

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

Senate Bill 660

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| FISCAL NOTE |
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BY SENATOR BLAIR

[Introduced February 20, 2016;

Referred to the Committee on Government Organization.]

1 A BILL to amend and reenact §30-9-3 of the Code of West Virginia, 1931, as amended; and to
 2 amend said code by adding thereto two new sections, designated §30-9-33 and §30-9-
 3 34, all relating to modifying the requirements for board members of the Board of
 4 Accountancy; requiring training for board members and their representatives from the
 5 Attorney General's office in antitrust law and state action immunity; and indemnifying
 6 board members and employees for lawsuits alleging antitrust violations.

Be it enacted by the Legislature of West Virginia:

1 That §30-9-3 of the Code of West Virginia, 1931, as amended, be amended and
 2 reenacted; and that said code be amended by adding thereto two new sections, designated §30-
 3 9-33 and §30-9-34, all to read as follows:

ARTICLE 9. ACCOUNTANTS.

**§30-9-3. Board of accountancy; appointment; terms, qualifications of members; removal
 of members; compensation of members.**

4 (a) The West Virginia board of accountancy is hereby continued.

5 (b) (1) Commencing with the board terms beginning July 1, 2001, the board shall consist
 6 of seven members appointed for terms of three years by the Governor with the advice and consent
 7 of the Senate. Five members must be certified public accountants; ~~one member must be a public~~
 8 ~~accountant so long as twenty five or more public accountants are registered by the board, but if~~
 9 ~~there are fewer than twenty five public accountants registered by the board, then the member~~
 10 ~~may be either a public accountant or a certified public accountant and one two members must be~~
 11 ~~a citizen members who is a are residents of this state, and who have not, nor have ever been,~~
 12 ~~licensed as a certified public accountant in any other state or worked for a firm registered with the~~
 13 ~~West Virginia Board of Accountancy to provide accounting services: who is not licensed under~~
 14 ~~the provisions of this article and who also is not a bookkeeper, enrolled agent or a person who~~
 15 ~~provides or offers to provide to the public any bookkeeping, tax preparation, financial advisory or~~
 16 ~~insurance service *Provided,* That the members of the board in office on July 1, 2001, shall~~

17 continue to serve until their respective terms expire.

18 (2) Each licensed member of the board, at the time of his or her appointment, must have
19 held a license in this state for a period of not less than five years immediately preceding the
20 appointment and each member must be a resident of this state during the appointment term.

21 (3) Each appointment of a public accountant, whether for a full term or to fill a vacancy,
22 must be made by the Governor from among three nominees selected by the West Virginia public
23 accountants association and each appointment of a certified public accountant, whether for a full
24 term or to fill a vacancy, must be made by the Governor from among three nominees selected by
25 the West Virginia society of certified public accountants: *Provided*, That when the appointment of
26 a certified public accountant is to fill the seat held on July 1, 2001, by a public accountant, then
27 the appointment, whether for a full term or to fill a vacancy, must be made by the Governor from
28 among three nominees selected by the West Virginia public accountants association. When the
29 appointment is for a full term, the nominations must be submitted to the Governor not later than
30 eight months prior to the date on which the appointment will become effective. When the
31 appointment is to fill a vacancy, the nominations must be submitted to the Governor within ten
32 days after a request for the nominations has been made by the Governor to the president of the
33 West Virginia society of certified public accountants or president of the West Virginia public
34 accountants association. If the society or the association fails to submit to the Governor
35 nominations for an appointment in accordance with the requirements of this section, the Governor
36 may make the appointment without the nominations.

37 (c) No member may serve more than two consecutive full terms, and any member having
38 served two full terms may not be appointed for one year after completion of his or her second full
39 term. A member shall continue to serve until his or her successor has been appointed and
40 qualified.

41 (d) If a board member is unable to complete a term, the Governor shall appoint a person
42 of similar qualifications to complete the unexpired term: *Provided*, That if the board member is a

43 certified public accountant or public accountant, the Governor shall appoint a person from any
 44 nominees submitted pursuant to subdivision (3), subsection (b) of this section. Each vacancy
 45 occurring on the board must be filled by appointment within sixty days after the vacancy is created.

46 (e) The Governor may remove any member from the board for neglect of duty,
 47 incompetency or official misconduct.

48 (f) Any member of the board shall immediately and automatically forfeit his or her
 49 membership if he or she has his or her certificate or registration suspended or revoked by the
 50 board, is convicted of a felony under the laws of any state or the United States, or becomes a
 51 nonresident of this state.

52 (g) Each member of the board shall receive compensation and expense reimbursement
 53 in accordance with section eleven, article one of this chapter.

§30-9-33. Mandatory Training in federal antitrust law and state action immunity.

1 It shall be required of the West Virginia Board of Accountancy, and their representatives
 2 from the Attorney General's office, to obtain initial training on the subject of federal antitrust law
 3 and state action immunity by July 1, 2016, and thereafter on an annual basis. The purpose of the
 4 training is to provide those members with the knowledge to be able to identify the risks of any
 5 action that may be taken by the board that could be construed as possible antitrust violations.

§30-9-34. Indemnification.

1 In the event that a lawsuit is filed alleging violation of federal antitrust laws, the board may
 2 indemnify its board members and current and former employees for expenses reasonably
 3 incurred in connection with judicial or administrative proceedings to which they are or may
 4 become parties by reason of the performance of their official duties.

NOTE: The purpose of this bill is to modify the required experience for citizen members of the board of accountancy; to provide for regular training on antitrust and state action immunity; and to indemnify board members and employees for claims of antitrust violations.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.