

FIRST REGULAR SESSION

# HOUSE BILL NO. 832

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WRIGHT (Sponsor), COOKSON, HAMPTON,  
HOSKINS AND SHIVELY (Co-sponsors).

1958L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 326.289 and 326.319, RSMo, and to enact in lieu thereof three new sections relating to the Missouri state board of accountancy.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 326.289 and 326.319, RSMo, are repealed and three new sections  
2 enacted in lieu thereof, to be known as sections 326.260, 326.289, and 326.319, to read as  
3 follows:

**326.260. 1. The Missouri state board of accountancy shall adopt a budget for**  
2 **revenues and expenditures annually, subject to the appropriate due process procedures,**  
3 **using generally accepted accounting principles. Notwithstanding any other provision of**  
4 **law, the budget shall be reviewed and approved only by the agency's governing board. The**  
5 **board shall adopt or modify its budget only after public hearing thereon. The board shall**  
6 **provide notice of the hearing to all licensees of the board prior to holding a hearing on the**  
7 **adoption or modification of any fee. No revenues shall be derived from and no costs shall**  
8 **be incurred by the state to the general revenue fund. The agency shall be responsible for**  
9 **all costs, both direct and indirect.**

10 **2. The board shall have the power and authority to:**

11 **(1) Have its own bank accounts and earn interest on its deposits;**

12 **(2) Acquire, hold, rent, encumber, alienate, and otherwise deal with real property**  
13 **in the same manner as a private person or corporation. Collateral pledged by the board**  
14 **for an encumbrance is limited to assets, income, and revenues of the board;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           **(3) Enter into contracts necessary or convenient for carrying out the regulation of**  
16 **licensed certified public accountants or certified public accountant firms or the functions**  
17 **of the board;**

18           **(4) Employ an executive director, staff, clerical, and technical assistance, and to**  
19 **incur such other expenses, including employee benefits, as may be deemed necessary in the**  
20 **performance of its duties. The executive director and all other employees of the board**  
21 **shall be state employees and eligible for all corresponding benefits; and**

22           **(5) Retain other investigative, specialized knowledge, or other technical services**  
23 **under contract as may be needed to regulate licensed certified public accountants or**  
24 **certified public accountant firms, or conduct its operations.**

          326.289. 1. **(1) A firm permit shall be required for the issuance of an audit,**  
2 **compilation, or review.** The board may grant or renew permits to practice as a certified public  
3 accounting firm to applicants that demonstrate their qualifications in accordance with this  
4 chapter.

5           **[(1)] (2)** The following shall hold a permit issued under this chapter:

6           (a) Any firm with an office in this state, as defined by the board by rule, performing  
7 attest services;

8           (b) Any firm with an office in this state that uses the title "CPA" or "CPA firm"; and

9           (c) Any firm that does not have an office in this state performing attest services for a  
10 client having a home office in this state.

11           **[(2)] (3)** A firm which does not have an office in this state may perform compilation and  
12 review services for a client having a home office in this state and may use the title "CPA" or  
13 "CPA firm" without a permit issued under this section only if it:

14           (a) Has the qualifications described in subsections 4 and 9 of this section; and

15           (b) Performs such services through an individual with the privilege to practice under  
16 subsection 1 of section 326.283.

17           **[(3)] (4)** A firm which is not subject to the requirements of [subdivisions (1) or]  
18 **subdivision (2) or (3)** of this subsection may perform other professional services while using  
19 the title "CPA" or "CPA firm" in this state without a permit issued under this section only if it:

20           (a) Has qualifications described in subsection 4 of this section;

21           (b) Performs such services through an individual with the privilege to practice under  
22 section 326.283; and

23           (c) Can lawfully do so in the state where said individual with privilege to practice has  
24 his or her principal place of business.

25           2. Permits shall be initially issued and renewed for periods of not more than three years  
26 or for a specific period as prescribed by board rule following issuance or renewal.

27           3. The board shall determine by rule the form for application and renewal of permits and  
28 shall annually determine the fees for permits and their renewals.

