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H.B. No. 1218

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the continuation and functions of the Texas State Board  
3 of Public Accountancy and to the confidentiality of certain  
4 information of a taxpayer undergoing examination by the  
5 comptroller; providing penalties.

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

7 SECTION 1. Section 901.006, Occupations Code, is amended to  
8 read as follows:

9 Sec. 901.006. APPLICATION OF SUNSET ACT. The Texas State  
10 Board of Public Accountancy is subject to Chapter 325, Government  
11 Code (Texas Sunset Act). Unless continued in existence as provided  
12 by that chapter, the board is abolished and this chapter expires  
13 September 1, 2015 [~~2003~~].

14 SECTION 2. Section 901.053, Occupations Code, is amended to  
15 read as follows:

16 Sec. 901.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)  
17 In this section, "Texas trade association" means a [~~nonprofit,~~  
18 cooperative[~~7~~] and voluntarily joined statewide association of  
19 business or professional competitors in this state designed to  
20 assist its members and its industry or profession in dealing with  
21 mutual business or professional problems and in promoting their  
22 common interest.

23 (b) A person may not be a member of the board and may not be a  
24 board employee employed in a "bona fide executive, administrative,

1 or professional capacity," as that phrase is used for purposes of  
2 establishing an exemption to the overtime provisions of the federal  
3 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),  
4 and its subsequent amendments, if:

5 (1) the person is acting in the capacity of an [An]  
6 officer, executive board or executive committee member, employee,  
7 or paid consultant of a Texas trade association in the field of  
8 public accountancy; or

9 (2) the person's [may not be a member of the board and  
10 may not be an employee of the board who is exempt from the state's  
11 position classification plan or is compensated at or above the  
12 amount prescribed by the General Appropriations Act for step 1,  
13 salary group A17, of the position classification salary schedule.

14 [(c) A person who is the] spouse is acting in the capacity of  
15 an officer, executive board or executive committee member, manager,  
16 or paid consultant of a Texas trade association in the field of  
17 public accountancy [may not be an employee of the board who is  
18 exempt from the state's position classification plan or is  
19 compensated at or above the amount prescribed by the General  
20 Appropriations Act for step 1, salary group A17, of the position  
21 classification salary schedule].

22 (c) [(d)] A person may not be [serve as] a member of the  
23 board or act as the general counsel to the board if the person is  
24 required to register as a lobbyist under Chapter 305, Government  
25 Code, because of the person's activities for compensation on behalf  
26 of a profession related to the operation of the board.

27 [(e) A member or employee of the board may not be related

1 ~~within the second degree by consanguinity or affinity, as~~  
2 ~~determined under Chapter 573, Government Code, to a person who is an~~  
3 ~~officer, employee, or paid consultant of a trade association of~~  
4 ~~persons governed by this chapter.]~~

5 SECTION 3. Sections 901.056(a) and (c), Occupations Code,  
6 are amended to read as follows:

7 (a) It is a ground for removal from the board that a member:

8 (1) does not have at the time of taking office [~~the~~  
9 ~~appointment~~] the qualifications required by Section 901.051;

10 (2) does not maintain during service on the board the  
11 qualifications required by Section 901.051 [~~or 901.052~~];

12 (3) is ineligible for membership under [~~violates a~~  
13 ~~prohibition established by~~] Section 901.052 or 901.053;

14 (4) cannot, because of illness or disability,  
15 discharge the member's duties for a substantial part of the member's  
16 term; or

17 (5) is absent from more than half of the regularly  
18 scheduled board meetings [~~of the board and a committee of the board~~]  
19 that the member is eligible to attend during a calendar year without  
20 an excuse approved [~~unless the absence is excused~~] by a majority  
21 vote of the board.

22 (c) If the executive director has knowledge that a potential  
23 ground for removal [~~of a board member~~] exists, the executive  
24 director shall notify the presiding officer [~~executive committee~~]  
25 of the board of the potential ground. The presiding officer shall  
26 then notify the governor and the attorney general that a potential  
27 ground for removal exists. If the potential ground for removal

1 involves the presiding officer, the executive director shall notify  
2 the next highest ranking officer of the board, who shall then notify  
3 the governor and the attorney general that a potential ground for  
4 removal exists.

5 SECTION 4. Subchapter B, Chapter 901, Occupations Code, is  
6 amended by adding Section 901.059 to read as follows:

7 Sec. 901.059. TRAINING. (a) A person who is appointed to  
8 and qualifies for office as a member of the board may not vote,  
9 deliberate, or be counted as a member in attendance at a meeting of  
10 the board until the person completes a training program that  
11 complies with this section.

