

JAN 20 2012

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# A BILL FOR AN ACT

RELATING TO PUBLIC ACCOUNTANCY.

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

1           SECTION 1. Chapter 466, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4                               **"PART       .   PEER REVIEW PROCESS**

5           **§466-A Definitions.** As used in this part, unless the  
6 context clearly indicates otherwise:

7           "Rating" means the type of report issued following a peer  
8 review. Rating shall be "pass", "pass with deficiency", or  
9 "fail".

10          "Sponsoring organization" means a third-party entity that  
11 meets the standards specified by this part for administering a  
12 peer review.

13          **§466-B Establishment of peer review process;**  
14 **confidentiality.** (a) There is established a peer review  
15 process to review the attest work of firms. The peer review  
16 process shall be for educational or remedial, and not punitive  
17 purposes.



1 (b) The peer review process shall keep confidential the  
2 identity of any person or firm for whom attest work has been  
3 performed by the firm under review.

4 (c) Neither the proceedings nor the records of any peer  
5 review process shall be subject to discovery. No person  
6 involved in the peer review process shall be required to testify  
7 on that process; provided that statements made by any person in  
8 connection with the peer review process who is a party to an  
9 action or proceeding, the subject matter of which was reviewed  
10 in that process, shall be subject to discovery.

11 (d) This part shall not be construed to require any firm  
12 to become a member of any sponsoring organization.

13 **§466-C Standards for peer reviews and sponsoring**  
14 **organizations.** (a) Except as otherwise provided by section  
15 466-F, the board shall adopt the "Standards for Performing and  
16 Reporting on Peer Reviews" and any applicable ethical  
17 requirements thereunder promulgated by the American Institute of  
18 Certified Public Accountants and the public company accounting  
19 oversight board firm inspection standards for public company  
20 audit firms required under the Sarbanes-Oxley Act of 2002, as  
21 amended, as its minimum standards for peer reviews.



1 (b) Subject to sections 466-J and 466-K, qualified  
2 sponsoring organizations shall be the American Institute of  
3 Certified Public Accountants peer review program, the Hawaii  
4 Society of Certified Public Accountants peer review program,  
5 state certified public accountant societies fully involved in  
6 the administration of the American Institute of Certified Public  
7 Accountants peer review program, the public company accounting  
8 oversight board, the board, and other entities that are approved  
9 by the board.

10 **§466-D Enrollment and participation.** (a) Every firm,  
11 including the Hawaii offices and Hawaii engagements of foreign  
12 or multistate firms, that is required to obtain a firm permit to  
13 practice pursuant to section 466-7 shall undergo a peer review  
14 every three years on the firm's Hawaii attest work.

15 (b) All firms subject to this part and performing Hawaii  
16 attest work as of December 31, 2014, shall enroll in the  
17 applicable program of an approved sponsoring organization by  
18 December 31, 2015, notify the board of enrollment in that  
19 program, and have a peer review performed by December 31, 2017.

20 (c) Any firm that begins performing Hawaii attest work  
21 after December 31, 2014, shall:



- 1 (1) Notify the board within thirty days of the beginning  
2 of the performance of attest work;
- 3 (2) Enroll in the applicable programs of an approved  
4 sponsoring organization within one year from its  
5 initial licensing date or the performance of Hawaii  
6 attest work that requires a peer review;
- 7 (3) Provide the board with enrollment information within  
8 one year of the date the Hawaii attest work was first  
9 performed;
- 10 (4) Have a peer review performed within eighteen months of  
11 the date the Hawaii attest work was first performed;
- 12 (5) Adopt the peer review due date assigned by the  
13 sponsoring organization and notify the board of the  
14 peer review due date within thirty days of its  
15 assignment; and
- 16 (6) Schedule and begin an additional review within three  
17 years of the previous review's due date, or earlier if  
18 required by the sponsoring organization or the board;  
19 provided that the firm shall be responsible for  
20 anticipating its needs for peer review services in  
21 sufficient time to enable the reviewer to complete the  
22 review by the assigned review due date.



1 (d) A firm that does not perform Hawaii attest work shall  
2 be exempt from the peer review process.

3 (e) If a firm is merged, combined, dissolved, or  
4 separated, the sponsoring organization shall determine which  
5 resultant firm shall be considered the succeeding firm. The  
6 succeeding firm shall retain its peer review status and the  
7 review due date.

8 (f) The board shall accept extensions granted by the  
9 sponsoring organization to complete a peer review; provided that  
10 the board is notified by the firm within twenty days of the date  
11 that an extension is granted. The board may also grant a firm  
12 an extension of time to comply with the peer review requirement  
13 of this part based on a showing of hardship, including reasons  
14 of health, military service, or other good cause as determined  
15 by the board.

