

Approved: March 14, 2000
Date

MINUTES OF THE SENATE COMMERCE COMMITTEE.

The meeting was called to order by Chairperson Alicia Salisbury at 8:00 a.m. on March 10, 2000 in Room 123-S of the Capitol.

All members were present except: Senator Feleciano

Committee staff present: Lynne Holt, Legislative Research Department
Jerry Ann Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Betty Bomar, Committee Secretary

Conferees appearing before the committee:

T. C. Anderson, Executive Director, Kansas Society of Certified Public Accountants
James L. Gordon, Public Accountants Association of Kansas, Inc.
A. J. Kotich, Legal Counsel, Department of Human Resources
Don Jenkins, Department of Human Resources

Others attending: See attached list

HB 2938 - Relaxation of restrictions on interstate practice of public accountancy

T. C. Anderson, Executive Director, Kansas Society of Certified Public Accountants, testified in support of **HB 2938**, stating the legislation does not relax the restrictions on the interstate practice of public accountancy, but does eliminate paper work presently required of practitioners coming into Kansas and of Kansas practitioners seeking entry into other states. (Attachment 1)

Mr. Anderson briefed the Committee on the provisions contained in **HB 2938**:

Section 1. On page 1, defines terms.

Section 2. On page 3, beginning at line 37, enacts a program of substantial equivalency that simplifies the movement across state lines of persons holding licenses to practice certified accountancy in Kansas. The National Qualification Appraisal Service has determined that Kansas, and 38 other states, meet the education, examination and experience requirements of the Uniform Accountancy Act. Individuals seeking to practice in Kansas would have to complete a notification form, pay a fee and comply with the Board of Accountancy rules and regulations.

Section 3. On page 5, at line 5, cleans up KSA 1-201 by removing references to a member of the Board of Accountancy being a licensed municipal public accountant.

Section 4. On page 5, at line 40, details the duties of the Board of Accountancy and lists the rules and regulations the Board may adopt, amend or revoke in enforcing the act.

Section 5. On page 7, at line 4, a technical cleanup of titles.

Section 6. On page 7, at line 17, authorizes the Board to collect fees for notification or renewal of notification from licensed accountants seeking substantial equivalency in Kansas, and for the annual registration of Kansas CPA firms. The fee could not exceed \$150, and \$50 for Kansas CPA firms.

Section 7. On page 8, at line 33, adds a qualification of "good moral character" to the qualifications for a Kansas certificate. A definition of "good moral character" is "a lack of a history of dishonest or felonious acts". A candidate denied a certificate on the grounds of failure to satisfy this requirement is accorded a due process hearing pursuant to the Kansas Administrative Procedures Act.

Section 8. On page 9, at line 3, removes the reference to the educational requirement for admission to the CPA examination in effect prior to June 30, 1997, and sets out new education requirements.

Section 9. On page 9, at line 39, amends the experience requirements necessary for an applicant to obtain a Kansas permit to practice accountancy. The one-year's experience would be verified rather than supervised by a permit holding CPA, and would be acceptable if it was gained through employment in government, industry, academia or public practice. The standards would be adopted by the Board

CONTINUATION SHEET

through rules and regulations.

Section 10. On page 11, at line 13, reduces the requirement from five years to four years for public accountancy experience necessary for a license holder in another state to obtain a reciprocal Kansas certificate if that person does not meet the current experience requirements. This section also clarifies that this experience can be obtained within the state.

Section 11. On page 12, at line 17, permits non-licensees to become owners in CPA firms registered with the Board under the condition that all non-licensee owners are active participants in activities of the firm, of good moral character, and comply with the Boards rules and regulations.

Section 12. On page 14, at line 27, clarifies that a person may renew a lapsed permit of less than one year by completing a renewal application and submitting a fee. If the permit has lapsed more than one year, then a person can apply for reinstatement by providing evidence of 40 hours of continuing education and the fee.

Section 13. On page 16, at line 6, increases the administrative fine authority of the Board from \$1000 to \$2000 and amplifies the causes for which a fine may be assessed against a certificate or permit holder.

Section 14. On page 17, at line 29, clarifies that a person must hold a valid Kansas permit and a firm must hold a valid registration to practice certified public accountancy in Kansas. Only permit holding certified public accountants could issue a report on financial statements that reference the American Institute of Certified Accountants. The use of the term "public accountant" without the word "certified" is not implying one is a "certified public accountant". The act also makes it clear the practice of public accountancy by persons not required to have a permit, including public accountants, is not prohibited. The maximum fine that can be assessed for a violation of these provisions is increased from \$500 to \$1,000.