12 (b) The training program must provide the person with  
13 information regarding:

14 (1) this chapter;

15 (2) the programs operated by the board;

16 (3) the role and functions of the board;

17 (4) the rules of the board, with an emphasis on the  
18 rules that relate to disciplinary and investigatory authority;

19 (5) the current budget for the board;

20 (6) the results of the most recent formal audit of the  
21 board;

22 (7) the requirements of:

23 (A) the open meetings law, Chapter 551,  
24 Government Code;

25 (B) the public information law, Chapter 552,  
26 Government Code;

27 (C) the administrative procedure law, Chapter

1 2001, Government Code; and

2 (D) other laws relating to public officials,  
3 including conflict-of-interest laws; and

4 (8) any applicable ethics policies adopted by the  
5 board or the Texas Ethics Commission.

6 (c) A person appointed to the board is entitled to  
7 reimbursement, as provided by the General Appropriations Act, for  
8 the travel expenses incurred in attending the training program  
9 regardless of whether the attendance at the program occurs before  
10 or after the person qualifies for office.

11 SECTION 5. Section 901.102, Occupations Code, is amended to  
12 read as follows:

13 Sec. 901.102. DIVISION OF RESPONSIBILITIES. The board  
14 shall develop and implement policies that clearly separate [~~define~~]  
15 the policy-making [~~respective~~] responsibilities of the board and  
16 the management responsibilities of the executive director and the  
17 staff of the board.

18 SECTION 6. Section 901.105, Occupations Code, is amended to  
19 read as follows:

20 Sec. 901.105. EQUAL EMPLOYMENT OPPORTUNITY POLICY; REPORT.  
21 (a) The executive director or the executive director's designee  
22 shall prepare and maintain a written policy statement that  
23 implements a program [~~to ensure implementation~~] of [~~an~~] equal  
24 employment opportunity to ensure that [~~program under which~~] all  
25 personnel decisions [~~transactions~~] are made without regard to race,  
26 color, disability, sex, religion, age, or national origin.

27 (b) The policy statement must include:

1 (1) personnel policies, including policies relating  
2 to recruitment, evaluation, selection, ~~[appointment,~~ training,  
3 and promotion of personnel, that show the intent of the board to  
4 avoid the unlawful employment practices described by Chapter 21,  
5 Labor Code; and

6 (2) an ~~[a comprehensive]~~ analysis of the extent to  
7 which the composition of the board's personnel is in accordance  
8 with ~~[board workforce that meets]~~ federal and state law and a  
9 description of reasonable methods to achieve compliance with  
10 federal and state law ~~[guidelines,~~

11 ~~[(3) procedures by which a determination can be made~~  
12 ~~of significant underuse in the board workforce of all persons for~~  
13 ~~whom federal or state guidelines encourage a more equitable~~  
14 ~~balance; and~~

15 ~~[(4) reasonable methods to appropriately address~~  
16 ~~those areas of underuse].~~

17 (c) The ~~[(b) A]~~ policy statement ~~[prepared under Subsection~~  
18 ~~(a)]~~ must:

19 (1) ~~[cover an annual period,~~

20 ~~[(2)]~~ be updated ~~[at least]~~ annually;

21 (2) [and (3)] be reviewed by the Commission on Human  
22 Rights for compliance with Subsection (b)(1); and

23 (3) be filed with the governor's office ~~[governor.~~

24 ~~[(c) The governor shall deliver a biennial report to the~~  
25 ~~legislature based on the information received under Subsection (b).~~

26 ~~The report may be made separately or as a part of other biennial~~  
27 ~~reports made to the legislature].~~

1 SECTION 7. Subchapter C, Chapter 901, Occupations Code, is  
2 amended by adding Section 901.106 to read as follows:

3 Sec. 901.106. INFORMATION ON STATE EMPLOYEE INCENTIVE  
4 PROGRAM. The executive director or the executive director's  
5 designee shall provide to board employees information and training  
6 on the benefits and methods of participation in the state employee  
7 incentive program under Subchapter B, Chapter 2108, Government  
8 Code.

9 SECTION 8. Subchapter D, Chapter 901, Occupations Code, is  
10 amended by adding Section 901.1525 to read as follows:

11 Sec. 901.1525. APPOINTMENT OF BOARD COMMITTEES. (a) The  
12 board may appoint policy-making and working committees to assist  
13 the board in performing its responsibilities under this chapter.  
14 The board's policy-making committees shall assist the board in  
15 establishing policies, drafting rules, setting budgets,  
16 representing the board, and performing other oversight duties  
17 necessary to administer this chapter. The board's working  
18 committees shall assist the board in carrying out the board's  
19 functions, including reviewing enforcement cases and other  
20 licensing matters. In establishing committees, the board shall  
21 maintain the distinction between the types of committees authorized  
22 by this section.

