury due to off-duty recreational, social, or athletic activity not part of work-related duties.
Colorado	Compulsory as to all employments. Corporate officer or member of a limited liability company, who is 10% shareholder, may reject. Elective as to active employer or partner.	Volunteers in a sheriff's reserve are covered if locality adopts a resolution stating they are covered. Compulsory as to all salaried public employments. Job trainees deemed employees of training institution.	Part-time domestic servants; ⁶ casual employees who earn less than \$2,000 per year; volunteer ski patrol and instructors; independent real estate salespersons and brokers, and independent truckers.	All farm labor covered in 1977. Officers of farm corporation may reject coverage.
Connecticut	Compulsory as to all employments. Corporate officer may reject. Elective as to sole proprietor or partners. ⁷	Compulsory as to all state, public corporations, and members of General Assembly. Municipalities may elect coverage of elected and appointed officials, police, and fire fighters.	Casual employees, outworkers, ⁸ domestics employed less than 26 hours weekly, officers of fraternal organizations paid less than \$100 per year.	Voluntary as to excluded employments.
Delaware	Compulsory as to all employments. Up to 4 corporate officers/stockholders may reject. Elective as to sole proprietors or partners.	Elective as to state and certain counties, cities, and towns.	Domestic servants; casual employees earning less than \$300 in 3 months from 1 household; farm labor.	Elective as to licensed real estate brokers.
District of Columbia	Compulsory as to all employments.	Separate act is compulsory for all public employments, except officers or employees of the United States, state, or foreign government, and uniformed D.C. police or fire fighters.	Farm labor, casual employees, master or crew of any vessel, and employees of common carrier by railroad in interstate commerce and commission real estate brokers and salespersons. ⁹	Domestic workers covered if employer employs 1 or more for 240 hours or more in a calendar year. Act applies to injuries occurring outside of D.C. if the employment is principally localized in D.C.
Florida	Compulsory as to employers of 4 or more, 1 or more in construction or construction-related trades. Elective as to corporate officers, partners and sole proprietors, but officers of a construction, construction-related company, or partners of a partnership may elect exemption from coverage for up to 3 officers.	Compulsory as to state and political subdivisions (includes volunteers), except elected officials.	Domestic servants, casual employees, 12 or fewer casual or 5 or fewer regular farm labor, professional athletes, owner/operator of a motor vehicle who is under written contract with a motor carrier and assumes all responsibility for carrying out that contract, and volunteers (except government entities but including volunteer fire fighters).	Voluntary as to excepted employments. Excludes real estate salespersons solely on commission. Numerical exemption is applicable to employees of subcontractors. When a contractor sublets part of his contract, the contractor is responsible for securing and paying coverage for subcontractor.
Georgia	Compulsory as to all employers of 3 or more. Elective as to active partners, sole proprietors or farm employers.	Compulsory as to state, county, municipal corporations, and political subdivisions including school districts. Voluntary as to planning commissions.	Farm labor, domestic servants, employees of common carriers by railroad, casual labor and licensed real estate salespersons and brokers.	Voluntary as to excepted employments.
Guam	Compulsory as to all industrial employments. ⁹	Compulsory as to paid and voluntary work done for Government of Guam or any political subdivision.	Casual labor and members of Territorial Board of Education.	All contracts of hire in the Territory for work outside the Territory are presumed to allow remedies under the Guam Workers' Compensation Law.

*House Business, Commerce
& Labor Committee
2/18/98
att 1*

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
Maryland	Compulsory as to all employments, including corporate officers. Elective as to partners or sole proprietors. Corporate farm officers who are 20% shareholders may reject. Elective for officers owning 20% or more of a professional services corporation and performing professional services for that corporation.	Compulsory as to state, counties, cities, and their Agencies; paid fire fighters in certain counties; prisoners working for county roads boards; forest wardens; jockeys; ¹⁸ crewpersons and fire fighters for Department of Forest and Parks; jurors for non-federal courts; including the state militia during both training and active duty.	Domestic workers who earn less than \$250 in a quarter from a single household; certain maintenance workers not employed for 30 consecutive days around a private home; seasonal, migratory farm labor within 25 miles of residence who work no more than 13 weeks a year and who do not operate machinery or equipment; farmers who employ fewer than 3 or have a full-time payroll less than \$15,000; commission-paid real estate salesperson or broker. Also, independent contractors and owner/operators of Class F tractors who are under agreement with a motor carrier.	Voluntary as to excluded employments. Officers of close corporation may reject. Small employers of farm labor may be insured under a group policy. Certain volunteer fire fighters and paramedics may be covered.
Massachusetts	Compulsory as to all employments.	Compulsory as to state; elective as to counties, cities, and districts having power of taxation. Municipalities required to indemnify police and fire fighters. Cities and towns may cover certain elected or appointed officials.	Masters and seamen in interstate commerce covered by federal law; athletes whose contracts provide wages during job disability; commission-paid salespersons; independent taxi drivers.	Voluntary as to domestic servants hired casually or on a seasonal basis.
Michigan	Compulsory as to all employers of 3 or more, or less than 3 if 1 is employed for 35 hours per week for 13 weeks by same employer. ¹⁹	Compulsory as to all public employments. Trainees in federally funded training program deemed employees of sponsoring public entity.	Professional athletes whose AWW is more than 200% of the statewide AWW; domestic servants who work less than 35 hours a week for 13 weeks a year; licensed real estate salesperson.	Voluntary as to employer of 2 or less, and domestic service. Family members may be excluded by endorsement.
Minnesota	Compulsory to most employments. Elective as to partners or officers of family farms or close corporations and their families. Also elective as to managers of limited liability companies and their families.	Compulsory as to all public employments. Subdivisions may cover elective and appointed officers.	Certain casual labor; household workers who earn under \$1,000 per 3 months from 1 private household; family farms with annual farm labor payroll under \$8,000; ²⁰ railroad workers covered by federal law; nonprofit corporations with annual payroll under \$1,000; commercial thresher or baler for family farm. ²¹	Person, partnership, corporation or limited liability company may elect coverage for independent contractors for a fee. Specifically covers voluntary first responders and members of law enforcement assistance organizations, and voluntary civil air patrol members rendering service on the request and under authority of the state or its political subdivisions.
Mississippi	Compulsory as to all employers of 5 or more. Corporate officers may reject. Sole proprietor, partner or any employee owning 15% or more stock may reject.	Compulsory as to all public employments, including subdivisions of the state. Specifically excludes handicapped in state sheltered workshop programs.	Domestic servants; farmers; farm labor; newspaper distributors; nonprofit charitable, fraternal, cultural, or religious corporations or associations; and independent contractors.	Voluntary as to exempted employers.
Missouri	Compulsory as to all employers of 5 or more. Elective for partners and sole proprietors. Compulsory as to construction industry employers of 1 or more employees. ²²	Compulsory as to all public employments, including elected and appointed state officials; contractors of a public corporation, state militia, sheriffs and deputy sheriffs. Compulsory for workers on state welfare projects under Federal Economic Opportunity Act.	Farm labor, domestic servants, occasional labor for private household and qualified real estate agents; members of employer's family by marriage or consanguinity; inmates confined to a state prison, penitentiary, county or municipal jail; residents of mental health facilities; unpaid volunteers of a tax-exempt organization; interscholastic and other youth programs, sports officials and contest workers.	Voluntary as to exempt employments, employers of less than 5 employees; and salaried officers of Missouri farm corporations.
Montana	Compulsory as to all employments. Corporate officers may reject. Partners and sole proprietors may apply for an exemption.	Compulsory as to all public employments, including public contractors and volunteer rescue workers.	Domestic and casual employment; family members; employers covered by federal law; person performing services for aid and sustenance only; officials at amateur athletic events; real estate brokers and salespersons; direct sellers of consumer goods; dependent member of employer's family for whom the employer may claim as an exemption under the federal tax code; newspaper carriers and free-lance correspondents, cosmetologists, and barbers.	Coverage is mandatory for partner or sole proprietor who is independent contractor, but may apply for personal exemption. Voluntary as to exempt employments.
Nebraska	Compulsory as to all employments. Corporate officers who are 25% shareholders may reject. Elective as to proprietors, partners or self-employed.	Compulsory as to all employments, including officials elected or appointed for fixed terms.	Farm labor and domestic servants.	Voluntary as to farm labor and domestic service.
Nevada	Compulsory as to all employments. Elective as to sole proprietors.	Compulsory as to all employments, including public contractors. Also includes unpaid members of state departments, boards, commissions, agencies, or bureaus appointed by a statutory authority; members of local bands and orchestras.	Farm labor; domestic servants; casual employees; employees engaged without pay in employer's social or athletic events; voluntary ski patrol persons; and any clergy, rabbi or lay reader.	Voluntary as to exempt employments. Employee may elect compensation if mandated employer is uninsured.

