

ORIGINAL



GOV. MSG. NO. **506**

EXECUTIVE CHAMBERS

HONOLULU

LINDA LINGLE
GOVERNOR

April 22, 2010

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

I am transmitting herewith SB2501 SD1 HD1, without my approval, and with the statement of objections relating to the measure.

SB2501 SD1 HD1

A BILL FOR AN ACT
RELATING TO PUBLIC ACCOUNTANCY.

Sincerely,

A handwritten signature in black ink, appearing to read "Linda Lingle".

LINDA LINGLE

EXECUTIVE CHAMBERS

HONOLULU

April 22, 2010

STATEMENT OF OBJECTIONS TO SENATE BILL NO. 2501

Honorable Members
Twenty-Fifth Legislature
State of Hawaii

Pursuant to Section 16 of Article III of the Constitution of the State of Hawaii, I am returning herewith, without my approval, Senate Bill No. 2501, entitled "A Bill for an Act Relating to Public Accountancy."

The purpose of this bill is to require accounting firms that engage in attestation work to undergo peer review as a condition of obtaining a permit to practice in Hawaii. Specifically, the bill mandates that every accounting firm, including the Hawaii offices and Hawaii engagements of foreign or multi-state firms, undergo a peer review every three years on the firm's Hawaii audit, compilation of financial statements, government, and public company work and submit evidence of such a peer review at the time of the renewal of the firm's permit to practice.

Appropriately conducted peer reviews ensure the quality of work prepared by certified public accounts and help protect the interests of the public who rely of the financial statements, audits and similar work prepared by these firms.

However, this bill is objectionable because it would mandate office-specific peer reviews that may not be consistent with current peer review standards set forth by the American Institute of Certified Public Accountants. Many multi-state and multinational firms practicing in Hawaii already participate in nationally recognized systems of peer review that include the engagements and work these firms do in our State.

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SENATE BILL NO. 2501
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No other state mandates office-specific reviews. Further, the proposed requirements in this bill would place a significant burden on the Hawaii Board of Public Accountancy that would be required to establish and administer a stand-alone peer review program not required elsewhere.

The additional requirement of office-specific peer reviews may discourage some firms from engaging in assignments in Hawaii, thereby limiting the choice of public accounting firms Hawaii companies can select when seeking accounting services. Additionally, small, local firms that have elected to not undergo voluntary peer review would now be mandated to assume the costs of going through this process in order to conduct attestation-type accounting activities.

For the foregoing reason, I am returning Senate Bill No. 2501 without my approval.

Respectfully,



LINDA LINGLE
Governor of Hawaii

A BILL FOR AN ACT

RELATING TO PUBLIC ACCOUNTANCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

- 1 SECTION 1. The purpose of this Act is to:
- 2 (1) Provide a mechanism for firms engaged in the practice
- 3 of public accounting to undergo peer review on a
- 4 regular basis; and
- 5 (2) Grant the state board of public accountancy
- 6 appropriate power to regulate the peer review process.
- 7 SECTION 2. Section 466-3, Hawaii Revised Statutes, is
- 8 amended as follows:
- 9 1. By adding two new definitions to be appropriately
- 10 inserted and to read:
- 11 "Attest" means providing the following financial statement
- 12 services:
- 13 (1) Any audit or other engagement to be performed in
- 14 accordance with the statements on auditing standards
- 15 of the American Institute of Certified Public
- 16 Accountants;
- 17 (2) Any compilation or review of a financial statement to
- 18 be performed in accordance with the statements on



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- 1 standards for accounting and review services of the
- 2 American Institute of Certified Public Accountants;
- 3 (3) Any examination of prospective financial information
- 4 to be performed in accordance with the statements on
- 5 standards for attestation engagements of the American
- 6 Institute of Certified Public Accountants;
- 7 (4) Any engagement to be performed in accordance with the
- 8 government auditing standards, also known as the
- 9 Yellow Book, issued by the United States Government
- 10 Accountability Office; and
- 11 (5) Any engagement to be performed in accordance with the
- 12 standards of the Public Company Accounting Oversight
- 13 Board.

14 "Peer review" means a study, appraisal, or review of one or
 15 more aspects of the professional work of a firm that issues
 16 attest reports by a person or persons who hold permits to
 17 practice public accountancy under section 466-7 and who are not
 18 affiliated with the firm being reviewed."

19 2. By amending the definition of "firm" to read:

20 "Firm" means a sole proprietorship, a corporation, [e] a
 21 partnership[-], a limited liability company, or a limited
 22 liability partnership."

1 3. By deleting the definition of "quality review."
 2 [~~"Quality review" means a study, appraisal, or review of~~
 3 ~~one or more aspects of the professional work of a firm in the~~
 4 ~~practice of public accountancy by a person or persons who hold~~
 5 ~~certificates and who are not affiliated with the firm being~~
 6 ~~reviewed."~~]

7 SECTION 3. Section 466-7, Hawaii Revised Statutes, is
 8 amended by amending subsection (b) to read as follows:

9 "(b) An applicant for the initial issuance or renewal of a
 10 permit shall have:

- 11 (1) A valid license;
- 12 (2) Completed continuing professional education hours, the
 13 content of which shall be specified by the board which
 14 may provide for special consideration by the board to
 15 applicants for permit renewal when, in the judgment of
 16 the board, full compliance with all requirements of
 17 continuing education cannot reasonably be met;
- 18 (3) Completed an application; ~~and~~
- 19 (4) Paid appropriate fees and assessments[-]; and
- 20 (5) Undergone any applicable peer review process approved
 21 by the board of accountancy pursuant to section 466-
 22 13."



