

Senate Bill 748

Sponsored by COMMITTEE ON BUSINESS, TRANSPORTATION AND WORKFORCE DEVELOPMENT (at the request of Oregon Society of Certified Public Accountants)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes person who is licensed in another state and who has qualifications substantially equivalent to those required for licensure to practice public accountancy in this state to practice public accountancy without authorization from Oregon Board of Accountancy. Authorizes board to discipline person practicing based on substantial equivalency in same manner as person licensed in this state.

A BILL FOR AN ACT

1
2 Relating to authorization to practice public accountancy; amending ORS 673.153, 673.170 and
3 673.185.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 673.153 is amended to read:

6 673.153. (1) [*The Oregon Board of Accountancy may authorize a holder of a license*] **A person**
7 **licensed to practice public accountancy** with a principal place of business in another state [*to*]
8 **is authorized to** practice public accountancy in this state if the holder holds in good standing a
9 valid certificate and license as a certified public accountant from:

10 (a) Another state that is verified to be of substantial equivalency, as defined in ORS 673.010
11 (21)(a).

12 (b) Another state that is not verified to be of substantial equivalency, as defined in ORS 673.010
13 (21)(a), but the holder's skills are verified to be of substantial equivalency, as defined in ORS 673.010
14 (21)(b).

15 (2) A holder authorized under subsection (1) of this section shall be presumed to meet this state's
16 requirements to practice public accountancy and shall have all the rights and privileges of certif-
17 icate holders and licensees of this state without the need to obtain a certificate under ORS 673.040
18 or a permit under ORS 673.150.

19 (3) A holder of a license from another state who is engaged in the practice of public
20 accountancy under this section shall:

21 [*(a) Notify the board of the holder's intent to practice public accountancy in this state on a form*
22 *provided by the board;*]

23 [*(b) Pay an annual fee in an amount and by the date determined by the board by rule;*]

24 [*(c)*] **(a)** Consent to the personal and subject matter jurisdiction of the [*board*] **Oregon Board**
25 **of Accountancy;**

26 [*(d)*] **(b)** Comply with the requirements of ORS 673.010 to 673.457 and any rules adopted there-
27 under; and

28 [*(e)*] **(c)** Agree to the appointment of the [*other state's*] licensing authority **of the state that**
29 **issued the license required by subsection (1) of this section** as the agent of the holder, upon

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 whom process may be served in any action or proceeding by the board against the holder.

2 **SECTION 2.** ORS 673.170 is amended to read:

3 673.170. (1) The Oregon Board of Accountancy may take any of the following disciplinary
4 actions:

5 (a) Revoke, suspend or refuse to issue any certificate issued under ORS 673.040 to 673.075.

6 (b) Revoke, suspend or refuse to issue any public accountant's license issued under ORS 673.100.

7 (c) Revoke, suspend, refuse to renew or refuse to issue any permit described in ORS 673.150.

8 (d) Revoke, suspend, refuse to renew or [*refuse to issue*] **deny** authorization to practice public
9 accountancy in this state under ORS 673.153.

10 (e) Censure the holder of any permit described in ORS 673.150 or [*authorization described in*]
11 **any person authorized to practice public accountancy in this state under** ORS 673.153.

12 (f) Revoke, suspend, refuse to renew or refuse to issue any registration issued under ORS
13 673.160.

14 (g) Censure the holder of any registration issued under ORS 673.160.

15 (2) The board may take any of the actions described in subsection (1) of this section for any one
16 or any combination of the following causes:

17 (a) Fraud or deceit in obtaining or applying for:

18 (A) A certificate under ORS 673.040 to 673.075;

19 (B) A public accountant's license under ORS 673.100;

20 (C) A registration under ORS 58.345 or 673.160;

21 (D) A permit under ORS 673.150;

22 (E) Authorization to practice public accountancy in this state under the provisions of ORS
23 673.153; or

24 (F) Admission to the roster of authorized accountants referred to in ORS 297.670.

25 (b) Dishonesty, fraud or gross negligence in the practice of public accountancy.

26 (c) Incompetence in the practice of public accountancy. A holder of a license issued under ORS
27 673.100, certificate, permit or registration is incompetent in the practice of public accountancy if the
28 holder:

29 (A) Engages or has engaged in conduct that evidences a lack of ability or fitness to discharge
30 the duty owed to a client or the general public; or

31 (B) Engages or has engaged in conduct that evidences a lack of knowledge or ability to apply
32 principles or skills of the practice of public accountancy, as adopted by the board.

33 (d) Violation of any of the provisions of ORS 673.010 to 673.457.

34 (e) Violation of any of the provisions of ORS 297.405 to 297.555.

35 (f) Violation of any provision of the Code of Professional Conduct adopted by the board under
36 the authority granted by ORS 673.010 to 673.457, or rules adopted by the board under ORS 670.310.

37 (g) Conduct resulting in a conviction of a felony under the laws of any state, of any foreign ju-
38 risdiction or of the United States. However, such conduct may be considered only to the extent
39 permissible under the provisions of ORS 670.280.

40 (h) Conviction of any crime, an essential element of which is dishonesty, fraud or misrepresen-
41 tation, under the laws of any state, of any foreign jurisdiction or of the United States.