16 (g) A firm that has been rejected by a sponsoring  
17 organization for any reason shall make a request in writing to  
18 the board for authorization to enroll in a program of another  
19 sponsoring organization.

20 (h) A firm that chooses to enroll in a program of another  
21 sponsoring organization pursuant to subsection (g) may do so;  
22 provided that the firm authorizes the previous sponsoring



1 organization to communicate to the succeeding sponsoring  
2 organization any outstanding corrective actions related to the  
3 firm's most recent peer review. Any outstanding corrective  
4 actions shall be cleared and outstanding fees paid prior to the  
5 transfer between sponsoring organizations.

6 (i) An out-of-state firm performing Hawaii attest work  
7 shall comply with this part.

8 (j) If a firm is subject to inspections pursuant to the  
9 Sarbanes-Oxley Act of 2002, as amended, and also performs Hawaii  
10 attest work not subject to those inspections, the firm shall  
11 enroll in a peer review program for review of its non-public  
12 company Hawaii attest work in addition to the firm inspection  
13 program required by the public company accounting oversight  
14 board.

15 **§466-E Peer review compliance reporting form.** (a) Upon  
16 the completion of a peer review, each firm shall submit a peer  
17 review compliance reporting form to the board pursuant to  
18 section 466-H. The peer review compliance reporting form shall  
19 include the following:

- 20 (1) The name of the firm conducting the peer review;  
21 (2) The name of the approved sponsoring organization;



1 (3) Except for public company accounting oversight board  
2 inspections, the name of the peer reviewer or  
3 reviewers, who shall be a person or persons who hold a  
4 permit to practice public accountancy under section  
5 466-7 and who are not affiliated with the firm being  
6 reviewed;

7 (4) The rating issued to the firm as a result of the  
8 review, which shall be clearly indicated in the final  
9 paragraph of the review report;

10 (5) The date of completion of the firm review; and

11 (6) A certificate from the firm conducting the review that  
12 the peer review report or the final report resulting  
13 from any inspection by the public company accounting  
14 oversight board firm inspection program includes a  
15 review of Hawaii offices and Hawaii attest  
16 engagements.

17 (b) A firm shall include with the peer review compliance  
18 reporting form the contemporaneous supplemental Hawaii peer  
19 review report under section 466-F, if:

20 (1) A peer review report from an approved sponsoring  
21 organization does not include a review of Hawaii  
22 offices and Hawaii attest engagements;



- 1           (2) The peer reviewer does not hold permits to practice
- 2           public accountancy under section 466-7; or
- 3           (3) The peer reviewer is affiliated with the firm being
- 4           reviewed; and
- 5           (4) The final report resulting from any inspection by the
- 6           public company accounting oversight board firm
- 7           inspection program does not include a review of Hawaii
- 8           offices and Hawaii attest engagements, and the firm is
- 9           not required to enroll in another peer review program
- 10          under section 466-D.

11           **§466-F Supplemental Hawaii peer review.** (a) The board

12 shall adopt the "Standards for Performing and Reporting on Peer

13 Reviews" promulgated by the American Institute of Certified

14 Public Accountants for supplemental Hawaii peer reviews required

15 under section 466-E(b)(1), (2), or (3); provided that the

16 standards shall not apply to:

- 17          (1) Selection of engagements, which shall be limited to
- 18          Hawaii attest work only;
- 19          (2) Administration of peer reviews, which shall be limited
- 20          to peer reviewers authorized under this part;
- 21          (3) The reporting acceptance body, which shall be the
- 22          board; and





1 (4) Any other standards approved by the board on a case by  
2 case basis.

3 (b) A peer reviewer shall address the supplemental Hawaii  
4 peer review report to the firm and to the board and may modify  
5 the report forms used by the American Institute of Certified  
6 Public Accountants peer review program to address the  
7 limitations imposed by subsection (a).

8 (c) A firm shall receive a rating of "pass", "pass with  
9 deficiency", or "fail" from the peer reviewer; provided that if  
10 a rating cannot be given, the peer reviewer shall provide the  
11 board with an explanation of the reasons why a rating could not  
12 be given. The acceptability of the explanation shall be subject  
13 to board approval.

14 **§466-G Retention of documents.** (a) Each reviewer shall  
15 maintain all documentation necessary to establish that each  
16 review conforms to the review standards of the relevant review  
17 program, including the review working papers, copies of the  
18 review report, and any correspondence indicating the firm's  
19 concurrence and non-concurrence, along with any proposed  
20 remedial actions and any related implementation.

