

LEGISLATIVE BILL 473

Approved by the Governor April 3, 1984

Introduced by Warner, 25; H. Peterson, 35;
L. Johnson, 15; Kahle, 37; Kilgarin, 7;
Marsh, 29; Morehead, 30; Wagner, 41

AN ACT relating to accountants; to amend sections 1-114 to 1-118, 1-122, 1-125, 1-131, 1-132, 1-136.04, 1-151, and 84-304, Reissue Revised Statutes of Nebraska, 1943, and sections 1-107, 1-119, 1-120, 1-124, 1-135, 1-136, and 1-136.01, Revised Statutes Supplement, 1982; to state intent; to change provisions relating to the Nebraska State Board of Public Accountancy; to change provisions relating to certification, registration, examination, and licensing; to provide powers and duties for the board; to change fees; to authorize the use of certain titles and designations; to change bond requirements; to change provisions relating to continuing education; to provide for the construction of an act; to reestablish the board; to change provisions relating to the Auditor of Public Accounts as prescribed; to harmonize provisions; to eliminate certain provisions relating to registration as a public accountant; to provide for severability; to repeal the original sections, and also sections 1-128 and 1-129, Reissue Revised Statutes of Nebraska, 1943; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. It is the purpose of the Nebraska State Board of Public Accountancy to protect the welfare of the citizens of the state by assuring the competency of persons licensed under Chapter 1, article 1, through (1) administration of certified public accountant examinations, (2) certification and licensing of qualified individuals and firms, (3) monitoring the requirements for continued certification and licensure, and (4) disciplining certificate and permitholders who fail to comply with the technical or ethical standards of the public accountancy profession.

Sec. 2. That section 1-107, Revised Statutes Supplement, 1982, be amended to read as follows:

1-107. There is hereby created the Nebraska State Board of Public Accountancy. The board shall consist of eight members appointed by the Governor. One ; and one such member shall be appointed by the board to serve as

secretary of the board and have charge of all the records of the board.

Until September 20, 1985, two of the members shall be persons who have registered and qualified as public accountants under the provisions of sections 1-128 to 1-130. One member of the board shall be a lay person. The other members shall be persons who hold certified public accountant certificates issued under the laws of this state, and who are in active practice as certified public accountants. At least one certified public accountant member shall reside in each congressional district.

Commencing on September 20, 1985, two members of the board shall be lay persons and two of the certified public accountant members shall reside in each congressional district. The members of the board, other than lay members, shall be persons who hold certified public accountant certificates issued under Chapter 1, article 1, and who are in active practice as certified public accountants.

All members shall be citizens of the United States and residents of Nebraska. At least one certified public accountant member shall reside in each Congressional district. To provide that two members are appointed to the board each year, one of the members appointed in 1983 and one of the members appointed in 1984 shall be appointed for a term of two years. Their successors shall be appointed for terms of four years. Vacancies occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of his or her term of office a member shall continue to serve until his or her successor ~~shall have~~ has been appointed and ~~shall have~~ qualified. The Governor shall remove from the board any member whose permit to practice has become void, or has been revoked or suspended, and may, after hearing, remove any member of the board for neglect of duty or other just cause. No person who has served a two complete term terms of four years shall be eligible for reappointment. Appointment to fill an unexpired term shall not be considered as a complete term.

Sec. 3. The Nebraska State Board of Public Accountancy shall adopt and promulgate rules and regulations which establish definitions of conflicts of interest for its members and which establish procedures to be followed in case such conflicts arise.

Sec. 4. That section 1-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-114. The certificate of certified public accountant shall be granted by the board to any person (1) who is a resident of this state or has a place of business therein or, as an employee, is regularly employed therein, (2) ~~who has attained the age of twenty-one years;~~ (3) ~~who is of good moral character;~~ (4) who has graduated from a

college or university of recognized standing, and ~~(5)~~ (3) who ~~shall have~~ has passed a written examination in theory of accounts, in accounting practice, in auditing, and in such other related subjects as the board shall determine to be appropriate.

Sec. 5. That section 1-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-115. The examinations described in subdivision ~~(5)~~ (3) of section 1-114 shall be held by the board and shall take place as often as the board shall determine to be desirable, but such ~~the~~ examinations ~~described in subdivision (5) of section 1-114~~ shall be held not less frequently than once each year. The board may make such use of all or any part of the Uniform Certified Public Accountants' Examination or Advisory Grading Service, or either of them, as it deems appropriate to assist it in performing its duties hereunder.