23 (b) A person may not serve on a policy-making committee  
24 unless the person is a board member. A working committee may  
25 consist of members who are members of the board and members who are  
26 not board members. A member of a working committee who is not a  
27 board member may participate as a full voting member of the

1 committee.

2 (c) A person may not be a non-board member of a committee if:

3 (1) the person is acting in the capacity of an officer,  
4 executive board or executive committee member, employee, or paid  
5 consultant of a Texas trade association in the field of public  
6 accountancy;

7 (2) the person's spouse is acting in the capacity of an  
8 officer, executive board or executive committee member, manager, or  
9 paid consultant of a Texas trade association in the field of public  
10 accountancy; or

11 (3) the person is required to register as a lobbyist  
12 under Chapter 305, Government Code, because of the person's  
13 activities for compensation on behalf of a profession related to  
14 the operation of the board.

15 (d) For purposes of Subsection (c), "Texas trade  
16 association" has the meaning assigned by Section 901.053.

17 (e) A committee member who is not a member of the board is  
18 subject to the same financial disclosure requirements that apply to  
19 a member of the board.

20 (f) A committee member who is not a member of the board may  
21 not serve on the committee if the member:

22 (1) violates Subsection (c);

23 (2) cannot, because of illness or disability,  
24 discharge the member's duties for a substantial time;

25 (3) is absent from more than half of the regularly  
26 scheduled meetings of the committee that the member is eligible to  
27 attend during a calendar year unless the absence is excused by a



1 majority vote of the committee; or

2 (4) does not comply with Subsection (e).

3 (g) The board shall adopt rules that provide that a  
4 committee member shall refrain from participating in the discussion  
5 of and may not vote on an issue before a committee in which the  
6 member has a personal or financial interest. A committee member who  
7 is not permitted to vote on a matter described by this subsection  
8 shall state at the time of the vote the reason why the member is not  
9 voting on the matter.

10 SECTION 9. Section 901.153, Occupations Code, is amended by  
11 amending Subsection (a) and adding Subsections (d) and (e) to read  
12 as follows:

13 (a) The board may appoint enforcement committees [~~from its~~  
14 ~~membership~~]. An enforcement committee operates as a board working  
15 committee. The membership of each enforcement committee must  
16 include at least one public member of the board.

17 (d) In appointing the members of an enforcement committee,  
18 the board must determine whether a prospective committee member who  
19 is a license holder under this chapter has been the subject of any  
20 disciplinary action under this chapter. A license holder who has  
21 been found in violation of this chapter may not serve on an  
22 enforcement committee.

23 (e) A board member who serves on an enforcement committee  
24 that participates in the investigation of a specific complaint may  
25 not participate in any subsequent disciplinary proceeding of the  
26 board that pertains to the complaint and may not vote on the final  
27 disposition of the case. The board shall adopt rules necessary to

1 implement the requirements of this subsection.

2 SECTION 10. Subchapter D, Chapter 901, Occupations Code, is  
3 amended by adding Section 901.1565 to read as follows:

4 Sec. 901.1565. RULES ON CONSEQUENCES OF CRIMINAL  
5 CONVICTION. (a) The board shall adopt rules necessary to comply  
6 with Chapter 53.

7 (b) In its rules under this section, the board shall list  
8 the specific misdemeanor offenses for which a conviction would  
9 constitute grounds for the board to take action under Section  
10 53.021. With regard to a misdemeanor conviction in another state,  
11 the board shall develop a process for determining whether the  
12 conviction is for an offense listed in the rules required by this  
13 subsection.

14 SECTION 11. Section 901.160, Occupations Code, is amended  
15 by adding Subsection (e) to read as follows:

16 (e) The board may disclose information that is confidential  
17 under this section to another governmental, regulatory, or law  
18 enforcement agency engaged in an enforcement action. The board by  
19 rule shall adopt guidelines to assist the board in exercising its  
20 authority to share information under this subsection. Subsections  
21 (a) and (c) do not apply to information disclosed under this  
22 subsection.

