

TITLE 16. DIVISION 1. CALIFORNIA BOARD OF ACCOUNTANCY

NOTICE IS HEREBY GIVEN that the California Board of Accountancy (CBA) is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at:

**The Hilton Los Angeles Airport
5711 West Century Boulevard
Los Angeles, CA 90045
Thursday, May 28, 2015
1:30 p.m.**

Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the CBA at its office not later than 5:00 p.m. on May 25, 2015 or must be received by the CBA at the hearing. The CBA, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

AUTHORITY AND REFERENCE

Pursuant to the authority vested by Sections 5010 and 5134 of the Business and Professions Code (BPC), and to implement, interpret or make specific Section 5134 of said Code, the CBA is considering changes to Division 1 of Title 16 of Section 70 of the California Code of Regulations as follows:

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The CBA regulates approximately 97,000 licensees; consisting of 91,500 certified public accountants, 5,500 accounting firms (partnerships and corporations) and 270 out-of-state registered accounting firms. The CBA's highest priority is the protection of the public when exercising its licensing, regulatory and disciplinary functions. The primary methods by which the CBA achieves these goals is ensuring only qualified licensees practice public accountancy in accordance with established professional standards, investigating complaints against licensees, and disciplining licensees for violations of BPC sections 5100 (et seq.).

Existing law, BPC section 5134, authorizes the CBA to charge various fees, including: application for the certified public accountant examination and reexamination; an initial permit fee for issuance of a partnership, corporation, or certified public accountant certificate; an application fee for registration as a partnership or corporation; and for the biennial renewal fee. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year

(FY) 2011-12. All remaining fees would be maintained at their existing level. Through this rulemaking, the CBA will ensure sufficient resources to maintain current board operations and help ensure the CBA maintains sufficient reserves to meet its mandate of consumer protection going forward.

The CBA proposes to amend California Code of Regulations, Title 16, Section 70, regarding fees, as follows:

- Amend Section 70(a)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fees of \$50 for the issuance of the Authorization to Test to first-time applicants and \$25 for issuance of the Authorization to Test to repeat applicants.
- Repeal Section 70(a)(2), which contains authority to increase fees to \$100 and \$50 on July 1, 2016 for the issuance of the Authorization to Test to first-time applicants and issuance of the Authorization to Test to repeat applicants; this would allow the CBA to retain fees as established in Section 70(a)(1).
- Amend Section 70(b)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$50 for the issuance of a certified public accountant certificate.
- Repeal Section 70(b)(2), which contains authority to increase fees to \$250 on July 1, 2016 for issuance of a certified public accountant certificate; this would allow CBA to retain fees as established in Section 70(b)(1).
- Amend Section 70(c)(1) to delete the date of June 30, 2016 resulting in the continuation of the current fee of \$30 for the application fee for registration as a partnership or as a corporation, including registration under a new name as a partnership or as a corporation.
- Repeal Section 70(c)(2), which contains authority to increase fees to \$150 on July 1, 2016 for issuance of a registration for a partnership or as a corporation, (including registration under a new name); this would allow CBA to retain fees as established in Section 70(c)(1).
- Amend Section 70(d)(2) to restore the fee to \$200 from \$120 for the initial permit to practice as a partnership, a corporation, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee, commencing July 1, 2016.
- Repeal Section 70(e)(1) to remove the word “reserved”.
- Amend Section 70(e)(2) and renumber to 70(e)(1).
- Amend Section 70(e)(3) by renumbering to 70(e)(2) to restore the fee from \$120 to \$200 for renewal of a permit to a practice as partnership, a corporation, a public accountant, or a certified public accountant and eliminate the requirement to consider Section 70(j) in calculating the fee.
- Repeal Section 70(j), which currently requires the CBA to conduct a review of its actual and estimated costs by May 31, 2015 and determine the appropriate level of fees for the initial permit to practice and renewal of the permit to practice in order to maintain a contingent fund reserve balance equal to 3 months’ estimated annual authorized expenditures. If the CBA currently determines that fees of less than \$120 are indicated, the CBA shall fix the fees by regulation by July 1, 2016.