Sec. 6. That section 1-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-116. A candidate shall be eligible to take the examination without waiting until he or she meets the experience requirements, as long as provided he or she also meets the requirements of subdivisions subdivision (1) and (3) of section 1-114.

Sec. 7. That section 1-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-117. A candidate for the certificate of certified public accountant who has successfully completed the examination provided in subdivision ~~(5)~~ (3) of section 1-114 shall have no status as a certified public accountant unless and until he or she has the requisite experience and also has received a his certificate as a certified public accountant.

Sec. 8. That section 1-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-118. The board may by regulation prescribe the terms and conditions under which a candidate who passes the examination in one or more of the subjects indicated in subdivision ~~(5)~~ (3) of section 1-114 may be reexamined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's reexamination in a subject he or she has failed. Subject to the foregoing and such other regulations as the board may adopt governing reexaminations, a candidate shall be entitled to any number of reexaminations under the provisions of subdivision ~~(5)~~ (3) of section 1-114.

Sec. 9. That section 1-119, Revised Statutes Supplement, 1982, be amended to read as follows:

1-119. The board shall charge each candidate a fee, to be determined by the board, not in excess of two hundred dollars for the initial examination provided for in subdivision ~~(5)~~ (3) of section 1-114.

Sec. 10. That section 1-120, Revised Statutes Supplement, 1982, be amended to read as follows:

1-120. Fees for reexaminations under the provisions of subdivision ~~(5)~~ (3) of section 1-114 shall also be charged by the board in amounts determined by it, but not in excess of fifty dollars for each subject in which the candidate is reexamined.

Sec. 11. That section 1-122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-122. Any person who has received from the board a certificate as a certified public accountant and who holds a permit issued under the provisions of section 1-136, which is in full force and effect, and any person who is classified as inactive pursuant to section 1-136 shall be styled and known as a certified public accountant and may also use the abbreviation C.P.A. The board shall maintain a list of active certified public accountants. Any certified public accountant may also be known as a public accountant.

Sec. 12. That section 1-124, Revised Statutes Supplement, 1982, be amended to read as follows:

1-124. The board may, in its discretion, waive the examination under the provisions of subdivision ~~(5)~~ (3) of section 1-114, and may issue a certificate as a certified public accountant to any person who possesses possessing the qualifications specified in ~~subdivisions~~ subdivision (1), (2), and (3) of section 1-114 and what the board determines to be substantially the equivalent of the applicable qualifications under section 1-136.02, and who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of any state, or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect. The board shall charge each person obtaining a certificate under this section a fee to be determined by the board, but such fee shall not be in excess of two hundred dollars.

Sec. 13. That section 1-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-125. The board may, in its discretion, permit the registration of any person of good moral character who is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country. A person so registered shall use only the title under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received ~~his~~ a certificate, license, or degree.

Sec. 14. That section 1-131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

college or university of recognized standing, and ~~(5)~~ (3) who ~~shall have~~ has passed a written examination in theory of accounts, in accounting practice, in auditing, and in such other related subjects as the board shall determine to be appropriate.

Sec. 5. That section 1-115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-115. The examinations described in subdivision ~~(5)~~ (3) of section 1-114 shall be held by the board and shall take place as often as the board shall determine to be desirable, but such the examinations described in subdivision (5) of section 1-114 shall be held not less frequently than once each year. The board may make such use of all or any part of the Uniform Certified Public Accountants' Examination or Advisory Grading Service, or either of them, as it deems appropriate to assist it in performing its duties hereunder.

Sec. 6. That section 1-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-116. A candidate shall be eligible to take the examination without waiting until he or she meets the experience requirements, as long as provided he or she also meets the requirements of subdivisions subdivision (1) and (3) of section 1-114.

Sec. 7. That section 1-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-117. A candidate for the certificate of certified public accountant who has successfully completed the examination provided in subdivision ~~(5)~~ (3) of section 1-114 shall have no status as a certified public accountant unless and until he or she has the requisite experience and also has received a his certificate as a certified public accountant.