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
New Hampshire	Compulsory as to all employments. First 3 corporate officers not counted as employees. ²³ Elective as to partners and sole proprietors.	Compulsory as to all public employments.	Railroad workers covered under F.E.L.A. (Jones Act).	
New Jersey	Statutory presumption of election as to all employments.	Compulsory as to all public employments.	Casual workers, maritime workers, and railroad workers engaged in interstate commerce.	
New Mexico	Compulsory as to employers of 3 or more. Corporate officers who are 10% shareholders may reject. Elective as to partner or self-employed. All employers licensed under the Construction Industries Licensing Act must secure coverage regardless of number of employees.	Compulsory as to state, counties, cities and towns; drainage, irrigation, conservancy, or school districts; public instruction or administrative boards; includes elected or appointed officials.	Farm or ranch labor, domestic servants, casual employees, and real estate salespersons.	Voluntary as to farm labor, domestic service, and where less than 3 are employed. Compulsory for charitable organizations employing workers.
New York	Compulsory as to all employments. Elective as to partner or self-employed, sole shareholder/officer and 2 sole-shareholders/officers. ²⁴	Compulsory as to state and subdivisions when worker is engaged in hazardous occupations enumerated. Covers school aides and public school teachers in districts outside New York City. Voluntary as to municipal corporations in nonhazardous employments.	Farm labor if payroll during prior year was less than \$1,200; volunteer workers; domestic worker not employed by same employer at least 40 hours per week; teacher or nonmanual laborer for religious, charitable, or educational institution; certain real estate salespersons, sole shareholder officer and 2 shareholders/officers who have no other employees; baby sitters under 18; and casual employment or repairs in or about a one-family owner occupied residence.	Voluntary as to exempt employments and for certain employment in fulfillment of probationary sentence. Elective as to the individual offices of mental health organizations to provide participants in sheltered workshops with benefits. Jockeys covered by the NY Jockey Injury Compensation Fund.
North Carolina	Compulsory as to all employers of 3 or more and all employments with exposure to radiation. Corporate officers count toward total number of employees but may reject. Elective as to partner or sole proprietor.	Compulsory as to public employments, public and quasi-public corporations, and elective officials.	Farm labor, domestic servants, casual workers, railroad workers, voluntary ski patrol persons, individual sawmill or logging operators with fewer than 10 employees who operate less than 60 days over a 6-month period.	Voluntary as to casual employees, domestic servants, and employers of fewer than 3 employees. Compulsory as to agricultural employer with 10 or more full-time nonseasonal workers. Contractor must certify that their subcontractor has secured compensation, if subcontractor has no employees, they may waive coverage.
North Dakota	Compulsory as to all hazardous employments. Elective as to corporate officers, partners or sole proprietors, and resident family members.	Compulsory as to all public employments.	Farm labor, domestic servants, members of board of directors of business corporation, casual workers, illegal enterprises or occupations, and clergy. Real estate brokers or salespersons and newspaper delivery personnel with written agreements defining them as independent contractors.	Voluntary as to nonhazardous and excluded employments. ²⁵ Injuries caused by intoxicants are not compensable.
Ohio	Compulsory as to all employments. Elective as to partners and sole proprietors.	Compulsory as to state, counties, cities, townships, incorporated villages, and school districts.	Casual and domestic workers paid less than \$160 by 1 employer in any 3-month period.	Elective as to officers of family farm corporations and for ordained or licensed ministers in the exercise of their ministry.
Oklahoma	Compulsory as to all employments. Elective as to 10% shareholders, partners, sole proprietors and owner/operator truckers.	Compulsory as to the state, counties, cities, or municipalities except where equivalent schemes are in force.	Domestic and casual employees of home owner whose annual payroll is under \$10,000, worker covered by federal law, agricultural/horticultural employer whose annual payroll is under \$100,000; real estate salespersons and brokers.	Excludes certain persons sentenced to public service, assigned to work release or private prison industry programs, and volunteers who receive no wages other than meals.
Oregon	Compulsory as to all employments. Elective as to sole proprietors, partners except in construction and some corporate officers who are also directors with a substantial ownership interest. ²⁶	Compulsory as to state, departments, cities, or towns and other political subdivisions. Covers volunteer trainees in state schools for deaf and blind. Excludes cities over 200,000 population with equivalent compensation.	Under specified circumstances: Domestic, casual labor, interstate transportation, certain charitable or relief work, newspaper carriers, certain amateur athletes and sports officials, volunteer ski patrols and volunteers in the ACTION Program, personnel under federal permits, owners and operators of certain motor vehicles, and commission-paid real estate agents, foster care providers; and golf caddies in an established training program.	Voluntary as to excepted employments. Excepted employer may elect coverage for selves or excepted employees. ²⁷
Pennsylvania	Compulsory as to all employments. Executive officers may elect not to be covered. ²⁸	Compulsory as to all public employments except elected officials.	Domestic or casual labor, outworker, ²⁹ farmer with 1 employee who works less than 20 days a year or earns less than \$150 a year.	Voluntary as to casual and domestic service. ²⁸
Puerto Rico	Compulsory as to all employments.	Compulsory as to all salaried public employments.	Casual and domiciliary workers.	Voluntary for sole proprietors and their families when supervising or engaging in manual labor in their business or farm.
Rhode Island	Compulsory as to all employers of 4 or more, partners, sole proprietors and employers in hazardous occupations.	Compulsory as to the state and city of Providence, ³⁰ elective as to cities or towns.	Agriculture, domestic service. Excludes van pooling recipients except driver. Professional hockey teams are exempt.	Voluntary as to agriculture, domestic service, and employers of less than 4 employees, except those in hazardous occupations. Excludes employer-sponsored social or athletic activity.