29           4. An applicant for initial issuance or renewal of a permit to practice under this section  
30 shall be required to show that:

31           (1) A simple majority of the ownership of the firm, in terms of financial interests and  
32 voting rights of all partners, officers, principals, shareholders, members or managers, belongs  
33 to licensees who are licensed in some state, and the partners, officers, principals, shareholders,  
34 members or managers, whose principal place of business is in this state and who perform  
35 professional services in this state are licensees under section 326.280 or the corresponding  
36 provision of prior law. Although firms may include nonlicensee owners, the firm and its  
37 ownership shall comply with rules promulgated by the board;

38           (2) Any certified public accounting firm may include owners who are not licensees  
39 provided that:

40           (a) The firm designates a licensee of this state, or in the case of a firm which must have  
41 a permit under this section designates a licensee of another state who meets the requirements of  
42 section 326.283, who is responsible for the proper registration of the firm and identifies that  
43 individual to the board;

44           (b) All nonlicensee owners are active individual participants in the certified public  
45 accounting firm or affiliated entities;

46           (c) All owners are of good moral character; and

47           (d) The firm complies with other requirements as the board may impose by rule;

48           (3) Any licensee, initially licensed on or after August 28, 2001, who is responsible for  
49 supervising attest services, or signs or authorizes someone to sign the licensee's report on the  
50 financial statements on behalf of the firm, shall meet competency requirements as determined  
51 by the board by rule which shall include one year of experience in addition to the experience  
52 required under subdivision (6) of subsection 1 of section 326.280 and shall be verified by a  
53 licensee. The additional experience required by this subsection shall include experience in attest  
54 work supervised by a licensee;

55           (4) Any licensee who is responsible for supervising review services or signs or  
56 authorizes someone to sign review reports shall meet the competency requirements as determined  
57 by board by rule which shall include experience in review services.

58           5. An applicant for initial issuance or renewal of a permit to practice shall register each  
59 office of the firm within this state with the board and show that all attest, review and compilation  
60 services rendered in this state are under the charge of a licensee.

61           6. No licensee or firm holding a permit under this chapter shall use a professional or firm  
62 name or designation that is misleading as to:

- 63           (1) The legal form of the firm;
- 64           (2) The persons who are partners, officers, members, managers or shareholders of the  
65 firm; or
- 66           (3) Any other matter. The names of one or more former partners, members or  
67 shareholders may be included in the name of a firm or its successor unless the firm becomes a  
68 sole proprietorship because of the death or withdrawal of all other partners, officers, members  
69 or shareholders. A firm may use a fictitious name if the fictitious name is registered with the  
70 board and is not otherwise misleading.
- 71
- 72 The name of a firm shall not include the name or initials of an individual who is not a present  
73 or a past partner, member or shareholder of the firm or its predecessor. The name of the firm  
74 shall not include the name of an individual who is not a licensee.
- 75           7. Applicants for initial issuance or renewal of permits shall list in their application all  
76 states in which they have applied for or hold permits as certified public accounting firms and list  
77 any past denial, revocation, suspension or any discipline of a permit by any other state. Each  
78 holder of or applicant for a permit under this section shall notify the board in writing within  
79 thirty days after its occurrence of any change in the identities of partners, principals, officers,  
80 shareholders, members or managers whose principal place of business is in this state; any change  
81 in the number or location of offices within this state; any change in the identity of the persons  
82 in charge of such offices; and any issuance, denial, revocation, suspension or any discipline of  
83 a permit by any other state.
- 84           8. Firms which fall out of compliance with the provisions of this section due to changes  
85 in firm ownership or personnel after receiving or renewing a permit shall take corrective action  
86 to bring the firm back into compliance as quickly as possible. The board may grant a reasonable  
87 period of time for a firm to take such corrective action. Failure to bring the firm back into  
88 compliance within a reasonable period as defined by the board may result in the suspension or  
89 revocation of the firm permit.
- 90           9. The board shall require by rule, as a condition to the renewal of permits, that firms  
91 undergo, no more frequently than once every three years, peer reviews conducted in a manner  
92 as the board shall specify. The review shall include a verification that individuals in the firm  
93 who are responsible for supervising attest, review and compilation services or sign or authorize  
94 someone to sign the accountant's report on the financial statements on behalf of the firm meet  
95 the competency requirements set out in the professional standards for such services, provided  
96 that any such rule:

97           (1) Shall include reasonable provision for compliance by a firm showing that it has  
98 within the preceding three years undergone a peer review that is a satisfactory equivalent to peer  
99 review generally required under this subsection;

100           (2) May require, with respect to peer reviews, that peer reviews be subject to oversight  
101 by an oversight body established or sanctioned by board rule, which shall periodically report to  
102 the board on the effectiveness of the review program under its charge and provide to the board  
103 a listing of firms that have participated in a peer review program that is satisfactory to the board;  
104 and

105           (3) Shall require, with respect to peer reviews, that the peer review processes be operated  
106 and documents maintained in a manner designed to preserve confidentiality, and that the board  
107 or any third party other than the oversight body shall not have access to documents furnished or  
108 generated in the course of the peer review of the firm except as provided in subdivision (2) of  
109 this subsection.

