

ARIZONA STATE SENATE
RESEARCH STAFF



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TO: THE JOINT LEGISLATIVE AUDIT COMMITTEE
REPRESENTATIVE JOHN HUPPENTHAL, CHAIRMAN
SENATOR ROBERT BLENDU, VICE CHAIRMAN

DATE: November 29, 2004

SUBJECT: Sunset Review of the Arizona State Board of Accountancy

RECEIVED

DEC - 3 2004

SPEAKER'S OFFICE

Attached is the final report of the sunset review of the Arizona State Board of Accountancy, which was conducted by the Senate Commerce and House of Representatives Commerce and Military Affairs Committee of Reference.

This report has been distributed to the following individuals and agencies:

Governor of the State of Arizona
The Honorable Janet Napolitano

President of the Senate
Senator Ken Bennett

Speaker of the House of Representatives
Representative Jake Flake

Senate Members
Senator Barbara Leff, Co-Chair
Senator Marsha Arzberger
Senator Robert Blendu
Senator Dean Martin
Senator Victor Soltero

House Members
Representative Michele Reagan, Co-Chair
Representative Ted Carpenter
Representative Debbie McCune Davis
Representative Doug Quelland
Representative Wally Straughn

Arizona State Board of Accountancy
Office of the Auditor General
Department of Library, Archives & Public Records

Senate Majority Staff
Senate Research Staff
Senate Minority Staff
Senate Resource Center

House Majority Staff
House Research Staff
House Minority Staff
Chief Clerk

*Senate Commerce and
House of Representatives Commerce and Military Affairs
Committee of Reference*

ARIZONA STATE BOARD OF ACCOUNTANCY

Background

The Joint Legislative Audit Committee (JLAC) assigned the sunset review of the Arizona State Board of Accountancy to the Senate Commerce and House of Representatives Commerce and Military Affairs Committee of Reference (COR). Pursuant to A.R.S. § 41-2954, the COR completed the sunset review.

The Arizona State Board of Accountancy (ASBA) was created in 1919 to establish and enforce standards of qualification and accounting practice for certified public accountants (CPA), public accountants (PA) and accounting firms. The primary purpose of the ASBA is to protect the public from unlawful, incompetent, unqualified or unprofessional CPAs or PAs through certification, regulation and rehabilitation.

ASBA meets this charge by examining and certifying individuals to practice as CPAs and registers accounting firms owned by CPAs. ASBA administers the uniform examination of the American Institute of Certified Public Accountants as part of its examination requirements and requires CPAs and registered accounting firms to renew their certificates every two years. ASBA investigates complaints concerning compliance by CPAs and accounting firms and issues appropriate disciplinary action.

ASBA is comprised of seven Governor-appointed members as follows: five members holding valid certificates issued by ASBA, with at least three of the members in an active public practice as a CPA, and two non-certified public members with experience in using accounting services. Members are appointed to five-year terms and are each eligible to receive \$100 for each day or part of a day spent fulfilling official ASBA duties. ASBA employs an executive director to carry out its daily duties.

ASBA has five committees that assist it with policy development, maintenance of standards and the disciplinary process, and make recommendations for ASBA decisions. The Accounting and Auditing Standards Committee and the Tax Practice Committee are primarily concerned with complaints and disciplinary proceedings. These committees can recommend to ASBA correction of practices, continuing education to improve skills, repayment for financial harm, suspension or, in extreme cases, revocation of a license. The committees can also find that there is no basis for the complaint and recommend dismissal to ASBA. The Certification Advisory, Continuing Professional Education, and the Law Review committees develop policies and standards that are then approved by ASBA.

ASBA is funded by revenue collected from certification of CPAs, PAs and accounting firms, and from fees. It is required to deposit 90 percent of its monies collected into the Board of Accountancy Fund. The remaining 10 percent, including civil penalties, are deposited into the state General Fund.

A.R.S. § 41-3005.10 stipulates ASBA is to terminate on July 1, 2005.

