

By: Thompson of Harris

H.B. No. 1520

Substitute the following for H.B. No. 1520:

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C.S.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 any
4 rule, interpretation, or enforcement action that:

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

7 (B) restricts 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; or

12 (D) restricts 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. Sections 901.351(a-1), (b), and (e),
6 Occupations Code, are amended to read as follows:

7 (a-1) A firm is required to hold a firm license under this
8 subchapter if the firm [+

9 [~~(1)~~] establishes or maintains an office in this state
10 [~~+~~ or

11 [~~(2) performs for an entity with its principal office in~~
12 ~~this state.~~

13 [~~(A) a financial statement audit or other~~
14 ~~engagement that is to be performed in accordance with the~~
15 ~~Statements on Auditing Standards,~~

16 [~~(B) an examination of prospective financial~~
17 ~~information that is to be performed in accordance with the~~
18 ~~Statements on Standards for Attestation Engagements, or~~

19 [~~(C) an engagement that is to be performed in~~
20 ~~accordance with auditing standards of the Public Company Accounting~~
21 ~~Oversight Board or its successor].~~

22 (b) The board shall grant or renew a firm license to
23 practice as a certified public accountancy firm to:

24 (1) a firm that applies and demonstrates the necessary
25 qualifications in accordance with this subchapter; or

26 (2) a firm originally licensed as a certified public
27 accountancy firm in another state that [+

1 ~~[(A) is required to hold a firm license under~~
2 ~~Subsection (a-1); and~~

3 ~~[(B)]~~ demonstrates the necessary qualifications
4 in accordance with this subchapter.

5 (e) The board by rule shall specify:

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

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

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

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

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

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

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

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

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

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

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

3 [~~(A)~~] a license holder who resides in this
4 state [~~, or~~

5 [~~(B) if the firm is required under Section~~
6 ~~901.351(a-1)(2) to hold a firm license, an individual practicing~~
7 ~~under a privilege under Section 901.462]~~;

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

10 (A) is actively involved in the firm or an
11 affiliated entity;

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

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

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

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

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

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

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

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

12 (f) An applicant for issuance or renewal of a firm license
13 under this section must register each office of the firm in this
14 state and show that all attest services performed in this state [~~and~~
15 ~~each office in this state~~] are under the supervision of a person who
16 holds a certificate issued under this chapter or by another state.

17 SECTION 13. Section [901.402\(a\)](#), Occupations Code, is
18 amended to read as follows:

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

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

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

24 SECTION 14. Section [901.403](#), Occupations Code, is amended
25 by adding Subsection (c) to read as follows:

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

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

3 Sec. 901.409. FEE REDUCTION FOR RETIRED PERSONS OR
4 ~~[DISABLED]~~ PERSONS WITH DISABILITIES.

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

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

11 SECTION 17. Section 901.451(c), Occupations Code, is
12 amended to read as follows:

13 (c) The title or designation "certified public accountant"
14 and the abbreviation "CPA" may not be used in connection with an
15 office that does not meet the requirements of Sections 901.353 and
16 901.354 ~~[is required to be under the supervision of a resident~~
17 ~~manager under Section 901.353 unless the resident manager holds a~~
18 ~~certificate and a license issued under this chapter]~~.

19 SECTION 18. Sections 901.461(a) and (b), Occupations Code,
20 are amended to read as follows:

21 (a) A certified public accountancy firm that is not licensed
22 in this state but is licensed ~~[and has its primary place of~~
23 ~~business]~~ in another state ~~[and is not required to hold a firm~~
24 ~~license under Section 901.351(a-1)]~~ may practice in this state
25 without a firm license or notice to the board if the firm's practice
26 in this state is performed by an individual who holds a license
27 under this chapter or who practices under a privilege under Section

1 901.462.