23 SECTION 12. Subchapter D, Chapter 901, Occupations Code, is  
24 amended by adding Section 901.166 to read as follows:

25 Sec. 901.166. AUTHORITY TO ISSUE SUBPOENA, ADMINISTER OATH,  
26 AND RECEIVE EVIDENCE. (a) The board may issue a subpoena to compel  
27 the attendance of a relevant witness or the production, for

1 inspection and copying, of relevant documents, records, and other  
2 evidence, maintained by electronic or other means, that is in this  
3 state.

4 (b) The board may administer oaths and take testimony and  
5 other evidence regarding any matter under the board's jurisdiction.

6 (c) If a person fails to comply with a subpoena, the board,  
7 acting through the attorney general, may file suit to enforce the  
8 subpoena in a district court in Travis County or in a county in  
9 which a hearing conducted by the board may be held.

10 (d) On finding that good cause exists for issuing the  
11 subpoena, the court shall order the person to comply with the  
12 subpoena. The court may punish a person who fails to obey the court  
13 order.

14 (e) The board shall pay a reasonable fee for photocopies  
15 subpoenaed under this section in an amount not to exceed the amount  
16 the board may charge for copies of its own records.

17 (f) The reimbursement of the expenses of a witness whose  
18 attendance is compelled under this section is governed by Section  
19 2001.103, Government Code.

20 SECTION 13. Subchapter D, Chapter 901, Occupations Code, is  
21 amended by adding Section 901.167 to read as follows:

22 Sec. 901.167. NEGOTIATED RULEMAKING AND ALTERNATIVE  
23 DISPUTE RESOLUTION POLICY. (a) The board shall develop and  
24 implement a policy to encourage the use of:

25 (1) negotiated rulemaking procedures under Chapter  
26 2008, Government Code, for the adoption of board rules; and

27 (2) appropriate alternative dispute resolution

1 procedures under Chapter 2009, Government Code, to assist in the  
2 resolution of internal and external disputes under the board's  
3 jurisdiction.

4 (b) The board's procedures relating to alternative dispute  
5 resolution must conform, to the extent possible, to any model  
6 guidelines issued by the State Office of Administrative Hearings  
7 for the use of alternative dispute resolution by state agencies.

8 (c) The board shall designate a trained person to:

9 (1) coordinate the implementation of the policy  
10 adopted under Subsection (a);

11 (2) serve as a resource for any training necessary for  
12 implementation of the negotiated rulemaking or alternative dispute  
13 resolution procedures; and

14 (3) collect data on the effectiveness of the  
15 procedures implemented by the board.

16 SECTION 14. Subchapter D, Chapter 901, Occupations Code, is  
17 amended by adding Section 901.168 to read as follows:

18 Sec. 901.168. TECHNOLOGY POLICY. The board shall develop  
19 and implement a policy requiring the executive director and board  
20 employees to research and propose appropriate technological  
21 solutions to improve the board's ability to perform its functions.

22 The technological solutions must:

23 (1) ensure that the public is able to easily find  
24 information about the board on the Internet;

25 (2) ensure that persons who want to use the board's  
26 services are able to:

27 (A) interact with the board through the Internet;

1 and

2 (B) access any service that can be provided  
3 effectively through the Internet; and

4 (3) be cost-effective and developed through the  
5 board's planning processes.

6 SECTION 15. Section 901.203, Occupations Code, is amended  
7 to read as follows:

8 Sec. 901.203. COMPLAINT INFORMATION. (a) The board shall  
9 maintain a [an information] file on [about] each written complaint  
10 filed with the board. The file must include:

11 (1) the name of the person who filed the complaint;

12 (2) the date the complaint is received by the board;

13 (3) the subject matter of the complaint;

14 (4) the name of each person contacted in relation to  
15 the complaint;

16 (5) a summary of the results of the review or  
17 investigation of the complaint; and

18 (6) an explanation of the reason the file was closed,  
19 if the board closed the file without taking action other than to  
20 investigate the complaint.

21 (b) The board shall provide to the person filing the  
22 complaint and to each person who is a subject of the complaint a  
23 copy of the board's policies and procedures relating to complaint  
24 investigation and resolution [board for a period not to exceed the  
25 10th anniversary of the date of the complaint's final disposition].

26 (c) The board, at least quarterly until final disposition of  
27 the [(b) If a written] complaint, shall notify [is filed with] the

1 ~~[board relating to a]~~ person filing ~~[regulated under this chapter,~~  
2 ~~the board shall notify the parties to]~~ the complaint and each person  
3 who is a subject of the complaint of ~~[each change in]~~ the status of  
4 the investigation ~~[complaint, including the final disposition,]~~  
5 unless the notice would jeopardize an undercover investigation.

