

By: Thompson of Harris

H.B. No. 1520

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Texas State Board
3 of Public Accountancy.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 901.006, Occupations Code, is amended to
6 read as follows:

7 Sec. 901.006. APPLICATION OF SUNSET ACT. The Texas State
8 Board of Public Accountancy is subject to Chapter 325, Government
9 Code (Texas Sunset Act). Unless continued in existence as provided
10 by that chapter, the board is abolished and this chapter expires
11 September 1, 2031 [~~2019~~].

12 SECTION 2. Section 901.059, Occupations Code, is amended by
13 amending Subsection (b) and adding Subsection (d) to read as
14 follows:

15 (b) The training program must provide the person with
16 information regarding:

17 (1) the law governing board operations [~~this chapter~~];

18 (2) the board's programs, functions, rules, and budget
19 [~~operated by the board~~];

20 (3) [~~the role and functions of the board,~~

21 [~~(4)~~] the scope of and limitations on the rulemaking
22 authority [~~rules~~] of the board[, ~~with an emphasis on the rules that~~
23 ~~relate to disciplinary and investigatory authority~~];

24 (4) the types of board rules, interpretations, and

1 enforcement actions that may implicate federal antitrust law by
2 limiting competition or impacting prices charged by persons engaged
3 in a profession or business the board regulates, including rules,
4 interpretations, and enforcement actions that:

5 (A) regulate the scope of practice of persons in
6 a profession or business the board regulates;

7 (B) restrict advertising by persons in a
8 profession or business the board regulates;

9 (C) affects the price of goods or services
10 provided by persons in a profession or business the board
11 regulates; and

12 (D) restrict participation in a profession or
13 business the board regulates;

14 ~~(5) [the current budget for the board;~~
15 ~~(6)]~~ the results of the most recent formal audit of
16 the board;

17 (6) [(7)] the requirements of:

18 (A) laws relating to [the] open meetings, [law,
19 ~~Chapter 551, Government Code,~~

20 ~~[(B) the] public information, [law, Chapter 552,~~
21 ~~Government Code,~~

22 ~~[(C) the] administrative procedure, and~~
23 disclosing conflicts-of-interest [law, Chapter 2001, Government
24 ~~Code]; and~~

25 (B) [(D)] other laws applicable to members of a
26 state policymaking body in performing their duties [relating to
27 ~~public officials, including conflict-of-interest laws]; and~~

1 (7) [~~8~~] any applicable ethics policies adopted by
2 the board or the Texas Ethics Commission.

3 (d) The executive director of the board shall create a
4 training manual that includes the information required by
5 Subsection (b). The executive director shall distribute a copy of
6 the training manual annually to each member of the board. On
7 receipt of the training manual, each member of the board shall sign
8 and submit to the executive director a statement acknowledging
9 receipt of the training manual.

10 SECTION 3. Subchapter D, Chapter 901, Occupations Code, is
11 amended by adding Sections 901.164 and 901.169 to read as follows:

12 Sec. 901.164. OUTSIDE LEGAL COUNSEL. The board may not
13 contract with outside legal counsel to provide legal services to
14 the board, including representation of the board in a matter
15 referred to the State Office of Administrative Hearings, unless the
16 contract is approved by the attorney general as provided by Section
17 402.0212, Government Code, regardless of the source of money to be
18 used to pay the outside counsel.

19 Sec. 901.169. CRIMINAL HISTORY RECORD INFORMATION. (a)
20 The board shall require an individual to submit a complete and
21 legible set of fingerprints, on a form prescribed by the board, to
22 the board or to the Department of Public Safety for the purpose of
23 obtaining criminal history record information from the Department
24 of Public Safety and the Federal Bureau of Investigation if:

25 (1) the individual has not previously submitted
26 fingerprints for the purpose of the board obtaining criminal
27 history record information; and

1 (2) the individual:

2 (A) is an applicant to take the uniform CPA
3 examination;

4 (B) is an applicant for a certificate;

5 (C) is an owner or seeks to become an owner of a
6 certified public accountancy firm and the individual is not a
7 license holder, if requested by the board under Section 901.354(e);

8 (D) is an applicant for a license under
9 Subchapter I; or

10 (E) is an applicant for renewal of a license
11 under Subchapter I, unless the applicant is an individual who does
12 not engage in the practice of public accountancy because of
13 retirement or permanent disability.

14 (b) The board may not allow an individual to take the
15 uniform CPA examination or issue a certificate or license to an
16 individual who does not comply with the requirement of Subsection
17 (a).