COR Sunset Review

The COR held one public hearing on Thursday, November 18, 2004, to review ASBA and take testimony. Frank Brady, Chairman of ASBA, gave remarks, and Valerie Elliott, Executive Director of ASBA, gave a presentation on ASBA, focusing on how ASBA has implemented recommendations made by the Office of the Auditor General in September of 1999 for their previous sunset review.

COR Recommendations

The COR recommends that the Arizona State Board of Accountancy be continued for ten years.

Attachments

1. Sunset report requirements pursuant to A.R.S. § 41-2954, subsections D and F
2. Meeting Notice
3. Minutes of Committee of Reference Hearing

KM/ac

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September 1, 2004

Senator Barbara Leff
Chair, Commerce Committee of Reference
Arizona State Senate
1700 West Washington
Phoenix, Arizona 85007

Representative Michele Reagan
Arizona House of Representative
1700 West Washington
Phoenix, Arizona 85007

Re: Sunset Review Report

Dear Senator Leff and Representative Reagan:

The Arizona State Board of Accountancy ("Board") hereby respectfully submits its Sunset Review Report, which addresses the factors listed A.R.S. § 41-2954.

1) The objective and purpose of the agency.

As stated by the legislature, the Board exists to "ensure that the public is protected from the incompetent practice of accountancy." Laws 2000 (2nd Reg. Sess.), Ch. 120, § 4. The Board meets this charge by establishing and enforcing qualifications and accounting standards for certified public accountants, public accountants and accounting firms registered by the Arizona State Board of Accountancy. The Board examines and certifies individuals to practice as certified public accountants (CPAs) and registers accounting firms owned by CPAs. The Board requires CPAs and registered accounting firms to renew their certificates every two years. The Board investigates complaints concerning compliance by CPAs and accounting firms with statutes and rules, determines if a violation of the law has occurred and issues appropriate disciplinary action. The Board answers and provides information to members of the public regarding CPAs and accounting firms.

2) The effectiveness with which the agency has met its objective and purpose and the efficiency with which it has operated.

The performance measures reported each year to the Office of Strategic Planning and Budgeting and the Joint Legislative Budget Committee reflect the Board's effectiveness in meeting its objective and purpose. In fiscal year 2004,

the Board granted initial certificates to 527 individuals, registered 86 new accounting firms, and processed approximately 4,900 renewals for CPAs and accounting firms. The Board processes all applications for certification within the timelines set forth in rule and generally processes renewals within one day.

The proactive effort by the Board in regulating CPAs and accounting firms is reflected in the enforcement actions take over the last five years, including but not limited to, the Arthur Andersen/Baptist Foundation of Arizona investigation in which investors received restitution. In fiscal year 2004 alone the Board issued 21 administrative letters of concern, which are non-disciplinary and confidential, that serve as a tool to educate CPAs about alleged but unproven concerns and areas of suggested practice improvement. With respect to disciplinary action against CPAs and accounting firms, the Board revoked 10 certificates, entered into 24 decision and orders by consent and filed four injunctions against individuals illegally using the CPA designation in the last fiscal year. Examples of the Board's investigations included, fraudulent activities, violations of professional accounting standards that occurred on audits of private held and public companies, CPAs who failed to cooperate with the Board during an investigation, CPAs convicted of felonies, and violations of professional accounting standards in the preparation of tax returns. The Board issued appropriate discipline to CPAs and accounting firms in these cases.

3) The extent to which the agency has operated within the public interest.

The Board operates under a philosophy that the protection of the public is the primary purpose for its existence and is accomplished by regulating those who fall under its jurisdiction. It serves the public interest by ensuring that only those satisfying the education, experience and examination requirements are certified as CPAs. Additionally, the Board registers accounting firms that meet all requirements established by law or rule. Once properly certified or otherwise registered with the Board, then compliance of Board statute and rules is advanced through education and enforcement.

4) The extent to which rules adopted by the agency are consistent with the legislative mandate.