Section 15. On page 18, at line 36, updates the language that uses a display or utterance in any public communication of a persons name in conjunction with the words "certified public accountant" as the prima facie evidence in any action for injunction.

Section 16. Repeals temporary practice by out of state licensees which would be replaced by a program of substantial equivalency.

Mr. Anderson stated **HB 2938** enhances the Board's authority to regulate the practice of public accountancy, allows firms to provide more diverse services to clients through non-licensee ownership, allows Kansas companies to receive immediate assistance from out of state CPAs through substantial equivalency, assures public accountants the right to practice in Kansas, clarifies the need for a person to hold a Kansas permit for the privilege of practicing certified public accountancy, expands the list of causes for disciplinary action against licensees, allows CPAs to enhance practice opportunities, and to more easily move across state lines to practice.

The Committee discussed whether a "due process clause" should be applicable to non-licensed owners.

Mr. Anderson explained that the terms "license" and "permit" were interchangeable. The term "certified" refers to those accountants who are licensed and have the additional years experience.

James L. Gordon, Legislative Committee Chairman, Public Accountants Association of Kansas, Inc., testified in support of **HB 2938**, stating the legislation is a compromise between certified and non-certified accountants. The legislation strengthens the ability of the Board to regulate the profession, to ensure affordable competition, to provide for modern ownership structure, to provide for movement between states through nationwide "substantial equivalency" language, to continue an emphasis on quality assurance through peer review, and to protect unlicensed public accountants. (Attachment 2)

The hearing was concluded.

Hb 2769 - Variances for nonconforming boilers and pressure vessels

A. J. Kotich, Legal Counsel, Kansas Department of Human Resources (KDHR), testified **HB 2769** was introduced at the request of KDHR to increase allowable fees for inspections and certificates, to allow replacement of lost inspection certificates, and to allow variances for non-conforming boilers and pressure vessels under specific circumstances. (Attachment 3)

CONTINUATION SHEET

Mr. Kotich stated the fee ceilings have not been changed since 1982 and an increase is needed to ensure that the inspections remain a fee-funded activity. **HB 2769** raises the maximum daily fee for inspections of boilers and pressure vessels from \$250 to \$500, and the maximum fee for an inspection certificate is raised from \$25 to \$35. (Attachment 4)

Don Jenkins, Boiler Inspection Department, stated there are 4 boiler inspectors who last year inspected 3,386 boilers and collected \$263,969. 20% of the amount collected was deposited to the general fund.

The hearing was concluded.

The meeting adjourned at 9:00 a.m.

The next meeting is scheduled for March 14, 2000.



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. 2938

Presented to the

Senate Commerce Committee

By

T.C. Anderson
Executive Director
Kansas Society of Certified Public Accountants

March 10, 2000

Senate Commerce Committee

Date: 3-10-00

Attachment # 1-1 thru 1-5

Senator Salisbury, and 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 HB 2938 and to ask for your favorable consideration of the bill.

Let me assure you HB 2938 will not relax the restrictions on the interstate practice of public accountancy *as suggested in your meeting notice*. If enacted, however, it will eliminate much of the paper work currently required of practitioners coming into Kansas and of Kansas practitioners seeking entry into other states, plus much more.

Let me take a few minutes to briefly discuss each section of the HB 2938. If it is helpful to members of the Committee, I will respond to questions on any section as I discuss it.

New Section 1 (beginning on page 1) defines terms that are used in the act.

New Section 2 (beginning on page 3, line 37) is one of the cornerstones of the Uniform Accountancy Act (UAA) adopted by the National Association of State Boards of Accountancy (NASBA) and the American Institute of CPAs (AICPA). New section 2 will enact a program of substantial equivalency that will simplify the movement across state lines of persons holding licenses to practice. The NASBA National Qualification Appraisal Service has determined Kansas, and 38 other states, meet the education, examination and experience requirements of the UAA.

