

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:05 a.m. on February 19, 2001 in Room 521-S of the Capitol.

All members were present except: Rep. John Ballou - excused
 Rep. Melany Barnes - excused
 Rep. Mary Kauffman - excused
 Rep. Rick Rehorn - excused
 Rep. Dale Swenson - excused

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

Conferees appearing before the committee: Janet Stubbs, Ks. Building Industry Assn.
 T. C. Anderson, Ks. Society of Certified Public Accountants

Others attending: See attached list

Hearing on HB 2263 - Refunds from group funded workers compensation pools.

Janet Stubbs appeared on behalf of the Kansas Building Industry Workers Compensation Fund in support of **HB 2263**. The bill would enable a Board of Trustees, of a pool regulated under chapter 44, to "declare" a dividend of the profits of a fund year prior to December 31 of that fund year. (Attachment 1) Ms. Stubbs finished her testimony by answering questions from the committee.

No others were present to testify for or against the bill and Chairman Lane closed the hearing on **HB 2263**.

Action on HB 2263:

Rep. Ruff made a motion to pass out the bill favorably and to place it on the Consent Calendar. The motion was seconded by Rep. Johnson. The motion passed.

Hearing on HB 2343 - Accountancy, permits and peer review.

T. C. Anderson, Kansas Society of Certified Public Accountants, appeared as a proponent of the bill. The bill defines when peer review reports shall be deemed unsatisfactory by the board and set forth what disciplinary action the board may take against firms that receive the unsatisfactory reports. The bill has been agreed to by the Board of Accountancy and the Kansas Society. There are several amendments that the Board of Accountancy and the Society would like the committee to consider. (Attachment 2) Mr. Anderson ended his testimony by answering questions.

No others were present to testify for or against the bill and Chairman Lane closed the hearing on **HB 2343**.

Action on HB 2343:

A motion was made by Rep. Grant to pass out the bill favorably as amended (see Attachment 2). Rep. Levinson seconded the motion. The motion carried.

Chairman Lane adjourned the meeting at 9:35 a.m. The next meeting is scheduled for February 20, 2001.

HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE GUEST LIST

DATE: February 19, 2001

NAME	REPRESENTING
Bill Curtis	Ks Assoc of Schools Bds.
COREY PETERSON	ASSOC. GENERAL CONTRACTORS OF KS
BRAD OWEN	MIZE, HOWEN, COMPANY
WESLEY GALYON	Wichita Area Bldg. Assn.
Kevin BAZONE	Helm fuer chtd.
Jeremy Anderson	KS Insurance Dept.
T.C. ANDERSON	KANSAS SOCIETY OF CPAs
Pat Hubbell	PARK
Joyce E. Schantz	Public Accts Assn of KS
Erny R. Summers	Ks Board of Accountancy
Debra Adams	Ks Board of Accountancy
MARY FEIGHAN	BO of Accountancy
Jean Barbe	KADC

LEGISLATIVE



TESTIMONY



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HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE

February 19, 2001

HB 2263

MR. CHAIRMAN & MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs and I am appearing today on behalf of the Kansas Building Industry Workers Compensation Fund in support of HB 2263.

The Kansas Building Industry Workers Compensation Fund, KBIWCF, began actual operation of writing workers compensation insurance coverage for the residential and light commercial construction industry related businesses on February 1, 1993. Although I was legally the "Administrator" of the KBIWCF, the policy services and the claims were handled by a third party administrator, or TPA, until 1997, at which time we brought the entire operation "in-house". It is a decision which has been very beneficial for the participating companies as we have grown into an extremely competitive coverage provider, marketed through independent agents, for the industry.

The KBIWCF is a homogeneous pool which historically has catered to the smaller companies involved in the construction industry. Now we are finding that the current market conditions are making us much more attractive to many larger companies as well. We have six full time staff people-- including a loss control staff person who provides individualized safety training to a company, as well as safety seminars for now required attendance when a company's loss ratio is over 40%, and a full time nurse case manager to assure that the injured workers are receiving the proper medical attention, while at the same time protecting the participating employer from unnecessary medical charges or malingering workers. We contract out the private investigation services.

