

LEGAL SERVICES

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MEMORANDUM

February 3, 2010

SUBJECT: Sectional summary of HB 315 relating to public accounting
(Work Order No. 26-LS1380\A)

TO: Representative Kurt Olson
Attn: Jennifer Senette

FROM:  Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Amends AS 08.04.020(b) of the section dealing with the appointment and qualifications of members of the Board of Public Accountancy to reflect the new out-of-state exemption category added by the bill.

Section 2. Amends AS 08.04.075 (substantial equivalency) to require the board to determine whether the education, examination, and experience qualifications of another state or an individual are substantially equivalent to the national standard or to a board-established standard. Replaces "applicant" with "individual." Directs that the order in which the education, examination, or experience requirements were attained be disregarded.

Section 3. Amends AS 08.04.100 (certificates) to add the out-of-state exemption added by the bill.

Section 4. Amends AS 08.04.200 (use of CPA title by individual) to cover individuals with licenses or practice privileges.

Section 5. Rewrites AS 08.04.240(a). Directs the board to grant a permit to engage in the practice of public accounting to a partnership if the partnership applies and meets the listed requirements.

Section 6. Rewrites AS 08.04.240(b). Directs the board to grant a permit to engage in the practice of public accounting to a corporation that is organized for the practice of public accounting, if the corporation applies and meets the listed requirements.

Section 7. Amends AS 08.04.240(c) to add an individual with a practice privilege to the individuals who may make an affidavit necessary for a permit application under the section.

Section 8. Rewrites AS 08.04.240(d). Directs the board to grant a permit to engage in the practice of public accounting to a limited liability company engaged in the state in the practice of public accounting, if the company applies and meets the listed requirements.

Section 9. Amends AS 08.04.240(g). In the subsection that indicates when the board must renew a permit or a renewal, amends the requirements for renewal to limit the office maintenance requirement to offices located in this state, to limit certain continuing education and quality review requirements to individuals required to be CPAs of this state, and to specify some of the requirements that must be complied with.

Section 10. Adds new subsections to AS 08.04.240.

Sec. 08.04.240(i) indicates, with regard to permit issuance under the section, under what conditions a partnership, limited liability company, corporation, or other legal entity may include owners who are not certified public accountants.

Sec. 08.04.240(j) directs a legal entity that does not comply with (i) after it has received or renewed a permit to take corrective action within a reasonable time. Directs the board to determine what is a "reasonable time."

Section 11. Amends AS 08.04.370 (use of CPA title by legal entity). In this section, which indicates when "certified public accountant" may be used by persons who are not individuals, substitutes "legal entity" for "organization" and covers holders of a permit or out-of-state exemption unless the supervision requirement of AS 08.04.360 is satisfied.

Section 12. Changes the cross references at the beginning of AS 08.04.380 (waiver of requirements) to reflect the rewriting of AS 08.04.240.

Section 13. Rewrites AS 08.04.420 so that it just covers practice privileges. Indicates when an individual who is licensed in another state but not licensed in this state may engage in the practice of public accounting in this state under a practice privilege. If the individual is not a sole practitioner, restricts how the individual may provide certain services. Indicates that an individual who may practice under a practice privilege is not required to provide a notice, a fee, or documentation to the board.

Section 14. Adds two new sections, sec. 08.04.421 and 08.04.422.

Sec. 08.04.421(a). Addresses out-of-state permits and exemptions. Prohibits a legal entity that does not have an office in this state, that is authorized to practice public accounting in another state, and that performs designated functions for a client whose home office is located in this state from engaging in the practice of public accounting in this state without an out-of-state permit. Describes what a legal entity must submit to the board to obtain the out-of-state permit.

Sec. 08.04.421(b). Allows a legal entity that performs designated services but not designated functions for a client whose home office is located in this state to engage in the practice of public accounting in this state under an out-of-state exemption if the legal entity meets certain requirements.

Sec. 08.04.421(c). Allows a legal entity that does not have an office in this state, that is authorized to practice public accounting in another state, and that does not perform designated functions or designated services for a client whose home office is located in this state to engage in the practice of public accounting in this state under an out-of-state exemption if the performance of the services meets certain requirements.

Sec. 08.04.421(d). Requires the board to give notice of the denial of an out-of-state permit under (a) to the applying legal entity.

Sec. 08.04.421(e). Requires the board to establish by regulation the period for which an out-of-state permit under (a) is valid, but the initial term may not exceed three years. Allows the board to renew an out-of-state permit and to set by regulation renewal terms and length.

Sec. 08.04.421(f). States that a legal entity who may operate under an out-of-state exemption is not required to provide a notice, a fee, or documentation to the board. Allows the person to practice by mail, by telephone, by electronic means, or in person.

Sec. 08.04.421(g). Defines "designated service" for the section.