With the enactment of HB 2938, the Kansas Board of Accountancy (Board) may grant the right to practice in Kansas to licensees from those 38 states upon notification to the Board. These licensees would then be required, within a reasonable period of time, to complete a notification form, pay a fee equal to the Kansas permit fee, and provide proof of a current peer review if they will be performing attest services. These licensees will be required to comply with the Kansas accountancy law and the Board's rules and regulations. A licensee who comes from a state that has not been determined to be substantially equivalent, but who personally meets the education, examination and experience requirements as determined by the National Qualification Appraisal Service, also may be accorded substantial equivalency. (*UAA*)

Section 3 (beginning on page 5, line 5) provides cleanup to K.S.A.1-201 by removing references to a member of the Board of Accountancy being a Licensed Municipal Public Accountant (LMPA). The number of LMPAs licensed to practice has been below the 25 licensee threshold for a number of years. Per the statute, a second public member has filled this appointment to the Board.

Section 4 (beginning on page 5, line 40) details the duties of the Board and provides a list of rules and regulations the Board may adopt, amend or revoke in administering and enforcing this act. (*UAA*)

Section 5 (beginning on page 7, line 4) provides a cleanup of titles.

Section 6 (beginning on page 7, line 17) authorizes the Board to collect a fee from CPAs who enter the state under New Section 2 (Substantial Equivalency), and for the annual registration of Kansas CPA firms.

Section 7 (beginning on page 8, line 33) adds a qualification of “good moral character” to the qualifications for a Kansas certificate. The Board has suggested a definition of “good moral character” as *a lack of a history of dishonest or felonious acts*. Any candidate denied a certificate on the ground of failure to satisfy this requirement will be accorded a hearing pursuant to the Kansas Administrative Procedures Act. ***(UAA)***

Section 8 (beginning on page 9, line 3) removes the reference to the educational requirement for admission to the CPA examination in effect prior to June 30, 1997.

Section 9 (beginning on page 9, line 39) amends the experience requirement necessary to obtain a Kansas permit to practice. The one-year’s experience would be verified rather than supervised by a permit holding CPA, and it would be acceptable if it was gained through employment in government, industry, academia or public practice. Prior to supervising an attest engagement or signing the accountant’s report on financial statements, the permit holder would need to meet experience or competency requirements set by professional standards. The Board through rules and regulations will adopt these standards. The standards will replace the current requirement of an additional year’s public accounting experience including at least 1,000 hours of attest work. In addition, the Board may, at its discretion, grant a Kansas certificate and permit to a practicing CPA from another state who wishes to establish his or her principal place of business in Kansas, if the individual receives verification from the National Qualification Appraisal Service that his or her CPA qualifications are deemed to be substantially equivalent. ***(UAA)***

Section 10 (beginning on page 11, line 13) reduces by one year the amount of public accounting experience necessary for a holder of a license in another state to obtain a reciprocal Kansas certificate, if that person doesn’t meet the current Kansas education and experience requirements. It also clarifies that this experience can be obtained within the state. ***(UAA)***

Section 11 (beginning on page 12, line 17) permits non-licensees to become owners in CPA firms registered with the Board with the condition that all non-licensee owners will be required to be active participants in the activities of the firm and they must be of good moral character (as defined in Section 7). Passive investment owners will not be allowed. A simple majority or more of the ownership of the firm, in terms of equity capital and voting rights, must belong to the holders of valid licenses to practice as certified public accountants in some state. The firm and all of its ownership must comply with rules and regulations promulgated by the Board. ***(UAA)***

Section 12 (beginning on page 14, line 27) removes the commencing on July 1, 1981 and 1983 language for the biennial issuing of permits to practice. It also clarifies that a person may renew a permit that has lapsed for a period of less than one year by paying the appropriate fee. If the permit has lapsed for more than one year, the person must provide evidence of obtaining 40 hours of continuing education and pay the appropriate fee.

Section 13 (beginning on page 16, line 6) increases the administrative fine authority of the Board from \$1,000 to \$2,000 and amplifies the causes for which a fine may be assessed against a certificate or permit holder. *(UAA)*

Section 14 (beginning on page 17, line 29) clarifies that a person must hold a valid Kansas permit and a firm must hold a valid registration to practice certified public accountancy in this state. Only permit holding certified public accountants can issue a report on financial statements that references the American Institute of Certified Public Accountants. Clarification also is provided that use of the term “public accountant” without the word “certified” is not implying one is a *certified public accountant*. The act also makes it clear the practice of public accountancy by persons not required to have a permit, including public accountants, is not prohibited. The maximum fine that could be assessed for a violation of these provisions is increased from \$500 to \$1,000.

Section 15 (beginning on page 18, line 36) updates the statutory language dealing with holding out as a certified public accountant.

