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Senate Bill 191 (Substitute S-2 as passed by the Senate)
Sponsor: Senator Randy Richardville
Committee: Banking and Financial Institutions

(as enrolled)

Date Completed: 2-16-07

RATIONALE

The Federal Sarbanes-Oxley Act of 2002 requires each accountancy licensing entity to review state laws and rules regulating public accountants to determine if they properly protect individuals and companies who use the services of public accountants. The Michigan State Board of Accountancy (MSBA) spent 18 months reviewing Articles 1 through 7 of the Occupational Code and administrative rules relating to public accountancy. The MSBA review resulted in recommendations for changes to Michigan law, including the enactment of a peer review requirement for licensure of any firm performing attest services (such as auditing or otherwise making statements on which third parties rely). Public Act 278 of 2005 amended the Occupational Code to add this requirement, as well as other provisions recommended by the MSBA. Under the Code, the peer review program is required to begin on March 1, 2007. The Michigan Association of Certified Public Accountants (CPAs) has suggested that phasing in the program over several years would prevent a sudden influx of new reviews of CPAs and firms that do not already participate in peer review.

It also has been suggested that language requiring applicants for a CPA certificate to have both one year and two years of experience should be revised. Under amendments enacted in 1998, two years of experience were required until July 1, 2003, and one year was required after that date. Amendments enacted in 2005 deleted the dates but did not eliminate the two-year requirement.

CONTENT

The bill would amend Article 7 (Public Accounting) of the Occupational Code to

delay and phase-in the effective date of peer review requirements that apply to licensed firms and sole practitioners. The bill also would delete a requirement that an applicant for a CPA certificate have two years of experience, while retaining a requirement for one year of experience.

Under Article 7, beginning on March 1, 2007, each licensed firm and sole practitioner that performs attest services, including audits, reviews, and compilations that third parties rely on, must participate in a peer review program established by rule of the Department of Labor and Economic Growth (DLEG) and approved by the State Board of Accountancy. An applicant for renewal or relicensure must submit to DLEG proof of peer review obtained within the three years preceding the application. A firm or sole practitioner required to participate in a peer review program must notify DLEG within 30 days after receiving an adverse report or second modified peer review report.

Under the bill, these peer review requirements would become effective beginning on one of the following dates, instead of on March 1, 2007:

- March 1, 2008, for licensed firms and sole practitioners whose attest services include audits.
- March 1, 2009, for licensed firms and sole practitioners whose attest services include compilation with disclosures relied upon by third parties, or review, or both, but not audits.
- March 1, 2010, for licensed firms and sole practitioners whose attest services include compilation without disclosures relied upon by third parties, but not audits or any compilation with disclosures

relied upon by third parties, or review, or both compilation with disclosures and review.

In addition, Article 7 requires an applicant for a certificate as a CPA to have two years of qualifying experience, as well as one year of qualifying experience under the direction and supervision of a licensed CPA. The bill would delete reference to the two-year requirement.

MCL 339.725 & 339.729

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

As noted above, the peer review requirement was recommended by the State Board of Accountancy after it reviewed Michigan law for compliance with the Sarbanes-Oxley Act. Until the Occupational Code was amended in 2005, it contained no requirement for peer review as a condition of licensure of CPA firms and sole practitioners who perform attest services. Since 1988, peer review (or "practice monitoring") has been required for membership in the American Institute of Certified Public Accountants (AICPA) if a CPA performs services that purport to be in accordance with AICPA professional standards. A CPA need not belong to that organization in order to practice, however. According to the Michigan Association of Certified Public Accountants (MACPA), while approximately 1,200 CPA firms or sole practitioners in Michigan belong to the AICPA, and therefore already participate in peer review, some 275 to 300 do not. It is this group that will become subject to peer review for the first time when the statutory requirement takes effect.

For the firms and sole practitioners that already participate, complying with the requirement will simply be a matter of submitting proof of peer review to DLEG when they apply for renewal or relicensure. For the remaining 275 to 300 CPAs, the peer review process will have to begin at the same time, unless implementation of the requirement is phased in. Currently, according to the MACPA, firms and sole practitioners that participate in peer review do so every three years, and each year

approximately 44% of the participants are CPAs who perform audit services (which present the highest potential risk to third parties), 33% are CPAs who perform reviews, and 23% are CPAs who perform compilations. Phasing in the requirement over three years, beginning with CPAs whose services include audits, would be consistent with existing industry practice and would avoid imposing an excessive burden on the entities that perform the peer review.

The proposed phase-in also would be consistent with the experience of other states, according to the MACPA. Evidently, over 40 other states already require peer review as a condition of CPA licensure, and the proposed schedule reflects the approach taken by most of those that phased in their requirement.

In addition, the Code requires the peer review program to be established by DLEG rule and approved by the MSBA. Since the rule has not yet been promulgated, delaying the statutory requirement would prevent it from taking effect before the program is in place.

Supporting Argument

Deleting the requirement for two years of experience simply would clarify the statute. Before it was amended in 1998, Article 7 of the Code required two years of experience. As amended by Public Act 380 of 1998, Article 7 read, "[U]ntil July 1, 2003, an applicant for a certificate as a certified public accountant shall have 2 years of qualifying experience and, after July 1, 2003, an applicant...shall have 1 year of qualifying experience...". Public Act 278 of 2005 then deleted the dates but failed to delete the two-year requirement. The bill would correct that drafting error.

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Pratt
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.