

MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE.

The meeting was called to order by Chairperson Senator Nancey Harrington at 10:30 a.m. on March 14, 2001 in Room 245-N of the Capitol.

All members were present.

Committee staff present:     Russell Mills, Legislative Research Department  
                                  Theresa Kiernan, Office of the Revisor  
                                  Nikki Kraus, Committee Secretary

Conferees appearing before the committee:

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

Others attending:     See Attached List

Chairman Harrington opened the hearing on:

**HB 2343—Concerning accountant peer review and permits**

T.C. Anderson, Executive Director, Kansas Society of Certified Public Accountants, presented testimony in favor of the bill. (Attachment 1). He asked the committee to consider two amendments to the bill.

Senator Barnett stated that on page five, line 37, he was concerned with the fact that the bill does not allow change for 12 years. He stated that a lot of things change in that amount of time and that he thought that perhaps it should be shorter.

Mr. Anderson stated that it was that position of the Kansas Society of Certified Public Accountants that this bill was the product of seven months of difficult negotiation, and that in the past, there had been no criteria for reports.

In response to a question from Senator Barnett, Mr. Anderson stated that this would increase his ability to provide oversight. Mr. Anderson stated that the permit renewal was bi-annual and only one report would be submitted per firm. Mr. Anderson stated that the bill would allow for agency regulation.

Mary Feighny, Chief Counsel to the Board of Accountants, stated that discipline is all subject to due process.

Senator O'Connor stated that it seemed like this was the product of a long negotiation process, and she was wondering who had done that negotiating and for how long. Mr. Anderson stated that the Board of Accountancy and the KS Society of Certified Public Accountants had negotiated this for about seven months.

Chairman Harrington stated that, in reference to the fact that the Board could assess a non-compliance fee of \$2000, she would like to have an example of non-compliance for which the firm would be assessed that fine. Mr. Anderson stated that he believed that the fine did not apply to peer review but to the ten items on page five. He stated that the bill did not have any major changes, but was simply cleaner.

In response to a question from Russell Mills, Mr. Anderson stated that the House committee amendments had been the result of last minute negotiations between the House and the Society. He stated that the amendment that he had to offer was technical.

Senator Brungardt stated that he was concerned that a firm would be punished for the actions of one individual, and Mr. Anderson stated that the Society felt that it was unreasonable to award punishment in that

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MINUTES OF THE SENATE FEDERAL AND STATE AFFAIRS COMMITTEE  
March 14, 2001

fashion, so the peer review checks the system but not the numbers of a financial statement, thereby addressing the process.

In response to a question from Senator Gooch, Mr. Anderson stated that if an individual was sanctioned by the Board, it would just be the services for which they were sanctioned which they could not practice. He stated that if they were re-trained in an area and then re-certified before the Board, they could practice again, but that the decision would be left up to the Board. Ms. Feighny stated this action would only be taken if the person had failed very badly, and the Board would sanction them to protect the public.

Senator Gooch stated that he was concerned that someone would not be able to get back into the work that they were doing before their sanctioning.

Chairman Harrington stated that the committee needed a clarification on page 5, line 35. Mr. Anderson stated that under the definition of attest services, there were individual standards for auditing, accounting and review services, and other specific categories. Ms. Feighny stated that on page 6, line 26 of the bill, the standards were listed. Theresa Kiernan recommended a reference to that in the bill.

In response to a question from Senator O'Connor, Mr. Anderson stated that the statute had been in place since Spring of 1993, and that there had been a major update on it last year, but this amendment arose out of the Society's desire to see written peer reports and determine standards for what type of reports were unacceptable.

Senator Vratil stated that he did not think that the Chair wanted to work the bill yet, but that the committee might want to go ahead and make the technical amendments so that it did not forget, and Chairman Harrington agreed.

Senator Vratil made a motion to make the technical amendments to **HB 2343**. Senator Brungardt seconded that motion. The motion passed.

Chairman Harrington stated that a member of the committee would like to make an amendment tomorrow, so the committee would work the bill then, in addition to the House Concurrent Resolution concerning veterans, and the liquor control bill.

The meeting adjourned at 11:07 a.m. The next meeting is scheduled for 10:30 a.m. on March 15, 2001.





**Kansas Society of  
Certified Public Accountants**

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**Testimony on H.B. 2343, As Amended**

Presented to the

Senate Federal and State Affairs Committee

by

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

March 14, 2001

Senate Fed + State  
3-14-01  
Attachment 1-1

March 14, 2001

Chair Harrington 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 Board of Directors.

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 to the Board.

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 26 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, which could be equated to a letter grade of 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 that receives such a report. In addition the Board could 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 related 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; or
- (2) 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 which could be equated to a letter grade of 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 responsible for the adverse report.

During the same three-year period mentioned earlier, 198 firms that will be subject to the standards for peer review contained in this bill 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:

- Compilation, a financial statement in which the auditor does not express any assurance, is 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 16.
- 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 27, and Section 6 beginning on page 8, line 43.
- Establishes a list of firm conduct that is unacceptable to the Board. This is found in Section 4, page 4, line 41. 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.