21 (b) The documents described in subsection (a) shall be  
22 retained by the reviewer for a period of time corresponding to



1 the retention period of the sponsoring organization, and upon  
2 request of the board, shall be made available to the board;  
3 provided that the document shall be retained for at least one  
4 hundred twenty days after the date of completion of the review  
5 by the sponsoring organization.

6 **§466-H Reporting to the board.** (a) A firm shall submit  
7 to the board:

8 (1) A copy of the peer review report and the final letter  
9 of acceptance from the sponsoring organization, if the  
10 report has a rating of "pass";

11 (2) A copy of the peer review report, the firm's letter of  
12 response, the corrective action letter, and the final  
13 letter of acceptance if the report has a rating of  
14 "pass with deficiency" or "fail"; or

15 (3) A copy of any final report resulting from any  
16 inspection by the public company accounting oversight  
17 board firm inspection program together with  
18 documentation of any significant deficiencies,  
19 findings, and the firm's response.

20 (b) For peer reviews scheduled after December 31, 2014,  
21 any report or document required to be submitted under subsection  
22 (a) shall be filed with the board as follows:



1           (1) Firms enrolled in the American Institute of Certified  
2           Public Accountants and Hawaii Society of Certified  
3           Public Accountants peer review programs and  
4           administered by the Hawaii Society of Certified Public  
5           Accountants, within ten days of receipt of the notice  
6           of completion from the Hawaii Society of Certified  
7           Public Accountants, shall complete the peer review  
8           compliance reporting form under section 466-E and  
9           submit the form to the board along with the required  
10          documents;

11          (2) Firms otherwise enrolled in the American Institute of  
12          Certified Public Accountants peer review program,  
13          including those whose peer reviews are administered by  
14          the National Peer Review Committee, within ten days of  
15          receipt of the notice of completion from the  
16          sponsoring organization, shall complete the firm  
17          review compliance reporting form under section 466-E  
18          and submit the form to the board along with the  
19          required documents;

20          (3) Firms enrolled in the public company accounting  
21          oversight board inspection program shall, within ten  
22          days of receipt of the notice of completion from the



1 public company accounting oversight board, complete  
2 the firm review compliance reporting form required by  
3 section 466-E and submit the form to the board along  
4 with the required documents; and

5 (4) Firms enrolled in any other firm review program  
6 approved by this part shall submit the report  
7 generated by that review process and all associated  
8 documentation to the board in a form acceptable to the  
9 board.

10 (c) Any report or document submitted to the board under  
11 this section, including the board's peer review compliance  
12 reporting form, shall be confidential.

13 **§466-I Appeals.** (a) A firm shall have ten days after the  
14 filing of the peer review compliance reporting form to appeal a  
15 "pass with deficiency" or a "fail" rating that may result in the  
16 denial, termination, or nonrenewal of a permit to practice.

17 (b) A firm may also appeal the findings or conclusions of  
18 any peer review process under this part that results in the  
19 denial, termination, or nonrenewal of a permit to practice.

20 (c) The appeal process under this section shall include  
21 the postponement of any adverse action during the pendency of  
22 the appeal.



1           **§466-J Procedures for sponsoring organization.** (a) To  
2 qualify as a sponsoring organization, a third-party entity shall  
3 submit a peer review administration plan to the board for review  
4 and approval. The peer review administration plan shall:

5           (1) Establish a peer review report committee and any  
6           necessary subcommittees and provide professional staff  
7           as needed for the operation of the peer review  
8           program;

9           (2) Establish a program to communicate to firms  
10           participating in the peer review program the latest  
11           developments in peer review standards and the most  
12           common findings in the peer reviews conducted by the  
13           sponsoring organization;

14           (3) Establish procedures for resolving any disagreement  
15           that may arise out of the performance of a peer  
16           review;

17           (4) Establish procedures to resolve matters that may lead  
18           to the dismissal of a firm from the peer review  
19           program and conduct hearings pursuant to those  
20           procedures;

21           (5) Establish procedures to evaluate and document the  
22           performance of each peer reviewer and conduct



1 evaluation proceedings that may lead to the  
2 disqualification of a reviewer who does not meet the  
3 American Institute of Certified Public Accountants  
4 standards;

5 (6) Require the maintenance of records of peer reviews  
6 conducted under the program in accordance with the  
7 records retention rules of the American Institute of  
8 Certified Public Accountants and this part; and

9 (7) Provide for periodic reports to the board on the  
10 results of the peer review program; provided that  
11 reports submitted to the board shall not contain  
12 information concerning specific firms or peer  
13 reviewers.