The Board's rules contain their foundation in statute and are consistent with not only the legislative mandate, but also with the Board's mission.

5) The extent to which the agency has encouraged input from the public before adopting its rules and the extent to which it has informed the public as to its action and their expected impact on the public.

The Board ensures that all proposed rulemaking efforts are open and available to the public by publishing required notices in the Arizona Administrative Register, posting proposed rules on its website and holding public meetings during the rule

making process. Also, as required, proposed rules are sent to all interested parties who have made their requests known to the Board.

6) The extent to which the agency has been able to investigate and resolve complaints that are within its jurisdiction.

The proactive effort by the Board in regulating CPAs and accounting firms is reflected in the enforcement actions take over the last five years, including but not limited to the Arthur Andersen/Baptist Foundation of Arizona investigation. The Board has allocated extensive resources to the regulation of the profession, which is evident in the Board's budget. In fiscal year 2004, the Board issued 21 administrative letters of concern, revoked 10 certificates, entered into 24 Decision and Orders by Consent and filed four injunctions against individual illegally using the CPA designation. Examples of the Board's investigations included, fraudulent activities, violations of professional accounting standards that occurred on audits of private held and public companies, CPAs who failed to cooperate with the Board during an investigation, CPAs convicted of felonies, and violations of professional accounting standards in the preparation of tax returns. The Board issued appropriate discipline to CPAs and accounting firms in these cases. (See attached table of disciplinary actions from 2000 - present)

7) The extent to which the Attorney General or any other applicable agency of state government has the authority to prosecute actions under the enabling legislation.

The enabling legislation provides the Board with the necessary authority to prosecute CPAs and accounting firms under its jurisdiction through the Office of the Attorney General.

8) The extent to which the agency has addressed deficiencies in its enabling statutes that prevent it from fulfilling its statutory mandate.

The Board has established a Law Review Advisory Committee, which is charged with monitoring and assessing laws and rules. The Committee meets throughout the year to review the Board's statute and rules to ensure that they are appropriate for the Board to carry out its statutory mandates. During the 2003 spring legislative session, the Board sought and achieved legislation strengthening its ability to accomplish their mission, including statutory authority to create a peer review program. Laws 2003 (1st Reg. Sess.) Ch. 82.

9) The extent to which changes are necessary in the laws of the agency to adequately comply with these factors.

To the Board's knowledge, there are no significant changes required.

10) The extent to which the termination of the agency would significantly harm the public health, safety or welfare.

No other state agency has the expertise required to regulate CPAs or accounting firms. Given the nature of today's marketplace and general lack of citizen trust, the Board is the only state agency capable of accomplishing the task. The Board has established proven requirements, processes and procedures for granting certification that are effective and efficient. The Board has successfully investigated cases – both complex and simple -- against small, medium and big accounting firms based on well-known and developed resources, including the Accountancy Enforcement Unit in the Office of Attorney General and long serving and expert CPA investigators who know the law and understand the standards of practice of the profession, the Board's procedures and most importantly, the Board's mission to protect the public.

11) The extent to which the level of regulation exercised by the agency is appropriate and whether less or more stringent levels of regulation would be appropriate.

Arizona is a 'designation state only' state, which means that accountants, bookkeepers, tax preparers and others who perform in accounting services are not regulated by the Board. Thus, the Board regulates only those professionals who use the CPA designation. The Board regularly receives complaints about the accounting, tax preparation and bookkeeping practices and services provided by individuals and businesses over which the Board has no regulatory authority and over which no other regulatory board has authority. A legislative change would be required to give a regulator the authority to investigate and take action over these complaints. In regards to CPAs and accounting firms, the Board does have the appropriate level of regulatory authority.

12) The extent to which the agency has used private contractors in the performance of its duties and how effective use of private contractors could be accomplished.