I’d be happy to stop here for questions before moving on to the two amendments to HB 2343 that the Board of Accountancy and the Society would like for you to consider.

The amendments are attached. The first is technical in nature. When we did the House Committee amendments beginning on page 5, line 26 of the bill, line 35 we did not provide the correct language to tie in the two conditions that follow. As a result, I hope the committee is receptive to striking the words “under the following conditions” at the end of line 35 and inserting the word “unless”.

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HB 2343 as amended by the House Committee

The second amendment is designed to conform Kansas law to the national peer review definition of attest services. To achieve this, all engagements, except compilations, performed in accordance with the statements on standards for attestation engagement should fall under attest services, not just the examination of prospective financial information. This can be achieved by striking the words “examination of prospective financial information” on page 6, line 35 and by replacing it with “engagement, except a compilation,”.

Thank you 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.

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practice of a firm or impose such remedial action as it deems necessary to protect the public interest, or both, and impose an administrative fine exceeding \$2,000 for any one or any combination of the following causes:

- (1) Failure to meet the requirements of K.S.A. 1-308 and amendments thereto;
- (2) fraud or deceit in obtaining a registration;
- (3) revocation or suspension of a firm's right to practice before any state or federal agency;
- (4) dishonesty, fraud or gross negligence in the practice of certified public accountancy;
- (5) violation of any provision of chapter 1 of the Kansas Statutes Annotated and rules and regulations promulgated by the board except for a violation of a rule of professional conduct;
- (6) willful violation of a rule of professional conduct;
- (7) violation of any order of the board;
- (8) cancellation, revocation, suspension or refusal to renew the authority of a firm to practice certified public accountancy in any other state;
- (9) conviction of a firm of any felony, or of any crime an element of which is dishonesty or fraud, under the laws of the United States, of Kansas or of any other state, if the acts involved would have constituted a crime under the laws of Kansas; or
- (10) failure to establish timely compliance with peer review pursuant to K.S.A. 1-501 and amendments thereto;

(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 practice of attest services of a firm; limit the scope of practice of attest services of any permit holder under K.S.A. 1-311, and amendments thereto, or take such remedial action as the board deems necessary to protect the public interest, or both, for failure to comply with generally accepted accounting principles, generally accepted auditing standards and other similarly recognized authoritative technical standards under the following conditions:

unless

- (1) The firm has received at least two modified peer review reports during 12 consecutive years relating to attest services;
- ~~(2)~~ 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
- ~~(3)~~ (2) the firm has failed to abide by remedial measures required by a peer review committee or the board.

(c) Subsection (b) does not preclude the board from limiting the scope

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1 of practice of attest services of a firm; limiting the scope of practice of  
 2 ~~attest services of a permit holder under K.S.A. 1-311, and amendments~~  
 3 to, or taking such remedial action as the board deems necessary to  
 4 protect the public interest, after a review of an adverse peer review report  
 5 based on matters relating to attest services if the board determines that  
 6 the firm failed to comply with generally accepted accounting principles,  
 7 generally accepted auditing standards and other similarly recognized au-  
 8 thoritative technical standards.

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

3 (e) The board shall not have the power to assess fines under this sec-  
 4 tion if a fine has been assessed for the same or similar violation under the  
 5 provisions of subsection (a) of K.S.A. 1-311 and amendments thereto.

6 Sec. 5. K.S.A. 2000 Supp. 1-321 is hereby amended to read as fol-  
 7 lows: 1-321. When used in this act, the following terms have the meanings  
 8 indicated:

9 (a) "Actively participate" means participation that is continuous as  
 0 one's primary occupation.

1 (b) "Affiliated entity" means one that provides services to the CPA  
 2 firm or provides services to the public that are complementary to those  
 3 provided by the CPA firm.

4 (c) "AICPA" means the American institute of certified public  
 5 accountants.

6 (d) "Attest" means providing the following financial statement  
 7 services:

8 (1) Any audit or other engagement to be performed in accordance  
 9 with the statements on auditing standards (SAS);

0 (2) any audit to be performed in accordance with the Kansas munic-  
 1 ipal audit guide;

2 (3) any review of a financial statement ~~or compilation of a financial~~  
 3 ~~statement~~ to be performed in accordance with the statements on stan-  
 4 dards for accounting and review services (SSARS);

5 (4) any ~~examination of prospective financial information~~ to be per-  
 6 formed in accordance with the statements on standards for attestation  
 7 engagements (SSAE); and

8 (5) the statements on standards and guide specified in this act shall  
 9 be adopted by reference by the board pursuant to rulemaking and shall  
 0 be those developed for general application by the AICPA or the Kansas  
 1 division of accounts and reports.

2 (e) "Board" means the Kansas board of accountancy established un-  
 3 der K.S.A. 1-201 and amendments thereto.

engagement, except a compilation,

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