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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 2706

February 4, 2010

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The bill was read for the first time and referred to the Committee on Commerce and Labor

February 15, 2010

Committee Recommendation and Adoption of Report:

To Pass as Amended

Read Second Time

1.1 A bill for an act
1.2 relating to certified public accountants; clarifying licensing requirements;
1.3 amending Minnesota Statutes 2008, sections 3.972, subdivision 1; 6.66; 110A.32,
1.4 subdivision 2; 144A.05; 367.36, subdivision 1; 385.06, subdivision 2; 412.222;
1.5 412.591, subdivision 3; 471.49, subdivision 10; 471.6985, subdivision 2;
1.6 515B.3-121; Minnesota Statutes 2009 Supplement, section 297E.06, subdivision
1.7 4; repealing Minnesota Rules, part 8122.0150, subpart 7.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2008, section 3.972, subdivision 1, is amended to read:

1.10 Subdivision 1. **Public accountant.** For the purposes of this section, "public
1.11 accountant" means a certified public accountant or certified public accounting firm
1.12 licensed ~~by the board of accountancy under~~ in accordance with chapter 326A.

1.13 Sec. 2. Minnesota Statutes 2008, section 6.66, is amended to read:

1.14 **6.66 CERTAIN PRACTICES OF PUBLIC ACCOUNTANTS AUTHORIZED.**

1.15 Any certified public accountant may engage in the practice of auditing the books,
1.16 records, accounts, and affairs of political subdivisions that are not otherwise required by
1.17 law to be audited exclusively by the state auditor.

1.18 Sec. 3. Minnesota Statutes 2008, section 110A.32, subdivision 2, is amended to read:

1.19 Subd. 2. **Calendar fiscal year; audit.** The fiscal year of the district shall coincide
1.20 with the calendar year. The board of directors, at the close of each year's business, shall
1.21 cause an audit of the books, records and financial affairs of the district to be made by an
1.22 experienced certified public accountant, copies of a written report of which audit, certified

2.1 to by the auditors, shall be placed and kept on file at the principal place of business of
2.2 the district and shall be filed with the secretary of state.

2.3 Sec. 4. Minnesota Statutes 2008, section 144A.05, is amended to read:

2.4 **144A.05 LICENSE RENEWAL.**

2.5 Unless the license expires in accordance with section 144A.06 or is suspended
2.6 or revoked in accordance with section 144A.11, a nursing home license shall remain
2.7 effective for a period of one year from the date of its issuance. The commissioner of health
2.8 by rule shall establish forms and procedures for the processing of license renewals. The
2.9 commissioner of health shall approve a license renewal application if the facility continues
2.10 to satisfy the requirements, standards and conditions prescribed by sections 144A.01 to
2.11 144A.155 and the rules promulgated thereunder. The commissioner shall not approve
2.12 the renewal of a license for a nursing home bed in a resident room with more than four
2.13 beds. Except as provided in section 144A.08, a facility shall not be required to submit
2.14 with each application for a license renewal additional copies of the architectural and
2.15 engineering plans and specifications of the facility. Before approving a license renewal,
2.16 the commissioner of health shall determine that the facility's most recent balance sheet and
2.17 its most recent statement of revenues and expenses, as audited by the state auditor, by a
2.18 certified public accountant licensed ~~by this state~~ in accordance with chapter 326A or by a
2.19 public accountant as defined in section 412.222, have been received by the Department
2.20 of Human Services.

2.21 Sec. 5. Minnesota Statutes 2009 Supplement, section 297E.06, subdivision 4, is
2.22 amended to read:

2.23 Subd. 4. **Annual audit, certified inventory, and cash count.** (a) An organization
2.24 licensed under chapter 349 with gross receipts from lawful gambling of more than
2.25 \$500,000 in any year must have an annual financial audit of its lawful gambling activities
2.26 and funds for that year.

2.27 (b) The commissioner may require a financial audit of the lawful gambling activities
2.28 and funds of an organization licensed under chapter 349, with gross receipts less than
2.29 \$500,000 annually, when an organization has:

2.30 (1) failed to timely file required gambling tax returns;

2.31 (2) failed to timely pay the gambling tax or regulatory fee;

2.32 (3) filed fraudulent gambling tax returns;

2.33 (4) failed to take corrective actions required by the commissioner; or

2.34 (5) failed to otherwise comply with this chapter.

3.1 (c) Audits under this subdivision must be performed by an independent accountant
3.2 licensed ~~by the state of Minnesota~~ in accordance with chapter 326A.