18 (c) The board may administratively suspend or refuse to
19 renew the license of an individual who is an applicant for renewal
20 of a license under Subchapter I and who does not comply with the
21 requirement of Subsection (a).

22 (d) The board shall require a license holder who qualified
23 for an exemption described by Subsection (a)(2)(E) to comply with
24 the requirement of Subsection (a) if the license holder no longer
25 qualifies for the exemption.

26 (e) The board shall conduct a criminal history record
27 information check of each individual required to submit

1 fingerprints under Subsection (a) using information:

2 (1) provided by the individual under this section; and

3 (2) made available to the board by the Department of
4 Public Safety, the Federal Bureau of Investigation, and any other
5 criminal justice agency under Chapter 411, Government Code.

6 (f) The board may:

7 (1) enter into an agreement with the Department of
8 Public Safety to administer a criminal history record information
9 check required under this section; and

10 (2) authorize the Department of Public Safety to
11 collect from each applicant the costs incurred by the Department of
12 Public Safety in conducting the criminal history record information
13 check.

14 SECTION 4. Section 901.203, Occupations Code, is amended to
15 read as follows:

16 Sec. 901.203. COMPLAINT INFORMATION. (a) The board shall
17 maintain a system to promptly and efficiently act on complaints
18 filed with the board. The board shall maintain information about
19 parties to the complaint, the subject matter of the complaint, a
20 summary of the results of the review or investigation of the
21 complaint, and its disposition [~~a file on each written complaint~~
22 ~~filed with the board. The file must include:~~

23 [~~(1) the name of the person who filed the complaint,~~

24 [~~(2) the date the complaint is received by the board,~~

25 [~~(3) the subject matter of the complaint,~~

26 [~~(4) the name of each person contacted in relation to~~

27 ~~the complaint,~~

1 ~~[(5) a summary of the results of the review or~~
2 ~~investigation of the complaint, and~~

3 ~~[(6) an explanation of the reason the file was closed,~~
4 ~~if the board closed the file without taking action other than to~~
5 ~~investigate the complaint].~~

6 (b) The board shall make information available describing
7 its ~~[provide to the person filing the complaint and to each person~~
8 ~~who is a subject of the complaint a copy of the board's policies~~
9 ~~and]~~ procedures for ~~[relating to]~~ complaint investigation and
10 resolution.

11 (c) The board~~[, at least quarterly until final disposition~~
12 ~~of the complaint,]~~ shall periodically notify the ~~[person filing~~
13 ~~the]~~ complaint parties ~~[and each person who is a subject of the~~
14 ~~complaint]~~ of the status of the complaint until final disposition
15 ~~[investigation]~~ unless the notice would jeopardize an undercover
16 investigation.

17 SECTION 5. Section 901.204, Occupations Code, is amended by
18 adding Subsections (c), (d), and (e) to read as follows:

19 (c) The board shall include on the agenda of each regular
20 board meeting an opportunity for public comment on each agenda item
21 or other issue before the board makes a decision on the item or
22 issue, except as otherwise provided by Subsection (d).

23 (d) The board may prohibit public comment at a meeting of
24 the board regarding an active investigation or enforcement
25 proceeding by the board.

26 (e) The board may not require a person who wishes to make a
27 public comment at a meeting of the board to notify the board in

1 advance of the meeting.

2 SECTION 6. Section 901.252, Occupations Code, is amended to
3 read as follows:

4 Sec. 901.252. ELIGIBILITY REQUIREMENTS. To be eligible to
5 receive a certificate, a person must:

6 (1) satisfy the requirements of [~~be of good moral~~
7 ~~character as determined under~~] Section 901.253;

8 (2) meet the education requirements established under
9 Section 901.254 or 901.255;

10 (3) pass the uniform CPA examination;

11 (4) meet the work experience requirements established
12 under Section 901.256; and

13 (5) pass an examination on the rules of professional
14 conduct as determined by board rule.

15 SECTION 7. The heading to Section 901.253, Occupations
16 Code, is amended to read as follows:

17 Sec. 901.253. BACKGROUND [~~CHARACTER~~] INVESTIGATION.

18 SECTION 8. Section 901.253(a), Occupations Code, is amended
19 to read as follows:

20 (a) The board shall ensure that an applicant to take the
21 uniform CPA examination or to receive a certificate lacks a [~~is of~~
22 ~~good moral character as demonstrated by a lack of~~] history of
23 dishonest or felonious acts. The board shall require each applicant
24 to comply with the requirements of Section 901.169(a).