The practice of accounting consist of a wide variety of areas and it is essential to contract with CPA investigators who have technical expertise and understanding of accounting issues required to conduct proper investigations. Currently, the Board must contract with CPA investigators through the State Procurement Office using the request for proposal process. Many CPAs find this process cumbersome and the insurance requirements overbearing. Also, the Board is limited to the CPAs on contract and their areas of expertise, but the Board has been able to recruit CPAs in the needed areas. Effectiveness would be achieved by allowing the Board to directly hire CPA investigators.

Additional questions

1) Describe the role and function of the agency including major activities/projects, accomplishments and obstacles to success.

As noted above in question 1, the Board exists to "ensure that the public is protected from the incompetent practice of accountancy." Laws 2000 (2nd Reg. Sess.), Ch. 120, § 4. The Board meets this charge by establishing and enforcing qualifications and accounting standards for certified public accountants, public accountants and accounting firms registered by the Arizona State Board of Accountancy. The Board examines and certifies individuals to practice as certified public accountants (CPAs) and registers accounting firms owned by CPAs. The Board requires CPAs and registered accounting firms to renew their certificates every two years. The Board investigates complaints concerning compliance by CPAs and accounting firms with statutes and rules, determines if a violation of the law has occurred and issues appropriate disciplinary action. The Board answers and provides information to members of the public regarding CPAs and accounting firms.

In April 2000, the Legislature provided the Board with an appropriation and the authority to establish an Accountancy Enforcement Unit (Unit) in the Office of the Attorney General. The Accountancy Enforcement Unit is composed of two Assistant Attorneys General, two legal assistants and one legal secretary. The Unit together with the appropriation authority for CPA investigators, has enabled the Board to investigate audit failures and other complex accounting complaints to facility effectiveness and timeliness of prosecution. The impact of this project can be seen in the Board's disciplinary actions.

In September 2003, the Board's new statutes became effective. Highlights of the legislation, included authority to create a peer review program (currently in the rulemaking process), jurisdiction over CPAs entering Arizona temporarily, and allowing certification by reciprocity via substantial equivalency (reducing the paperwork and time to be certified if an individual holds a certificate that is active and in good standing in another state). The legislation was a result of several years work between the Board and its stakeholders.

In April 2004, CPA candidates sat at testing centers and used computers to take the Uniform CPA Examination. This transition from a paper and pencil examination to computer based testing required changes in the Board's statutes and rules, which were in place before April 2004. The use of a computerized examination speeds the examination process and provides for more timely feedback to candidates on examination performance. The Board worked with the American Institute of Certified Public Accountants and the National Association of State Boards of Accountancy to ensure candidates would be given a quality examination, candidate information would be secure and a seamless launch of the new examination would occur.

2) Provide financial data, such as number of full-time employees, expenditures and revenues and fee structure, if applicable.

Arizona Board of Accountancy
 Financial Data
 FY 2004

Number of full-time employees:	10	Fees*	
Revenue (90%)	\$1,628,649	Registration Renewal	\$300
Expenditures*	\$1,820,911	Application - Certification	\$100
Cost Recovery	<u>\$193,625</u>	Application - Initial Exam	\$100
Income (Loss)	\$1,363	Application - Re-Exam	\$50
		License Verification	\$12
		Registration - Late Fee	\$25

* Non-lapsing authority - figure is estimate

*Not inclusive of all fees

3) An identification of the problem or the needs that the agency is intended to address.

The Board continues to review and make necessary changes to its fees to ensure revenue and expenditures are aligned.

4) A statement, to the extent practicable, in quantitative and qualitative terms, of the objectives of the agency and its anticipated accomplishments.

