



Senate Fiscal Agency
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House Bills 4334 and 4654 (as reported without amendment)

Sponsor: Representative Tom McMillin (H.B. 4334)

Representative Earl Poleski (H.B. 4654)

House Committee: Commerce

Senate Committee: Banking and Financial Institutions

Date Completed: 10-1-13

RATIONALE

Under Article 7 of the Occupational Code, a public accounting firm generally must have a State license to practice public accounting. "Firm" includes a limited liability company, a corporation, a partnership, and another legal entity. In order for a firm to obtain a license, individuals who are licensed in good standing as certified public accountants must directly or beneficially hold at least a simple majority of the equity and voting rights of the firm.

There is no statutory requirement specifically pertaining to equity and voting rights for a professional limited liability company (PLLC) or a professional corporation (PC) to practice accounting. Reportedly, in these cases, the Department of Licensing and Regulatory Affairs (LARA) applies the standard set forth in Article 7 of the Occupational Code for other types of business entities.

It has been suggested that, in order to avoid ambiguity or uncertainty with regard to the equity and voting rights requirements for PLLCs and PCs that practice public accounting, Michigan law should specify the same requirements for PLLCs and PCs as it does for other public accounting firms.

CONTENT

House Bill 4334 would amend the Michigan Limited Liability Company Act to permit a professional limited liability company to practice public accounting if more than 50% of the PLLC's equity and voter rights were held directly or beneficially by individuals licensed or otherwise authorized to practice public accounting under Article 7 of the Occupational Code.

House Bill 4654 would amend the Business Corporation Act to permit a professional corporation to practice public accounting if more than 50% of the PC's equity and voter rights were held directly or beneficially by individuals licensed or otherwise authorized to practice public accounting under Article 7 of the Occupational Code.

Each bill would incorporate the definition of "practice of public accounting" that is within Article 7 of the Occupational Code. (The Code defines this term as rendering or offering to render an opinion on or attesting to or offering to attest to the reliability of a representation or estimate, including, but not limited to, the giving of an opinion in substance that financial information as set forth presents fairly the condition of the entity reviewed or audited, in regard to an entity embracing one or more of the following: 1) financial information; 2) facts respecting compliance with conditions established by law or contract, including, but not limited to, a statute, ordinance, regulation, grant, loan, or appropriation; and 3) the scope of the accounting procedures

rendered in connection with the presentation of a financial statement. "Practice of public accounting" also includes one or more of the following activities when performed or offered to be performed by a person holding himself or herself out as a certified public accountant for a client or potential client: 1) the issuance of reports on financial statements; 2) one or more kinds of management advisory, financial advisory, or consulting services, including business valuation, forensic accounting, and fraud examination services; 3) the preparation of tax returns; and 4) the furnishing of advice on tax matters.)

MCL 450.4904 (H.B. 4334)
450.1284 (H.B. 4654)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Although LARA reportedly applies the same ownership standard to PLLCs and PCs as it applies to accounting firms that are recognized in Article 7 of the Occupational Code, the standard could change in the future. Arguably, there is nothing under current State statute that would prevent LARA from creating additional requirements for professional corporations. The bills would establish a uniform standard applicable to all public accounting firms, and bring certainty to those that wish to engage in professional practice.

Legislative Analyst: Glenn Steffens

FISCAL IMPACT

The bills would have no fiscal impact on State or local government.

Fiscal Analyst: Josh Sefton

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.