

## A BRIEF LEGISLATIVE HISTORY OF THE PUBLIC ACCOUNTANCY ACT

**M**arch 2015 marks the 100-year anniversary of the *Public Accountancy Act* (the *Act*). The *Act* was originally created in **1915** by the Texas Legislature to form the Texas State Board of Public Accountancy (the Board). The *Act* mandates the Board to protect the public and ensure competence in the practice of public accountancy by administering examinations, issuing certificates, and by licensing certified public accountants. The policy section of the *Act* states that the public relies on the strength of the financial system in this state and on the competence, integrity, and expertise of certified public accountants. The *Act* also restricts the use of the terms “accountant” and “auditor” (and any derivations of those terms) solely to the Board’s licensees. This booklet provides an overview of significant legislative events related to the *Act*.



The first Board, 1915. Left to right: Milton Morris, CPA, Austin; Edward J. Archinard, CPA, Fort Worth; Harry V. Robertson, CPA, Amarillo; E. F. Hunter, CPA, San Antonio; and W. P. Peter, CPA, Dallas.

### *The Public Accountancy Act of 1915*

The *Act* was first established in **1915** by the Texas Legislature to form the Board. The purpose of the Board was to provide for “. . . the [CPA] examination and issuance of a certificate . . . indicative of the holder’s fitness to serve the public as a competent and properly qualified accountant in public practice, and to prevent those who have no such certificate from using such titles or initials.”

### *The Public Accountancy Act of 1945*

The Texas Legislature enacted the *Public Accountancy Act of 1945*. Under this *Act*, the Board was given

the statutory authority to promulgate rules of professional conduct, sometimes referred to as the code of professional ethics. The practice of public accountancy was limited to individuals holding licenses issued by the Board. Anyone holding out as a public accountant or certified public accountant, who was not registered by the Board, was subject to misdemeanor charges and a \$500 fine. “Public Accountants” were authorized, on a one-time basis, to register with the Board.

### *Amendments to the Public Accountancy Act of 1945*

In **1951**, the Texas Legislature amended the *Public Accountancy Act of 1945*. During the 1950s the Board stepped up its enforcement of the *Act* and the *Rules of Professional Conduct*, largely as a result of the failure of several Texas chartered insurance companies. With the statutory authority to do so, the Board began policing the profession for poorly prepared audits and financial statements referred by the State Securities Board, the Texas Education Agency, the Texas Insurance Commission, and others.

In **1961**, the Legislature made additional amendments to the *Act* to strengthen the definition of the “practice of public accountancy.” The amendments delineated exactly those activities that were limited to a licensee of the Board, thus giving the Board leverage in prosecuting individuals for unauthorized practice.

1915–2015

**CENTENNIAL  
CELEBRATION**

**100  
YEARS**

### The *Public Accountancy Act of 1979*

The Legislature enacted the *Public Accountancy Act of 1979* as a result of the Board's first review by the Sunset Advisory Commission. The new *Act* gave the Board expanded enforcement authority. A major focus toward consumer protection favored the rapid resolution of complaints.

### Amendments to the *Public Accountancy Act of 1979*

The Legislature amended the *Act* in 1981 to give the Board strengthened authority to maintain the security and integrity of the examination process. The *Act* was amended again in 1989 to give the Board expanded sanctions to include censure (which was subsequently removed from the *Act*), probation, and limitation on the scope of practice. The amended *Act* also gave the Board the authority to deny an exam application, prohibit an individual from taking the examination for up to five years, or void a candidate's grades. The amendment also increased the educational requirement for CPAs to 150 college credit hours, effective September 1, 1997. The *Act* directed the Board to establish a quality review program by January 1, 1992.



Board members, 1945. Left to right, standing: George R. Donnell, CPA, San Antonio; Jay A. Phillips, CPA, Chairman, Houston; C. A. "Jake" Freeze, CPA, San Angelo; and Arch H. Freemon, CPA, Wichita Falls. Sitting: O. H. Maschek, CPA, Secretary-Treasurer, Beaumont.



Board members, 2001. Left to right, back row: Janet F. Parnell, Edwardo B. Franco, Lou Miller, Kimberly Dryden, Reagan S. McCoy, Billy M. Atkinson, and Gwen B. Gilbert. Left to right, middle row: Rebecca B. Junker, Robert C. Mann, Edward L. Summers, and April L. Eyeington. Left to right, front row: Jerry A. Davis, Jimmie L. Mason, K. Michael Conaway, Barbara J. Thomas, and William Treacy.

### The *Public Accountancy Act of 1991*

In 1991, the Board successfully completed its second Sunset review, resulting in the *Public Accountancy Act of 1991*. The *Act* authorized the Board to assess an administrative penalty of up to \$1,000 per violation against persons who violate the provisions of the *Act*, a rule, or an order issued by the Board. The new *Act* also gave the Board the flexibility to administer the changes expected in 1994 to the Uniform CPA Examination format. The *Act* extended the continuing professional education requirement to all licensees, not just those in public practice. The Board began collecting fees for a fifth-year scholarship fund for qualifying students to help defray the costs associated with the *Act*'s 150-hour education requirement.