6 SECTION 16. Section 901.304(a), Occupations Code, as  
7 amended by Chapters 381 and 1497, Acts of the 77th Legislature,  
8 Regular Session, 2001, is reenacted and amended to read as follows:

9 (a) For each examination or reexamination, the board by rule  
10 shall apportion an amount of the total examination fee among the  
11 parts of the examination that an applicant is eligible to take on a  
12 particular examination date. For each examination or  
13 reexamination, the board shall set ~~[collect]~~ a fee ~~[set]~~ by board  
14 rule not to exceed the cost of administering the examination.  
15 Notwithstanding Section 2113.203, Government Code, the board may  
16 delegate the collection of an examination fee to the person who  
17 conducts the examination.

18 SECTION 17. Section 901.403, Occupations Code, is amended  
19 to read as follows:

20 Sec. 901.403. APPLICATION FOR AND RENEWAL OF LICENSE. (a)  
21 The board shall specify:

- 22 (1) the form of the application for a license;
- 23 (2) the term of a license; and
- 24 (3) the requirements for renewal of a license.

25 (b) The board by rule may adopt a system under which  
26 licenses expire on various dates during the year. For the year in  
27 which the license expiration date is changed, the board shall

1 prorate license fees on a monthly basis so that each license holder  
2 pays only that portion of the license fee that is allocable to the  
3 number of months during which the license is valid. On renewal of  
4 the license on the new expiration date, the total license renewal  
5 fee is payable.

6 SECTION 18. Section 901.404(a), Occupations Code, is  
7 amended to read as follows:

8 (a) Not later than the 30th [~~31st~~] day before the expiration  
9 date of a person's license, the board shall send written notice of  
10 the impending license expiration to the person at the person's last  
11 known address according to the board's records.

12 SECTION 19. Section 901.405, Occupations Code, is amended  
13 to read as follows:

14 Sec. 901.405. PROCEDURE FOR RENEWAL. (a) A person who is  
15 otherwise eligible to renew a license may renew an unexpired  
16 license by paying the required renewal fee to the board before the  
17 expiration date of the license. A person whose license has expired  
18 may not engage in activities that require a license until the  
19 license has been renewed.

20 (b) A person whose license has been expired for 90 days or  
21 less may renew the license by paying to the board a [~~the required~~]  
22 renewal fee [~~and a late fee~~] that is equal to 1-1/2 times [~~half of~~]  
23 the normally required renewal [~~amount of the initial examination~~]  
24 fee [~~for the license~~].

25 (c) A person whose [~~If a person's~~] license has been expired  
26 for more than 90 days but less than one year [~~, the person~~] may renew  
27 the license by paying to the board a [~~all unpaid~~] renewal [~~fees and~~

1 ~~a late~~] fee that is equal to two times the normally required renewal  
2 ~~[the amount of the initial examination]~~ fee ~~[for the license]~~.

3 (d) A person whose license has been expired for at least one  
4 year but less than two years may renew the license by paying to the  
5 board a renewal fee that is equal to three times the normally  
6 required renewal fee.

7 (e) A person whose license has been expired for two years or  
8 more may not renew the license. The person may obtain a new license  
9 by complying with the requirements and procedures, including the  
10 examination requirements, for obtaining an original license.

11 (f) A person who was licensed in this state, moved to  
12 another state, and is currently licensed and has been in practice in  
13 the other state for the two years preceding the date of application  
14 may obtain a new license without reexamination. The person must pay  
15 to the board a fee that is equal to two times the normally required  
16 renewal fee for the license.

17 SECTION 20. Section 901.501(a), Occupations Code, is  
18 amended to read as follows:

19 (a) On a determination that a ground for discipline exists  
20 under Section 901.502, after notice and hearing as provided by  
21 Section 901.509, the board may:

22 (1) revoke a certificate, firm license, or practice  
23 privilege issued under this chapter;

24 (2) suspend under any terms a certificate, firm  
25 license, practice privilege, or license issued under this chapter  
26 for a period not to exceed five years;

27 (3) refuse to renew a license;



- 1           (4) place a license holder on probation;
- 2           (5) reprimand a license holder;
- 3           (6) limit the scope of a license holder's practice;
- 4           (7) require a license holder to complete a peer review
- 5 program conducted in the manner prescribed by the board;
- 6           (8) require a license holder to complete a continuing
- 7 education program specified by the board;
- 8           (9) impose on a license holder the direct
- 9 administrative costs incurred by the board in taking action under
- 10 Subdivisions (1) through (8); ~~or~~
- 11           (10) require a license holder to pay restitution as
- 12 provided by Section 901.6015;
- 13           (11) impose an administrative penalty under
- 14 Subchapter L; or
- 15           (12) impose any combination of the sanctions provided
- 16 by this subsection.