House Business, Commerce & Labor Committee

2-19-01

Attachment 1

I requested introduction of HB 2263 to enable a Board of Trustees, of a pool regulated under chapter 44, to “declare” a dividend of the profits of a fund year prior to December 31 of that fund year. Current statute prohibits a fund board from declaring a dividend less than 12 months after the end of the fund year. Therefore, the dividend amount cannot be deducted from the federal income tax filing and taxes must be paid upon it. Because the IRS will not allow more than a 2 year carry back for deductions and because all workers comp claims for each year do not close out in time to permit approval of a dividend within that 2 year time period, a Fund loses the ability to recover that already paid 34% tax.

Mr. Chairman, our members are required to then pay federal tax on the dividend when it is returned to them. This means that as much as 68% of the total amount of money to be returned to the participating companies is sent to the federal government instead of going back into the Kansas economy.

By changing the language of the statute only slightly so that a Board may declare the dividend but still must have approval of the Department prior to disbursement of the actual money, the Fund may deduct the amount from the tax filing, carry the dividend as a liability on the financial statement, and seek approval from KID for actual disbursement at the appropriate time .

I gave the Department a copy of the bill draft at the time of introduction. They have 2 suggested changes to which we have no objections. First, page 2 line 4 of the bill after the word “year” and before the “,” they suggest adding “or anytime thereafter”. On Page 2 line 9, they suggest changing the word “fund” to “pool”.

Mr. Chairman, I appreciate the opportunity to be heard on HB 2263 and request committee approval of HB 2263 with the changes suggested by the Department staff. I would be glad to attempt to answer any questions you might have and have asked Mr. Brad Owen of Mize Houser & Company of Topeka, the accounting firm for the KBIWCF, to be present to answer any accounting related questions you have.



**Kansas Society of
Certified Public Accountants**

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Testimony on H.B. 2343

Presented to the

House Committee on Business, Commerce and Labor

by

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

February 19, 2001

House Business, Commerce & Labor Committee

2-19-01

Attachment 2

February 19, 2001

Chair Lane 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 to ask for your favorable consideration of HB 2343 and the amendments that I will be explaining in a few moments. This bill has been agreed to by the Board of Accountancy and the Kansas Society.

HB 2343 deals with the peer review of CPA firms and the Board of Accountancy's ability to obtain the results of those reviews.

Every three years Kansas CPA firms that conduct audits and other attest services for clients have peers come into their offices and review their work. Peer review has been a part of the Kansas accountancy statutes for over 10 years. Currently, KSA 1-501 states the board of accountancy may take disciplinary action against firms when the results of peer reviews are unsatisfactory.

The main thrust of HB 2343 is to define when peer review reports shall be deemed unsatisfactory by the board and set forth what disciplinary action the board may take against firms that receive the unsatisfactory reports.

These key items are addressed in an expansion of K.S.A. 1-312 beginning on page 5, line 25 of the bill. The language contained in (b) deals with peer review reports that have been termed "modified". In the past three years, 20 firms have received "modified" peer review reports or a grade equal to C-.

"Modified" reports would be considered unsatisfactory to the Board of Accountancy and HB 2343 would give the Board the authority to assign remedial action to a firm, limit the scope of practice of the firm or limit the scope of practice of the individual responsible for the less than quality work if:

- (1) The firm receives at least two modified peer review reports during 12 consecutive years; and
- (2) The board finds that the firm has exhibited a course of conduct that reflects a pattern of noncompliance with applicable professional standards; or
- (3) The firm has failed to abide by required remedial measures.

Another type of report that would be considered unsatisfactory by the Board would be an "adverse" report. During the past three years, two firms have received "adverse peer review reports or a grade equal to F.

Subsection (c) would give the Board the authority to immediately take some course of action against firms that receive these “adverse” reports. Discipline available to the Board would range from remedial action to limiting the scope of practice of a firm or an individual.

During the same three-year period, 198 firms that will be subject to the new standards for peer review received reports that would have been acceptable to the Board.

H.B. 2343 makes the new standards effective for peer reviews accepted after December 31, 2001, so every firm begins with a clean slate.

Other major changes in this bill include:

- Compilations, a financial statement in which the auditor does not express any assurance, are being reclassified as a non-attest service. As a result, 226 of our smallest CPA firms that do not perform audits or other attest services, will be excused from the state’s mandatory peer review program. This change is found in Section 5 of the bill beginning on page 6, line 12.
- Peer review becomes a condition for the annual firm registration rather than the current requirement for permit renewals. These changes are accommodated in Section 2 beginning on page 2, line 28, and Section 6 beginning on page 8, line 41.
- Establishes a list of firm conduct that is unacceptable to the Board. This is found in Section 4, page 4, line 40. The new list nearly mirrors the current conduct of individuals that is unacceptable to the Board. In addition, Board could not assess a fine against a firm if it has assessed an individual for the same or similar violation.