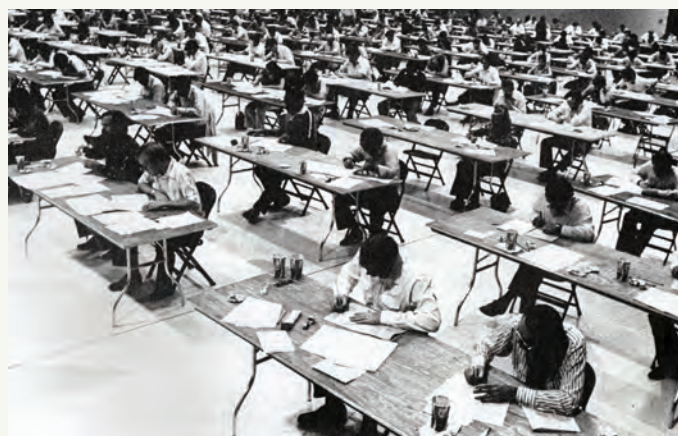
The 76th Legislature approved a pilot program in which three state licensing boards, including the Texas State Board of Public Accountancy, were to become self-directed, semi-independent (SDSI) agencies. Senate Bill 1438 (*Self-Directed Semi-Independent Project Act*) became effective September 1, 1999, and, if not renewed, would end August 31, 2003. The Texas Legislative Council recommended that the *Public Accountancy Act* be codified and moved to Chapter 901 of the Texas Occupations Code (West, 2001). Although no substantive changes were made, language, punctuation, and reorganization modifications made it necessary to rewrite the entire *Act*.



### Amendments in 2001

Two years later, the 77th Legislature approved amendments to the *Act*, which became effective September 1, 2001. The amendments allowed for the following:

- Offering the CPA Examination via computer and contracting with a vendor for the delivery of the computer-based exam
- Non-CPA ownership of firms
- Changing the term “quality review” to “peer review”
- Providing that only firms that perform the attest service or represent that they are a CPA firm must register with the Board
- Providing for reciprocity of individuals with substantially equivalent qualifications
- Issuing temporary permits only to firms



Before the exam became computer-based. San Antonio site, 1978.

Further amendments were made to the *Act*, effective September 1, 2003, and incorporated the following changes:

- The Board underwent Sunset Review and the agency was renewed until 2015.
- The *Act* was revised to accommodate computer-based testing in preparation for an April 5, 2004 implementation of a computer-based exam.
- Board committees were divided into two types: policy-making committees and working committees. Non-Board members were prohibited from serving on policy-making committees.
- The following changes were made to the Board’s enforcement powers:
  - Sharing criminal background information on licensees and exam candidates with other licensing and law enforcement agencies became easier.
  - Restitution was added to the Board’s list of sanctions in disciplinary cases.
  - The Board’s subpoena power was expanded.
  - The Board was authorized to order emergency suspensions without notice and hearings in cases of immediate threat to the public welfare.
  - The maximum penalty in disciplinary cases was raised to \$100,000.
  - The permanent injunction remedy was removed and replaced with a cease and desist order.
  - Senate Bill 1382 was enacted to extend the Self-Directed Semi-Independent pilot program for six years.



### Amendments in 2007

Legislation effective September 1, 2007 created a “practice privilege” for CPAs and CPA firms licensed in a substantially equivalent state to temporarily practice in Texas without licensure and without providing notice or paying a fee prior to practicing in Texas unless preparing financial statements or attestations.

### Amendments in 2009

With the passage of House Bill 2440 during the 2009 legislative session, responsibility for administering the fifth-year accounting students scholarship fund was transferred from the Texas Higher Education Coordinating Board (THECB) to the Texas State Board of Public Accountancy. The Board worked closely with THECB to put rules and procedures in place and tripled the amount of funds available for at least the next two school years, to provide larger grants to a greater number of students. Funds are derived from a \$10 (legislatively mandated) fee added to each Texas CPA's annual license renewal.



Board members as of January 28, 2015. Left to right, standing: Robert M. McAdams, CPA, San Antonio; Susan Fletcher, Frisco; John R. Broadbuss, CPA, El Paso; Phillip W. Worley, Hebbbronville; James C. Flagg, Ph.D., CPA, Brenham; Jonathan B. Cluck, Esq., Fair Oaks Ranch; Steve D. Peña, CPA, Georgetown; and Donna J. Hugly, CPA, Addison. Left to right, sitting: William Treacy, Executive Director; Everett R. Ferguson, CPA, Treasurer, Abilene; Maribess L. Miller, CPA, Secretary, Dallas; J. Coalter Baker, CPA, Assistant Presiding Officer, Austin; Thomas G. Prothro, CPA, Presiding Officer, Tyler; Rocky L. Duckworth, CPA, Executive Member-at-Large, Houston; and Jon R. Keeney, Executive Member-at-Large, Taylor Lake Village. Not pictured: William Lawrence, Highland Village.

### Amendments in 2013

In 2013, House Bill 1685 extended the SDSI status of the Board and other state agencies that were part of the original *SDSI Agency Project Act* (Chapter 325, Government Code), which expired on September 1, 2013. The original legislation gave SDSI agencies authority to collect revenues and set budgets outside the appropriations process. House Bill 1685 moved the *SDSI Act* from Vernon's Civil Statutes and designated it, along with conforming and non-substantive amendments, as Chapter 472 of the Government Code. The SDSI agencies (including the Board) are no longer considered project agencies, and other provisions of this legislation outline requirements of these agencies in matters such as travel expenditures, Sunset Review (which will be conducted under the agency's enabling legislation), financial reporting, audits, performance data gathering and reporting, and fees and the deposition of funds.

Senate Bill 228 also amended the *Act* in 2013 to remove the Board's Enforcement Committees from the *Open Meetings Act* to protect the confidentiality of the Board's investigations. It was also amended to expand the categories of information not considered confidential communications between CPAs and clients. This included information required to be disclosed by a court order signed by a judge in the following circumstances:

- Under a subpoena issued under specified federal laws;
- Under a summons or subpoena issued under the *Securities Act*;
- In accordance with requirements of the Public Company Accounting Oversight Board or its successor; or
- In the course of a practice review by another CPA or CPA firm for a potential acquisition or merger of one firm with another if both have entered into a nondisclosure agreement with regard to client information shared between the firms.