17           SECTION 21. Section 901.503(c), Occupations Code, is

18 amended to read as follows:

19           (c) The board shall provide for the refund of the

20 examination fee paid ~~[submitted]~~ by a person whose application for

21 examination is denied under this section.

22           SECTION 22. Subchapter K, Chapter 901, Occupations Code, is

23 amended by adding Section 901.5045 to read as follows:

24           Sec. 901.5045. EMERGENCY SUSPENSION. (a) On determining

25 that a license holder is engaged in or about to engage in an act of

26 fraud or a violation of this chapter and that the license holder's

27 continued practice constitutes an immediate threat to the public

1 welfare, the board may issue an order suspending the license  
2 holder's license without notice or a hearing. The board shall  
3 immediately serve notice of the suspension on the license holder.

4 (b) The notice required by Subsection (a) must:

5 (1) be personally served on the license holder or be  
6 sent by registered or certified mail, return receipt requested, to  
7 the license holder's last known address according the board's  
8 records;

9 (2) state the grounds for the suspension; and

10 (3) inform the license holder of the right to a hearing  
11 on the suspension order.

12 (c) A license holder whose license is suspended under this  
13 section is entitled to request a hearing on the suspension not later  
14 than the 30th day after the date of receipt of notice of the  
15 suspension. Not later than the fifth day after the date a hearing  
16 is requested, the board shall issue a notice of hearing as provided  
17 by Section 901.509.

18 (d) The hearing shall be held not later than the fifth day  
19 after the date notice of hearing is issued, unless the parties agree  
20 to a later date. A hearing on a suspension order under this section  
21 is subject to Chapter 2001, Government Code. If the hearing is  
22 before an administrative law judge, after the hearing, the  
23 administrative law judge shall recommend to the board whether to  
24 uphold, vacate, or modify the suspension order.

25 (e) A suspension order issued under this section remains in  
26 effect until further action is taken by the board. If the  
27 administrative law judge's recommendation under Subsection (d) is

1 to vacate the order, the board shall determine whether to vacate the  
2 order not later than the second day after the date of the  
3 recommendation.

4 SECTION 23. Section 901.552, Occupations Code, is amended  
5 by amending Subsection (a) and adding Subsection (c) to read as  
6 follows:

7 (a) The amount of an administrative penalty may not exceed  
8 \$100,000 [~~\$1,000~~] for each violation.

9 (c) The board by rule shall adopt a schedule for purposes of  
10 this subchapter that prescribes ranges in the amounts of  
11 administrative penalties to be imposed for specified types of  
12 conduct and circumstances.

13 SECTION 24. Section 901.601, Occupations Code, is amended  
14 to read as follows:

15 Sec. 901.601. CEASE AND DESIST ORDER [~~INJUNCTION~~]. (a) If  
16 it appears to the board that a person is [~~The board may bring an~~  
17 ~~action to enjoin a person from:~~

18 [~~(1) using a title, designation, or abbreviation in~~  
19 ~~violation of Subchapter J; or~~

20 [~~(2)~~] engaging in an act or practice that constitutes  
21 the practice of public accountancy without a license [~~, unless the~~  
22 ~~person is licensed] under this chapter, the board, after notice and  
23 an opportunity for a hearing, may issue a cease and desist order  
24 prohibiting the person from engaging in that activity.~~

25 (b) A violation of an order under this section constitutes  
26 grounds for imposition of an administrative penalty under  
27 Subchapter L. Notwithstanding Section 901.552, the amount of an

1 administrative penalty for a violation of an order under this  
2 section may not exceed \$25,000. [~~An action under Subsection (a)(1)~~  
3 ~~must be brought in district court in:~~

4 ~~(1) Travis County, if the person is licensed under~~  
5 ~~this chapter or is not a resident of this state; or~~

6 ~~(2) the county in which the person resides, if the~~  
7 ~~person is a resident of this state but is not licensed under this~~  
8 ~~chapter.]~~

9       (c) The board by rule shall adopt a schedule for purposes of  
10 this section that prescribes ranges in the amounts of  
11 administrative penalties to be imposed for specified types of  
12 conduct and circumstances that violate an order under this section.  
13 [~~An action under Subsection (a)(2) must be brought in district~~  
14 ~~court in a county in which the person resides or has an office. The~~  
15 ~~board is not required to post a bond as a condition to the issuance~~  
16 ~~of the injunction.]~~

17       SECTION 25. Subchapter M, Chapter 901, Occupations Code, is  
18 amended by adding Section 901.6015 to read as follows:

19       Sec. 901.6015. RESTITUTION. (a) The board may order a  
20 license holder to pay restitution under Section 901.501(a)(10) to a  
21 person harmed by the license holder's:

22               (1) violation of this chapter; and  
23               (2) failure to fulfill the terms of a contract with the  
24 person.