25 SECTION 9. Section 901.309, Occupations Code, is amended to
26 read as follows:

27 Sec. 901.309. REEXAMINATION. A person who fails all or part

1 of an examination may apply for a subsequent examination, subject
2 to the board's satisfaction that the person meets the requirements
3 of this chapter relating to the person's background investigation
4 [~~moral character~~] and education.

5 SECTION 10. Section 901.351(e), Occupations Code, is
6 amended to read as follows:

7 (e) The board by rule shall specify:

8 (1) the form of the application for a firm license;

9 (2) the fee for an original or renewal firm license,
10 which may be based on the number of owners, members, partners,
11 shareholders, or employee license holders in this state, not to
12 exceed \$25 for each of those persons; [~~and~~]

13 (3) the term of a firm license; and

14 (4) the requirements for renewal of a firm license.

15 SECTION 11. Section 901.353(a), Occupations Code, is
16 amended to read as follows:

17 (a) An office established or maintained in this state by a
18 firm of certified public accountants, a firm of public accountants,
19 or a person described by Section 901.355 must designate [~~be under~~
20 ~~the direct supervision of~~] a resident manager who is responsible
21 for the license of the firm or person, as applicable. The resident
22 manager must be [~~who~~]:

23 (1) [~~is~~] an owner, member, partner, shareholder, or
24 employee of the firm or person that occupies the office; and

25 (2) [~~is~~] licensed under this chapter.

26 SECTION 12. Sections 901.354(b) and (e), Occupations Code,
27 are amended to read as follows:

1 (b) A certified public accountancy firm may include
2 individuals as owners who are not license holders if:

3 (1) the firm designates to the board as responsible
4 for the firm's license [~~and the supervision of the firm~~]:

5 (A) a license holder who resides in this state;
6 or

7 (B) if the firm is required under Section
8 901.351(a-1)(2) to hold a firm license, an individual practicing
9 under a privilege under Section 901.462;

10 (2) each owner who is not a license holder and who is a
11 resident of this state as determined by board rule:

12 (A) is actively involved in the firm or an
13 affiliated entity;

14 (B) lacks a [~~is of good moral character as~~
15 ~~demonstrated by a lack of~~] history of dishonest or felonious acts;

16 (C) [~~holds a baccalaureate or graduate degree~~
17 ~~conferred by a college or university acceptable to the board or~~
18 ~~equivalent education as determined by the board,~~

19 [~~(D)~~] maintains any professional designation
20 held by the individual in good standing with the appropriate
21 organization or regulatory body that is identified or used in an
22 advertisement, letterhead, business card, or other firm-related
23 communication;

24 (D) [~~(E)~~] has passed an examination on the rules
25 of professional conduct as determined by board rule; and

26 (E) [~~(F)~~] complies with the rules of
27 professional conduct as determined by board rule; [~~and~~

1 [~~(C) maintains professional continuing education~~
2 ~~applicable to license holders as required by board rule,~~] and

3 (3) the firm and the owners who are not license holders
4 comply with board disciplinary actions and other requirements the
5 board may impose by rule.

6 (e) The board may require an individual who is not a license
7 holder under this chapter to comply with the requirement of Section
8 901.169(a) [~~submit a complete set of fingerprints~~]. If the
9 individual does not comply with the requirement of that subsection
10 [~~provide the complete set of fingerprints~~] on request, the board
11 may refuse to allow that individual to become an owner of a
12 certified public accountancy firm and may cancel or refuse to issue
13 or renew a firm license to the firm.

14 SECTION 13. Section 901.402(a), Occupations Code, is
15 amended to read as follows:

16 (a) On payment of the required fees, the board shall issue a
17 license to an applicant who complies with the requirement of
18 Section 901.169(a) and:

19 (1) holds a certificate issued under this chapter; or

20 (2) holds a firm license issued under this chapter.

21 SECTION 14. Section 901.403, Occupations Code, is amended
22 by adding Subsection (c) to read as follows:

23 (c) The board shall require an applicant for renewal of a
24 license to comply with the requirement of Section 901.169(a).

25 SECTION 15. The heading to Section 901.409, Occupations
26 Code, is amended to read as follows:

27 Sec. 901.409. FEE REDUCTION FOR RETIRED PERSONS OR

1 ~~[DISABLED]~~ PERSONS WITH DISABILITIES.