Objectives:

1) To administer the qualifying AICPA Uniform CPA Examination to persons who meet the requirements:

	FY 04	FY 05	FY 06	FY 07
Number of applications	1274	600*	600	600
Number of successful candidates	349	160	170	180

*Reduction due to computer based testing

2) To certify and register persons who meet the statutory requirements as certified public accountants and to register firms that meet the statutory requirement:

	FY 04	FY 05	FY 06	FY 07
Number of certificates issued	527	500	500	500
Biennial renewal of certificates	4464	4500	4500	4500
Number of firms registered	86	90	90	90
Biennial renewal of firms	442	450	450	450

3) To process complaints and provide enforcement of statutes and rules to protect the public from incompetence, unethical and/or unprofessional conduct by CPAs and accounting firms:

	FY 04	FY 05	FY 06	FY 07
Number of revocations	10	7	7	7
Number of suspensions	550	500	500	500
Number of orders	25	28	28	28
Number of administrative letter of concern	21	12	15	15
Number of expired certificates	152	150	150	150
Number of injunctions	4	3	3	3

5) *An identification of any other agencies having similar, conflicting or duplicate objectives, and an explanation of the manner in which the agency avoids duplication or conflict with other such agencies.*

There are no duplications or conflicts by any other state agency.

6) *An assessment of the consequences of eliminating the agency or of consolidating it with another agency.*

Consolidation would greatly limit the Board's ability to regulate the CPA profession. There are no economies of scale to be achieved by consolidation. The practice of accounting consists of a wide variety of areas and there is a need to contract with CPA investigators who have technical expertise and understanding of accounting issues that are required to conduct proper investigations. The public could not be assured that services conducted by CPAs and accounting firms would meet professional accounting standards.

The Board looks forward to participating in the legislative hearing process to assist the Committee in its evaluation of the Board's procedures and effectiveness. In the meantime, I am available to answer any questions or provide additional information that may be requested by the Committee. I can be contacted at (602) 364-0870 or vme@accountancy.state.az.us.

Respectfully,



Valene M. Elliott
Executive Director

Attachments: Board Meetings, August 2003 - July 2004

ARIZONA STATE LEGISLATURE

INTERIM MEETING NOTICE OPEN TO THE PUBLIC

SENATE COMMERCE AND HOUSE OF REPRESENTATIVES COMMERCE AND MILITARY AFFAIRS COMMITTEE OF REFERENCE FOR THE SUNSET HEARING OF THE ARIZONA STATE BOARD OF ACCOUNTANCY

Date: Thursday, November 18, 2004

Time: 1:00 p.m.

Place: Senate Hearing Room 1

AGENDA

1. Call to Order
2. Opening Remarks
3. Presentation by the Arizona State Board of Accountancy
4. Public Testimony
5. Discussion
6. Recommendations by the Committee of Reference
7. Adjourn

Members:

Senator Barbara Leff, Co-Chair
Senator Marsha Arzberger
Senator Robert Blendu
Senator Dean Martin
Senator Victor Soltero

Representative Michele Reagan, Co-Chair
Representative Ted Carpenter
Representative Debbie McCune Davis
Representative Doug Quelland
Representative Wally Straughn

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ARIZONA STATE LEGISLATURE
Forty-sixth Legislature – Second Regular Session

SENATE COMMERCE AND HOUSE OF REPRESENTATIVES
COMMERCE AND MILITARY AFFAIRS COMMITTEE OF REFERENCE
FOR THE SUNSET HEARING OF THE
ARIZONA STATE BOARD OF ACCOUNTANCY

Minutes of Meeting
Thursday, November 18, 2004
Senate Hearing Room 1 -- 1:00 p.m.

Cohair Leff called the meeting to order at 1:08 p.m. and attendance was noted by the secretary.

Members Present

Senator Robert Blendu
Senator Dean Martin
Senator Victor Soltero
Senator Barbara Leff, Cochair

Representative Debbie McCune Davis
Representative Michele Reagan, Cochair

Members Absent

Senator Marsha Arzberger

Representative Ted Carpenter
Representative Doug Quelland
Representative Wally Straughn

Speakers Present

Frank Brady, President, Arizona State Board of Accountancy
Valerie Elliott, Executive Director, Arizona State Board of Accountancy
Cindy Hubiak, Arizona Society of CPAs
Jeffrey Hill, Arizona Society of Practicing Accountants

PRESENTATION:

Frank Brady, President, Arizona State Board of Accountancy, testified that for the last five years, the Board has worked on implementing the Auditor General's recommendations. This work has resulted in statutory, rule and procedural changes that have strengthened the Board's ability to protect the public. On behalf of the Board, he requested that the Arizona State Board of Accountancy be granted a ten-year continuance. He introduced Valerie Elliott, Executive Director, Arizona State Board of Accountancy.