25       (b) The amount of restitution ordered under this section may  
26 not exceed the actual amount paid by the person to the license  
27 holder under the contract.

1 SECTION 26. Section 901.602(b), Occupations Code, is  
2 amended to read as follows:

3 (b) Except as otherwise provided by this subsection, an [An]  
4 offense under this section is a Class B misdemeanor. An offense  
5 under this section that involves intentional fraud is punishable  
6 as:

7 (1) a state jail felony if it is shown on the trial of  
8 the offense that the violation resulted in a monetary loss of less  
9 than \$10,000 or did not result in a monetary loss;

10 (2) a felony of the third degree if it is shown on the  
11 trial of the offense that the violation resulted in a monetary loss  
12 of at least \$10,000 but less than \$100,000; or

13 (3) a felony of the second degree if it is shown on the  
14 trial of the offense that the violation resulted in a monetary loss  
15 of at least \$100,000.

16 SECTION 27. Subchapter M, Chapter 901, Occupations Code, is  
17 amended by adding Section 901.606 to read as follows:

18 Sec. 901.606. IMMUNITY FROM LIABILITY. (a) A person acting  
19 in good faith who voluntarily reports or assists in the  
20 investigation of a report of an alleged violation of this chapter or  
21 who testifies or otherwise participates in an administrative or  
22 judicial proceeding arising from a report or investigation of an  
23 alleged violation of this chapter is immune from civil or criminal  
24 liability that might otherwise be incurred or imposed.

25 (b) A person who reports the person's own violation of this  
26 chapter or who acts in bad faith or with malicious purpose in  
27 reporting an alleged violation of this chapter is not immune from

1 civil or criminal liability.

2 SECTION 28. Section 2, Self-Directed Semi-Independent  
3 Agency Project Act (Article 8930, Revised Statutes), is amended to  
4 read as follows:

5 Sec. 2. AGENCY PARTICIPATION. The Texas State Board of  
6 Public Accountancy [~~following agencies~~] shall be the only state  
7 agency that is part of the pilot project created by this Act[+

8 [(1) ~~the Texas State Board of Public Accountancy,~~

9 [(2) ~~the Texas Board of Professional Engineers, and~~

10 [(3) ~~the Texas Board of Architectural Examiners~~].

11 SECTION 29. Section 4(c), Self-Directed Semi-Independent  
12 Agency Project Act (Article 8930, Revised Statutes), is amended to  
13 read as follows:

14 (c) This Act is subject to Chapter 325, Government Code  
15 (Texas Sunset Act). Unless continued in existence as provided by  
16 that chapter, this Act expires September 1, 2009 [~~2003~~].

17 SECTION 30. Section 6(c), Self-Directed Semi-Independent  
18 Agency Project Act (Article 8930, Revised Statutes), is amended to  
19 read as follows:

20 (c) The Texas State Board of Public Accountancy shall  
21 annually remit \$703,344 [~~\$500,000~~] to the general revenue fund[  
22 ~~the Texas Board of Professional Engineers shall annually remit~~  
23 ~~\$50,000 to the general revenue fund, and the Texas Board of~~  
24 ~~Architectural Examiners shall annually remit \$700,000 to the~~  
25 ~~general revenue fund~~].

26 SECTION 31. Section 15(b), Self-Directed Semi-Independent  
27 Agency Project Act (Article 8930, Revised Statutes), is amended to

1 read as follows:

2 (b) If a state agency no longer has status under this Act as  
3 a self-directed semi-independent project agency either because of  
4 the expiration of this Act or for any other reason, ownership of any  
5 property or other asset acquired by the agency during the time the  
6 agency participated in the pilot project, including unexpended and  
7 unobligated money [~~fees~~] in a deposit account in the Texas Treasury  
8 Safekeeping Trust Company, shall be transferred to the state.