Mr. Chairman, I’d be happy to stop here for questions before moving on to the amendments that the Board of Accountancy and the Society would like for you to consider for H.B. 2343.

The amendments are attached.

Thank you, Mr. Chairman and members of the committee for taking time to hear this bill this morning. Once again, I ask for your favorable consideration of H.B. 2343 and the amendments we have offered.

Board of Accountancy/Kansas Society Amendments to H.B. 2343

On page 2, line 38...statute reference should be 1-308.

On page 2, line 39...insert "with" between furnish and such.

On page 3, line 20...delete the entire line.

On page 3, line 21...delete "1-308, and amendments thereto,".

On page 3, line 25...delete the " ," following "icate" and replace the comma with "or".

In addition on paged 3, line 25...delete "or registration."

On page 5, line 25...before the " ," following review insert "for reports modified for matters relating to attest services, the board may take such remedial action as it deems necessary to protect the public interest. However".

In addition on page 5, line 25...insert "not" between may and limit.

On page 5, line 26...insert "attest services" between the first of and practice.

In addition on page 5, line 26...insert "attest services" between the second of and practice.

In addition on page 5, line 27...delete "or take such remedial ac-".

In addition on page 5, line 28...delete the entire line.

In addition on page 5, line 33...delete the " ," and add "and".

In addition on page 5, line 34...delete "(2)".

In addition on page 5, line 37...delete "(3)" and replace it with "(2)".

In addition on page 5, line 40...insert "attest services" between the first of and practice.

In addition on page 5, line 40...insert "attest services" between the second of and practice.

On page 8, line 41...delete the "for" and reinsert the "on".

1 section may be made through the NASBA qualifications appraisal service
2 or similar organization approved by the board. Any individual meeting
3 the requirements set forth in this subsection who is denied a certificate
4 and a permit to practice shall have the opportunity to be heard pursuant
5 to the Kansas administrative procedures act.

6 Sec. 2. K.S.A. 2000 Supp. 1-310 is hereby amended to read as fol-
7 lows: 1-310. (a) Permits to engage in the practice of certified public ac-
8 countancy in this state shall be issued by the board to persons who have
9 met the requirements under K.S.A. 1-302b, and amendments thereto.

10 (b) Each holder of a Kansas certificate, which is numbered with an
11 odd number, who is qualified under K.S.A. 1-302b, and amendments
12 thereto, shall have a permit to practice issued or renewed on a biennial
13 basis which shall expire on the next July 1 which occurs after the date the
14 permit was issued or renewed and which occurs in an odd-numbered
15 year.

16 (c) Each holder of a Kansas certificate, which is numbered with an
17 even number, who is qualified under K.S.A. 1-302b, and amendments
18 thereto, shall have a permit to practice issued or renewed on a biennial
19 basis which shall expire on the next July 1 which occurs after the date the
20 permit was issued or renewed and which occurs in an even-numbered
21 year.

22 (d) A person may renew a permit within 12 months of its expiration
23 date if such person submits a complete and sufficient renewal application
24 together with the fee prescribed by K.S.A. 1-301, and amendments
25 thereto.

26 (e) As a condition for renewal of a permit to practice, the board shall
27 require *all* permit holders to furnish with such applicant's renewal appli-
28 cation, evidence of participation in a peer review program unless waived
29 pursuant to K.S.A. 1-501, and amendments thereto, and participation in
30 continuing education in accounting, auditing, or related areas of at least
31 80 hours during the two-year period for renewal unless the board waives
32 all or a portion of the continuing education requirements. ~~The board may
33 adopt rules and regulations regarding peer review and continuing edu-
34 cation including the number of continuing education hours required for
35 each year of the two-year period and the type of continuing education.~~
36 *As a condition for renewal of a permit to practice, the board shall require*
37 *permit holders who do not have their principal place of business in Kansas*
38 *and who are not required to register pursuant to K.S.A. 1-302, and*
39 *amendments thereto, to furnish such applicant's renewal application ev-*
40 *idence of participation in a peer review program unless waived for good*
41 *cause as determined by the board.*