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
South Carolina	Compulsory as to all employers of 4 or more, including active partners and sole proprietors whose employees are eligible for benefits.	Compulsory as to all public employments ³¹ except elective and appointive officials. Coverage extended to members of the State and National Guard.	Casual employees, persons engaged in selling agricultural products, farm labor, railroads, express companies, state and county fair associations, employers with annual payroll under \$3,000; licensed real estate agents who are independent contractors, working on straight commission and working for a broker.	Voluntary as to excluded employments. Employers and employees covered by Act may elect to reject all provisions.
South Dakota	Compulsory as to all employments. Elective as to employer performing labor incidental to job.	Compulsory as to all public employments, except elected or appointed officials. Fire fighters covered. Subdivisions of state may elect to cover elected and appointed officials. Students in vocational work program covered as employees of employer.	Farm labor; domestic servants if employed less than 20 hours in any week and less than 6 weeks in any 13-week period; and workfare participants.	Voluntary as to farm labor and domestic service. Compulsory as to operators of farm machinery, e.g., threshers, combines, shellers, cornhuskers.
Tennessee	Compulsory as to all employers of 5 or more. Corporate officers may reject. Elective as to partners and sole proprietors.	Voluntary as to state and political subdivisions.	Farm labor, domestic servants, casual employees, employees of interstate common carriers, and voluntary ski patrol persons.	Voluntary as to employers of less than 5.
Texas	Elective as to all employments. Farm/ranch operator may elect to cover self, partner, corporate officer or family member.	State provides self-insurance coverage for Highway Department, University of Texas, Texas A&M University and all state employees. Counties, municipalities and other political subdivisions may provide compensation for their employees. ³²	Domestic or casual workers engaged in employment incidental to a personal residence; persons covered by a method of compensation established under federal law; migrant workers; seasonal workers employed on a truck farm, orchard or vineyard, or employed by an employer with a payroll under \$25,000; other farm or ranch employees working for an employer with a payroll under \$25,000, or employing fewer than 3 workers.	
Utah	Compulsory as to all employments. Elective as to partners, sole proprietors, corporate officers and directors.	Compulsory as to all public employments, including community service workers and volunteers. ³³	Casual employees. Farm employers who employ 5 or less persons for 40 hours per week for 13 weeks or less during the year; or employer/owner's family. Domestics who work less than 40 hours per week for a single employer. Real estate salesperson or broker.	Voluntary as to farm labor and domestic service.
Vermont	Compulsory as to all employments. Corporate officers may reject. Elective as to sole proprietors and partners.	Compulsory as to all public employees, including legislators while in session, teachers, police, fire fighters, town and school employees, other municipal employees entitled to pensions, and road commissioners or select persons engaged in highway maintenance or construction. ³⁴	Casual or domestic employees; amateur athletes; farm labor where employer's payroll is under \$2,000 per year.	Exempted farmers and employers of domestics may elect coverage.
Virgin Islands	Compulsory as to all employments. Elective as to partners and sole proprietors.	Compulsory as to all public employments.	Casual and domestic employees, and volunteers for charitable organizations.	Voluntary as to exempt employers and employees.
Virginia	Compulsory as to employers of 3 or more and farm employer with more than 2 full-time employees. Elective for partners and sole proprietors. Corporate officers may reject for accidental injury only.	Compulsory as to all public employments, except administrative officers and employees elected or appointed for definite terms. ³⁵ Includes judges of Supreme Court and Circuit Court and judges and clerks of juvenile, domestic relations, and district courts.	Casual employees; horticultural and farm laborers; taxi drivers and domestic servants; employees of steam railroads; employments not in usual course of employer's trade, business, or occupation; and real estate salesperson/associated brokers on commission, under independent contract, or not treated as employees for federal income tax purposes. ³⁶	Voluntary as to employers of less than 3, farm labor, and domestics. Employers may elect coverage for its independent contractor provided that independent agrees in writing. The independent contractor may have to pay for all or part of that coverage.
Washington	Compulsory as to all employments. Elective as to partners, sole proprietors, joint venturers, and corporate officers who are shareholders/directors.	Compulsory as to all public employments.	Domestic servants; voluntary law enforcement officers; Indian tribal members employed on reservation; home repair and gardening workers; railroad workers; unpaid workers in eleemosynary institutions; children under 18 on a family farm; jockeys; employments not in usual course of employer's business; interstate truckers.	Covers apprentices registered with Apprenticeship Council. Excludes purchaser of contract musical or entertainment performance.
West Virginia	Compulsory as to all employments. Elective as to partners, sole proprietors, and officers of associations and corporations.	Compulsory as to all public employments, including elected officials. Elective for churches.	Domestic workers, farm labor of 5 or fewer, casual employers and employees working out of state (except temporarily).	Elective as to employers in organized professional sports, including thoroughbred horse racing.
Wisconsin	Compulsory as to all employments (except farm labor) if payroll is \$500 or more in any calendar quarter for services in the state. Compulsory as to farmers with 6 or more employees who work 20 or more days.	Compulsory as to all employees, including state legislators. Includes certain vocational education students.	Domestic servants and casual employees.	Voluntary as to excluded employments. Elective as to working sole proprietors, partners, and members of limited liability companies; for up to 2 corporate officers in closely held corporation. Includes participants in community work experience program. Independent contractor is considered employee of any employer for whom they are working, except when the independent meets certain enumerated conditions.