Sec. 08.04.422 (conditions of practice privileges, out-of-state permits, and out-of-state exemptions). Indicates that persons with practice privileges, out-of-state permits, or out-of-state exemptions and legal entities that hire individuals with practice privileges consent to the jurisdiction and disciplinary authority of the board, agree to comply with AS 08.04, agree to stop engaging in the practice of public accounting if the license from the state of the person's principal place of business becomes invalid, and consent to the state board that issued the individual's license being the person's agent for the service of process.

Section 15. Amends AS 08.04.440 (effect of failure to obtain license or permit). Deletes practice privileges from the coverage of the section.

Section 16. Amends AS 08.04.450 (revocation, suspension, or refusal to renew). Adds out-of-state exemptions to the section. Deletes practice privileges from (1). In (3), adds a failure to take corrective action regarding ownership as a basis for board action. In (11), with regard to the reference state for discipline, changes to the state where the act was committed.

Section 17. Adds a new subsection to AS 08.04.450. Directs the board to investigate a complaint made by the accountancy regulatory body of another state.

Section 18. Makes a technical change to AS 08.04.490 (reinstatement).

Section 19. Amends AS 08.04.500(b) (individuals posing as CPAs). Clarifies that the subsection covers a sole practitioner acting as a sole practitioner in the individual's home state. Expands the subsection to cover other titles allowed under (a) of the section.

Section 20. Amends AS 08.04.505 (issuance of reports), to cover persons holding out-of-state exemptions.

Section 21. Amends AS 08.04.510 (legal entities posing as CPAs). Makes technical change to "legal entity" throughout. In (a), adds legal entities holding out-of-state exemptions to the coverage of the section. Amends (b) to cover legal entities holding permits under AS 08.04.421 or out-of-state exemptions. Expands (b) to cover other titles allowed under (a) of the section.

Section 22. Amends AS 08.04.520 (individual posing as public accountant). Removes permits (not applicable to individuals).

Section 23. Amends AS 08.04.530 (partnership, limited liability company, or corporation posing as public accountant). Adds holders of out-of-state exemptions to the coverage of the section and makes a related drafting change.

Section 24. Amends AS 08.04.540 (use of deceptive title or abbreviation). Makes a change to "legal entity" in the provision prohibiting the use of deceptive titles or abbreviations. Allows persons with licenses, permits, out-of-state exemptions, or practice privileges to hold themselves out as accountants or auditors under certain conditions.

Section 25. Clarifies that AS 08.04.560 (individual assumption of title) does not require that the individual have an office in this state.

Section 26. Amends AS 08.04.580 (partnership posing as accountants or auditors) to add a partnership that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 27. Amends AS 08.04.590 (use of title with corporate name) to add a partnership that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 28. Amends AS 08.04.595 (limited liability company use of title) to add a limited liability company that holds an out-of-state exemption to the persons who are not subject to the prohibitions in the section.

Section 29. Amends AS 08.04.598 (other legal entity's use of title). Makes change to "legal entity." Adds a person who holds an out-of-state exemption to the persons who are not subject to the prohibition in the section.

Section 30. Amends AS 08.04.600 (disclosure of lack of license or permit) to add out-of-state exemption holders to the list of persons who are not subject to the prohibitions in the section.

Section 31. Amends AS 08.04.610 (deceptive use of title or designation) to make the shift to the term, "legal entity." Amends to add persons who hold out-of-state exemptions to the persons who are not subject to the section's prohibition.

Section 32. Amends AS 08.04.620 (exceptions) to add, in paragraph (1), persons holding out-of-state exemptions to the persons for whom an individual without a license or practice privilege may work under certain conditions. In paragraph (3), adds an out-of-state exemption to the list of state approvals that would allow certain persons holding certificates, licenses, or degrees from a foreign country to satisfy the requirements for indicating that their public accounting services are available to the public.

Section 33. Amends AS 08.04.662(a) (confidential communications) to cover persons who hold out-of-state exemptions.

Section 34. Amends AS 08.04.680(1) to rewrite the definition of the term, "attest function," for the chapter.

Section 35. Amends AS 08.04.680(9). Changes the cross references in the definition of "permit" to reflect changes made in the bill.

Section 36. Rewrites AS 08.04.680(12) to change the definition of "principal place of business."

Section 37. Amends AS 08.04.680(14) to change an exception from the definition of "report."

Section 38. Amends AS 08.04.680 to add definitions of "compilation service," "designated function," "home office," and "out-of-state exemption" for the chapter.

Section 39. Repeals AS 08.04.085 (regulations regarding attest functions).

Section 40. Provides transitional provisions authorizing the Board of Public Accountancy to adopt regulations to implement the bill.

Section 41. Provides transitional provisions to indicate the effect of the bill on current permittees and practice privilege holders.

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Section 42. Gives sec. 40 an immediate effective date.

Section 43. Makes the bill, except sec. 40, effective January 1, 2011.

If I may be of further assistance, please advise.

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