3.3 (d) An organization licensed under chapter 349 must perform an annual certified
3.4 inventory and cash count at the end of its fiscal year and submit the report to the
3.5 commissioner within 30 days after the end of its fiscal year. The report shall be on a form
3.6 prescribed by the commissioner.

3.7 (e) The commissioner of revenue shall prescribe standards for the audits, certified
3.8 inventory, and cash count reports required under this subdivision. The standards may
3.9 vary based on the gross receipts of the organization. The standards must incorporate and
3.10 be consistent with standards prescribed by the American Institute of Certified Public
3.11 Accountants. A complete, true, and correct copy of the audits, certified inventory, and
3.12 cash count report must be filed as prescribed by the commissioner.

3.13 Sec. 6. Minnesota Statutes 2008, section 367.36, subdivision 1, is amended to read:

3.14 Subdivision 1. **Transition; audit.** (a) In a town in which option D is adopted, the
3.15 incumbent treasurer shall continue in office until the expiration of the term. Thereafter, or
3.16 at any time a vacancy other than a temporary vacancy under section 367.03 occurs in the
3.17 position, the duties of the treasurer prescribed by law shall be performed by the clerk who
3.18 shall be referred to as the clerk-treasurer. If option D is adopted at an election in which the
3.19 treasurer is also elected, the election of the treasurer's position is void.

3.20 (b) If the offices of clerk and treasurer are combined and the town's annual revenue
3.21 is more than the amount in paragraph (c), the town board shall provide for an annual audit
3.22 of the town's financial affairs by the state auditor or a public accountant in accordance
3.23 with minimum audit procedures prescribed by the state auditor. If the offices of clerk and
3.24 treasurer are combined and the town's annual revenue is the amount in paragraph (c) or
3.25 less, the town board shall provide for an audit of the town's financial affairs by the state
3.26 auditor or a public accountant in accordance with minimum audit procedures prescribed
3.27 by the state auditor at least once every five years, which audit shall be for a one-year
3.28 period to be determined at random by the person conducting the audit. Upon completion
3.29 of an audit by a public accountant, the public accountant shall forward a copy of the
3.30 audit to the state auditor. For purposes of this subdivision, "public accountant" means a
3.31 certified public accountant or a certified public accounting firm licensed ~~by the Board of~~
3.32 ~~Accountancy under~~ in accordance with chapter 326A.

3.33 (c) For the purposes of paragraph (b), the amount in 2004 is \$150,000, and in 2005
3.34 and after, \$150,000 adjusted for inflation using the annual implicit price deflator for state
3.35 and local expenditures as published by the United States Department of Commerce.

4.1 Sec. 7. Minnesota Statutes 2008, section 385.06, subdivision 2, is amended to read:

4.2 Subd. 2. **Board may employ assistants.** The county board may employ the
4.3 assistance of any county officer or employee or any certified public accountant where such
4.4 assistance is deemed necessary by the county board to accomplish the internal audit or
4.5 other functions involved. A certified public accountant is a person who for a period of
4.6 three years prior to the date of such employment has been actively engaged in the practice
4.7 of public accounting in accordance with chapter 326A.

4.8 Sec. 8. Minnesota Statutes 2008, section 412.222, is amended to read:

4.9 **412.222 PUBLIC ACCOUNTANTS IN STATUTORY CITIES.**

4.10 The council of any city may employ public accountants on a monthly or yearly
4.11 basis for the purpose of auditing, examining, and reporting upon the books and records
4.12 of account of such city. For the purpose of this section, "public accountant" means a
4.13 certified public accountant or a certified public accounting firm licensed ~~by the board of~~
4.14 ~~accountancy under~~ in accordance with chapter 326A. All expenditures for these purposes
4.15 shall be within the statutory limits upon tax levies in such cities.

4.16 Sec. 9. Minnesota Statutes 2008, section 412.591, subdivision 3, is amended to read:

4.17 Subd. 3. **Audit standards if combined.** (a) If the offices of clerk and treasurer are
4.18 combined as provided by this section, and the city's annual revenue for all governmental
4.19 and enterprise funds combined is more than the amount in paragraph (b), the council shall
4.20 provide for an annual audit of the city's financial affairs by the state auditor or a certified
4.21 public accountant in accordance with minimum procedures prescribed by the state auditor.
4.22 If the offices of clerk and treasurer are combined and the city's annual revenue for all
4.23 governmental and enterprise funds combined is the amount in paragraph (b), or less, the
4.24 council shall provide for an audit of the city's financial affairs by the state auditor or a
4.25 certified public accountant in accordance with minimum audit procedures prescribed by
4.26 the state auditor at least once every five years, which audit shall be for a one-year period
4.27 to be determined at random by the person conducting the audit.