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
Wyoming	Compulsory as to enumerated "extra-hazardous" industries and occupations conducted for gain. Elective as to corporate officers.	Compulsory as to state, counties, and municipal corporations when engaged in "extra-hazardous" work.	Casual employees, individual contractors, private household workers, federal employees, interstate trucking without a fixed base in Wyoming, sole proprietors and partners.	Elective as to all non-required industries and occupations. Specific volunteers require coverage.
F.E.C.A.		All civil employees of the U.S. government, including wholly owned instrumentalities, and persons performing activities of civil employees without pay.		
Longshore Act	Compulsory as to all maritime employment nationwide, including longshoring, harborworking, shipbuilding, or ship repair.	Officers and employees of the U.S. or any state or foreign governments are not covered.	Master or crew of any vessel and persons unloading or repairing vessels of less than 18 tons. ³⁷ Not applicable to maritime employment in Puerto Rico. ³⁸	Act also applies to workers at military bases and public works abroad; welfare and morale service workers for military abroad; and workers for nonappropriated funds (ship's services, PX's, etc.) in U.S. and abroad.
Alberta	Compulsory as to all nonexempted employments. Corporate officers are covered; ³⁹ employer may elect coverage for self. Elective as to partners and sole proprietors.	Compulsory as to provincial employees; most school teachers are exempt.	Employments listed in General Regulations (includes farm labor, domestics, outworkers, ³ financial institutions, religious and charitable institutions, legal services, medical and dental services, athletes, and employees of labor unions).	Voluntary as to excepted employments and corporate directors. Board may include any individual or class by regulation.
British Columbia	Compulsory as to all employments listed in Part 1. Employer may elect coverage for self.	Compulsory as to all provincial and municipal employees, including members of fire brigade and ambulance staff.	Only exceptions are based on specific review; professional athletes.	Voluntary as to independent operators, certain members of employer's family and unenumerated employments. Board may include any industry by regulation.
Manitoba	Compulsory as to employers and industries set out in section 73 and the Schedule appended to the Act, respectively. Elective as to directors, employers, independent contractors, and certain family members.	Compulsory as to all provincial and municipal employments, except for educational institutions.	Farm labor, outworkers; ⁴ a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, and a person who (i.) ordinarily resides outside Canada, (ii.) is employed in the cartage trucking industry by an employer whose principal place of business is outside of Canada, and (iii.) is temporarily working in or passing through the province.	Voluntary as to exempted employer's undertaking or individual plant. The WCB may include or exclude any industry by regulation. The Lt. Gov.-in-Council may only include by regulation.
New Brunswick	Compulsory as to all regular employees of 3 or more. Compulsory as to salaried corporate officer or director. Employer may elect coverage for self.	Elective as to public employments.	Outworkers, ² domestic servants, and persons whose employment is of a casual nature and otherwise than for the purpose of business. ⁴⁰	Voluntary as to excepted employments, Lt. Gov.-in-Council may regulate exclusion of industry in which not more than stated number of workers fixed by regulation are usually employed.
Newfoundland	Compulsory as to all employments except as excluded by regulation.	All provincial and federal employees are covered.	Artists, entertainers, circus and trade shows, newscasters and clergy; employment by a person in respect of a function in rental of room in a private residence of that person; salespersons employed out of province; sports professionals, instructors, players and coaches; volunteers and outworkers. ³	Commission may accept excluded employer or worker.
Northwest Territories	Compulsory as to all employments. Elective as to corporate officers.	Compulsory as to territory government.		Commissioner may exempt industry, employer or worker. Voluntary as to excepted employment.
Nova Scotia	Compulsory as to employments listed in Part 1. Board has exempted employers of 2 or fewer. Includes active corporate executives; employer may elect coverage for self.	Elective as to public employments. Fire fighters and police are excluded. Board may exclude public officials.	Casual labor, outworkers; ³ farm labor, domestic servants. By regulation Board has excluded specific industries, including educational institutions, persons in medical work and dental surgery, veterinarians, athletes, barbers, taxicabs, florists, horticultural employment, entertainers and aviation industry.	Voluntary as to excepted employments. Board may include or exclude any industry or set numerical exemption by regulation.
Ontario	Compulsory as to all employments listed in Schedules 1 and 2. Elective as to sole proprietors, partners and executive (corporate) officers.	Compulsory as to all provincial and municipal employments.	Casual workers, outworkers; ² and most volunteer workers in industries listed in Schedules 1 and 2.	Voluntary as to unenumerated and excluded employments.
Prince Edward Island	Compulsory as to all employments with exclusions as listed in our regulations. Elective as to corporate officers.	Compulsory except for municipal officers.	Outworkers; ³ farm labor, domestic servants, taxi industry, fishing and clergy.	Voluntary as to exempted employments. The Board may include any exempted industry.
Quebec	Compulsory as to all employments.	Compulsory as to all provincial and municipal employments.	Domestic servants and outworkers ⁴ covered upon request. Also, sole proprietors and corporate officer. Persons who play sports as main source of income specifically excluded.	Voluntary as to unenumerated and excepted employments.
Saskatchewan	Compulsory as to all employments. Compulsory for corporate officers and salaried employers.	Compulsory as to all provincial and municipal employments. Municipalities and corporations may elect coverage of mayor and members of governing body.	Farm and ranch labor, domestic servants, outworkers ³ and school teachers.	Voluntary as to excepted employments. Lt. Gov.-in-Council may exclude any industry, employer or worker.

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
Yukon Territory	Compulsory as to all employments.	Compulsory as to territory government.	Casual employees, domestics, outworkers. ³	Voluntary as to excepted employments.
Canadian Government Employees' Act		Compulsory as to employees of government departments, Crown corporations, boards, commission, etc. in Canada and abroad.		Claims are determined by provincial boards. Benefits same as for private employees in same province; worker in territory is deemed employed in Alberta.
Canadian Merchant Seaman's Act	Compulsory as to all employees of Canadian registered ships, as defined.		Pilots, apprentice pilots, and fishermen.	No compensation payable, if entitled under Government Employees' Compensation Act or any provincial act.

Note: State courts vary in decisions whether minimum of persons must be in state.

- ¹ Compensation laws are classified as compulsory or elective. A compulsory law requires every employer to accept the act and pay the compensation specified. An elective act is one in which the employer has the option of either accepting or rejecting, but if an employer rejects the customary common law defense — risk assumed by employee, negligence of fellow servants, and contributory negligence. In most states workers in excepted or excluded employments may be brought under coverage of the act through voluntary action of the employer. In other states, such action of the employer must be concurred on by the employees.
- ² Applying to private employments only. The exceptions for public employments are given under Employments Covered—Public.
- ³ Outworker is person to whom articles are given for cleaning, repairing, etc., at home.
- ⁴ Alabama — Employees of all county and city boards of education, Ala. Inst. for Deaf and Blind, and 2-year colleges under state Bd. of Educ. Control. Special act covers employees of U.S.S. Alabama Battleship Comm. and authorizes excess medical care benefits, not to exceed \$10,000 per employee; also, for employees of Department of Agriculture and Industries. Special act covers employees of Tannehill Furnace and Foundry Commission.
- ⁵ Alabama — Employer electing not to accept coverage must notify each employee in writing. Regular employer of a volunteer firefighter or rescue squad worker is in no way liable for compensable injury.
- ⁶ Colorado — Part-time is equal to less than 40 hours per week.
- ⁷ Connecticut — Non-members of a civil preparedness force and volunteer fire fighters, who are requested by a municipality to aid in an emergency situation, are covered under the workers' compensation laws of the municipality where the injury occurs and under the laws where their company is located.
- ⁸ District of Columbia — Provided that broker or salesperson is an independent contractor and signs contract with agency indicating such.
- ⁹ Guam — Employment in trade, occupation or profession, carried on by employer for pecuniary gain.
- ¹⁰ Hawaii — Employment in trade, occupation, or profession, carried on by employer for pecuniary gain.
- ¹¹ Idaho — Applicable to corporate officers owning at least 10% of stock and who are also directors if corporation has directors.
- ¹² Illinois — Townships may elect coverage to participants in job training or work program.
- ¹³ Illinois — The law is elective as to private employments of a non-hazardous nature, but it does not abrogate the employer's defenses if the employer does not accept the act, and thus is considered to be voluntary.
- ¹⁴ Indiana — Elective for officer of a charitable, religious, educational, or nonprofit corporation.
- ¹⁵ Maine — Employers of 6 or fewer agricultural or aquacultural employees exempt if employer maintains liability insurance policy with limits of not less than \$100,000 per employee and medical coverage of not less than \$1,000.
- ¹⁶ Maine — Provided that broker or salesperson is independent contractor and signs contract with agency indicating such.
- ¹⁷ Maine — No compensation allowed if injury or death of employee is brought about by willful intention of self or another, or by intoxication while on duty.
- ¹⁸ Maryland — Jockeys or their dependents who are covered employees, while performing a service in connection with training, are eligible to apply for payment from the Maryland Jockey Injury Compensation Fund.