The CBA is proposing these changes to restore initial permit and license renewal fees to levels that were in place prior to fiscal year (FY) 2011-12 and following two temporary fee reductions. The restoration is necessary to address the CBA's present negative cash flow, bring revenues more closely in line with expenditures, and increase the CBA's Reserve levels to ensure the CBA has sufficient funds to meet its mandate of consumer protection.

ANTICIPATED BENEFITS

According to the CBA's fund condition for fiscal year 2014-15, the CBA is projecting a fund balance of \$6 million or 5.5 MIR, a decline of revenue of over \$8 million dollars. For FY 2015-16, the CBA is projected to have a fund balance of approximately \$4 million or 3.2 MIR. If no fee changes are made, the fund balance and MIR levels will continue to lower in future years. Without changes to the current fee levels, including the projected current increases that will become effective July 1, 2016, the CBA will have insufficient funding to enable the CBA to continue operations. During the most recent meetings with the Legislature in 2015 for the CBA's Sunset Review, concern was expressed over the CBA's low reserve.

If approved as proposed this fee increase will have a positive effect on the CBA's Reserve. Specifically, according to the CBA's Fund Condition Statement, the CBA's revenues will increase more than \$9 million per fiscal year. Beginning in FY 2017-18, the CBA is projected to have an approximate 14 MIR level. Further, the projected revenues appear to be close to projected expenditures, bringing the CBA's fees to a stable level.

Also strengthening the justification for restoring the CBA's Reserve is the need to have sufficient resources available should the CBA need to exercise its emergency contingency funding for \$2 million dollars to address enforcement costs and litigation expenses, pursuant to BPC section 5025.2. Given the volume of enforcement cases and the complex and sensitive nature of the CBA's investigations, it is critical that this funding be available at all times. Additionally, if the CBA does not have sufficient reserves and exceeds its contingency funding, the CBA's enforcement program would suffer from reductions in resources which would delay processing consumer complaints, conducting investigations, and referring egregious cases to the Attorney General's Office for prosecution. These types of delays would ultimately prevent the CBA from efficiently and effectively protecting the public.

The revenue generated from these fees is placed in the Accountancy Fund and is utilized by the CBA to carry out its responsibilities as required by the Accountancy Act.

Consistency and Compatibility with Existing State Regulations

During the process of developing these regulations and amendments, the CBA has conducted a search of any similar regulations on this topic and has concluded that these regulations are neither inconsistent nor incompatible with existing state regulations.

INCORPORATION BY REFERENCE

None.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

Nondiscretionary Costs/Savings to Local Agencies:

None.

Local Mandate:

None

Cost to Any Local Agency or School District for Which Government Code Sections 17500 - 17630 Require Reimbursement:

None

Business Impact:

The CBA has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination:

The CBA has determined that the following types of businesses may be affected by the proposed fee increase:

- Businesses owned by a licensee of the CBA that pay for the initial licensure and license renewal fees of its CPA owners or CPA employees.

The CBA implemented two temporary fee reductions in the prior four years. Each reduction was “temporary” with the understanding (and identification in regulation) that the fees would restore to a higher level at a specific date. The fees for biennial renewal and initial permit are currently set at \$50, with an automatic increase to \$120 scheduled to occur on July 1, 2016 pursuant to Title 16, California Code of Regulations section 70. This proposal would restore the biennial renewal and initial permit fees to \$200, a level that existed prior to fiscal year (FY) 2011-12.

Although generally speaking there will be an increase in fees of \$80, this proposed amendment is being viewed by the CBA as a fee restoration and therefore the CBA has not identified that there will be any significant statewide adverse economic impact.

Following is a table illustrating historic and existing fees and the proposed fees for each of the changes made by CBA:

Fee	FY 2011-12 Fee	FY 2013-14 Fee	FY 2014-15 Fee	FY 2015-16 Proposed Fee
Examination Fee – First time	\$100.00	\$100.00	\$50.00	\$50.00
Examination Fee – Repeat	\$50.00	\$50.00	\$25.00	\$25.00
CPA Certificate Application Fee	\$250.00	\$250.00	\$50.00	\$50.00
Initial Permit Fee to register a Partnership, Corporation or CPA	\$150.00	\$150.00	\$30.00	\$30.00
Initial Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00
Biennial Renewal Permit Fee to practice as a Partnership, Corporation or CPA	\$200.00	\$120.00	\$50.00	\$200.00