2 (b) A firm described by Subsection (a) may exercise all the
3 practice privileges of a firm license holder, except that the firm
4 [~~+~~

5 [~~(1) may not perform the services described by Section~~
6 ~~901.351(a-1); and~~

7 [~~(2)~~] may perform the services described by Section
8 901.002(a)(1) [~~Sections 901.002(a)(1)(B) and (D)~~] for an entity
9 with its home office in this state only if:

10 (1) [~~(A)~~] the firm meets the ownership requirements of
11 Sections 901.354(a) and (b);

12 (2) [~~(B)~~] the firm complies with the board's peer
13 review program under Section 901.159; and

14 (3) [~~(C)~~] the services are performed by an individual
15 who holds a license under this chapter or practices under a
16 privilege under Section 901.462.

17 SECTION 19. Subchapter M, Chapter 901, Occupations Code, is
18 amended by adding Section 901.6011 to read as follows:

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

23 (b) Venue in a suit for injunctive relief is in Travis
24 County.

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

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

3 (a) The board[~~, in consultation with the advisory committee~~
4 ~~appointed under Section 901.657,~~] shall determine the maximum
5 amount of any scholarship awarded under this subchapter. The
6 scholarship may be spent by the recipient on the expenses for
7 tuition, fees, books, supplies, and living expenses incurred by the
8 student in connection with the student's fifth year of an
9 accounting program. Scholarships shall be made available to
10 eligible students attending:

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

15 SECTION 21. The following provisions of the Occupations
16 Code are repealed:

- 17 (1) Section 901.163;
18 (2) Sections 901.253(b) and (c);
19 (3) Section 901.351(d);
20 (4) Section 901.462(e); and
21 (5) Section 901.657.

22 SECTION 22. (a) Except as provided by Subsection (b) of
23 this section, Section 901.059, Occupations Code, as amended by this
24 Act, applies to a member of the Texas State Board of Public
25 Accountancy appointed before, on, or after the effective date of
26 this Act.

27 (b) A member of the Texas State Board of Public Accountancy

1 who, before the effective date of this Act, completed the training
2 program required by Section 901.059, Occupations Code, as that law
3 existed before the effective date of this Act, is only required to
4 complete additional training on the subjects added by this Act to
5 the training program required by Section 901.059, Occupations Code.
6 A board member described by this subsection may not vote,
7 deliberate, or be counted as a member in attendance at a meeting of
8 the board held on or after December 1, 2019, until the member
9 completes the additional training.

10 (c) Section 901.164, Occupations Code, as added by this Act,
11 applies only to an original contract entered into on or after the
12 effective date of this Act. An original contract entered into
13 before the effective date of this Act is governed by the law as it
14 existed immediately before the effective date of this Act, and that
15 law is continued in effect for that purpose.

16 (d) The Texas State Board of Public Accountancy shall
17 require each applicant for renewal of a license under Subchapter I,
18 Chapter 901, Occupations Code, to first comply with the requirement
19 of Section 901.169(a), Occupations Code, as added by this Act, not
20 later than September 1, 2021. Notwithstanding Sections
21 901.169(a)(2)(E) and 901.403(c), Occupations Code, as added by this
22 Act, an applicant for renewal of a license is not required to comply
23 with Section 901.169(a) until first required to by the board as
24 provided by this subsection.

25 (e) Section 901.203, Occupations Code, as amended by this
26 Act, applies only to a complaint filed with the Texas State Board of
27 Public Accountancy on or after the effective date of this Act. A

1 complaint filed before the effective date of this Act is governed by
2 the law in effect on the date the complaint was filed, and the
3 former law is continued in effect for that purpose.

4 (f) Sections 901.252, 901.253, and 901.309, Occupations
5 Code, as amended by this Act, apply only to an application submitted
6 to the Texas State Board of Public Accountancy on or after the
7 effective date of this Act. An application submitted before the
8 effective date of this Act is governed by the law in effect on the
9 date the application was submitted, and the former law is continued
10 in effect for that purpose.

11 (g) As soon as possible after the effective date of this
12 Act, the Texas State Board of Public Accountancy shall adopt or
13 amend any rules necessary to implement the changes in law made by
14 this Act to Chapter 901, Occupations Code.

15 SECTION 23. This Act takes effect September 1, 2019.