

Susan L. Somers, Executive Director

Board of Accountancy

Laura Kelly, Governor

SB 137 TESTIMONY (WRITTEN ONLY)--OPPONENT

Chairman Olson and Members of the Committee:

The Board of Accountancy presently stands in opposition to the provisions of SB 137. SB 137 potentially displaces legislative mandates setting the basic educational standards, testing standards, and standards of ethical conduct relating to the practice of certified public accountancy.

The Board is presently vested with the responsibility to protect the public through enforcement of the laws governing the practice of certified public accountancy and regulates only the practice of certified public accountancy. At present, the Board is composed of individual citizens of the State of Kansas, including both licensed practitioners and members of the public. The Board does not regulate the practice of "public accountancy." Public accountants, in contrast to certified public accountants, are not subject to statutory educational, examination or licensure standards and may perform accounting functions such as bookkeeping, payroll, and tax preparation. Only certified public accountants can perform attest services (audits) on which third parties rely, and may in certain situations, control client funds, exercise fiduciary responsibilities, or otherwise exert influence over client financial decisions and well-being.

Traditionally individuals are licensed to practice certified public accountancy premised on educational requirements, successful completion of a uniform exam, conduct, and experience. **Kansas law also allows individuals who maintain a similar license from another jurisdiction, to obtain a Kansas license by reciprocity, provided that the original state of licensure has licensure requirements, including educational requirements, that are "substantially equivalent" to those required of a traditional Kansas applicant.** Finally, many individuals who reside outside of the state are authorized to practice certified public accountancy in Kansas without first obtaining a Kansas license, under the doctrine of mobility as codified in K.S.A. 1-322. **In sum, Kansas presently affords an individual a multitude of pathways, both traditional and otherwise, to pursue the practice of certified public accountancy within this state. The foundation for the profession consists of education, examination, and experience; concepts shared by all 56 jurisdictions and reflected in the Uniform Accountancy Act as adopted in whole or in part by most jurisdictions to ensure consistency in the qualifications of practitioners who render professional services to clients.**

The Board strongly supports actions designed to enhance the well-being of military spouses and members of the military. However, SB 137 significantly expands the scope of K.S.A. 48-3406 to provide an alternative pathway to licensure for **any individual who resides or intends to reside in the State of Kansas without regard to military status.** (See subsection (a)(1) of SB 137, definition of "Applicant".)

Subsection (c) of SB 137 applies to individuals who hold a license to practice issued by another jurisdiction and seek to obtain a Kansas license. There are two different scenarios outlined in this subsection, distinguished by whether an applicant "qualifies" for licensure under Kansas law. The term "qualifies" is not defined by the proposed bill.

Subsection (c)(1) provides that the Board shall grant a license to an applicant who holds a license from another state, if that applicant qualifies for licensure under Kansas law. Presently, applications of this type are first reviewed pursuant to K.S.A. 1-307, which requires consideration of the applicant's test

results and the substantial equivalency of his or her educational credentials to those required of a traditional Kansas applicant. An applicant who fulfills the testing and educational criteria may arguably be "qualified" to receive a license, i.e., their receipt of a license would not necessarily be unlawful. However, K.S.A. 1-311 vests this Board with an additional tool, specifically the discretion to deny an application based on conduct defined in K.S.A. 1-311, including fraud, a failure to pay over tax dollars collected on behalf of others, gross negligence in the practice of certified public accountancy, etc. **Subsection (c)(1) of SB 137 is unclear as to whether the legislated safeguards designed to protect the public as codified in K.S.A. 1-311, may be considered in determining whether one "qualifies" for licensure. If those safeguards are not available, individuals obtaining licensure pursuant to subsection (c)(1) of SB 137, would be treated substantially different from individuals who obtain an initial license from the Board. Individuals who garner licensure under subsection (c)(1) of SB 137 could potentially pose a threat to the safety of Kansas citizens.** This distinction becomes clearer given the inclusion in subsection (c)(2) of SB 137, of criteria similar to those described in K.S.A. 1-311 and the omission of those same criteria from subsection (c)(1) of SB 137.

Subsection (c)(2) of SB 137 requires the Board to grant a license to an applicant who holds a license from another state, where that individual "does not qualify under the applicable licensure, registration or certification by endorsement, reinstatement or reciprocity statutes of the licensing body of this state." In that case, the Board is required to grant a license to the applicant if he or she meets the criteria described in subsection (c)(2)(A) through (F). Stated plainly, subsection (c)(2) of SB 137 provides an alternative pathway for individuals who hold a license in another state, to obtain a Kansas license where that individual's testing and educational achievements are not substantially equivalent to those required of a traditional Kansas applicant, i.e., they are not "qualified." **The testing and educational standards that would be the foundation for licensure under subsection (c)(1) are disregarded under subsection (c)(2) of SB 137. The net result is that individuals may be licensed to practice as certified public accountants in the State of Kansas without regard to whether the individual meets the educational and testing criteria specifically adopted by the Kansas legislature in furtherance of its effort to ensure the public good.** Furthermore, traditional Kansas applicants would once again be held to a different standard than individuals who apply for licensure pursuant to this subsection (c)(2) of SB 137.

Subsection (s) of SB 137 applies in present form, only to the Kansas Board of Healing Arts and permits that board to deny an application if it determines the applicant's qualifications are not substantially equivalent to those established by that board. The Kansas Board of Accountancy respectfully asks that it be included within the confines of subsection (s) and given similar authority to apply the principles of substantial equivalency as presently codified in our governing act. This would ensure that applicants meet minimal educational and examination requirements prior to licensure, requirements similar to those applied to traditional Kansas applicants. The citizens of Kansas would be well served by this amendment.

In sum, if the Legislature is inclined to move forward with SB 137, the Board respectfully requests an amendment to subsection (s), line 34 to include the phrase "and board of accountancy" after the word "arts." If this proposed amendment to subsection (s) is acceptable to the Committee, the Board also requests a revision to subsection (t)(2), line 25, to read "the board of accountancy, as provided by subsection (s)." The amendment to subsection (t) would mirror the language presently set forth in subsection (t)(12) applicable to the Kansas Board of Healing Arts.

The Board appreciates the willingness of the Chair and members of this Committee to consider the concerns as stated and is readily available to work with the Chair and this Committee as requested, to ensure that the Committee's goals are achieved in the most efficient manner possible.


Sean P. Weaver, CPA, Chair
Kansas Board of Accountancy

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