- ¹⁹ Michigan — Corporate officer who is 10% shareholder of corporation with up to 10 shareholders may reject.
- ²⁰ Minnesota — Less than \$8,000 or less than the SAWW when farm operator has total liability and medical payment coverage equal to \$300,000 and \$5,000 under a farm liability policy and the policy covers injuries to farm laborers.
- ²¹ Minnesota — Act does not apply to persons covered by Domestic Volunteer Service Act of 1973, as amended.
- ²² Missouri — Employers who do not elect coverage are liable to suit with defenses abrogated. Also corporations with 2 owners who are also the only 2 employees may elect to be exempt.
- ²³ New Hampshire — Fourth corporate and any employees must be covered.
- ²⁴ New York — Elective as to unsalaried executive officer of not-for-profit unincorporated association or corporation, and as to executive officer of religious, charitable or educational corporation or veterans' organization.
- ²⁵ North Dakota — General contractor is responsible for securing coverage and paying premiums for its subcontractor until subcontractor has secured and paid for own coverage.
- ²⁶ Oregon — Ownership interest not required for certain family farms.
- ²⁷ Oregon — Prime contractors can become liable for providing coverage for subcontractors and their employers.
- ²⁸ Pennsylvania — Executive officers are defined as individuals who have either ownership interest in a subchapter S corporation or at least 5% ownership interest in the subchapter S corporation.
- ²⁹ Pennsylvania — Employers may be exempted from covering an employee whose religious sect prohibits benefits from insurance provided that the sect makes provisions for its members.
- ³⁰ Rhode Island — Members of the National Guard must be on active duty in order to be eligible for benefits.
- ³¹ South Carolina — Department of Parole and Community Corrections may elect coverage for convicted persons performing community service or participating in a work program.
- ³² Texas — Subdivisions may elect to cover officer deemed volunteer fire fighters, police, and emergency medical personnel.
- ³³ Utah — Volunteers are eligible only for workers' compensation medical benefits, not indemnity benefits.
- ³⁴ Vermont — Municipalities may elect coverage of other employees. Excludes other elected officials, certain judges, sheriffs, and county treasurers and clerks. All state organizations must participate in the state employees' workers compensation fund.
- ³⁵ Virginia — Governing body of county, city, or town may elect coverage of its members.
- ³⁶ Virginia — Does not apply to injuries received during emergency services activities, unless it results from gross negligence.
- ³⁷ Longshore Act — Also excluded to extent covered by state law are: office, clerical, secretarial, security or data processing employees; club, camp, recreational operation, restaurant, museum or retail outlet employees; marina employees not engaged in construction, replacement or expansion; persons temporarily on premises not doing work normally performed by employer; aquaculture workers; builders, repairers or dismantlers of recreational vessels under 65 feet in length; and master or crew of any vessel.
- ³⁸ Longshore Act — By decisional law, *Garcia v. Friesecke*, 597F.2d 284 (1st Cir.) cert. denied 444 U.S. 940 (1979).
- ³⁹ Alberta — Corporate director may elect coverage.
- ⁴⁰ New Brunswick — By regulation also excludes fishing industry, except for undertakings in which 25 or more workers are at the same time usually employed.

CHART II — COVERAGE OF LAWS

JURISDICTION	EMPLOYMENT COVERED ¹		EXCEPTIONS ²	SPECIAL COVERAGE PROVISIONS
	PRIVATE	PUBLIC		
Hawaii	Compulsory as to all industrial employments. ¹⁰ Compulsory as to all out-of-state employers who work in the state.	Compulsory as to all public officials, elected or appointed. Covers public board members.	Volunteers of religious, charitable or nonprofit organizations. Domestic workers who earn less than \$225 during each quarter in the preceding year. Unpaid corporate officers with 25% plus shares of corporation with no employees. Individual with 50 plus shares of corporation.	Voluntary as to employments not defined as industrial.
Idaho	Compulsory as to all employments unless specifically exempted.	Compulsory as to all public employments except officials at secondary school athletic contests. Members of Idaho National Guard are covered under state law, if not covered under federal law.	Domestic; casual; outworkers; indwelling members of sole proprietor's household; non-profit; sole proprietor; partners; members of limited liability company; corporate officers ¹¹ ; employment covered under federal law; agricultural pursuits; pilots of agricultural spraying planes; real estate brokers paid entirely by commission; volunteer ski patrollers; officials of athletic contests.	Employees within state who work for employers domiciled in another state are covered. Credit is provided for benefits paid to employees under the law of other states.
Illinois	Compulsory as to enumerated "extra-hazardous" employments (including occupational diseases). Elective as to partners and sole proprietors.	Compulsory as to all public employments except members of fire and police departments in cities over 200,000 population (such fire fighters covered to extent of burn-related disfigurement). ¹²	Certain farm labor, domestics, and persons not in usual course of employer's business; real estate brokers and salespersons paid by commission only.	Voluntary as to excluded employments. ¹³ Corporate officers of small business may reject.
Indiana	Compulsory as to all employments including corporate officers. Elective as to sole proprietors or partners.	Compulsory as to state, municipal corporations, and political subdivisions; includes state legislators, and elected and appointed officials. Volunteers working as authorized emergency management workers, volunteers working for hazardous materials response teams and police reserves may be covered.	Farm labor, domestic servants, casual workers, railroad workers, and licensed real estate professionals. ¹⁴	Compulsory as to coal mining and for students in cooperative education.
Iowa	Compulsory as to all employments but up to 4 corporate officers may reject. Elective for proprietors and working partners.	Compulsory as to all public employments, except fire fighters and police officers entitled to pension fund. Covers highway safety patrol officers, conservation officers, criminal defendants while performing unpaid community service or other services and agricultural workers at state universities.	Domestic and casual workers earning under \$200 per quarter; farm labor, if employer payroll under \$2,500 per year.	Voluntary as to excepted employments. Persons receiving employment training or evaluations in an approved facility are covered for PP or PT disabilities. Under certain conditions, truck owner/operators and real estate agents are considered independent contractors and are required to maintain own coverage.
Kansas	Compulsory as to all employments, including corporate executive officers. Elective as to partners, individuals, or self-employed.	Compulsory as to all public employments. Members of fire fighters' relief associations may elect to accept or reject coverage. Public agencies or entities may elect coverage for persons sentenced to community service.	Farm labor or any employer whose gross annual payroll is not more than \$20,000; real estate brokers and salespersons on commission.	Compulsory as to eleemosynary institutions. Voluntary as to excluded employments. Labor unions and associations may elect coverage for their members who perform services and are not full-time employees.
Kentucky	Compulsory as to all employments, including corporate executives. Elective as to owner of business or partner. Worker may reject voluntarily prior to injury.	Compulsory as to state and political subdivisions, including elected and appointed state officials, employees of the General Assembly and volunteer ambulance, fire, and police personnel.	Domestic servants if employer employs fewer than 2, each regularly employed 40 hours a week; casual workers employed less than 20 consecutive work days; agricultural labor; worker for charitable or religious organization in return for aid or sustenance; and participant in carpool to and from work.	Specifically covers newspaper carriers and members of volunteer ambulance service, fire or police department. Voluntary as to excluded employments.
Louisiana	Compulsory as to all employments, including corporate executives. Corporate officers who are 10% shareholders and sole proprietors may reject.	Compulsory as to all public employments, except sheriffs' deputies and officials. Subdivisions may cover elective and appointive officials.	Crews of crop spraying aircraft while acting as contractors, or employees of persons principally engaged in agriculture; real estate brokers and salespersons; domestic workers.	Excludes officers of nonprofit charitable, fraternal, cultural, or religious corporations or associations.
Maine	Compulsory as to all employments, including corporate executive officers. Corporate officers who are 20% shareholders may reject. Elective as to self-employed persons or partners.	Compulsory as to state, counties, cities, towns, and quasi-municipal corporations. Includes fire fighters, police, volunteer fire fighters and emergency medical services personnel.	Domestic workers, seasonal (works less than 26 weeks per year, full- or part-time) or casual agricultural or aquacultural employees. ¹⁵ Maritime employee in interstate or foreign commerce. Commission-paid real estate salesperson or broker. ¹⁶ Independent contractor. Employee harvesting 150 cords of wood from farm wood lot. Voluntary participant in employer-sponsored athletic event. Elected or appointed executive officers of a charitable, religious, educational or other nonprofit corporation. ¹⁷	Voluntary as to excluded employments. Parent, spouse, or child of sole proprietor; partner or corporate officer who is a 20% shareholder or shareholders of a professional corporation may reject coverage.