Finally, **K.S.A. 1-317** dealing with temporary practice in Kansas by out of state licensees is being repealed. Temporary practice will be replaced by the program of substantial equivalency. *(UAA)*

Members of the committee, I believe HB 2938 is a win-win for all involved.

The public wins 1.) through the Board’s enhanced authority to regulate the practice of public accountancy, 2.) through non-licensee ownership that allows firms to provide more diverse services clients are seeking and demanding, and 3.) through substantial equivalency that will allow Kansas companies to receive immediate assistance from out of state CPAs who have developed a needed expertise.

The public accountants of Kansas win through enactment of statutory language assuring their right to practice public accountancy.

The Board wins 1.) through language clarifying the need for a person to hold a Kansas permit for the privilege of practicing certified public accountancy and 2.) through the expanded list of causes that it may take disciplinary action against licensees.

The CPAs of Kansas win 1.) through their abilities to enhance practice opportunities and meet the ever-expanding needs of clients, and 2.) through being able to more easily move across state lines to practice.

Let me expand briefly on the two cornerstones of this act.

In 1994 Nebraska became the first state to enact non-licensee ownership in CPA firms. Since then 21 other states have followed suit, four others including Colorado and Iowa, have enabling legislation pending, and at least two others, including Missouri, are expected to seek introduction of such legislation within the next month. To the best of my knowledge no state has experienced any problems with non-licensee ownership in CPA firms.

As I mentioned in the discussion of New Section 2, the National Qualification Appraisal Service has deemed 39 states to be substantially equivalent relative to education, examination and experience requirements. To date 12 of those states have enacted laws easing the paper work requirements for practicing across state lines, four others, including Iowa, have legislation pending and two more, including Missouri, are expected to seek introduction of such legislation.

The changes contained in HB 2938 modernize the Kansas accountancy law for the CPA practice of tomorrow.

It will give CPAs the tools necessary to meet the requests for additional services from their clients.

It provides additional safeguards and tools for the Board of Accountancy to fulfill its obligation to regulate the profession and to protect the public.

I hope that when the Committee reports, it will report HB 2938 favorable for passage. Thank you, I'll be happy to stand for questions.

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THE PUBLIC ACCOUNTANTS ASSOCIATION OF KANSAS, INC.

March 10, 2000

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Administrative Secretary

P.O. Box 2732
Salina, KS 67402-2732
785-827-PAAK
Fax 785-827-0283
www.paak.org
accountant@paak.org

Testimony offered to the Kansas Senate Commerce Committee
Regarding House Bill No. 2938.

The Public Accountants Association of Kansas, Inc. would like to thank the Senate Commerce Committee Labor for their time and consideration of our comments related to proposed legislation.

I would like to tell you just a little about our association. For over 50 years our association has represented accountants in the state of Kansas. We are affiliated with the National Society of Public Accountants. We are proud to include both CPA's and Public Accountant's as members.

In Kansas, Public Accountants have enjoyed an excellent working relationship with Certified Public Accountants. Not all states have been that lucky. I am not exaggerating when I report that in many states, divisive legislative and legal battles costing hundreds of thousands of dollars have been raging over the last twenty years regarding the rights of Public Accountants to practice public accounting. Many of these fights have been devastating to the accounting community.

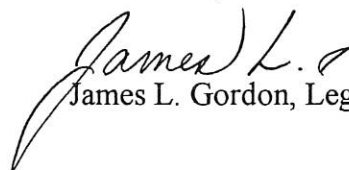
Several years ago, the Board of Accountancy announced their desire to update the Kansas accountancy statutes. In many states this move to update the accountancy statutes would have been considered a call to arms, we considered it an opportunity. We understood their concerns and over the last two years we have worked with the Kansas Society of Certified Public Accountants and the Board of Accountancy to develop a legislative plan for Kansas. We have utilized the best parts of the national Uniform Accountancy Act, however, we have retained the Kansas relationship between certified and non-certified accountants.

We support House Bill No. 2938 because the new legislation:

- Protects the Public by strengthening the ability of the Board of Accountancy to regulate the profession.
- Protects the Public by continuing quality affordable competition.
- Provides for modern ownership structures, including limited non-CPA ownership.
- Provides for easier movement between States through nationwide "Substantial Equivalency" language.
- Continues the emphasis on Quality Assurance, through peer review.
- Protects unlicensed Public Accountants.

We would again like to thank you for your consideration of this important accountancy legislation. Our association recommends House Bill No. 2938 and supports its passage.