42 (i) Conviction of willful failure to pay any tax, file any tax return, keep records or supply in-
43 formation required under the tax laws of any state, of any foreign jurisdiction or of the United
44 States, or conviction of the willful making, rendering, delivery, disclosure, signing or verifying of
45 any false or fraudulent list, return, account, statement or other document, or of supplying any false

1 or fraudulent information, required under the tax laws of any state, of any foreign jurisdiction or
2 of the United States.

3 (j) Cancellation, revocation, suspension or refusal to renew, authority to practice as a certified
4 public accountant or a public accountant in any state or foreign jurisdiction.

5 (k) Cancellation, suspension, revocation or refusal to renew by any state, any foreign jurisdic-
6 tion or any federal agency of the right to practice law, to practice as an enrolled agent before the
7 Internal Revenue Service pursuant to 31 C.F.R. part 10, or to practice under other regulatory law
8 if the cancellation, suspension, revocation or refusal to renew was related to the practice of public
9 accountancy or if dishonesty, fraud or deception was involved.

10 (L) Failure to comply with the continuing education requirements under ORS 673.165 unless
11 such requirements have been waived by the board.

12 (m) Failure to pay a civil penalty imposed by the board after the period for requesting a hearing
13 on the civil penalty terminates if the person or business organization against whom the penalty is
14 imposed has not requested a hearing, or after the period for seeking judicial review of the order
15 assessing the civil penalty has passed.

16 (n) Failure to comply with the terms of a consent agreement described in subsection (3) of this
17 section.

18 (o) Failure to comply with any reporting or other requirement established by the board by rule.

19 (p) Issuance of a cease and desist order against the person under subsection (7) of this section.

20 (3) In lieu of disciplinary actions under subsection (1) of this section, the board may enter into
21 a consent agreement with the holder of any certificate described in ORS 673.040 to 673.075, the
22 holder of any public accountant's license, the holder of any registration described in ORS 673.160,
23 the holder of any permit described in ORS 673.150 or the holder of any authorization described in
24 ORS 673.153, under which the holder agrees to comply with conditions prescribed by the board.

25 (4) In addition to the causes in subsection (2) of this section, the board may take any of the
26 actions described in subsection (1) of this section for dishonesty, fraud or misrepresentation not in
27 the practice of public accountancy.

28 (5) In lieu of or in addition to any action described in subsection (1) of this section, the board
29 may take any of the following actions:

30 (a) Require a holder of a permit under ORS 673.150 that provides compilation services or a
31 business organization registered under ORS 673.160 to undergo a peer review conducted as the
32 board may specify; or

33 (b) Require a holder of a permit under ORS 673.150 to complete any continuing professional
34 education programs the board may specify.

35 (6) In the case of a registered business organization, the board may take any of the actions de-
36 scribed in subsection (1) of this section for any of the following additional causes:

37 (a) The cancellation, revocation or suspension of, or refusal to renew, the authority to provide
38 professional services, in this state or any other jurisdiction, of any partner, officer, shareholder,
39 member, manager or owner of the business organization; or

40 (b) The cancellation, revocation or suspension of, or refusal to renew, the authority of the
41 business organization to practice public accountancy or provide other professional services in any
42 other state or foreign jurisdiction.

43 (7) If the board has reasonable cause to believe that any person has engaged, is engaging or is
44 about to engage in any violation of any provision of ORS 673.010 to 673.457 or any rule or order
45 adopted under ORS 673.010 to 673.457, the board may issue an order, subject to ORS 673.173, di-

1 rected to the person, and to any other person directly or indirectly controlling the person, to cease
 2 and desist from the violation or threatened violation.

3 (8) Notwithstanding any protective order issued under ORCP 36 C, upon motion of the board,
 4 the court shall order disclosure of materials or information subject to a protective order under
 5 ORCP 36 C. The board may use the material or information to take disciplinary action under this
 6 section.

7 (9) If the board takes disciplinary action under this section, the board may assess against the
 8 person disciplined costs associated with the disciplinary action. An assessment under this subsection
 9 is in addition to, and not in lieu of, any other action taken by the board. Moneys collected under
 10 this subsection shall be deposited in the Oregon Board of Accountancy Account established in the
 11 General Fund pursuant to ORS 670.335.

12 **SECTION 3.** ORS 673.185 is amended to read:

13 673.185. (1) When the Oregon Board of Accountancy proposes to refuse to issue a certificate
 14 under ORS 673.040, license under ORS 673.100, permit under ORS 673.150, registration under ORS
 15 673.160 or **to deny** authorization under ORS 673.153, proposes to refuse to renew a permit or reg-
 16 istration or proposes to revoke or suspend a certificate, registration, license, permit or authori-
 17 zation, opportunity for hearing shall be accorded as provided in ORS chapter 183 and chapter 734,
 18 Oregon Laws 1971.

19 (2) When the board institutes or continues a disciplinary action under ORS 673.170, the surren-
 20 der, retirement or other forfeiture, expiration, lapse or revocation of a license issued by the board
 21 does not deprive the board of its authority to institute or continue the disciplinary action against
 22 the licensee.

23 (3) Adoption of rules, conduct of hearings, issuance of orders and judicial review of rules and
 24 orders shall be in accordance with ORS chapter 183 and chapter 734, Oregon Laws 1971.

25 (4) The decision of the board under subsection (1) of this section shall be by majority vote.
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