Mary Feighny

AMENDMENTS TO HB 2766
AS PRESENTED BY THE BOARD OF ACCOUNTANCY
FEBRUARY 18, 1998

House Bill 2766

New Section 1. (a) The state board of accountancy, in addition to any other penalty prescribed in chapter 1 of the Kansas Statutes Annotated, may assess civil fines in an amount not to exceed \$5000 for each violation, plus costs, including attorney fees, after proper notice and opportunity to be heard, against any person who does not hold a valid Kansas certificate or permit to practice ~~or any entity~~ for a violation of the accountancy statutes, rules and regulations or orders enforceable by the board. Notice and hearing under this act shall be conducted in accordance with the Kansas administrative procedures act. All costs assessed under this section shall be remitted to the state treasurer at least monthly and shall be deposited in the state treasury and credited to the board of accountancy fee fund.

(b) In determining the amount of the penalty to be assessed pursuant to this section, the board may consider the following factors among others: (1) willfulness of the violation; (2) repetitions of the violation; and (3) magnitude of the risk of harm caused by the violation.

Sec. 2. K.S.A. 1997 Supp. 1-302 is hereby amended to read as follows: 1-302. ~~(a) The certificate of having passed the certified public accountant examination shall be known as the Kansas certificate and shall be granted by this board to any person (a) who is a resident of this state or has a place of business or is employed therein, (b) who meets the applicable requirements prescribed by K.S.A. 1-302a, and amendments thereto, and (c) who has passed a written examination in accounting and auditing and in such other related subjects as the board may determine to be appropriate. (a) The board may grant a Kansas certified public accountant certificate to a person who (a) is a resident of Kansas or has a place of business or is employed therein; (b) meets the applicable requirements of K.S.A. 1-302a and amendments thereto; and (c) has passed a written examination prescribed by the board.~~

(b) The board may deny an application for a Kansas certificate if the person has been convicted of any state or federal crime that is substantially related to the qualifications, functions and duties of a certified public accountant or any

*House Business, Commerce
& Labor Committee
2/18/98
Att. 2*

crime punishable as a felony under any state or federal statute and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty.

Sec. 3. K.S.A. 1997 Supp. 1-302b is hereby amended to read as follows: 1-302b. (a) ~~No applicant who holds a Kansas certificate issued by the~~ The board shall may issue receive a permit to practice in this state as a certified public accountant to a holder of a Kansas certificate ~~until~~ if the applicant submits evidence satisfactory to the board of having completed one year of accounting experience obtained under the direct supervision of a certified public accountant holding a valid permit to practice.

(b) ~~If a~~ ~~Before~~ the certified public accountant undertakes to perform and sign any audit, review or the examination of a projection or forecast, such accountant must submit evidence satisfactory to the board of having a total of two years' accounting experience. The two years' experience required by this section must include: (1) One year of practical public accounting experience which shall 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) (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 their issuance, 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. Prior to commencing an engagement covered by this subsection, the permit holder shall notify the board in writing of the name of the client, type of report to be issued and the name of the qualified permit holder who will perform the preissuance review.

(c) The accounting experience required under this act shall be defined by rules and regulations of the board of accountancy.

(d) The board may deny an application for a permit if any of the following acts has occurred:

(1) the applicant has been convicted of any state or federal crime that is substantially related to the qualifications, functions and duties of a certified public accountant or any crime punishable as a felony under any state or federal statute and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty;

(2) the applicant has engaged in acts of dishonesty, fraud or gross negligence in the practice of public accountancy;

(3) the applicant's certificate to practice public accountancy has been cancelled, revoked or suspended by any other state or foreign country for any reason other than failure to pay an appropriate registration fee in such state or foreign country.

Sec. 4. K.S.A. 1997 Supp. 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 a holder of a certified public accountant certificate as "~~certified public accountant~~" issued under the laws of any state upon a showing that:

(1) The applicant passed the examination required for issuance of the applicant's certificate with grades that would have been passing grades at the time in this state; and

(2) the applicant (A) meets all current requirements in this state for the issuance of a certificate at the time application is made, or (B) at the time of the issuance of the applicant's certificate in the other state, met all such requirements then applicable in this state or (C) had five years' experience

outside this state in the practice of public accountancy after passing the examination upon which the applicant's certificate was based and within the 10 years immediately preceding the application.

(b) The board shall issue a certificate to a holder of a foreign designation, granted in a foreign country entitling the holder thereof to engage in the practice of public accountancy, provided that:

(1) The foreign authority which granted the designation makes similar provision to allow a person who holds a valid certificate issued by this state to obtain such foreign authority's comparable designation;

(2) the foreign designation: (A) was duly issued by a foreign authority that regulates the practice of public accountancy and the foreign designation has not expired or been revoked or suspended; (B) entitles the holder to issue reports upon financial statements; and (C) was issued upon the basis of educational, examination and experience requirements established by the foreign authority or by law;

(3) the applicant: (A) received the designation, based on educational and examination standards substantially equivalent to those in effect in this state at the time the foreign designation was granted; (B) completed an experience requirement substantially equivalent to the requirement set out in K.S.A. 1-302b, and amendments thereto, in the jurisdiction which granted the foreign designation; and (C) passed a uniform qualifying examination in national standards and an examination on the laws, regulations and code of ethical conduct in effect in this state acceptable to the board; and

(4) the applicant shall in the application list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy.

(c) Each holder of a certificate issued under this subsection shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction. The board has the sole authority to interpret the application of this subsection.

(d) The board may deny an application for a Kansas certificate if any of the following acts has occurred:

(1) the applicant has been convicted of any state or federal crime that is substantially related to the qualifications, functions and duties of a certified public accountant or any crime punishable as a felony under any state or federal statute and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty;

(2) the applicant has engaged in acts of dishonesty, fraud or gross negligence in the practice of public accountancy;

(3) the applicant's certificate to practice public accountancy has been cancelled, revoked or suspended by any other state or foreign country for any reason other than failure to pay an appropriate registration fee in such state or foreign country.

Sec. 5. K.S.A. 1997 Supp. 1-308 is hereby amended to read as follows: 1-308. (a) A partnership, including a limited liability partnership, may engage in practice in this state as certified public accountants, if it registers annually with the board and meets the following requirements:

(1) At least one general partner thereof must be a certified public accountant of this state holding a valid Kansas permit to practice;

(2) each partner thereof personally engaged within this state in a practice of public accounting as a member thereof must be a certified public accountant of this state holding a valid permit to practice;

(3) each partner thereof must be a certified public accountant in some state in good standing; and

(4) each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state holding a valid permit to practice.