14 (b) A sponsoring organization:

15 (1) Shall be subject to review and oversight by the board;

16 (2) Shall not require firms or the firms' owners or  
17 employees to become members of the sponsoring  
18 organization to participate in a peer review; and

19 (3) Shall charge the same rate for peer review services to  
20 members and nonmembers.

21 (c) The public company accounting oversight board shall be  
22 exempt from the requirements of this section.



1           **§466-K Oversight of sponsoring organizations.** (a) The  
2 board shall retain oversight of sponsoring organizations by:

- 3           (1) Monitoring sponsoring organizations to ensure that  
4           peer reviews are being conducted and reported in  
5           accordance with standards for performing and reporting  
6           on peer reviews promulgated by the American Institute  
7           of Certified Public Accountants Peer Review Board; and  
8           (2) Reviewing the policies and procedures of sponsoring  
9           organization applicants as to their conformity with  
10          the peer review standards of any applicable peer  
11          review organization and this part.

12          (b) Information provided to the board concerning a  
13 specific sponsoring organization or peer reviewer shall be  
14 confidential and shall not be subject to discovery pursuant to  
15 section 466-B.

16          (c) If the sponsoring organization is the American  
17 Institute of Certified Public Accountants peer review program,  
18 the Hawaii Society of Certified Public Accountants peer review  
19 program, state certified public accountant societies fully  
20 involved in the administration of the American Institute of  
21 Certified Public Accountants peer review program, or the public  
22 company accounting oversight board, the board shall review the



1 published reports of those entities or their successors to  
2 determine whether there is an acceptable level of oversight.

3 (d) The board shall periodically publish a list of  
4 sponsoring organizations that have been approved by the board.

5 **§466-L Oversight of peer reviewers.** (a) A peer reviewer  
6 shall be a person who:

7 (1) Holds a permit to practice public accountancy under  
8 section 466-7; and

9 (2) Is not affiliated with the firm being reviewed.

10 (b) The board shall retain oversight of peer reviewers by  
11 monitoring peer reviewers to ensure that peer reviewers are in  
12 compliance with subsection (a) and that reviews are conducted in  
13 accordance with the standards established under sections 466-C  
14 and 466-F.

15 (c) Information concerning any peer reviewer that is  
16 obtained during the board's peer review oversight activities  
17 shall be confidential as required by section 466-B.

18 (d) The board shall annually assess the qualifications of  
19 all peer reviewers based on a random selection of each  
20 reviewer's published peer review reports and shall determine  
21 whether the published reports meet the standards established by  
22 this part.





1 (e) The public company accounting oversight board and its  
2 inspectors shall be exempt from this section.

3 **§466-M Peer review for firms performing Hawaii attest**  
4 **work.** For license of certified public accountants renewal  
5 periods beginning after December 31, 2017, unless granted an  
6 extension pursuant to section 466-D, all firms performing Hawaii  
7 attest work within a three-year period ending December 31 of the  
8 odd-numbered year prior to the renewal period shall:

- 9 (1) Undergo a peer review; and
- 10 (2) File a firm review compliance reporting form pursuant  
11 to section 466-E within the relevant three-year  
12 period."

13 SECTION 2. Act 66, Session Laws of Hawaii 2010, is amended  
14 as follows:

15 1. By amending section 3 to read:

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

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

- 20 (1) A valid license;
- 21 (2) Completed continuing professional education hours, the  
22 content of which shall be specified by the board which



1 may provide for special consideration by the board to  
2 applicants for permit renewal when, in the judgment of  
3 the board, full compliance with all requirements of  
4 continuing education cannot reasonably be met;

5 (3) Completed an application;

6 (4) Paid appropriate fees and assessments; and

7 (5) ~~[Undergone any applicable]~~ In the case of a renewal,  
8 undergone and provided proof of having undergone the  
9 peer review process [approved by the board of  
10 accountancy pursuant to section 466-13.] pursuant to  
11 part \_\_\_\_\_."

12 2. By amending section 9 to read:

13 "SECTION 9. This Act shall take effect upon its approval[+  
14 ~~provided that sections 2, 3, 4, and 5 shall take effect one year~~  
15 ~~after the board of public accountancy reports the adoption of~~  
16 ~~rules pursuant to section 7 of this Act]."~~

17 3. By repealing section 7.