Thank You,


James L. Gordon, Leg

Senate Commerce Committee

Date: 3-10-00

Attachment # 2

Prepared Testimony for House Bill 2769
Amendments to the Kansas Boiler Safety Act

By A.J. Kotich, Chief Legal Counsel
Kansas Department of Human Resources

House Bill 2769 was introduced at the request of the Kansas Department of Human Resources to amend three sections of the Kansas Boiler Safety Act. The purpose of the bill is to increase allowable fees for inspections and certificates, allow replacement of lost inspection certificates, and allow variances for non-conforming boilers and pressure vessels under certain circumstances.

Section 1 of the bill amends K.S.A. 1999 Supp. 44-917(a) and (d). The amendments authorize the secretary to grant variances for the construction and operation of new non-conforming boilers or pressure vessels, and for the use, sale or reinstallation of existing non-conforming boilers or pressure vessels. A variance could be granted only if the boiler or pressure vessel is of special design or construction, and the design is within the spirit and safety objectives of the act and applicable regulations.

Section 2 of the bill amends K.S.A. 1999 Supp. 44-925 by inserting a new subsection (b). This new subsection would authorize the secretary to replace a lost or destroyed inspection certificate, without conducting another inspection. The secretary would be authorized to charge a fee for replacing the certificate.

Section 3 of the bill amends K.S.A. 1999 Supp 44-926(a) and (b) to raise the statutory fee limitations for inspection and certification of boilers and pressure vessels. The maximum daily fee for inspections of boilers and pressure vessels would be raised from \$250 to \$500, and the maximum fee for an inspection certificate would be raised from \$25 to \$35. These fee ceilings have not been changed since 1982. An increase is needed to ensure that these inspections remain a fee-funded activity.

We stand ready to answer the committee's questions regarding

Senate Commerce Committee

Date: 3-10-00

Attachment # 3

Agency 49

Department of Human Resources

Editor's Note:

This agency was formerly entitled "Labor Department." The Labor Department was reorganized into the Department of Human Resources by Executive Reorganization Order No. 14, see L. 1976, ch. 354.

Articles

49-49. FEE SCHEDULE FOR BOILER INSPECTIONS.

Article 49.—FEE SCHEDULE FOR BOILER INSPECTIONS

49-49-1. Boiler inspection and certificate fees. (a) Inspection fees. (1) Power boilers and high-pressure, high-temperature water boilers:

Table with 2 columns: Description of boiler type and inspection fee. Includes Mini-boilers, Boilers of 50 sq. ft. of heating surface or less, Boilers over 50 sq. ft. of heating surface and less than 4,000 sq. ft. of heating surface, Boilers of 4,000 sq. ft. of heating surface or more and less than 10,000 sq. ft. of heating surface, and Boilers of 10,000 sq. ft. of heating surface or more.

(2) Internal inspections of heating boilers:

Table with 2 columns: Description of heating boiler inspection and fee. Includes Heating boilers without a manhole and Heating boilers with a manhole.

(3) External inspections of heating boilers:

Table with 2 columns: Description of heating boiler inspection and fee. Includes Heating boilers without a manhole, Heating boilers with a manhole, and Hot water supply boilers.

(4) External inspections of power boilers:

Table with 2 columns: Description of power boiler inspection and fee. Includes Boilers of 50 sq. ft. of heating surface or less and Boilers over 50 sq. ft. of heating surface, but less than 500 sq. ft. of heating surface.

Table with 2 columns: Description of boiler type and fee. Includes Boilers of 500 sq. ft. of heating surface or more, but less than 1,000 sq. ft. of heating surface, and Boilers of 1,000 sq. ft. of heating surface or more.

(5) Hydrostatic tests. When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees applicable to a certificate of inspection of the boiler shall be charged.

(6) All other inspections, including shop inspections, shop reviews, special inspections, and inspections of secondhand or used boilers, when made by the chief or deputy inspector, shall be charged a fee of \$250.00 per day, plus all expenses, including travel and hotel expense.

(b) Certificate fee.

(1) The certificate fee shall be \$25.00.

(2) Replacement of lost or misplaced certificates shall be \$10.00. (Authorized by K.S.A. 44-916; implementing K.S.A. 44-926; effective, T-83-41, Nov. 23, 1982; effective May 1, 1983; amended May 1, 1984; amended May 1, 1987; amended, T-88-41, Oct. 24, 1987; amended May 1, 1988; amended June 25, 1990; amended July 18, 1997.)