1 SECTION 4. Section 466-9, Hawaii Revised Statutes, is
2 amended as follows:

3 1. By amending subsection (a) to read:

4 "(a) In addition to any other actions authorized by law,
5 in accordance with chapter 91, the board may take the following
6 action:

7 (1) Cancel or revoke any license or permit issued under
8 section 466-5, 466-6, or 466-7, or corresponding
9 provisions of prior law;

10 (2) Suspend a license or permit for a period of not more
11 than two years;

12 (3) Refuse to renew a license or permit for a period of
13 not more than two years;

14 (4) Reprimand, censure or limit the scope of practice of
15 any licensee or firm;

16 (5) Impose an administrative fine not exceeding \$1,000;

17 (6) Place a licensee or firm on probation;

18 (7) Require a firm to have a ~~[quality]~~ peer review
19 conducted in the manner specified by the board; or

20 (8) Require a licensee to attain satisfactory completion
21 of additional continuing professional education hours
22 as specified by the board."



1 2. By amending subsection (c) to read:

2 "(c) Upon application of any person against whom
3 disciplinary action has been taken under subsection (a), the
4 board, in accordance with chapter 91, may reinstate the person's
5 license or permit to practice which was affected by the
6 disciplinary action.

7 (1) The board shall specify the manner in which an
8 application shall be made, the time within which it
9 shall be made, and the circumstances under which the
10 license may be reinstated; and

11 (2) Before reinstating, the board may:

12 (A) Require the applicant to show successful
13 completion of specified continuing professional
14 education; and

15 (B) Make the reinstatement of a license or permit
16 conditional and subject to satisfactory
17 completion of a [quality] peer review conducted
18 in a manner as the board may specify."

19 SECTION 5. Section 466-13, Hawaii Revised Statutes, is
20 amended to read as follows:

21 "**S466-13** [**Quality**] **Peer review** [**committee**]. (a) Every
22 firm, including the Hawaii offices and Hawaii engagements of



1 foreign or multistate firms, required to obtain a firm permit to
2 practice pursuant to section 466-7 shall undergo a peer review
3 every three years on the firm's Hawaii attest work and submit
4 evidence of such peer review at the time of the renewal of the
5 firm's permit to practice under section 466-7.

6 (b) The board [may appoint a quality review committee]
7 shall establish a peer review process to review [the publicly
8 available professional] attest work of firms [on a random basis,
9 without any requirement of a formal complaint or suspicion of
10 impropriety on the part of any particular firm]. The identity
11 of the person or firm for whom the professional work is done
12 shall be preserved in confidence. [In the event] If the review
13 discloses information that a firm has not met the appropriate
14 professional standards, the board may require further
15 investigation of the firm. The peer review process required by
16 this section shall be for educational or remedial and not
17 punitive purposes.

18 (c) The board may authorize a third party entity to
19 administer the peer review required under subsection (a);
20 provided that the entity shall not require firms or the firms'
21 owners or employees to become members of the entity to
22 participate in peer review and shall charge the same rate for



1 peer review services to both members and nonmembers. If the
2 board chooses to authorize a third party entity to administer
3 peer reviews, the third party shall be held to the highest
4 standards of professionalism, quality, and ethics.

5 (d) The board shall adopt rules pursuant to chapter 91 to
6 establish requirements and procedures for the qualification of
7 entities to conduct peer reviews and for the performance of peer
8 reviews by these entities. The rules shall include:

9 (1) A process for the conduct of peer review to be
10 followed by the board and by an authorized third party
11 entity;

12 (2) Definitions, standards, and requirements for an
13 acceptable peer review;

14 (3) Standards for certification and qualification of peer
15 reviewers;

16 (4) A process for a firm to appeal the findings or
17 conclusions of any peer review process that results in
18 the denial, termination, or nonrenewal of a firm
19 permit pursuant to section 466-9; provided that the
20 appeal process shall include the postponement of any
21 adverse action during the pendency of the appeal; and



1 (5) Provisions for the grant of an extension of time to a
2 firm for compliance with the peer review requirement
3 based on a showing of hardship including for reasons
4 of health, military service, or other good cause as
5 determined by the board.

6 (e) Neither the proceedings nor the records of the
7 [equality] peer review [committees] process shall be subject to
8 discovery. Except as hereinafter provided, no person [in
9 attendance at a meeting of the committee] involved in the peer
10 review process shall be required to testify [as to what
11 transpired at the meeting,] on that process; provided that [the]
12 statements made by any person [in attendance at the meeting] in
13 connection with the peer review process who is a party to an
14 action or proceeding the subject matter of which was reviewed
15 [at the meeting,] in that process, shall be subject to
16 discovery."

17 SECTION 6. This Act does not affect rights and duties that
18 have matured, penalties that were incurred, and proceedings that
19 were begun, before its effective date.

20 SECTION 7. The board of public accountancy shall:

21 (1) Adopt rules pursuant to section 466-13(d), Hawaii
22 Revised Statutes, in section 5 of this Act; and



1 (2) Report the adoption of the rules under paragraph (1)
2 to the legislature immediately upon adoption of those
3 rules by means of written notice to the speaker of the
4 house of representatives and the president of the
5 senate.

6 SECTION 8. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 9. This Act shall take effect upon its approval;
9 provided that sections 2, 3, 4, and 5 shall take effect one year
10 after the board of public accountancy reports the adoption of
11 rules pursuant to section 7 of this Act.