1-308
with

42 (f) The board may exempt from the continuing education require-
43 ments an individual who holds a permit from another state if:

1 (1) The permit holder has a principal place of business located out-
 2 side the state of Kansas;

3 (2) the permit holder verifies to the board's satisfaction that such
 4 person has met the continuing education requirements of the state in
 5 which the principal place of business is located;

6 (3) the board considers the continuing education requirements of the
 7 state in which the principal place of business is located to be substantially
 8 equivalent to those of Kansas; and

9 (4) the state in which the principal place of business is located extends
 10 the same exemption to Kansas permit holders who practice in that state.

11 (g) A person who fails to renew a permit within 12 months after its
 12 expiration may apply for reinstatement by making application on a form
 13 provided by the board, submitting a reinstatement fee as prescribed by
 14 K.S.A. 1-301 and amendments thereto, and submitting proof that such
 15 person has obtained 40 hours of qualifying continuing education within
 16 the preceding 12 months prior to applying for reinstatement.

17 Sec. 3. K.S.A. 2000 Supp. 1-311 is hereby amended to read as fol-
 18 lows: 1-311. (a) The board may deny an application for a Kansas certifi-

19 cate, revoke or suspend any certificate issued under the laws of this state
 20 ~~including a Kansas certificate, or any registration granted under K.S.A.~~

21 ~~1-308, and amendments thereto, or may revoke, suspend or refuse to~~
 22 renew any permit issued under K.S.A. 1-310 and amendments thereto,

23 and any notification issued pursuant to K.S.A. 2000 Supp. 1-322 and
 24 ~~amendments thereto, may censure the holder of any such permit, certifi-~~

25 ~~cate, notification or registration, limit the scope of practice of any permit~~
 26 holder, and may impose an administrative fine not exceeding \$2,000, for

27 any one or any combination of the following causes:
 28 (1) Fraud or deceit in obtaining a certificate, permit, *firm* registration

29 or notification;
 30 (2) cancellation, revocation, suspension or refusal to renew a person's

31 authority to practice for disciplinary reasons in any other jurisdiction for
 32 any cause;

33 (3) failure, on the part of a holder of a permit to practice or notifi-
 34 cation ~~and a registered firm~~ to maintain compliance with the require-
 35 ments for issuance or renewal of such permit; ~~or notification or registra-~~
 36 ~~tion;~~

37 (4) revocation or suspension of the right to practice before any state
 38 or federal agency;

39 (5) dishonesty, fraud or gross negligence in the practice of certified
 40 public accountancy or in the filing or failure to file the certificate holder's
 41 own income tax returns;

42 (6) violation of any provision of this act or rule and regulation of the
 43 board except for a violation of a rule of professional conduct;

or

1 to protect the public interest, or both, and impose an administrative fine
2 not exceeding \$2,000 for any one or any combination of the following
3 causes:

4 (1) Failure to meet the requirements of K.S.A. 1-308 and amendments
5 thereto;

6 (2) fraud or deceit in obtaining a registration;

7 (3) revocation or suspension of a firm's right to practice before any
8 state or federal agency;

9 (4) dishonesty, fraud or gross negligence in the practice of certified
10 public accountancy;

11 (5) violation of any provision of chapter 1 of the Kansas Statutes An-
12 notated and rules and regulations promulgated by the board except for a
13 violation of a rule of professional conduct;

14 (6) willful violation of a rule of professional conduct;

15 (7) violation of any order of the board;

16 (8) cancellation, revocation, suspension or refusal to renew the au-
17 thority of a firm to practice certified public accountancy in any other
18 state;

19 (9) conviction of a firm of any felony, or of any crime an element of
20 which is dishonesty or fraud, under the laws of the United States, of
21 Kansas or of any other state, if the acts involved would have constituted
22 a crime under the laws of Kansas; or

23 (10) failure to establish timely compliance with peer review pursuant
24 to K.S.A. 1-501 and amendments thereto;

25 (b) In actions arising under peer review, the board may limit the
26 scope of practice of a firm; limit the scope of practice of any permit holder
27 under K.S.A. 1-311, and amendments thereto, or take such remedial ac-
28 tion as the board deems necessary to protect the public interest, or both,
29 for failure to comply with generally accepted accounting principles, gen-
30 erally accepted auditing standards and other similarly recognized au-
31 thoritative technical standards under the following conditions:

32 (1) The firm has received at least two modified peer review reports
33 during 12 consecutive years relating to attest services;

34 (2) the board finds that the firm has exhibited a course of conduct
35 that reflects a pattern of noncompliance with applicable professional stan-
36 dards and practices; or

37 (3) the firm has failed to abide by remedial measures required by a
38 peer review committee or the board.