110           10. Prior to January 1, 2008, licensees who perform fewer than three attest services  
111 during each calendar year shall be exempt from the requirements of subsection 9 of this section.

112           11. The board may, by rule, charge a fee for oversight of peer reviews, provided that the  
113 fee charged shall be substantially equivalent to the cost of oversight.

114           12. In connection with proceedings before the board or upon receipt of a complaint  
115 involving the licensee performing peer reviews, the board shall not have access to any documents  
116 furnished or generated in the course of the performance of the peer reviews except for peer  
117 review reports, letters of comment and summary review memoranda. The documents shall be  
118 furnished to the board only in a redacted manner that does not specifically identify any firm or  
119 licensee being peer reviewed or any of their clients.

120           13. The peer review processes shall be operated and the documents generated thereby  
121 be maintained in a manner designed to preserve their confidentiality. No third party, other than  
122 the oversight body, the board, subject to the provisions of subsection 12 of this section, or the  
123 organization performing peer review shall have access to documents furnished or generated in  
124 the course of the review. All documents shall be privileged and closed records for all purposes  
125 and all meetings at which the documents are discussed shall be considered closed meetings under  
126 subdivision (1) of section 610.021. The proceedings, records and workpapers of the board and  
127 any peer review subjected to the board process shall be privileged and shall not be subject to  
128 discovery, subpoena or other means of legal process or introduction into evidence at any civil  
129 action, arbitration, administrative proceeding or board proceeding. No member of the board or  
130 person who is involved in the peer review process shall be permitted or required to testify in any  
131 civil action, arbitration, administrative proceeding or board proceeding as to any matters  
132 produced, presented, disclosed or discussed during or in connection with the peer review process

133 or as to any findings, recommendations, evaluations, opinions or other actions of such  
134 committees or any of its members; provided, however, that information, documents or records  
135 that are publicly available shall not be subject to discovery or use in any civil action, arbitration,  
136 administrative proceeding or board proceeding merely because they were presented or considered  
137 in connection with the peer review process.

326.319. 1. All moneys payable pursuant to the provisions of this chapter shall be  
2 collected by the [division of professional registration who shall transmit them to the department  
3 of revenue for deposit in the state treasury] **Missouri state board of accountancy** to the credit  
4 of a fund to be known as the "State Board of Accountancy Fund" which is hereby created.

5       2. **Beginning August 28, 2011, the moneys held by the state treasury in the state**  
6 **board of accountancy fund shall be transferred to the board for deposit in the state board**  
7 **of accountancy fund in a bank of the board's choice under subdivision (1) of subsection 2**  
8 **of section 326.260.**

9       3. Notwithstanding the provisions of section 33.080 to the contrary, money in the fund  
10 shall not be [transferred and placed to the credit of general revenue until the amount in the fund  
11 at the end of the biennium exceeds two times the amount of the appropriation from the board's  
12 funds for the preceding fiscal year or, if the board requires by rule certificate or permit renewal  
13 less frequently than yearly, then three times the appropriation from the board's funds for the  
14 preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the  
15 fund which exceeds the appropriate multiple of the appropriations from the board's funds for the  
16 preceding fiscal year] **considered a state fund and any money in the fund shall not be**  
17 **appropriated nor shall any money deposited in the fund be subject to the provisions of**  
18 **section 33.080.**

19       [3.] 4. In any proceeding in which a remedy provided by subsection 1 or 2 of section  
20 326.310 is imposed, the board may also require the respondent licensee to pay the costs of the  
21 proceeding if the board is a prevailing party or in settlement. The moneys shall be placed [in the  
22 state treasury] to the credit of the "Missouri State Board of Accountancy Investigation Fund",  
23 which is hereby created, to be used solely for investigations as provided in this chapter. [The  
24 moneys shall not be considered in calculating amounts to be transferred to general revenue as  
25 provided in subsection 2 of this section.] The fund shall be used solely for board investigations.

26       [4.] 5. The board shall set the amount of the fees which this chapter authorizes and  
27 requires by rule pursuant to chapter 536. The fees shall be set at a level to produce revenue  
28 which shall not substantially exceed the cost and expense of administering this chapter.