2 SECTION 16. Section 901.411(d), Occupations Code, is
3 amended to read as follows:

4 (d) The board by rule may exempt certain license holders,
5 including license holders who are persons with disabilities
6 ~~[disabled]~~, retired, or not associated with accounting, as defined
7 by board rule, from all or part of the requirements of this section.

8 SECTION 17. Subchapter M, Chapter 901, Occupations Code, is
9 amended by adding Section 901.6011 to read as follows:

10 Sec. 901.6011. INJUNCTIVE RELIEF. (a) The attorney
11 general at the request of the board may petition a district court
12 for an injunction to prohibit a person who is violating this chapter
13 from continuing the violation.

14 (b) Venue in a suit for injunctive relief is in Travis
15 County.

16 (c) After application and a finding that a person is
17 violating this chapter, the district court shall grant the
18 injunctive relief the facts warrant.

19 SECTION 18. Section 901.656(a), Occupations Code, is
20 amended to read as follows:

21 (a) The board~~[, in consultation with the advisory committee~~
22 ~~appointed under Section 901.657,~~] shall determine the maximum
23 amount of any scholarship awarded under this subchapter. The
24 scholarship may be spent by the recipient on the expenses for
25 tuition, fees, books, supplies, and living expenses incurred by the
26 student in connection with the student's fifth year of an
27 accounting program. Scholarships shall be made available to

1 eligible students attending:

- 2 (1) any institution of higher education; or
- 3 (2) any nonprofit independent institution approved by
- 4 the Texas Higher Education Coordinating Board under Section 61.222,
- 5 Education Code.

6 SECTION 19. The following provisions of the Occupations
7 Code are repealed:

- 8 (1) Section 901.163;
- 9 (2) Sections 901.253(b) and (c);
- 10 (3) Section 901.351(d); and
- 11 (4) Section 901.657.

12 SECTION 20. (a) Except as provided by Subsection (b) of
13 this section, Section 901.059, Occupations Code, as amended by this
14 Act, applies to a member of the Texas State Board of Public
15 Accountancy appointed before, on, or after the effective date of
16 this Act.

17 (b) A member of the Texas State Board of Public Accountancy
18 who, before the effective date of this Act, completed the training
19 program required by Section 901.059, Occupations Code, as that law
20 existed before the effective date of this Act, is only required to
21 complete additional training on the subjects added by this Act to
22 the training program required by Section 901.059, Occupations Code.
23 A board member described by this subsection may not vote,
24 deliberate, or be counted as a member in attendance at a meeting of
25 the board held on or after December 1, 2019, until the member
26 completes the additional training.

27 (c) Section 901.164, Occupations Code, as added by this Act,

1 applies only to an original contract entered into on or after the
2 effective date of this Act. An original contract entered into
3 before the effective date of this Act is governed by the law as it
4 existed immediately before the effective date of this Act, and that
5 law is continued in effect for that purpose.

6 (d) The Texas State Board of Public Accountancy shall
7 require each applicant for renewal of a license under Subchapter I,
8 Chapter 901, Occupations Code, to first comply with the requirement
9 of Section 901.169(a), Occupations Code, as added by this Act, not
10 later than September 1, 2021. Notwithstanding Sections
11 901.169(a)(2)(E) and 901.403(c), Occupations Code, as added by this
12 Act, an applicant for renewal of a license is not required to comply
13 with Section 901.169(a) until first required to by the board as
14 provided by this subsection.

15 (e) Section 901.203, Occupations Code, as amended by this
16 Act, applies only to a complaint filed with the Texas State Board of
17 Public Accountancy on or after the effective date of this Act. A
18 complaint filed before the effective date of this Act is governed by
19 the law in effect on the date the complaint was filed, and the
20 former law is continued in effect for that purpose.

21 (f) Sections 901.252, 901.253, and 901.309, Occupations
22 Code, as amended by this Act, apply only to an application submitted
23 to the Texas State Board of Public Accountancy on or after the
24 effective date of this Act. An application submitted before the
25 effective date of this Act is governed by the law in effect on the
26 date the application was submitted, and the former law is continued
27 in effect for that purpose.

1 (g) As soon as possible after the effective date of this
2 Act, the Texas State Board of Public Accountancy shall adopt or
3 amend any rules necessary to implement the changes in law made by
4 this Act to Chapter [901](#), Occupations Code.

5 SECTION 21. This Act takes effect September 1, 2019.