(b) Nothing in this section shall prohibit a professional corporation from practicing in partnership with one or more corporations or individuals and

being registered with the board as a partnership under this section if:

(1) The professional corporation is duly organized under the professional corporation law of Kansas and remains in good standing thereunder;

(2) all qualified shareholders hold valid permits to practice as certified public accountants and, if engaged in the practice within this state, hold a valid permit to practice issued by the board;

(3) each resident manager in charge of an office of the partnership in this state is a certified public accountant of this state holding a valid permit to practice issued by the board; and

(4) each individual practicing in partnership with the professional corporation is a certified public accountant holding a valid permit to practice and, if engaged in the practice within this state, holds a valid permit to practice issued by the board.

(c) The term "resident" as used in this section, shall include a person engaged in practice as a certified public accountant in this state, who spends all or the greater part of such person's time during business hours in this state, but who resides in another state.

(d) Application for registration under this section shall be made upon the affidavit of a general partner of the partnership. If the general partner making application is a professional corporation, the affidavit submitted on its behalf shall be executed by the president or secretary of such corporation. The board shall in each case determine whether the applicant is eligible for registration. ~~No fee shall be charged.~~ The board may charge a fee for the registration of a partnership.

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

(f) A professional corporation, proprietorship, limited liability company or general corporation which was organized for the practice of certified public accountancy and which maintains an office in this state, may engage in the practice in this state if it registers annually with the board and if it is in compliance with requirements established by rules and regulations adopted by

the board for such registration, which requirements shall be similar to the requirements prescribed by this section for the registration of partnerships. A professional corporation, proprietorship, limited liability company or general corporation which is so registered may use the words "certified public accountants" or the abbreviation "C.P.A." in connection with its name. A firm with only one permit holder may use the words "~~certified public account~~" "certified public accountant" or the abbreviation "C.P.A." in connection with its name. ~~No fee shall be charged.~~ The board may charge a fee for the registration of these firms.

(g) For the purposes of chapter 1 of the Kansas Statutes Annotated, "registered firm" means any entity registered in accordance with K.S.A. 1-308 and amendments thereto.

Sec. 6. K.S.A. 1997 Supp. 1-311 is hereby amended to read as follows: 1-311

(a) The board may ~~deny an application for a certificate~~, revoke or suspend any certificate issued under the laws of this state including a Kansas certificate, or any registration granted under K.S.A. 1-308, and amendments thereto, or may ~~deny an application for a permit~~, revoke, suspend or refuse to renew any permit issued under K.S.A. 1-310 and amendments thereto, may censure the holder of any such permit, limit the scope of practice of any permit holder, and may impose an administrative fine not exceeding ~~\$1000~~ \$5000 plus costs, including attorney fees, for ~~any one or any combination~~ each of the following causes:

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

(2) dishonesty, fraud, or gross negligence in the practice of ~~as a~~ public ~~accountant~~ accountancy;

(3) violation of any of the provisions of subpart (2)(B) of subsection (b) of K.S.A. 1-302b or 1-316 and amendments thereto or any rule or regulation of

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

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

~~(6) conviction of any crime, an essential element of which is dishonesty or fraud, under the laws of any state or of the United States;~~

(5) the certificate or permit holder has been convicted of any state or federal crime that is substantially related to the qualifications, functions, and duties of a certified public accountant or any crime punishable as a felony under any state or federal statute. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty. The board may take disciplinary action pursuant to this section when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

~~(7)~~(6) cancellation, revocation, suspension or refusal to renew the authority to practice as a certified public accountant or a public accountant in by any other state or foreign country for any reason other than failure to pay an appropriate registration fee in such other state or foreign country ; or

~~(8)~~(7) failure to comply with the peer quality review program required by K.S.A. 1-310 and amendments thereto;

(b) All administrative proceedings pursuant to this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act and the act for judicial review and civil enforcement of agency actions.

STATE OF KANSAS
BOARD OF ACCOUNTANCY

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**Testimony on House Bill 2766
By Paul Allen, CPA, Vice-Chair
Board of Accountancy**

Mr. Chairman, members of the Committee, my name is Paul Allen. I am Vice-Chair of the Board of Accountancy, the state licensing and regulatory agency for certified public accountants. I am here today to testify in favor of House Bill 2766.

House Bill 2766 incorporates House Bill 2620 previously introduced in this Committee providing for civil fines and costs against any unlicensed person who violates the laws and regulations enforceable by the Board.

The Board believes that this additional enforcement tool is needed for the following reasons:

1. The Board needs an enforcement mechanism to reach individuals who do not currently hold licenses. For example, the Board could use civil penalties to enforce its laws and regulations against former CPAs who continue to hold themselves out as CPAs, but who are not currently licensed because of a prior revocation.
2. The statute will give the Board the ability to take enforcement actions in a non-criminal setting, which previously had to be referred as a criminal matter. This gives the Board a critical new enforcement option, which could be used in settings where criminal charges are not justified or are deemed to be too strong for the offense.
3. The current criminal sanctions may at times impose undue burdens on overworked local prosecutors who may not be well equipped to deal with the Board's enforcement issues. On occasion, the Board has encountered problems in gaining timely local prosecutorial interest regarding a clear violation of the Board's statutes and regulations.

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4. Finally, in comparison with many other occupational and professional boards established by the Kansas Statutes, the Board of Accountancy's enforcement authority seems strangely limited. The vast majority of other similar boards in the state already enjoy civil penalty provisions nearly identical to the one that we have proposed. In the Board's opinion, the danger to the public from violations of the Board's statutes and regulations is at least as great as that posed in many of the other professions and occupations which are already subject to this type of civil penalty provision.

Also included in House Bill 2766 is an amendment to the criminal penalty provision at K.S.A. 1-311, which increases the top amount of a criminal fine to the same \$5,000 amount employed in the proposed civil penalty statute. Small changes also have been made to clarify that separate fines could be levied for each separate violation. This brings the Board's fine authority more into line with other Kansas occupational and professional boards and provides an important additional enforcement mechanism to the Board. The persons regulated by the Board are, in many cases, highly compensated professionals, and it is the opinion of the Board that the current low fine authority does not provide sufficient deterrence.

Finally, House Bill 2766 includes an amendment to firm registrations at K.S.A. 1-308 to require proprietorships to register on an annual basis, along with professional corporations, limited liability companies and general corporations. In addition, a provision has been added to allow the Board to charge a fee for firm registrations, which it currently does not possess.

In closing, it is the Board's hope that these changes will help the Board with it's primary responsibility, which is to protect the public interest, to deter violations of the Board of Accountancy's statutes and regulations, and provide needed additional flexibility in the Board's enforcement response to those who are not deterred.

I will be happy to answer any questions that the Committee may have.



Kansas Society of
Certified Public Accountants

400 CROIX / P.O. BOX 5654 / TOPEKA, KANSAS 66605-0654 / 913-267-6460 / FAX 913-267-9278

Testimony on H.B. 2766

Presented to the

House Committee on Business, Commerce and Labor

by

T.C. Anderson
Executive Director

February 18, 1998

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& Labor Committee
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February 18, 1998

Chair Lane, members of the Committee:

I am T.C. Anderson, Executive Director of the 2,600 member Kansas Society of Certified Public Accountants.

