

AMENDED IN SENATE APRIL 21, 2015

SENATE BILL

No. 467

Introduced by Senator Hill

February 25, 2015

An act to amend Sections ~~5000 and 201, 5000, and 5015.6~~ *of of, and to add Sections 312.2, 328, and 5100.5 to, the Business and Professions Code, relating to professions and vocations.*

LEGISLATIVE COUNSEL'S DIGEST

SB 467, as amended, Hill. ~~Accountants.~~ *Professions and vocations.*

Existing law provides for the licensure and regulation of various professions and vocations by boards, bureaus, commissions, divisions, and other agencies within the Department of Consumer Affairs. Existing law authorizes the department to levy a pro rata share of the department's administrative expenses against any of these constituent agencies at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance.

This bill would eliminate the requirement that the levy described above be at the discretion of the Director of Consumer Affairs and with the approval of the Department of Finance, and would instead require the levy to be approved by the Legislature.

Existing law requires an agency within the department to investigate a consumer accusation or complaint against a licensee and, where appropriate, the agency is authorized to impose disciplinary action against a licensee. Under existing law, an agency within the department may refer a complaint to the Attorney General or Office of Administrative Hearings for further action.

This bill would require the Attorney General to submit a report to the department, the Governor, and the appropriate policy committees

of the Legislature, on or before January 1, 2017, and on or before January 1 of each subsequent year, that includes specified information regarding the actions taken by the Attorney General pertaining to accusations and cases relating to consumer complaints against a person whose profession or vocation is licensed by an agency within the department.

Existing law creates the Division of Investigation within the department and requires investigators who have the authority of peace officers to be in the division to investigate the laws administered by the various boards comprising the department or commencing directly or indirectly any criminal prosecution arising from any investigation conducted under these laws.

This bill would, in order to implement specified complaint prioritization guidelines, require the Director of Consumer Affairs, through the Division of Investigation, to work cooperatively with the health care boards to standardize referral of complaints to the division and those that are retained by the health care boards for investigation.

Under existing law, the California Board of Accountancy within the ~~Department of Consumer Affairs~~ department is responsible for the licensure and regulation of accountants and is required to designate an executive officer. Existing law repeals these provisions on January 1, 2016.

This bill would extend the repeal date to January 1, 2020.

Existing law authorizes the California Board of Accountancy, after notice and hearing, to revoke, suspend, or refuse to renew any permit or certificate, as specified, or to censure the holder of that permit or certificate for unprofessional conduct.

This bill would additionally authorize the board, after notice and hearing, to permanently restrict or limit the practice of a licensee or impose a probationary term or condition on a licence for unprofessional conduct. This bill would authorize a licensee to petition the board for reduction of penalty or reinstatement of the privilege, as specified, and would provide that failure to comply with any restriction or limitation imposed by the board is grounds for revocation of the license.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 201 of the Business and Professions Code*
2 *is amended to read:*

3 201. (a) (1) A charge for the estimated administrative expenses
4 of the department, not to exceed the available balance in any
5 appropriation for any one fiscal year, may be levied in advance on
6 a pro rata share basis against any of the boards, bureaus,
7 commissions, divisions, and agencies, ~~at the discretion of the~~
8 ~~director and with the approval of the Department of Finance.~~ *with*
9 *the approval of the Legislature.*

10 (2) The department shall submit a report of the accounting of
11 the pro rata calculation of administrative expenses to the
12 appropriate policy committees of the Legislature on or before July
13 1, 2015, and on or before July 1 of each subsequent year.

14 (b) The department shall conduct a one-time study of its current
15 system for prorating administrative expenses to determine if that
16 system is the most productive, efficient, and cost-effective manner
17 for the department and the agencies comprising the department.
18 The study shall include consideration of whether some of the
19 administrative services offered by the department should be
20 outsourced or charged on an as-needed basis and whether the
21 agencies should be permitted to elect not to receive and be charged
22 for certain administrative services. The department shall include
23 the findings in its report pursuant to paragraph (2) of subdivision
24 (a) that it is required to submit on or before July 1, 2015.