Valerie Elliott, Executive Director, Arizona State Board of Accountancy, advised that the Board was established in 1919, making it 85 years old this year. The mission of the Board is to protect the public from unlawful, incompetent, unqualified or unprofessional Certified Public Accountants (CPAs) and Public Accountants through certification, regulation and rehabilitation. The Board fulfills its mission by:

- Administering the qualifying AICPA Uniform CPA Examination to persons who meet the requirements.
- Certifying and registering persons who meet the statutory requirement as certified public accountants and registering firms that meet the statutory requirements.
- Processing complaints and providing enforcement of statutes and rules and issue appropriate disciplinary action against CPAs and accounting firms.

Ms. Elliott advised the Board consists of seven members appointed by the Governor, has a staff of 10 employees and a budget of \$2.1 million. The Board oversees approximately 9,500 CPAs and 2,000 accounting firms. The Board processes approximately 800 applications for examination, 500 applications for certification and 100 complaints each year.

Ms. Elliott reviewed the findings of the Office of the Auditor General report dated September 1999 and measures taken by the Board in response to the findings:

- Complaint Handling – The Board conducted a formal study of the complaint handling process. Procedural changes were implemented to increase the timeliness of the resolution of complaints. The Board developed investigative guidelines which are assessed periodically for improvement and changed when statutes and rules change.
- Public Access to Information – The Board implemented changes at six months, increasing the length of time that Executive Session minutes are kept and made changes to the public records request from eliminating the need for notarization if the request is for noncommercial use. The Board changed telephone systems and phone calls are now answered by a live person during business hours. With the passage of legislation in 2003, the nature of pending and dismissed investigations are public record. The Board's statutes and rules outline what information is available to the public. The Board did not implement the Auditor General's recommendation to have Administrative Letters of Concern be public.
- Consider Changing or Eliminating the Quality Review Program – The Board suspended the quality review program in 2000 and began the process of establishing a peer review program. The Board has the explicit statutory authority for a peer review program, which will go into effect in January of 2005.

Ms. Elliott revealed that in addition to implementing some of the Auditor General's recommendations, the Board has statutory authority for the computerization of the Uniform CPA Examination and ease of gaining licensure in Arizona for CPAs holding certificates in other states. She recommended that the Board be continued for a ten-year period.

Cindy Hubiak, Arizona Society of CPAs, advised that the CPA Society does support a standard ten-year continuation period for the State Board of Accountancy.

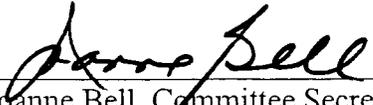
Jeffrey Hill, Arizona Society of Practicing Accountants, observed that in the last sunset meeting, it was suggested there be more public members on the Board. The Society supports that recommendation. In addition, the Society supports a recommendation for a five-year continuance period rather than ten because in the next few years, as a public protection measure, the federal government may expand the licensure program to anyone in the accounting profession. Other than those two suggestions, he stated the Society is neutral on the bill.

For Members' edification, Cochair Leff noted that the Board of Accountancy does not regulate the Arizona Society of Practicing Accountants.

Cochair Leff stated support for a ten-year continuation of the Board of Accountancy. In the event federal law changes, she contended that the Legislature automatically introduces legislation to address those changes. She sees no reason to change the sunset from a ten-year to a five-year period. She stated that the Board has worked very well dealing with problems and concerns over the years.

Cochair Reagan recommended that the Arizona State Board of Accountancy be continued for ten years. The motion carried by a voice vote.

Without objection, the meeting adjourned at 1:15 p.m.



Joanne Bell, Committee Secretary
November 29, 2004

(Original minutes, attachments and tape on file in the Chief Clerk's Office)