18 [~~"SECTION 7. The board of public accountancy shall:~~

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

21 ~~(2) Report the adoption of the rules under paragraph (1)~~

22 ~~to the legislature immediately upon adoption of these~~



1 ~~rules by means of written notice to the speaker of the~~  
2 ~~house of representatives and the president of the~~  
3 ~~senate." ]~~

4 SECTION 3. Chapter 466, Hawaii Revised Statutes, is  
5 amended by designating sections 466-1 to 466-12 as follows:

6 **"PART I. GENERAL PROVISIONS"**

7 SECTION 4. Section 466-13, Hawaii Revised Statutes, is  
8 repealed.

9 [~~"5466-13 Peer review. (a) Every firm, including the~~  
10 ~~Hawaii offices and Hawaii engagements of foreign or multistate~~  
11 ~~firms, required to obtain a firm permit to practice pursuant to~~  
12 ~~section 466-7 shall undergo a peer review every three years on~~  
13 ~~the firm's Hawaii attest work and submit evidence of such peer~~  
14 ~~review at the time of the renewal of the firm's permit to~~  
15 ~~practice under section 466-7.~~

16 ~~(b) The board shall establish a peer review process to~~  
17 ~~review attest work of firms. The identity of the person or firm~~  
18 ~~for whom the professional work is done shall be preserved in~~  
19 ~~confidence. If the review discloses information that a firm has~~  
20 ~~not met the appropriate professional standards, the board may~~  
21 ~~require further investigation of the firm. The peer review~~



1 ~~process required by this section shall be for educational or~~  
2 ~~remedial and not punitive purposes.~~

3 ~~(c) The board may authorize a third party entity to~~  
4 ~~administer the peer review required under subsection (a);~~  
5 ~~provided that the entity shall not require firms or the firms'~~  
6 ~~owners or employees to become members of the entity to~~  
7 ~~participate in peer review and shall charge the same rate for~~  
8 ~~peer review services to both members and nonmembers. If the~~  
9 ~~board chooses to authorize a third party entity to administer~~  
10 ~~peer reviews, the third party shall be held to the highest~~  
11 ~~standards of professionalism, quality, and ethics.~~

12 ~~(d) The board shall adopt rules pursuant to chapter 91 to~~  
13 ~~establish requirements and procedures for the qualification of~~  
14 ~~entities to conduct peer reviews and for the performance of peer~~  
15 ~~reviews by these entities. The rules shall include:~~

16 ~~(1) A process for the conduct of peer review to be~~  
17 ~~followed by the board and by an authorized third party~~  
18 ~~entity;~~

19 ~~(2) Definitions, standards, and requirements for an~~  
20 ~~acceptable peer review;~~

21 ~~(3) Standards for certification and qualification of peer~~  
22 ~~reviewers;~~



1       ~~(4) A process for a firm to appeal the findings or~~  
2       ~~conclusions of any peer review process that results in~~  
3       ~~the denial, termination, or nonrenewal of a firm~~  
4       ~~permit pursuant to section 466-9; provided that the~~  
5       ~~appeal process shall include the postponement of any~~  
6       ~~adverse action during the pendency of the appeal; and~~

7       ~~(5) Provisions for the grant of an extension of time to a~~  
8       ~~firm for compliance with the peer review requirement~~  
9       ~~based on a showing of hardship including for reasons~~  
10       ~~of health, military service, or other good cause as~~  
11       ~~determined by the board.~~

12       ~~(e) Neither the proceedings nor the records of the peer~~  
13       ~~review process shall be subject to discovery. Except as~~  
14       ~~hereinafter provided, no person involved in the peer review~~  
15       ~~process shall be required to testify on that process; provided~~  
16       ~~that statements made by any person in connection with the peer~~  
17       ~~review process who is a party to an action or proceeding the~~  
18       ~~subject matter of which was reviewed in that process, shall be~~  
19       ~~subject to discovery." ]~~

20       SECTION 5. In codifying the new sections added by section  
21       1 of this Act, the revisor of statutes shall substitute



1 appropriate section numbers for the letters used in designating  
2 the new sections in this Act.

3 SECTION 6. Statutory material to be repealed is bracketed  
4 and stricken. New statutory material is underscored.

5 SECTION 7. This Act shall take effect on July 1, 2012.

6

INTRODUCED BY: Amely D. Beh  
~~Amely D. Beh~~

J. Wei Gosh

John Han

Will Lygo

Erzanne Chun Calalang



# S.B. NO. 2421

**Report Title:**

Public Accountancy; Peer Review; Attest

**Description:**

Establishes a peer review process for public accounting firms that engage in attest work.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