9 SECTION 32. Section 111.006(a), Tax Code, is amended to  
10 read as follows:

11 (a) The following matter is confidential and may not be used  
12 publicly, opened to public inspection, or disclosed except as  
13 permitted by this section:

14 (1) a federal tax return or federal tax return  
15 information required to have been submitted to the comptroller with  
16 a state tax return or report; [~~and~~]

17 (2) all information secured, derived, or obtained by  
18 the comptroller or the attorney general during the course of an  
19 examination of the taxpayer's books, records, papers, officers, or  
20 employees, including an examination of the business affairs,  
21 operations, source of income, profits, losses, or expenditures of  
22 the taxpayer; and

23 (3) the name or other identifying information of a  
24 taxpayer that has been selected for or is undergoing an examination  
25 by the comptroller under this subtitle until the comptroller has:

26 (A) issued a determination under Section 111.008  
27 or 111.022; or

1                   (B) credited or issued a refund to the taxpayer  
2 under Section 111.104.

3           SECTION 33. Section 901.304(b), Occupations Code, is  
4 repealed.

5           SECTION 34. (a) On the effective date of this Act, the  
6 Texas Board of Professional Engineers and the Texas Board of  
7 Architectural Examiners are no longer self-directed  
8 semi-independent project agencies under the Self-Directed  
9 Semi-Independent Agency Project Act (Article 8930, Revised  
10 Statutes).

11           (b) The change in law made by this Act does not affect the  
12 obligation of the Texas Board of Professional Engineers and the  
13 Texas Board of Architectural Examiners to remit money to the  
14 general revenue fund for the state fiscal year ending August 31,  
15 2003, under Section 6(c), Self-Directed Semi-Independent Agency  
16 Project Act (Article 8930, Revised Statutes), as that law existed  
17 immediately before the effective date of this Act, and the former  
18 law is continued in effect for that purpose.

19           SECTION 35. The Texas State Board of Public Accountancy  
20 shall report to the governor, the lieutenant governor, and the  
21 speaker of the house of representatives, not later than December  
22 31, 2004, regarding:

23                   (1) the requirements of the federal Sarbanes-Oxley Act  
24 (Pub. L. No. 107-204), including any restrictions on public  
25 interest entities, and any legislation or other action needed to  
26 conform state law to the requirements of that Act;

27                   (2) the federal General Accounting Office study on



1 audit firm rotation and any legislation or other action needed to  
2 conform state law to the findings of that study; and

3 (3) the rules adopted by the board that are intended to  
4 comply with the federal standards described by Subdivisions (1) and  
5 (2) of this section and the board's actions in implementing and  
6 enforcing those rules.

7 SECTION 36. This Act takes effect September 1, 2003.

8 SECTION 37. (a) The Texas State Board of Public  
9 Accountancy shall adopt rules as required by this Act not later than  
10 March 1, 2004.

11 (b) The changes in law made by this Act by Section 901.053,  
12 Occupations Code, as amended by this Act, and Section 901.059,  
13 Occupations Code, as added by this Act, in the prohibitions on or  
14 qualifications of members of the Texas State Board of Public  
15 Accountancy do not affect the entitlement of a member serving on the  
16 board immediately before September 1, 2003, to continue to serve  
17 and function as a member of the board for the remainder of the  
18 member's term. Those changes in law apply only to a member  
19 appointed on or after September 1, 2003.

20 (c) The change in law made by this Act with respect to  
21 conduct that is grounds for imposition of a disciplinary sanction,  
22 including an administrative penalty, restitution, or a cease and  
23 desist order, applies to conduct that occurs on or after the  
24 effective date of this Act. Conduct that occurs before the  
25 effective date of this Act is governed by the law in effect on the  
26 date the conduct occurred, and the former law is continued in effect  
27 for that purpose.

1           (d) The change in law made by this Act by the addition of  
2 Section 901.606, Occupations Code, applies only to the immunity or  
3 liability of a person who voluntarily reports or assists in the  
4 investigation of a report of an alleged violation of Chapter 901,  
5 Occupations Code, or who testifies or otherwise participates in an  
6 administrative or judicial proceeding arising from a report or  
7 investigation of an alleged violation of that chapter on or after  
8 the effective date of this Act. The immunity or liability of a  
9 person who makes a report, assists in an investigation, testifies,  
10 or otherwise participates in a proceeding before the effective date  
11 of this Act is governed by the law in effect at the time those  
12 activities occurred, and the former law is continued in effect for  
13 that purpose.

14           SECTION 38. (a) The change in law made by this Act to  
15 Section 901.602, Occupations Code, applies only to an offense  
16 committed on or after the effective date of this Act. For purposes  
17 of this section, an offense is committed before the effective date  
18 of this Act if any element of the offense occurs before that date.

19           (b) An offense committed before the effective date of this  
20 Act is covered by the law in effect when the offense was committed,  
21 and the former law is continued in effect for that purpose.