In addition, although businesses owned by licensees of the CBA and businesses that employ licensees of the CBA may be impacted, the CBA estimates that the fiscal impact would be minor and absorbable to those businesses since the fee increase would amount to an \$80 increase per licensee or applicant from what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120). The CBA does not maintain data relating to the number or percentage of licensees who own a business; therefore, the number or percentage of businesses that may be impacted cannot be predicted. Accordingly, the initial or ongoing costs for a business owned by a licensee that pays for the licensure and renewal fees of its CPA business owners and employees cannot be projected.

Cost Impact on Representative Private Person or Business:

The proposed fee increase would impact individual licensees. The CBA is proposing to increase these fees on July 1, 2016 by \$80 from its current \$120 fee authority to \$200 (an additional \$40 per year for renewals). However, the CBA determined it would be minor and absorbable to the licensee since the annual average wage of a certified public accountant is \$75,870.

Effect on Housing Costs:

None.

EFFECT ON SMALL BUSINESS

The CBA has determined that the proposed regulations will not have a significantly affect small businesses. Staff estimates a minor, but absorbable, economic cost as a result of the restoration of fees for initial licensure and license renewal for CPA's. The average wage for an accountant in the State of California in 2012 according to the US

Department of Labor's Bureau of Labor Statistics was \$75,870. The increase of \$40 per year (\$80 overall) in fees for the initial licensure and license renewal will not have a significant adverse impact. The individuals and firms have paid this fee in the past without an adverse impact on the industry in California.

RESULTS OF ECONOMIC IMPACT ASSESSMENT/ANALYSIS

Impact on Jobs/Businesses:

The CBA has determined that this regulatory proposal will not have a significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California because the proposed change restores fees for initial permit and biennial renewal to \$200, the same level in existence prior to FY 2011-12 and represents only an \$80 increase in what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120).

Further it will not create new business or eliminate existing businesses within the State of California because the \$200 fee restoration, an increase of only \$80 in what the CBA is currently authorized to collect from licensees on July 1, 2016 (\$120), will not be of sufficient magnitude to have the effect of creating or eliminating businesses. In addition, the public accounting industry previously accommodated this level of fees in FY 2011-12 without impact on either contraction or expansion of the number of businesses.

Benefits of Regulation:

The CBA has determined that this regulatory proposal will have the following benefits to the health and welfare of California residents, worker safety, and state's environment:

The proposed fee restoration will correct the current negative cash flow that is occurring as a result of two temporary fee reductions that began in July 2012 and July 2014, respectively. Additionally, the fee reduction more closely brings the CBA's revenues and expenditures in balance. Following the fee restoration, the CBA's Reserve will be sufficient to ensure the CBA meets its consumer protection mandate, including providing enough funding should the CBA need to access its \$2 million annual contingency funding for litigation and enforcement costs pursuant to BPC Section 5025.2.

This regulatory proposal does not affect worker safety because it has nothing to do with worker safety and only affects the licensure and renewal of individuals and businesses. This regulatory proposal does not affect the state's environment because it has nothing to do with the environment.

CONSIDERATION OF ALTERNATIVES

The CBA has determine that no reasonable alternative it considered would be more effective in carrying out the purpose for which the action is proposed, would be as

effective and less burdensome to affected private persons than the proposal described in this Notice, or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The CBA has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations, and any document incorporated by reference, and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the CBA at 2000 Evergreen Street, Suite 250, Sacramento, California, 95815.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name: Pat Billingsley
Address: 2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone No.: 916-561-1782
Fax No.: 916-263-3678
E-Mail Address: pat.billingsley@cba.ca.gov

The backup contact person is:

Name: Kathryn Kay
Address: 2000 Evergreen Street, Suite 250
Sacramento, CA 95815
Telephone No.: 916-561-1742
Fax No.: 916-263-3678
E-Mail Address: Kathryn.kay@cba.ca.gov

Website Access: Materials regarding this proposal can be found at

http://www.dca.ca.gov/cba/laws_and_rules/pubpart.shtml.