39 (c) Subsection (b) does not preclude the board from limiting the scope
40 of practice of a firm; limiting the scope of practice of a permit holder
41 under K.S.A. 1-311, and amendments thereto, or taking such remedial
42 action as the board deems necessary to protect the public interest, after
43 a review of an adverse peer review report based on matters relating to

for reports modified for matters relating
to attest services, the board may take such
remedial action as it deems necessary to
protect the public interest. However

not

attest services

attest services

and

(2)

attest services

attest services

1 ~~(q)~~(r) "Practice of public accountancy" means performing or offering
 2 to perform attest or nonattest services for the public by a person not
 3 required to have a permit to practice or a firm not required to register
 4 with the board.

5 ~~(t)~~(s) "Professional" means arising out of or related to the specialized
 6 knowledge or skills associated with CPAs.

7 ~~(s)~~(t) "Report," when used with reference to financial statements,
 8 means an opinion, report or other form of language that states or implies
 9 assurance as the reliability of any financial statements and that also in-
 10 cludes or is accompanied by any statement or implication that the person
 11 or firm issuing it has special knowledge or competence in accounting or
 12 auditing. Such a statement or implication of special knowledge or com-
 13 petence may arise from use, by the issuer of the report, of names or titles
 14 indicating that the person or firm is an accountant or auditor or from the
 15 language of the report itself. The term report includes any form of lan-
 16 guage which disclaims an opinion when such form of language is conven-
 17 tionally understood to imply any positive assurance as to the reliability of
 18 the financial statements referred to or special competence on the part of
 19 the person or firm issuing such language; and it includes any other form
 20 of language that is conventionally understood to imply such assurance or
 21 such special knowledge or competence.

22 ~~(t)~~(u) "Rule" means any rule or regulation adopted by the board.

23 ~~(t)~~(v) "State" means any state of the United States, the District of
 24 Columbia, Puerto Rico, the U.S. Virgin Islands and Guam; except that
 25 "this state" means the state of Kansas.

26 ~~(w)~~(w) "Substantial equivalency" is a determination by the board of
 27 accountancy or its designee that the education, examination and experi-
 28 ence requirements contained in the statutes and administrative rules of
 29 another jurisdiction are comparable to, or exceed the education, exami-
 30 nation and experience requirements contained in the uniform account-
 31 ancy act or that an individual CPA's education, examination and experi-
 32 ence qualifications are comparable to or exceed the education,
 33 examination and experience requirements contained in the uniform ac-
 34 countancy act.

35 ~~(w)~~(x) "Uniform accountancy act" means model legislation issued by
 36 the AICPA and NASBA *in existence on July 1, 2000*. ~~The board shall~~
 37 ~~adopt the act by reference pursuant to rulemaking. The board shall adopt~~
 38 ~~the version of the act in existence on July 1, 2000.~~

39 Sec. 6. K.S.A. 2000 Supp. 1-501 is hereby amended to read as fol-
 40 lows: 1-501. Commencing with ~~permits firm registrations~~ scheduled for
 41 ~~renewal for the fiscal year beginning on July 1, 1994~~ *December 31, 2001,*
 42 *and thereafter.*

43 (a) The board of accountancy may require as a condition for renewal

on

Full Text of Amendment to K.S.A. 1-312(b)

(b) In actions arising under peer review for reports modified for matters relating to attest services, the board may take such remedial action as it deems necessary to protect the public interest. However, the board may not limit the scope of attest services practice of a firm or limit the scope of attest services practice of any permit holder under K.S.A. 1-311, and amendments thereto, for failure to comply with generally acceptable accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards unless:

- (1) The firm has received at least two modified peer review reports during 12 consecutive years relating to attest services and the board finds that the firm has exhibited a course of conduct that reflects a pattern of noncompliance with applicable professional standards and practices; or
- (2) the firm has failed to abide by remedial measures required by a peer review committee or the board.