Sec. 8. That section 1-118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-118. The board may by regulation prescribe the terms and conditions under which a candidate who passes the examination in one or more of the subjects indicated in subdivision ~~(5)~~ (3) of section 1-114 may be reexamined in only the remaining subjects, with credit for the subjects previously passed. It may also provide by regulation for a reasonable waiting period for a candidate's reexamination in a subject he or she has failed. Subject to the foregoing and such other regulations as the board may adopt governing reexaminations, a candidate shall be entitled to any number of reexaminations under the provisions of subdivision ~~(5)~~ (3) of section 1-114.

Sec. 9. That section 1-119, Revised Statutes Supplement, 1982, be amended to read as follows:

1-119. The board shall charge each candidate a fee, to be determined by the board, not in excess of two hundred dollars for the initial examination provided for in subdivision ~~(5)~~ (3) of section 1-114.

Sec. 10. That section 1-120, Revised Statutes Supplement, 1982, be amended to read as follows:

1-120. Fees for reexaminations under the provisions of subdivision ~~(5)~~ (3) of section 1-114 shall also be charged by the board in amounts determined by it, but not in excess of fifty dollars for each subject in which the candidate is reexamined.

Sec. 11. That section 1-122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-122. Any person who has received from the board a certificate as a certified public accountant and who holds a permit issued under the provisions of section 1-136, which is in full force and effect, and any person who is classified as inactive pursuant to section 1-136 shall be styled and known as a certified public accountant and may also use the abbreviation C.P.A. The board shall maintain a list of active certified public accountants. Any certified public accountant may also be known as a public accountant.

Sec. 12. That section 1-124, Revised Statutes Supplement, 1982, be amended to read as follows:

1-124. The board may, in its discretion, waive the examination under the provisions of subdivision ~~(5)~~ (3) of section 1-114, and may issue a certificate as a certified public accountant to any person who possesses ~~possessing~~ the qualifications specified in subdivisions ~~subdivision~~ (1), ~~(2)~~, and ~~(3)~~ of section 1-114 and what the board determines to be substantially the equivalent of the applicable qualifications under section 1-136.02, and who is the holder of a certificate as a certified public accountant, then in full force and effect, issued under the laws of any state, or is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country, comparable to that of a certified public accountant of this state, which is then in full force and effect. The board shall charge each person obtaining a certificate under this section a fee to be determined by the board, but such fee shall not be in excess of two hundred dollars.

Sec. 13. That section 1-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-125. The board may, in its discretion, permit the registration of any person of good moral character who is the holder of a certificate, license, or degree in a foreign country constituting a recognized qualification for the practice of public accounting in such country. A person so registered shall use only the title under which he or she is generally known in his or her own country, followed by the name of the country from which he or she received ~~his~~ a certificate, license, or degree.

Sec. 14. That section 1-131, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-131. The board shall charge a fee, not to exceed fifty dollars, for registration under ~~the provisions of section 1-128, 1-129, or~~ 1-130.

Sec. 15. That section 1-132, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-132. The board shall in each case under ~~the provisions of sections 1-128 to section~~ 1-130 determine whether the applicant is eligible for registration. Any individual who is so registered and who holds a permit issued under the provisions of section 1-136 shall be styled and known as a public accountant.

Sec. 16. That section 1-135, Revised Statutes Supplement, 1982, be amended to read as follows:

1-135. Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, ~~by a or~~ partnership of certified public accountants, ~~or~~ by a public accountant, ~~by or~~ a partnership of public accountants, ~~or~~ by one registered under the provisions of section 1-125, or ~~by~~ a corporation, shall be registered annually under the provisions of sections 1-106 to 1-169 with the board, but no fee shall be charged for registration of the first office. An annual fee ~~of fifty dollars~~ shall be charged for the registration of the second and each additional office registered by such accountant or accountants. Such fee shall be in an amount to be determined, from time to time, by the board, not to exceed fifty dollars. Each ~~such~~ office shall be under the supervision of a manager who may be either a principal or a staff employee holding a permit under the provisions of section 1-136, which is in full force and effect. ~~The ; PROVIDED, that the title or designation certified public accountant or the abbreviation C.P.A. shall not be used in connection with such office unless such manager is the holder of a certificate as a certified public accountant under the provisions of sections 1-114 to 1-124 and a permit issued under the provisions of section 1-136, both of which are in full force and effect. Such manager may serve in such capacity at one office only. The board shall by regulation prescribe the procedure to be followed in effecting such registrations.~~

Sec. 17. That section 1-136, Revised Statutes Supplement, 1982, be amended to read as follows:

1-136. Permits to engage in the practice of public accounting in this state shall be issued by the board to persons who are holders of the certificate of certified public accountant issued under the provisions of sections 1-114 to 1-124 and who have met the experience requirements of section 1-136.02, and to persons and partnerships registered under the provisions of sections 1-125 to 1-133, and to ~~the~~ corporations registered under the provisions of section 1-134, ~~PROVIDED,~~ as long as all offices of such certificate holder or registrant are

maintained and registered as required under the provisions of section 1-135. There shall be an annual permit fee in an amount to be determined, from time to time, by the board, not to exceed one hundred dollars. All permits shall expire on June 30 of each year and may be renewed annually for a period of one year by certificate holders and registrants in good standing upon payment of an annual renewal fee of not to exceed one hundred dollars. The board may prorate the renewal fee to one half the annual renewal fee for any permit issued for six months or less. Failure of a certificate holder or registrant to apply for such annual permit to practice within (1) three years from the expiration date of the permit to practice last obtained or renewed or (2) three years from the date upon which the certificate holder or registrant was granted a certificate or registration if no permit was ever issued to such person, shall deprive him or her of the right to renewal, unless the board, in its discretion, determines such failure to have been due to excusable neglect. In such case the renewal fee or the fee for the issuance of the original permit, as the case may be, shall be such amount as the board shall from time to time determine, but not in excess of one hundred dollars. Any certificate holder or registrant, who has not lost his or her right to issuance or renewal and who is not actively engaged in the practice of public accounting in this state, may file a written application with the board to be classified as inactive. A person so classified shall not be issued a permit to engage in public accounting, nor be deemed the holder of a live permit as defined in section 1-151, but shall be carried upon an inactive roll to be maintained by the board, upon the payment of an annual inactive fee established by the board of not more than forty per cent of the fee charged persons actively engaged in the practice of public accounting as provided in this section. A person so classified shall not be deprived of the right to issuance or renewal of permit and may, upon application to the board, and upon payment of the current annual permit fee, be granted a current annual permit. Every permitholder shall furnish a corporate bond in the amount of one hundred thousand dollars, conditioned for the payment of any judgment or judgments which may be assessed against such person because of any act of negligence or any incompetency of such person occurring while he or she is the holder of such permit, except , **PROVIDED**, that the aggregate liability of the surety for all such judgments shall in no event exceed the amount of such bond. In lieu of such one hundred thousand dollar bond, such permitholder may file a certification from an insurance carrier that such permitholder is insured, as an individual or a member of a partnership, under an accountancy liability policy of at least one hundred thousand dollars, except that any such insurance policy may provide for a deductible clause based

on the size of the office. For an office with ten or less employees a deductible of one thousand dollars may be allowed, for an office with eleven to twenty employees a deductible of two thousand five hundred dollars may be allowed, for an office with twenty-one to fifty employees a deductible of five thousand dollars may be allowed, for an office with fifty-one to one hundred fifty employees a deductible of ten thousand dollars may be allowed, and for an office with one hundred fifty-one or more employees a deductible of twenty-five thousand dollars may be allowed. If any such bond or insurance shall by its terms expire, or if it is canceled by the surety or insurer, the surety or insurer shall within ten days thereafter give notice of such cancellation to the official issuing such permits, who shall thereupon notify, by mail, the holder of such permit whose bond or insurance has so expired or been canceled, that such person may no longer act under the authority of such permit. In lieu of the one hundred thousand dollar bond or the insurance certification provided in this section, a permitholder, while employed by the Auditor of Public Accounts, may be bonded under a blanket corporate surety bond for faithful performance and honesty under section 11-201.

Sec. 18. That section 1-136.01, Revised Statutes Supplement, 1982, be amended to read as follows:

1-136.01. As a condition for renewal of a permit pursuant to section 1-136, the board may require permitholders to furnish evidence of participation in professional development continuing education in accounting, auditing, or related areas for fifteen days within the preceding three calendar years. The board may adopt rules and regulations regarding such continuing education professional development which, and such rules and regulations shall be subject to the provisions of section 1-112.

In determining compliance with the professional development requirement, the board may include credits earned during the current calendar year in addition to those earned in the previous three calendar years. If such credits are included they shall not count toward the next succeeding permit renewal requirement.