4.28 (b) For the purposes of paragraph (a), the amount in 2004 is \$150,000, and in 2005
4.29 and after, \$150,000 adjusted for inflation using the annual implicit price deflator for state
4.30 and local expenditures as published by the United States Department of Commerce.

4.31 Sec. 10. Minnesota Statutes 2008, section 471.49, subdivision 10, is amended to read:

5.1 Subd. 10. **Public accountant.** "Public accountant" means a certified public
5.2 accountant or a certified public accounting firm licensed ~~by the board of accountancy~~
5.3 ~~under~~ in accordance with chapter 326A.

5.4 Sec. 11. Minnesota Statutes 2008, section 471.6985, subdivision 2, is amended to read:

5.5 Subd. 2. **If \$350,000 sales, audited statement.** Any city operating a municipal
5.6 liquor store with total annual sales in excess of \$350,000 shall submit to the state auditor
5.7 audited financial statements for the liquor store that have been attested to by a certified
5.8 public accountant, ~~public accountant,~~ or the state auditor within 180 days after the close
5.9 of the fiscal year, except that the state auditor may extend the deadline upon request of a
5.10 city and a showing of inability to conform. The state auditor may accept this report in
5.11 lieu of the report required by subdivision 1.

5.12 Sec. 12. Minnesota Statutes 2008, section 515B.3-121, is amended to read:

5.13 **515B.3-121 ACCOUNTING CONTROLS.**

5.14 (a) Subject to any additional or greater requirements set forth in the declaration or
5.15 bylaws, a review of the association's financial statements shall be made at the end of
5.16 the association's fiscal year, unless prior to 60 days after the end of that fiscal year, at
5.17 a meeting or by mailed ballot, unit owners of units to which at least 30 percent of the
5.18 votes in the association are allocated vote to waive the review requirement for that fiscal
5.19 year. A waiver vote shall not apply to more than one fiscal year, and shall not affect the
5.20 board's authority to cause a review or audit to be made. The reviewed financial statements
5.21 shall be delivered to all members of the association within 180 days after the end of the
5.22 association's fiscal year.

5.23 (b) The review shall be made by a licensed, independent certified public accountant.
5.24 A licensed, independent certified public accountant means an accountant who (i) is not
5.25 an employee of the declarant or its affiliates, (ii) is professionally independent of the
5.26 control of the declarant or its affiliates, (iii) is licensed ~~by the Minnesota State Board of~~
5.27 ~~Accountancy~~ in accordance with chapter 326A and (iv) satisfies the tests for independence
5.28 as promulgated by the American Institute of Certified Public Accountants.

5.29 (c) Where the financial statements are prepared by an independent certified public
5.30 accountant, they shall be prepared in accordance with generally accepted accounting
5.31 principles as established from time to time by the American Institute of Certified Public
5.32 Accountants, and shall be reviewed in accordance with standards for accounting and
5.33 review services. In such case, the financial statements shall be presented on the full accrual

6.1 basis using an accounting format that separates operating activity from replacement
6.2 reserve activity.

6.3 **Sec. 13. REVISOR'S INSTRUCTION.**

6.4 In Minnesota Rules, chapter 8122, the revisor of statutes shall remove all references
6.5 to or instances of "licensed public accountant," "independent licensed public account,"
6.6 "independent LPA," or "LPA."

6.7 In Minnesota Rules, part 8122.0150, subpart 4, the revisor of statutes shall delete "by
6.8 the Minnesota Board of Accountancy," and insert "in accordance with Minnesota Statutes,
6.9 chapter 326A." In Minnesota Rules, part 8122.0200, subpart 1, the revisor of statutes shall
6.10 delete "or independent licensed public account in good standing with the Minnesota State
6.11 Board of Accountancy and licensed to practice in Minnesota." The revisor of statutes may
6.12 make changes necessary to correct the punctuation, grammar, or structure of the remaining
6.13 text as a result of the changes made by this section.

6.14 **Sec. 14. REPEALER.**

6.15 Minnesota Rules, parts 8122.0150, subpart 7, and 8122.0600, are repealed.