25 *SEC. 2. Section 312.2 is added to the Business and Professions*
26 *Code, to read:*

27 312.2. (a) *The Attorney General shall submit a report to the*
28 *department, the Governor, and the appropriate policy committees*
29 *of the Legislature on or before January 1, 2017, and on or before*
30 *January 1 of each subsequent year that includes, at a minimum,*
31 *all of the following for the previous fiscal year:*

32 (1) *The number of cases referred to the Attorney General by*
33 *each constituent entity within the department.*

34 (2) *The number of cases referred by the Attorney General back*
35 *to each constituent entity with no further action.*

36 (3) *The number of cases rereferred by a constituent entity to*
37 *the Attorney General after each constituent entity or the Division*
38 *of Investigation completes a supplemental investigation.*

1 (4) *The number of accusations filed by each constituent entity.*

2 (5) *The number of accusations a constituent entity withdraws.*

3 (6) *The average number of days from the Attorney General*
4 *receiving a case to filing an accusation on behalf of each*
5 *constituent entity.*

6 (7) *The average number of days to prepare an accusation for*
7 *a case that is rereferred to the Attorney General after a*
8 *supplemental investigation is conducted by staff of a constituent*
9 *entity or the Division of Investigation for each constituent entity.*

10 (8) *The average number of days from filing an accusation to*
11 *transmitting a stipulated settlement for each constituent entity.*

12 (9) *The average number of days from filing an accusation to*
13 *transmitting a default decision for each constituent entity.*

14 (10) *The average number of days from filing an accusation to*
15 *scheduling a hearing for each constituent entity.*

16 (11) *The average number of days from scheduling a hearing to*
17 *conducting a hearing for each constituent entity.*

18 (b) *A report to be submitted pursuant to subdivision (a) shall*
19 *be submitted in compliance with Section 9795 of the Government*
20 *Code.*

21 *SEC. 3. Section 328 is added to the Business and Professions*
22 *Code, to read:*

23 *328. In order to implement the complaint prioritization*
24 *guidelines as described in the memorandum dated August 31,*
25 *2009, by Brian J. Stiger titled "Complaint Prioritization Guidelines*
26 *for Health Care Agencies," the director, through the Division of*
27 *Investigation, shall work cooperatively with the health care boards*
28 *to standardize referral of complaints to the division and those that*
29 *are retained by the health care boards for investigation.*

30 **SECTION 4.**

31 *SEC. 4. Section 5000 of the Business and Professions Code is*
32 *amended to read:*

33 *5000. (a) There is in the Department of Consumer Affairs the*
34 *California Board of Accountancy, which consists of 15 members,*
35 *7 of whom shall be licensees, and 8 of whom shall be public*
36 *members who shall not be licentiates of the board or registered by*
37 *the board. The board has the powers and duties conferred by this*
38 *chapter.*

39 (b) *The Governor shall appoint four of the public members, and*
40 *the seven licensee members as provided in this section. The Senate*

1 Committee on Rules and the Speaker of the Assembly shall each
2 appoint two public members. In appointing the seven licensee
3 members, the Governor shall appoint individuals representing a
4 cross section of the accounting profession.

5 (c) This section shall remain in effect only until January 1, 2020,
6 and as of that date is repealed, unless a later enacted statute, that
7 is enacted before January 1, 2020, deletes or extends that date.

8 (d) Notwithstanding any other provision of law, the repeal of
9 this section renders the board subject to review by the appropriate
10 policy committees of the Legislature. However, the review of the
11 board shall be limited to reports or studies specified in this chapter
12 and those issues identified by the appropriate policy committees
13 of the Legislature and the board regarding the implementation of
14 new licensing requirements.

15 ~~SEC. 2.~~

16 *SEC. 5.* Section 5015.6 of the Business and Professions Code
17 is amended to read:

18 5015.6. The board may appoint a person exempt from civil
19 service who shall be designated as an executive officer and who
20 shall exercise the powers and perform the duties delegated by the
21 board and vested in him or her by this chapter.

22 This section shall remain in effect only until January 1, 2020,
23 and as of that date is repealed, unless a later enacted statute, that
24 is enacted before January 1, 2020, deletes or extends that date.

25 *SEC. 6.* Section 5100.5 is added to the Business and Professions
26 Code, to read:

27 5100.5. (a) After notice and hearing the board may, for
28 unprofessional conduct, permanently restrict or limit the practice
29 of a licensee or impose a probationary term or condition on a
30 license, which prohibits the licensee from performing or engaging
31 in any of the acts or services described in Section 5051.

32 (b) A licensee may petition the board pursuant to Section 5115
33 for reduction of penalty or reinstatement of the privilege to engage
34 in the service or act restricted or limited by the board.

35 (c) The authority or sanctions provided by this section are in
36 addition to any other civil, criminal, or administrative penalties
37 or sanctions provided by law, and do not supplant, but are
38 cumulative to, other disciplinary authority, penalties, or sanctions.

1 (d) Failure to comply with any restriction or limitation imposed
2 by the board pursuant to this section is grounds for revocation of
3 the license.

4 (e) For purposes of this section, both of the following shall
5 apply:

6 (1) “Unprofessional conduct” includes, but is not limited to,
7 those grounds for discipline or denial listed in Section 5100.

8 (2) “Permanently restrict or limit the practice of” includes, but
9 is not limited to, the prohibition on engaging in or performing any
10 attestation engagement, audits, or compilations.