Sec. 19. That section 1-136.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-136.04. Any person who has taken the examination required by subdivision (5) (3) of section 1-114 prior to January 1, 1978, may qualify for permit issuance by (1) having four years of public accounting experience satisfactory to the board in any state in practice as a certified public accountant or as a public accountant or in any state in employment as a staff accountant by anyone practicing public accounting, or any combination of either of such types of experience, or (2)

having five years of auditing experience satisfactory to the board in the office of the Auditor of Public Accounts or in the Department of Revenue, in lieu of being a graduate from a college or university of recognized standing.

Sec. 20. That section 1-151, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

1-151. No person shall assume or use the title or designation certified public accountant or the abbreviation C.P.A. or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person (1) is classified as inactive pursuant to section 1-136 or (2) has received a certificate as a certified public accountant under the provisions of sections 1-114 to 1-124, holds a permit issued under the provisions of section 1-136 which is not revoked or suspended, hereinafter referred to as a live permit, and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under the provisions of section 1-135. Provided, that a foreign accountant who has registered under the provisions of section 1-125, and who holds a live permit issued under the provisions of section 1-136, may use the title under which he or she is generally known in his or her country, followed by the name of the country from which he or she received his or her certificate, license, or degree.

Sec. 21. Notwithstanding the provisions of sections 81-196 to 81-1,108, the Nebraska State Board of Public Accountancy is hereby reestablished with all powers and duties in existence upon the effective date of this act.

Sec. 22. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such act shall be construed to prohibit anyone who does not hold a permit from preparing, compiling, or signing financial statements if an accompanying report, letter, or other statement does not express an opinion or other form of assurance as to the fairness, accuracy, or reliability of such statements.

Sec. 23. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such act shall be construed to prohibit a person holding a certificate of a certified public accountant from forming a business partnership with an accountant not holding a license or permit.

Sec. 24. Nothing in the Public Accountancy Act of 1957 or the rules and regulations adopted and promulgated under such act shall be construed to prohibit an accountant not holding a license or permit from using the title accountant in his or her business practices.

Sec. 25. That section 84-304, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

84-304. It shall be the duty of the Auditor of Public Accounts:

(1) To give information in writing to the Legislature, whenever required, upon any subject relating to the fiscal affairs of the state, or in regard to any duty of his or her office;

(2) To furnish offices for himself or herself and all fuel, lights, books, blanks, forms, paper, and stationery required for the proper discharge of the duties of his or her office;

(3) To examine, or cause to be examined, at such time as he or she shall determine, books, accounts, vouchers, records, and expenditures of all state officers, state bureaus, state boards, state commissioners, state library, societies and associations supported by the state, state institutions, state colleges, and the University of Nebraska, except when required to be performed by other officers or persons, and to report promptly to the Director of Administrative Services and the appropriate standing committee of the Legislature the fiscal condition shown by such examinations, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts; and to this end the Auditor of Public Accounts shall, with the approval of the Legislature, appoint an expert accountant appoint two assistant deputies (a) whose entire time shall be devoted to the service of the state as directed by the auditor, (b) who shall be an individual of recognized qualifications in his profession, certified public accountants with at least five years' experience, (c) who shall be selected without regard to party affiliation or to his place of residence at the time of his appointment, (d) who shall promptly report in duplicate to the auditor the fiscal condition shown by each examination, including any irregularities or misconduct of officers or employees, any misappropriation or misuse of public funds or property, and any improper system or method of bookkeeping or condition of accounts, and it shall be the duty of the auditor to file promptly with the Governor a duplicate of such report, and (e) who shall qualify by taking an oath, which oath shall be filed in the office of the Secretary of State; and

(4) Conduct audits and related activities for state agencies, political subdivisions of this state, or grantees of federal funds disbursed by a receiving agency on a contractual or other basis for reimbursement, to assure proper accounting by all such agencies, political subdivisions, and grantees for funds appropriated by the Legislature and federal funds disbursed by any receiving agency. The auditor shall deposit the receipts for such audits and services in the cash fund maintained for the

making of cooperative audits.

Sec. 26. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 27. That original sections 1-114 to 1-118, 1-122, 1-125, 1-131, 1-132, 1-136.04, 1-151, and 84-304, Reissue Revised Statutes of Nebraska, 1943, and sections 1-107, 1-119, 1-120, 1-124, 1-135, 1-136, and 1-136.01, Revised Statutes Supplement, 1982, and also sections 1-128 and 1-129, Reissue Revised Statutes of Nebraska, 1943, are repealed.

Sec. 28. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.