I appear before you today in support of the Board of Accountancy's effort to assess civil penalties against non-licensees who violate the accountancy statutes (New section 1 of H.B. 2766) , and its desire to require annual registration of CPA proprietorships (Section 2 of the bill) and to discuss briefly with you our organization's concerns regarding Section 3 of the bill.

With regard to New section 1, I think you should be aware that the civil fine language, as I read it, would allow the Board of Accountancy to stack violations for which the fine could be \$5,000 for each one. As an example, if I, a non-CPA, did 20 tax returns and signed them T.C. Anderson, CPA, the Board could count each tax return as a violation and assess me a civil fine of up to \$100,000, plus costs. Whether you wish to place some type of limit on the amount of the fine is a policy question for you to decide.

Three years ago this Committee and the Legislature granted the Board of Accountancy the authority to assess civil fines against certificate and permit holders in an amount not to exceed \$1,000 for any one or any combination of the eight causes listed on pages 3 and 4 of H.B. 2766. These fines were in addition to the power of the Board to revoke or suspend a CPA certificate or to revoke, suspend or refuse to renew any permit.

Since that time the Board has used that new civil fine authority **twice** and only once for the maximum amount.

Now the Board is seeking authority to increase the civil fine it can assess against certificate and permit holders to an amount not exceeding \$5,000, plus costs, including attorney fees, for each violation of a revised list of seven causes. This would grant the Board the authority to assess fines in the \$10,000 to \$15,000 range. A healthy increase to say the least, when the Board has the authority to revoke or suspend the license.

The Kansas Society would like to discuss this issue of civil fines in depth with the Board of Accountancy and bring back to you next year a new bill that is clearly drafted, easily understood and fair to both the Board and the licensee.

Thus we would ask you to delete Section 3 from H.B. 2766. In addition, if you wish to recommend Sections 1 and 2 favorable for passage we would ask that you delete the term

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“or any entity” from line 20 on page one, correct the spelling of accountant on line 3 of page 3 and make any other the amendments you feel necessary.

However, in the event you feel there is an urgent need for the Board of Accountancy to increase the amount of civil fines it can assess against licensees, the Kansas Society would support some increase provided two changes are made to the list of events that would trigger the fines.

We are not opposed to your increasing the civil fine amount to \$2, \$3, \$4 or even \$5,000 plus costs, including attorney fees for **any one or any combination** of the causes if the following amendments are included:

First, the new language related to a violation of “any rule or regulation of the board” should be moved from (3) on line 25 of page 3 to (4), and inserted following the word violation. This would require the Board to prove a willful intent on the part of the licensee who misses a deadline, etc., before the civil fine could be imposed. Nearly half of the Board’s rules deal with the rules of professional conduct and the law you passed three years ago requires that there be a willful violation of these rules prior to the assessing of any fine. We believe the willful standard should apply to all rules and regulations.

Secondly, we feel the new language in (5) on line 35 is overly broad and vague as it relates to a certificate or permit holder being convicted of any state or federal crime that is substantially related to the qualifications, functions and duties of a certified public accountant. I was going to suggest that while this may be a term of art often used in the legislative process, it was foreign to state accountancy statutes; but as I began my research with the accountancy law of the state of Missouri there the words were. However, following the phrase in the Missouri statute was clarifying language including “an essential element of which is dishonesty or fraud.” Such an amendment would definitely clarify the matter for licensees.

Thank you and I’ll stand for questions.

1 tered may use the words "certified public accountants" or the abbrevia-
 2 tion "C.P.A." in connection with its name. *A firm with only one permit*
 3 *holder may use the words "certified public account" or the abbreviation*
 4 *"C.P.A." in connection with its name. No fee shall be charged* accountant
 5 *may charge a fee* for the registration of these firms.

6 (g) For the purposes of chapter 1 of the Kansas Statutes Annotated,
 7 "registered firm" means any entity registered in accordance with K.S.A.
 8 1-308 and amendments thereto.

9 Sec. 3. K.S.A. 1997 Supp. 1-311 is hereby amended to read as fol-
 10 lows: 1-311. (a) The board may *deny an application for a certificate*, re-
 11 *voke or suspend any certificate issued under the laws of this state includ-*
 12 *ing a Kansas certificate, or any registration granted under K.S.A. 1-308,*
 13 *and amendments thereto, or may deny an application for a permit, re-*
 14 *voke, suspend or refuse to renew any permit issued under K.S.A. 1-310*
 15 *and amendments thereto, may censure the holder of any such permit,*
 16 *limit the scope of practice of any permit holder, and may impose an*
 17 *administrative fine not exceeding \$1,000 ~~\$5,000~~ plus costs, including at-* \$2, \$3, \$4 or \$5,000
 18 *torney fees, for any one or any combination ~~such~~ of the following causes:*

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

23 (2) dishonesty, fraud or gross negligence in the practice as a of public
 24 ~~accountant~~ accountancy;

25 (3) violation of any of the provisions of subpart (2)(B) of subsection
 26 (b) of K.S.A. 1-302b or 1-316 and amendments thereto *or any rule or*
 27 *regulation of the board or any order of the board;*

28 (4) willful violation of a rule of professional conduct promulgated by
 29 the board under the authority granted by K.S.A. 1-202, and amendments
 30 thereto; any rule or regulation of the board including

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

33 (6) conviction of any crime, an essential element of which is dishon-
 34 esty or fraud, under the laws of any state or of the United States;

35 (5) *the certificate or permit holder has been convicted of any state or*
 36 *federal crime that is substantially related to the qualifications, functions*
 37 *and duties of a certified public accountant, or any crime punishable as a*
 38 *felony under any state or federal statute. A conviction means a plea of* , an essential element
 39 *guilty, a plea of nolo contendere or a verdict of guilty. The board may* of which is dishonesty or fraud,
 40 *take disciplinary action pursuant to this section when the time for appeal*
 41 *has elapsed, or the judgment of conviction has been affirmed on appeal*
 42 *or when an order granting probation is made suspending the imposition*
 43 *of sentence;*

STATE OF KANSAS
BOARD OF ACCOUNTANCY

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Testimony on House Bill 2765
Susan L. Somers, Executive Director
Board of Accountancy

The Board of Accountancy requires permit-holding CPAs to obtain 80 hours of continuing education in the biennial renewal period, with a mandatory 40 hours in each year. While House Bill 2765 does not change the 80 hour requirement, it does change the mandatory 40 hour per year requirement and further allows the Board to set the requirements for obtaining the 80 hours in its rules and regulations.

Also, because of a terminology change, the term "quality review" has been changed to "peer review".

In addition, language has been added granting an exemption from the continuing education reporting requirements to a permit-holding CPA whose principal place of business is in another state; and who has met the education requirements in that state; whose state the Board has deemed to have substantially equivalent requirements to the requirements in Kansas and that state has extended the same exemption to Kansas.

Other states have adopted this provision in order to ease the reporting requirements for those who hold reciprocal licenses.

For clarification purposes, we ask that the word "accounts" which appears on page 1, line 9 of the title, be changed to "accountants".

The Board of Accountancy requests favorable passage of House Bill 2765.

I will be happy to answer any questions that the Committee may have.

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